



2026:AHC:207157-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 37249 of 2026

.....Petitioner(s)

Versus

.....Respondent(s)

Counsel for Petitioner(s)	:	Ravi Kesharwani, Vashnavi Kesarwani, Vindeshwari Prasad
Counsel for Respondent(s)	:	C.S.C., Majahar Ali

Reserved
AFR

Court No. - 2

HON'BLE J.J. MUNIR, J.
HON'BLE INDRAJEET SHUKLA, J.

Delivered by: Indrajeet Shukla, J.

1. Heard Mr. Vindeshwari Prasad, learned counsel for the petitioner, Sri Girijesh Kumar Tripathi, learned Additional Chief Standing Counsel on behalf of respondent nos.1 and 2 and Mr. Majahar Ali, learned counsel appearing for respondent no.3.
2. The writ jurisdiction of this Court under Article 226 of the Constitution of India has been invoked by the petitioner praying that a writ in the nature of mandamus be issued commanding the Chief Medical Officer, Bhadohi, to take necessary steps for the medical termination of her pregnancy in accordance with the provisions of the Medical Termination of Pregnancy Act, 1971.
3. Before advertng to the facts of the case, we would consider it apposite to do a survey of the relevant legal provisions, namely, the Medical Termination of Pregnancy Act, 1971, as amended by the

Medical Termination of Pregnancy (Amendment) Act, 2021 (with effect from 24.09.2021) (for brevity, “the Act, 1971”), and the Rules framed thereunder, namely, the Medical Termination of Pregnancy Rules, 2003, as amended by the Medical Termination of Pregnancy (Amendment) Rules, 2021 (with effect from 12.10.2021) (for brevity, “the Rules, 1971”).

4. The law governing the termination of pregnancies is regulated and controlled by the Act, 1971 and the Rules, 1971. The preamble to the Act says that it is an “*Act to provide for the termination of certain pregnancies by registered medical practitioners and for matters connected therewith or incidental thereto.*” The Act, 1971 lays down the legal requirements governing the termination of pregnancies, including the persons authorised to perform the procedure, the circumstances in which termination is permissible, and the places where such procedures may lawfully be carried out.

Relevant Statute and Rules

5. Section 3 of the Act, as it stands on the statute book, along with the relevant provisions of the Rules, reads as under:

3. When pregnancies may be terminated by registered medical practitioners.-

(1) Notwithstanding anything contained in the Indian Penal Code (45 of 1860), a registered medical practitioner shall not be guilty of any offence under that Code or under any other law for the time being in force, if any pregnancy is terminated by him in accordance with the provisions of this Act.

(2) Subject to the provisions of sub-section (4), a pregnancy may be terminated by a registered medical practitioner,—

(a) where the length of the pregnancy does not exceed twenty weeks, if such medical practitioner is, or

(b) where the length of the pregnancy exceeds twenty weeks but does not exceed twenty-four weeks in case of such category of woman as may be prescribed by rules made under this Act, if not less than two registered medical practitioners are, of the opinion, formed in good faith, that—

(i) the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health;
or

(ii) there is a substantial risk that if the child were born, it would suffer from any serious physical or mental abnormality.

Explanation 1.—For the purposes of clause (a), where any pregnancy occurs as a result of failure of any device or method used by any woman or her partner for the purpose of limiting the number of children or preventing pregnancy, the anguish caused by such pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman.

Explanation 2.—For the purposes of clauses (a) and (b), where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by the pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.

(2A) The norms for the registered medical practitioner whose opinion is required for termination of pregnancy at different gestational age shall be such as may be prescribed by rules made under this Act.

(2B) The provisions of sub-section (2) relating to the length of the pregnancy shall not apply to the termination of pregnancy by the medical practitioner where such termination is necessitated by the diagnosis of any of the substantial foetal abnormalities diagnosed by a Medical Board.

(2C) Every State Government or Union territory, as the case may be, shall, by notification in the Official Gazette, constitute a Board to be called a Medical Board for the purposes of this Act to exercise such powers and functions as may be prescribed by rules made under this Act.

(2D) The Medical Board shall consist of the following, namely:—

(a) a Gynaecologist;

(b) a Paediatrician;

(c) a Radiologist or Sonologist; and

(d) such other number of members as may be notified in the Official Gazette by the State Government or Union territory, as the case may be."

(3) In determining whether the continuance of a pregnancy would involve such risk of injury to the health as is mentioned in sub-section (2), account may be taken of the pregnant woman's actual or reasonably foreseeable environment.

(4) (a) No pregnancy of a woman, who has not attained the age of eighteen years, or, who having attained the age of eighteen years, is a mentally ill person, shall be terminated except with the consent in writing of her guardian.

(b) Save as otherwise provided in clause (a), no pregnancy shall be terminated except with the consent of the pregnant woman."

6. The Central Government, in exercise of the powers vested in it under Section 6 of the Act, 1971, framed the Rules, 2003, which were subsequently amended in the year 2021. The Rules prescribe the composition and tenure of the District Level Committee under Rule 3

and further lay down the standards for the functioning and constitution of the Medical Board under Rule 3A. Rules 4 and 4A deal with registered medical practitioners, whereas Rules 5 and 6 deal with the places where a pregnancy may be terminated.

