



MAJESTY LEGAL

Advocates & Solicitors

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RIGHT TO LIVE WITH HUMAN DIGNITY

(MINOR R THR MOTHER H V. STATE NCT OF DELHI & ANR.)¹

In the present writ petition before the Hon'ble Delhi High Court, the Court has dealt with jurisprudence of poverty and also determined right to live with human dignity² by stating: "Denying a women right to say no to medical termination of pregnancy and fasten her with responsibility of motherhood would amount to denying her human right to live with dignity".

FINDINGS OF HON'BLE COURT:

- The victim falls under the special categories of section 3(2)(b)³ of MTP⁴ Act as explanation 2 of it explicitly provides that where pregnancy is alleged to have been caused by an act of rape, the anguish caused by such a pregnancy shall be presumed to constitute grave injury to the mental health of pregnant woman.
- If the continuance of pregnancy would involve grave injury to the mental health of a pregnant woman, she can legitimately seek to terminate the same and also to force the victim to give birth to child of a man who sexually assaulted her would result in unexplainable miseries.
- The choice regarding procreation is an integral part of right to dignity enshrined under Article 21⁵ of Indian Constitution.
- Cognizance of the law and fact are not the only thing which a judge has to take. It is also cognizance of the social contexts and the repercussions that an order may cause are also of significant importance.
- The extraordinary powers of the Court do not limit the Court only to the prayer sought before it but also to give a relief beyond the relief sought.
- The Court passed the following guidelines:
 - To mandatorily conduct Urine Pregnancy Test at time of medical examination of a victim of sexual assault.
 - The concerned investigating officer will ensure that the victim will be produced before Medical Board on the same day she being found pregnant due to sexual assault.

¹ W.P.(CRL) 221/2023

² Article 21 of the Indian Constitution

³ When pregnancies may be terminated by registered medical practitioners

⁴ Medical Terminal Of Pregnancy Act, 1971

⁵ Protection of Life and Personal Liberty



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- In case when a minor victim of sexual assault is carrying pregnancy, upon the consent of her legal guardian and desire of such legal guardian for termination of pregnancy, the victim will be produced before such Board.
- In case when a minor victim is examined by such Board, appropriate report will be placed before concerned authorities, so that if an order is being sought regarding termination of pregnancy from the Courts, the Court concerned does not lose any more time and is in a position to pass an order on the same expeditiously.

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⁶ Majesty legal is law firm established in 2013 by Ms. Mahi Yadav. Aim of this analysis of the judgment is to provide insights on law and statutes which are personal in nature and are not to be deemed as legal advice.