7. For thrashing out the controversy in question, it is Rule 3B which has been pressed into service, with emphasis being placed on an estranged relationship with the spouse as a contingency amounting to a change in marital status. Thus, it would be profitable to take note of Rule 3B(c) of the Rules, 2003, which reads as under:

“3-B. Women eligible for termination of pregnancy up to twenty-four weeks.—The following categories of women shall be considered eligible for termination of pregnancy under clause (b) of sub-section (2) Section 3 of the Act, for a period of up to twenty-four weeks, namely—

(a) survivors of sexual assault or rape or incest;

(b) minors;

(c) change of marital status during the ongoing pregnancy (widowhood and divorce);

(d) women with physical disabilities [major disability as per criteria laid down under the Rights of Persons with Disabilities Act, 2016 (49 of 2016)];

(e) mentally ill women including mental retardation;

(f) the foetal malformation that has substantial risk of being incompatible with life or if the child is born it may suffer from such physical or mental abnormalities to be seriously handicapped; and 19 Rule 3, MTP Rules 20 Rule 3A, MTP Rules 21 Rules 4, 4A, MTP Rules 22 Rules 5, 6, 7, 8, MTP Rules 23 ”MTP Amendment Rules”

(g) women with pregnancy in humanitarian settings or disaster or emergency situations as may be declared by the Government.” D. Barriers to accessing safe and legal abortions”

8. Having taken a look at Rule 3B(c) of the Rules, 2003, it is evident that a change in the marital status during an ongoing pregnancy has been confined to cases of widowhood and divorce. Thus, to include an estranged relationship between spouses within the ambit of the said provision would amount to further expanding the scope of the Rule. It would amount to legislating or altering the legislation, which is beyond the permissible limits of judicial interpretation, unless the doctrine of necessity is applied to advance the true intent of legislation. Accordingly,

apart from cases of widowhood and divorce, this Court is not persuaded to carve out or add a third category comprising spouses who are in an estranged relationship being not at par with divorce or widowhood, both of which bear the character of permanence.

9. The Explanations appended to Section 3(2) envisages two presumptions, one of law and the other of fact, as to what constitutes a grave injury to the mental health of a pregnant woman. Explanation 1, which envisages a presumption of fact, stipulates that where a pregnancy occurs due to the failure of any contraceptive device or method used by a woman or her partner for the purpose of limiting the number of children or preventing pregnancy, such pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman, provided that the pregnancy has not exceeded twenty weeks. A presumption of law is carried in Explanation 2, which stipulates that where a woman alleges that her pregnancy was caused as a consequence of rape, the anguish caused by the pregnancy shall be presumed to constitute a grave injury to her mental health. The legal presumption under Explanation 2 applies to pregnancies which have not exceeded twenty-four weeks.

10. It is true that persistent cruelty during pregnancy may constitute a factor aggravating the mental health issues of a pregnant woman. Though cruelty has not been expressly mentioned in the Explanations appended to Section 3(2) of the Act, 1971, but, the interpretation of a statute must be based upon the text and context of the enactment, as well as its object and purpose. A modern legislation ought to be interpreted keeping in view the evolution of society and the changing circumstances in which the legislation operates. It is fairly well settled that the construction of a beneficial legislation ought not to be confined to its literal meaning but should proceed on the basis of a purposive interpretation. The words employed in a statute are not cast in stone; rather, they are capable of receiving an interpretation which advances the object and purpose for which the enactment has been brought into force by the Legislature in its collective wisdom. Thus, where persistent cruelty is established leading to permanent abandonment of marital ties,

it may constitute a relevant factor in assessing the deterioration of the mental health of a pregnant woman. In an appropriate case, therefore, medical termination of pregnancy may be permitted, keeping in view the woman's right to bodily integrity and autonomy, as well as her reproductive rights.

11. Having surveyed the relevant provisions and the case law, we may now revert to the facts of the present case.

Factual Matrix

12. The petitioner, a married woman aged 24 years, at the very inception of her experience of motherhood, has invoked the writ jurisdiction of this Court seeking medical termination of her pregnancy.

13. Admittedly, the marriage between the petitioner and respondent no. 3, who is a police constable, was solemnized on 03.05.2026, i.e., barely five months ago. As a result of their cohabitation, the petitioner is carrying a foetus of about 20 weeks as on date.

14. The case set up by the petitioner is that respondent no. 3 has been suspecting her character and assaulted her on several occasions. It is further alleged that the petitioner was subjected to mental and physical cruelty not only by respondent no. 3, but also the other members of his family. However, no FIR was registered in respect of the said incidents. It is alleged that on 27.07.2026, the petitioner was forced to consume phenyl, as a result of which her condition deteriorated, and she was admitted to Prabhawati Hospital, Kalenua, Gopiganj, Bhadohi. She was discharged on the same day. The petitioner further says that the medical papers relating to the said incident are in the possession of her in-laws and, therefore, she is not in a position to place those on record. Another incident dated 28.08.2026 has been described, where allegations of brutal assault against her mother-in-law, father-in-law, husband, sister-in-law and brother-in-law have been levelled. Another attempt to lodge an FIR also went in vain, as respondent no.3 is a police constable. The last resort of approaching the Superintendent of Police, Bhadohi vide

application dated 07.09.2026 for lodging an FIR could also not be of any consequence.

15. It has further been pleaded that respondent no. 3 threatened the petitioner that, if she got her pregnancy terminated, she would be visited with the evil consequence of registration of an FIR.

16. The petitioner has expressed her financial constraints, saying that she is unemployed and dependent upon her parents and, therefore, not in a position to maintain herself or bear the expenses of childbirth and the subsequent upbringing and rearing of the child.

17. The petitioner has brought on record an ultrasonography report dated 07.09.2026 issued by the Surya Trauma Center and Hospital, (city) as Annexure No. 2 at page 18 of the writ petition. The report records the average gestational age of a single, live, intrauterine *foetus* with cardiac activity and active foetal movements as 16 weeks and 1 day, with a variation of ± 2 weeks. The *foetus* is described as being in cephalic presentation, with a posteriorly placed placenta and adequate amniotic fluid. The report does not indicate any malformation, lethal congenital anomaly, or other abnormality in the *foetus*.

18. It has further been pleaded that the petitioner approached the C.M.O., Bhadohi, seeking termination of her pregnancy, which she describes as an unwanted one.

19. The further case of the petitioner, as set out in paragraph no. 22 of the writ petition, is that *“the pregnancy of the petitioner has now become unwanted; she does not wish to continue the same or give birth to the child.”*

20. The reason assigned by the petitioner for describing the pregnancy as unwanted is that the biological father of the *foetus* has expressed doubts regarding her character and is not willing to accept the child.

21. The case of the petitioner, as set out in paragraph no. 24 of the writ petition, is that *“initially, the pregnancy resulted from the matrimonial relationship between the petitioner and respondent no. 3 and was not unwanted. However, owing to the subsequent conduct and behaviour of respondent no. 3 and his family members, the pregnancy*

has now become unwanted for the petitioner. The birth of the child in the present circumstances would cause serious hardship, mental agony and difficulties to the petitioner in her future life.”

22. It has also been emphasized in the pleadings that the pregnancy is causing serious mental stress, emotional pain and distress to the petitioner. The petitioner has further pleaded that the continuance of the pregnancy would cause further complications and hardship in her life.

23. In the aforesaid background, the petitioner has taken a decision not to give birth to the child and approached this Court seeking medical termination of her pregnancy through a command to be issued in our writ jurisdiction.

Submission Advanced on Behalf of Petitioner

24. Learned counsel for the petitioner submitted that the petitioner is an adult married woman who, in the exercise of her independent right to bodily autonomy and reproductive rights, does not wish to continue with the pregnancy, which was initially legitimate but subsequently became unwanted. It was further submitted that the right to bodily autonomy and reproductive rights constitutes a facet of the right to life guaranteed under Article 21 of the Constitution of India.

25. The further contention is that the pregnancy was not unwanted from its inception but subsequently became unwanted owing to the cruelty, harassment and threats allegedly inflicted upon the petitioner by her in-laws.

26. It is next contended that the petitioner, being an unemployed woman and dependent upon her parents, is not in a position to bear the expenses of childbirth and, as a natural corollary the subsequent rearing and upbringing of the child. It has also been emphasised that, since the pregnancy has not exceeded twenty weeks as of now, the same can be terminated in terms of the provisions contained in the Act, 1971 and the Rules framed thereunder. It is further strenuously urged that the statutory authorities, including the C.M.O., Bhadohi, have failed to honour the fundamental rights of the petitioner relating to bodily autonomy, dignity,

privacy and personal liberty, which constitute various facets of the right to life guaranteed under Article 21 of the Constitution of India, contained in Part III thereof.

27. The petitioner, along with her learned counsel, has laid much emphasis on the contention that the continuance of the pregnancy would involve injury to her health within the meaning of Section 3(2) of the Act, 1971, and that the same may be examined in the backdrop of the actual or reasonably foreseeable environment in which the petitioner is compelled to carry the pregnancy. It has been emphasised that the cruel behaviour of her in-laws has created a reasonable apprehension that neither the petitioner nor her child is safe, and that the mental trauma being suffered by the petitioner is aggravating day by day.

28. Lastly, it has been contended that, in matters relating to the termination of pregnancy, it is the woman herself who is the ultimate decision-maker and the best judge of whether or not to continue with the pregnancy.

29. In order to buttress the aforesaid submissions, learned counsel for the petitioner has placed reliance upon the judgment of the Supreme Court reported in **X v. Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi and Another**, 2022 AIR SC 4917, emphasising that the expression “mental health” has a wide connotation and means much more than the mere absence of a mental impairment or mental illness. It has further been submitted that a change in the circumstances of a woman’s environment during an ongoing pregnancy, including the risk to her life, has been given due primacy, thereby permitting termination of an unwanted pregnancy. The relevant remarks in **X Vs. Principal Secretary** (*supra*) read:

“63. The grounds for approaching courts differ and include various reasons such as a change in the circumstances of a woman’s environment during an ongoing pregnancy, including risk to life, 74 risk to mental health, 75 discovery of foetal anomalies, 76 late discovery of pregnancy in case of minors and women with 70 (2017) 3 SCC 458 71 (2018) 14 SCC 289 72 (2017) 3 SCC 462 73 (2018) 13 SCC 339 74 A v. Union of India, (2018) 14 SCC 75; X v. Union of India, (2017) 3 SCC 458; Meera Santosh Pal v. Union of India, (2017) 3 SCC 462; Tapasya Umesh Pisal v. Union of India, (2018) 12 SCC 57; Mamta Verma v.

Union of India, (2018) 14 SCC 289 75 X v. Union of India, (2017) 3 SCC 458; Meera Santosh Pal v. Union of India, (2017) 3 SCC 462; Sarmishtha Chakraborty v. Union of India, (2018) 13 SCC 339; Mamta Verma v. Union of India, (2018) 14 SCC 289; Z v. State of Bihar, (2018) 11 SCC 572 76 A v. Union of India, (2018) 14 SCC 75; Sarmishtha Chakraborty v. Union of India, (2018) 13 SCC 339; Tapasya Umesh Pisal v. Union of India, (2018) 12 SCC 57; Mamta Verma v. Union of India, (2018) 14 SCC 289 disabilities, and pregnancies resulting from sexual assault or rape. These are illustrative situations thrown up by cases which travel to the court. Although the rulings in these cases recognized grave physical and mental health harms and the violation of the rights of women caused by the denial of the option to terminate unwanted pregnancies, the relief provided to the individual petitioner significantly varied.

64. The expression “mental health” has a wide connotation and means much more than the absence of a mental impairment or a mental illness. The World Health Organization defines mental health as a state of “mental well-being that enables people to cope with the stresses of life, realize their abilities, learn well and work well, and contribute to their community.” The determination of the status of one’s mental health is located in one’s self and experiences within one’s environment and social context. Our understanding of the term mental health cannot be confined to medical terms or medical language, but should be understood in common parlance. The MTP Act itself recognizes the need to look at the surrounding environment of the woman when interpreting injury to her health. Section 3(3) states that while interpreting “grave injury to her physical or mental health”, account may be taken of the pregnant woman’s actual or reasonably foreseeable environment. The consideration of a woman’s “actual or reasonably foreseeable environment” becomes pertinent, especially when determining the risk of injury to the mental health of a woman.

77 X v. Union of India, (2020) 19 SCC 806 78 Z v. State of Bihar, (2018) 11 SCC 572; X v. Union of India, (2020) 19 SCC 806 World Health Organization, “Promoting mental health: concepts, emerging evidence, practice (Summary Report)”

66. In Sidra Mehboob Shaikh v. State of Maharashtra, the High Court of Bombay permitted the petitioner to undergo medical termination of her pregnancy on the ground that compelling her to continue with her unwanted pregnancy would be oppressive, and would likely cause a grave injury to her mental health. The petitioner, a victim of domestic violence, had approached the court to allow her to undergo an abortion as she pleaded that she did not want to raise a child in the absence of financial and emotional support from her husband; and raising a child on her own would be burdensome. The High Court observed that “mental state of a person is a continuum with good mental health being at one end and diagnosable mental illness at the opposite end. Therefore, mental health and mental illness, although sound similar, are not the same.”

67. We note the correct interpretation adopted in two other judgments from the Bombay High Court, where the Court permitted unmarried petitioners to abort, after purposively construing the effects of carrying an unwanted pregnancy on the 80 2016 SCC OnLine Bom 8426 81 2021 SCC Online Bom 1839 82 2021 SCC Online Bom 1839, at paragraph 22 mental health of a woman. In XYZ v. State of Maharashtra, an unmarried petitioner aged about 18 years was allowed to terminate her pregnancy in the 26th week after considering her socio-economic condition, and the impact of the continuation of pregnancy on her mental health. In Siddhi Vishwanath Shelar v. State of Maharashtra, a twenty-three year old petitioner contended that she was not mentally ready to be an unwed mother and sought the termination of her pregnancy of approximately twenty-three weeks. The Petitioner was engaged in a consensual relationship but had since parted ways from her partner, and thus wanted to terminate the unwanted pregnancy. While permitting the abortion, the High Court of Bombay observed that insisting upon continuance of pregnancy would involve a grave injury to the petitioner's health. The High Court took note of the woman's submissions regarding her actual and foreseeable environment.

68. By framing Rule 3B, the legislature intended to solve the mischief, so to speak, of women being unable to access abortions when their lives underwent significant changes impacting their physical and mental health, and their decision to have a child was impacted after the length of the pregnancy exceeded twenty weeks. The Minutes of the Meeting of the Expert Committee held on 22 June 2021 for deliberating upon and drafting the MTP Rules dealt with, inter alia, category of women under Rule 3B. The members of the Expert Committee suggested different categories of women such as "survivors of sexual violence/rape; mentally challenged women, minors, women with disabilities; foetal anomalies; conception 83 Judgment dated 6 October 2021 in WP(L) 21977 of 2021 (Bombay High Court) 84 2020 SCC OnLine Bom 11672 in lactational amenorrhea period; single women (such as unwed women (major), divorced and widowed, separated women); women who are facing difficulties in contexts of humanitarian setting/emergencies and/or natural disasters; women victims of domestic violence/ gender-based violence etc." The members of the Expert Committee urged the inclusion of women in Rule 3B, who often delay revealing the pregnancy or making decisions as to its continuance, for various reasons.

69. The common thread running through each category of women mentioned in Rule 3B is that the woman is in a unique and often difficult circumstance, with respect to her physical, mental, social, or financial state. All the different categories in Rule 3B represent women who seek an abortion after twenty weeks either due to a delay in recognizing pregnancy, or some other change in their environment impacting their decision on whether the pregnancy is wanted or unwanted. The law recognizes the myriad ways in which a pregnancy may cause distress in such situations and cause grave injury to her physical and mental health. It gives such women latitude in seeking out

the termination of an unwelcome pregnancy by extending the gestational period up to which the termination is legally permissible.

89. Rule 3B(c) states that a “change in the marital status during the ongoing pregnancy (widowhood and divorce)” renders women eligible for termination of their pregnancy under Section 3(2)(b). The impact of the continuance of an unwanted pregnancy on a woman’s physical or mental health should take into consideration various social, economic, and cultural factors operating in her actual or reasonably foreseeable environment, as provided in Section 3(3). The rationale behind Rule 3B(c) is comparable to the rationale for Rule 3B(g) i.e., a change in a woman’s material circumstances during the ongoing pregnancy.

90. Rule 3B(c) is based on the broad recognition of the fact that a change in the marital status of a woman often leads to a change in her material circumstances. A change in material circumstance during the ongoing pregnancy may arise when a married woman divorces her husband or when he dies, as recognized by the examples provided in parenthesis in Rule 3B(c). The fact that widowhood and divorce are mentioned in brackets at the tail end of Rule 3B(c) does not hinder our interpretation of the rule because they are illustrative.

91. A change in material circumstance may also result when a woman is abandoned by her family or her partner. When a woman separates from or divorces her partner, it may be that she is in a different (and possibly less advantageous) position financially. She may no longer have the financial resources to raise a child. This is of special concern to women who have opted to be a homemaker thereby forgoing an income of their own. Moreover, a woman in this situation may not be prepared to raise a child as a single parent or by coparenting with her former partner. Similar consequences may follow when a woman’s partner dies.”

Submissions Advanced on Behalf of Respondent no.3

30. Refuting the submissions advanced by learned counsel for the petitioner, respondent no. 3, appearing in person along with his learned counsel, submitted that neither respondent no. 3 nor any of his family members have ever subjected the petitioner to any form of cruelty. It was submitted that a minor misunderstanding arising in the course of married life has brought the parties to such a situation where an attempt is now being made, through the process of law, to terminate the life of an unborn child. It was further submitted that the statutory scheme contained in the Act, 1971 and the Rules framed thereunder does not contemplate an estranged relationship between the spouse as a ground for medical termination of pregnancy.

31. The further submission is that the allegations regarding forcible administration of phenyl, assault, cruelty and police inaction are bald allegations, unsupported by any material evidence or proof. Such allegations, it is submitted, have been engineered not only to provide a basis for living separately from her in-laws but also to avoid her matrimonial obligations. The allegation regarding withholding of the medical papers relating to treatment at Prabhawati Hospital has also been specifically denied. It has further been submitted that no threat was ever extended to the petitioner regarding registration of an FIR in the event she chose to seek medical termination of pregnancy. Rather, it is contended that termination of pregnancy can be permitted only for genuine and germane reasons, supported by the opinion of a Medical Board, rendered in accordance with the parameters prescribed under the Act, 1971 and the Rules framed thereunder.

32. Learned counsel for respondent no. 3 has invited our attention to the categorical averment made in the counter affidavit that respondent no. 3 has never expressed any suspicion regarding, or doubted, the character of the petitioner. It has been submitted that a minor misunderstanding between the parties has been escalated by the petitioner and brought before us through the instant writ petition. It is further submitted that no other litigation is pending between parties and the marital life of the petitioner and respondent no. 3 is still at a nascent stage. Considerable emphasis has been laid on the legitimacy of the child, as the pregnancy has occurred during the subsistence of the marriage, coupled with the unequivocal assertion that respondent no. 3 is ready and willing to discharge his matrimonial obligations, including that of bearing the medical expenses incurred during the pregnancy and undertaking the maintenance of the child as well as the petitioner, being the mother.

33. Lastly, learned counsel for respondent no. 3 submitted that the family is an institution of paramount importance to respondent no. 3 and that he is always willing to preserve and maintain the same. It was submitted that disintegration of the family would be in the interest of

none. Respondent no. 3, being a government servant, is drawing an in-hand salary of approximately Rs. 40,000/- per month. Though he is also under an obligation to maintain his parents, he is nevertheless willing to set apart a substantial portion of his salary for the benefit of his wife and the child who is likely to come into this world. It was further submitted that the allegations of matrimonial cruelty are unfounded and not supported either by any material particulars or evidence. The allegations levelled in the writ petition are vague and omnibus in nature. It has also been submitted that respondent no. 3 has never misused or taken any advantage of his official position.

Analysis/Reasoning

34. It is beyond any doubt that the words in parenthesis appended to Rule 3B(c) of the Rules, 2003 mention “divorce” and “widowhood” by way of illustration at the end thereof. Although the categories enumerated in Rule 3B(c) are illustrative in nature, the provision cannot be expanded to include every circumstance of matrimonial rupture, merely because it may appear analogous in some respect. An entirely new or distinct category cannot be introduced under the guise of interpretation, as that would amount to adding to or rewriting the rule itself. This would imply that an equivalent category may, in an appropriate case, be considered by the Constitutional Courts. However, every altercation or normal wear and tear of married life would not, in the first instance, render the relationship between the spouses completely estranged, and thereafter warrant enlargement of the scope of the expression contained in the parenthesis appended to the aforesaid Rule so as to carve out a third category of an “estranged relationship” between spouses. Even if “divorce” and “widowhood” are treated as illustrative categories, any further category sought to be included must bear equivalence with divorce and widowhood, such as permanent abandonment by one of the spouses or the creation of circumstances, including those by reason of cruelty, which render any possibility of reunion virtually non-existent. Any other interpretation, or the inclusion

of relatively lesser circumstances by bringing an “estranged relationship” within the ambit of Rule 3B(c), would, in our considered opinion, not advance the object of the aforesaid provision. Thus, what is contemplated under Rule 3B(c) is a change in the marital status of the woman during the ongoing pregnancy. Mere differences between the spouses do not, by themselves, result in a change of marital status. The law has consistently endeavoured to preserve the institution of marriage and family, rather than to facilitate its disintegration.

35. The right to reproductive autonomy has been considered in detail by the Supreme Court in **Principal Secretary, Health** (*supra*). The relevant observations there read:

“96. The ambit of reproductive rights is not restricted to the right of women to have or not have children. It also includes the constellation of freedoms and entitlements that enable a woman to decide freely on all matters relating to her sexual and reproductive health. Reproductive rights include the right to access education and information about contraception and sexual health, the right to decide whether and what type of contraceptives to use, the right to choose whether and when to have children, the right to choose the number of children, the right to access safe and legal abortions, and the right to reproductive healthcare. Women must also have the autonomy to make decisions concerning these rights, free from coercion or violence.

97. Zakiya Luna has, in a 2020 publication, argued that reproduction is both biological and political. 90 According to Luna, it is biological since physical bodies reproduce, and it is political since the decision on whether to reproduce or not is not solely a private matter. This decision is intimately linked to wider political, social, and economic structures. A woman’s role and status in family, and society generally, is often tied to childbearing and ensuring the continuation of successive generations.

98. To this, we may add that a woman is often enmeshed in complex notions of family, community, religion, and caste. Such external societal factors affect the way a woman exercises autonomy and control over her body, particularly in matters relating to reproductive decisions. Societal factors often find reinforcement by way of legal barriers restricting a woman’s right to access abortion. The decision to have or not to have an abortion is borne out of complicated life circumstances, which only the woman can choose on her own terms without external interference or influence. Reproductive autonomy requires that every pregnant woman has the intrinsic right to choose to undergo or not to undergo abortion without any consent or authorization from a third party.

99. The right to reproductive autonomy is closely linked with the right to bodily autonomy. As the term itself suggests, bodily autonomy is the right to take decisions about one’s body. The consequences of an

unwanted pregnancy on a woman's body as well as her mind cannot be understated. The foetus relies on the pregnant woman's body for sustenance and nourishment until it is born. The biological process of pregnancy transforms the woman's body to permit this. The woman may experience swelling, body ache, contractions, morning sickness, and restricted mobility, to name a few of a host of side effects. Further, complications may arise which pose a risk to the life of the woman. A mere description of the side effects of a pregnancy cannot possibly do justice to the visceral image of forcing a woman to continue with an unwanted pregnancy. Therefore, the decision to carry the pregnancy to its full term or terminate it is firmly rooted in the right to bodily autonomy and decisional autonomy of the pregnant woman.

106. The right to decisional autonomy also means that women may choose the course of their lives. Besides physical consequences, unwanted pregnancies which women are forced to carry to term may have cascading effects for the rest of her life by interrupting her education, her career, or affecting her mental well-being.

36. No doubt, reproductive autonomy, being linked to a woman's right over her own body, is protected under Article 21 of the Constitution of India, but one can be allowed termination of pregnancy by obtaining command from Constitutional Court, if the pregnancy is unwanted from its inception and such pregnancy would have an adverse mental and physical impact on the health of the pregnant woman. Further, if any abnormality is detected during gestational period and the birth of such child would not be in his favour by bringing him in this world, probably termination of pregnancy may be a prudent decision. The Medical termination of pregnancy is to be governed by the statutory provisions contained in the Act, 1971 and Rules framed thereunder and unless the test laid down there making the medical termination of pregnancy permissible, a decision sanctioning termination of pregnancy through the command of a Constitutional Court must be avoided.

37. Since the legislative intent underlying the expression "change in marital status" is to contemplate a permanent change brought about by way of either divorce or widowhood, we are not persuaded to include a third category of an estranged relationship between spouses, which may not necessarily be permanent, within the expression "change in marital status" occurring in Rule 3B(c) of the Rules, 2003.

38. The interesting part is that it has been admitted by none other than the petitioner herself that the 'pregnancy was wanted' at its inception, but it was the ill behaviour of her in-laws, which made it 'unwanted with flux of time'. The law, in its strict sense, only allows unwanted pregnancies at the inception to be terminated, and in the case in hand, neither the marital status has changed nor unimpeachable evidence of cruelty produced that might convince us to take the drastic and exterminatory decision for the ending of a life which has yet to come in the world. In our opinion, none of the provisions of the Act, 1971 and Rules framed thereunder lend themselves to a construction that might favour termination of pregnancy here.

39. Deterioration of the mental health of the petitioner on account of the alleged cruelty suffered by her during the pregnancy is the sole ground pleaded in support of the relief sought for medical termination of pregnancy in the case in hand.

40. Though learned counsel for the petitioner has failed to cite any authority where repeated domestic violence has been held to constitute a foundation for permitting medical termination of pregnancy, and the statute itself does not expressly recognise repeated domestic violence as a ground affecting the mental health of a pregnant woman so as to warrant medical termination of pregnancy under the Act, 1971, we are cognizant of a Division Bench judgment of the High Court of Bombay in **Sidra Mahboob Shaikh v. State of Maharashtra, 2021 SCC OnLine Bom 1839**.

41. In the said case, the High Court of Bombay observed that the continuance of pregnancy, where a woman is subjected to cruelty, may further escalate and aggravate the grave injury to her mental health. However, for such assessment, due regard is required to be had to the actual and reasonably foreseeable environment of the pregnant woman. In that case, the Court found that domestic violence was recurrent and that a complaint regarding the violence meted out to the pregnant woman/petitioner there had been lodged before the competent Magistrate under the provisions of the Protection of Women from

Domestic Violence Act, 2005. It was also noticed that the husband had expressed his unwillingness to share the burden of raising the child and that the woman was taking steps for dissolution of the marriage by a decree of divorce.

42. Taking an overall view of the facts and circumstances, the High Court of Bombay permitted termination of the pregnancy. However, the facts of the said case are materially distinguishable from those obtaining herein. Bearing in mind the factual dissimilarity, the said Bombay authority does not, in our considered opinion, furnish an appropriate basis for permitting termination of pregnancy in the present case. Having regard to the circumstances brought before us, permitting medical termination of pregnancy does not appear to be the appropriate or prudent course to adopt.

43. The domestic violence, on account of the assault by the husband, in which the petitioner had sustained injuries to her face and abdomen, causing her trauma, was found in **Sidra Mehboob Shaikh** (*supra*) to be a sufficient circumstance for permitting medical termination of pregnancy, despite the same not being expressly included as an Explanation to Section 3(2)(b) of the Act, 1971. However, the facts of the said case are materially distinguishable from those obtaining in the case in hand. In view of such factual dissimilarity, we are not persuaded to extend the principle laid down by the High Court of Bombay in **Sidra Mehboob Shaikh** (*supra*) to the facts of the present case.

44. We are also at a loss to understand that, if the police did not act upon the complaints due to official position of respondent no.3, what prevented the petitioner from knocking the doors of the jurisdictional Magistrate by filing a complaint under Domestic Violence Act, 2005. No complaint under Domestic Violence Act has admittedly been filed by the petitioner. Thus, it would be too early in the day to conclude that petitioner is indeed a victim domestic violence though, this may not be treated as any conclusive opinion of ours for, the purpose, if the matter were brought to the notice of jurisdictional Magistrate pointing out domestic violence. In that event the cause may be decided on its own

merits without being influenced by any of the observations made in this judgment.

45. Before proceeding further, it is pertinent to note that Section 2(b) defines a “mentally ill person” as a person who requires treatment on account of any mental disorder, other than mental retardation.

46. A reading of Section 3(2)(b)(i) indicates that a pregnancy may be terminated by a registered medical practitioner within the prescribed period where the continuance of the pregnancy would pose a risk to the life of the pregnant woman or cause grave injury to her physical or mental health. Section 3(3) further provides that, in determining whether the continuance of a pregnancy would involve such a risk of injury to the health of the pregnant woman as contemplated under sub-section (2), due regard may be had to her actual or reasonably foreseeable environment.

47. At this stage, it is pertinent to observe that, while assessing the expression ‘mental health’ of a pregnant woman, due consideration must also be given to her actual or reasonably foreseeable circumstances and environment. Thus, in determining whether the continuance of pregnancy would cause grave injury to the mental health of the pregnant woman, the circumstances surrounding her, both present and reasonably foreseeable, assume significance. In this regard, the social and economic circumstances that the pregnant woman may presently face, or may reasonably be expected to encounter in the near future, constitute relevant and material considerations.

48. Apart from the above, although Section 2(b) defines the expression ‘mentally ill person’, Section 3(2)(b)(i) employs the distinct expression ‘mental health’, which is not defined under the Act. As noted earlier, a ‘mentally ill person’ is defined as a person who is in need of treatment by reason of any mental disorder, other than mental retardation. Thus, a person suffering from a mental disorder, other than mental retardation, who requires treatment would fall within the statutory definition of a ‘mentally ill person’. The question, therefore, arises as to what is meant by the expression ‘mental health’. Since the

Act does not define the term, its meaning must necessarily be understood in its ordinary and commonly accepted sense. The World Health Organization (WHO) describes mental health as a state of well-being in which an individual is able to realise their abilities, cope with the ordinary stresses of life, work productively and meaningfully, and contribute to their community. Mental health, therefore, extends beyond the mere absence of a diagnosed mental illness. It encompasses an individual's capacity to cope with and respond effectively to the challenges and stresses of everyday life. A person may experience poor or diminished mental health without necessarily suffering from a formally diagnosed mental disorder. Mental well-being may instead be understood as existing on a continuum, with positive mental health at one end and diagnosable mental illness at the other. Consequently, although the expressions 'mental health' and 'mental illness' are closely related, they are conceptually distinct and cannot be treated as synonymous.

49. In **C.E.S.C. Limited v. Subhash Chandra Bose, (1992) 1 SCC 441**, Justice K. Ramaswamy, in his dissenting opinion, examined the meaning and scope of the expression 'health' and observed that the concept of health extends beyond the mere absence of sickness. In the context of the case, he noted that medical care and health facilities serve not merely to protect individuals from illness but also contribute to the maintenance of a stable workforce, thereby promoting economic development. He further observed that medical facilities constitute an integral component of social security and may yield immediate benefits in the form of increased productivity and reduced absenteeism on account of sickness. Of particular relevance, however, is the description of 'health' as a state of complete physical, mental and social well-being, and not merely the absence of disease or infirmity. The maintenance and promotion of health constitute an important constitutional objective, the realisation of which necessarily requires the interplay of diverse social and economic factors.

50. It follows, therefore, that mental health cannot be understood merely as the absence of mental disorder or illness. It encompasses a broader state of well-being in which an individual is able to realise his or her potential, cope with the ordinary stresses of life, function productively, and contribute meaningfully to the community. A person may be said to enjoy good mental health when he or she is in a state of mental balance and equilibrium.

51. The foregoing discussion makes it clear that the expression “mental health” is of wider import and encompasses, within its scope, the concept of “mental illness”. Viewed in this context, the Legislature’s deliberate use of the expression “mental health” in Section 3(2)(b)(i), as distinct from “mental illness” or “mentally ill person”, assumes considerable significance. The distinction in terminology indicates that the provision is intended to have a broader ambit, extending beyond cases involving a clinically diagnosed mental disorder or illness.

52. Here, the petitioner has come up with the case that she was subjected to cruelty by her husband and in-laws and that, for this reason, she is not in a state of good mental health to carry the pregnancy any more and the pregnancy, which was initially on account of sweet will, subsequently became unwanted with flux of time due to ill treatment by her in-laws. The continuance of pregnancy would involve a risk to her mental health. Though, the two explanations attached to Section 3 (2) viz failure of contraceptive or any devise or method used by women or her partner for the purposes of limiting the number of children or preventing pregnancy may cause anguish by such pregnancy which is presumed to constitute a grave injury to the mental health of the pregnant woman, and similarly, where the pregnancy is caused by rape it causes anguish leading to grave injury to the mental health of the pregnant woman. Like these two explanations, causing of repeated domestic violence has resulted grave injury to the mental health of petitioner being a pregnant woman. Though the statute does not cover domestic violence caused to pregnant woman resulting in grave injury to her health but a purposive interpretation can be adopted by this Court and the permission for

medical termination of pregnancy granted only where there is overwhelming evidence of establishing cruelty leading to deteriorating mental health.

53. It is equally important to note that no material has been produced before us pointing out that the petitioner's mental health deteriorated on account of conceiving or being pregnant. The actual and reasonable apprehension of the petitioner pointing out deteriorating mental health may have some relevance for the purposes of medical termination of pregnancy but same cannot be founded on the sole desire and whims of the person seeking termination of medical pregnancy.

54. Learned Standing Counsel has placed before us the instructions received from the Medical Officer, Bhadohi which have been marked as 'X' and retained on record. The said instructions carry the petitioner's medical report and the statements of herself and her parents. The petitioner's ultra sound scan report dated 19.09.2026 reflects that petitioner is carrying a single live *foetus* in her uterus, the gestational age whereof has determined as 17 weeks 02 days. The heart beat of foetus has been recorded 152 b/m, with no abnormality or malformation noted in the said ultra sound report. In the M.C.S. Hospital, Gyanpur, Bhadohi when ultra sound was done the petitioner and her parents collectively expressed there unwillingness for termination of pregnancy until Court's order is received. The ultra sound scan as well as the statement of petitioner and her parents are part of the instructions which we have already taken on record.

55. It would be appropriate, at this stage, to consider the rights and interests of the child in the womb for a complete adjudication of the controversy in question. In this regard, we are guided by the judgment of the High Court of Kerala in **Najilla B. and Another v. Union of India**, **W.P. No. 44297 of 2024**, decided on 06.01.2024. The relevant remarks in the said authority read:

"12. In a case of a similar nature, in Remya.T v. Union of India (2023 KHC Online 10426), this Court has observed as follows:

"6. No doubt, the Apex Court has declared a woman's right to make reproductive choice to be a dimension of her personal liberty in Suchita Srivastava (supra), but the question is whether such liberty can transgress the restrictions/prohibition under the Medical Termination of Pregnancy Act, that too when the experts have given a conclusive opinion that continuance of the pregnancy is better than premature termination. Yet another consideration is that the gestational age having crossed 36 weeks, there is every possibility of having a live viable baby. Even going by S.3(2B), termination beyond the maximum period can be permitted only if the Medical Board points out substantial foetal anomalies. As no anomaly was detected till 36 weeks of gestation, the Board has excluded major malformation, anomaly in the foetus. It is also stated that the long term prognosis of the newborn can be predicted only after delivery, follow - up and evaluation. The opinion not being definite about any substantial anomaly to the foetus and there being no threat to physical and mental status of the mother if the pregnancy is continued for two more weeks, this court cannot permit medical termination of the pregnancy, particularly when the opinion is that the extra morbidities associated with preterm delivery in both mother and baby can be avoided if the termination is planned as per usual protocol. The above reasons compel me to decline the prayer for termination of pregnancy.

In the result, the writ petition is dismissed".

13. In another case of an identical nature, in Indulekha Sreejith v. Union of India and Others (2021 (5) KHC 269), this Court has held that an unborn child also has a fundamental right to life as guaranteed under Article 21 of the Constitution of India. This Court has held so, in the following lines:

"7. An unborn child has a life of its own and rights of its own and the rights of unborn are recognised by law. No doubt, only if the unborn can be treated as a person, the right to life of the unborn can be equated with the fundamental right of the mother guaranteed under Art.21 of the Constitution. True, an unborn is not a natural person, but it is well known that after six weeks, life is infused into the embryo, thus converting embryo into foetus and once an embryo evolves into a foetus, the heartbeat starts. In other words, the unborn has life from the stage it transforms into foetus. If the unborn has life, though it is not a natural person, it can certainly be considered as a person within the meaning of Art.21 of the Constitution, for there is absolutely no reason to treat an unborn child differently from a born child. In other words, the right to life of an unborn shall also be considered as one falling within the scope of Art.21 of the Constitution.

8. In all cases where a Court is called upon to adjudicate the question whether permission shall be granted to a pregnant woman for terminating her pregnancy on a plea of infringement of her fundamental right to life guaranteed under Art.21 of the Constitution, the court is making a

balance between the rights of the mother and the rights of the unborn. No doubt, while doing so, if there is any threat to the life of the mother, the scales shall certainly tilt in favour of the mother, for if the life of the mother cannot be saved, the life of the unborn cannot be protected.

9. Reverting to the question, when a duly constituted Medical Board opines that the stage of pregnancy is such that it may result in a live baby and that the foetal abnormalities diagnosed are not lethal, in the absence of any threat to the life or health of the mother, I am of the view that the reproductive choice of the mother which is a facet of the fundamental right guaranteed to her under Art.21 of the Constitution, will have to give way to the right of the unborn to be born. True, if the Medical Board diagnoses substantial foetal abnormalities, the amended provisions of the Act permit termination of pregnancy notwithstanding the outer time -limit prescribed in the Act for termination of pregnancy. According to me, even if the amended provisions were notified, the relief sought by the petitioner in the instant case cannot be granted at this stage of her pregnancy, for the Medical Board has not opined that foetal abnormalities found are substantial in nature. The question formulated for decision is thus answered in the negative.

In the result, the writ petition is dismissed".

56. The petitioner has attempted to impress upon us that her husband/respondent no. 3 harbours suspicion regarding her chastity and, therefore, it is not desirable for her to give birth to the child. We are, however, completely at a loss to understand how a minor skirmish between the spouses can constitute the basis for a termination of pregnancy, particularly when the child in the womb has legitimacy in the eyes of law. In this regard, we remind ourselves of the provisions of Section 112 of the Indian Evidence Act, which read:

“112. Birth during marriage, conclusive proof of legitimacy.

The fact that any person was born during the continuance of a valid marriage between his mother and any man, or within two hundred and eighty days after its dissolution, the mother remaining unmarried, shall be conclusive proof that he is the legitimate son of that man, unless it can be shown that the parties to the marriage had no access to each other at any time when he could have been begotten.”

57. The child in the petitioner’s womb has been conceived during subsistence of marriage and it is no body’s case that the parties to the marriage were intending to limit the number of children or the initial conception was not at the sweet will of the parties. Thus, the unborn

child cannot be understood to be the result of an unwanted pregnancy. We cannot lose the sight of Latin maxim *“Nasciturus pro iam nato habetur, quotiens de commodis eius agitur”* having complete bearing on the issue in hand which says **“the unborn is deemed to have been born to the extent that its own benefits are concerned”**.

58. The famous quote addressing the sanctity of unborn life includes the words of Mother Teresa, who said during her 1979 Nobel Peace Prize acceptance speech *“the greatest destroyer of peace today is abortion, because it is a war against the child, a direct killing of innocent child, murder by the mother herself. Even in the scripture it is written: Even if mother could forget her child – I will not forget you – I have carved you in the palm of my hand. Even if mother could forget, but today millions of unborn children are being killed. And we say nothing. In the newspapers you read numbers of this one and that one being killed, this being destroyed, but nobody speaks of the millions of little ones who have been conceived to the same life as you and I, to the life of God, and we say nothing, we allow it.”*

59. No concrete material or evidence, except the oral allegations of the petitioner, has been brought on record which may persuade us to hold that the petitioner’s actual or reasonably foreseeable environment is not conducive to the continuance of the pregnancy. At the same time, we are conscious that the petitioner’s right to bodily integrity and autonomy, as well as her reproductive rights, are entitled to due weight and consideration. However, medical termination of pregnancy, particularly at a stage when the pregnancy involves the developing life of the foetus and the health and well-being of the mother carrying it, requires a balanced approach. Thus, a balanced approach is the need of the hour, and a mere desire for termination of pregnancy, particularly when such relief is sought through the writ jurisdiction of this Court, cannot by itself be made the basis for issuing a direction for medical termination unless the case falls within the four corners of the Act, 1971 and the Rules framed thereunder.

60. A medical termination of pregnancy is not the only panacea for emotional distress due to marital discord and for that suitable clinical or other marital counseling can be done. In the modern age, even such psychologists are posted under the institutions run by the Government. Thus, the Chief Medical Officer, Bhadohi, must arrange marital counselling either by someone posted in the department or may request the nearest Medical College for such purposes which shall also be without any expenditure on account of the cost for the petitioner. Any major medical expenditure shall incurred by the Government Hospital. The anguish that the petitioner is harboring is not due to the pregnancy, inasmuch as by no stretch of imagination can it be termed as an unwanted one; rather it is due to a matrimonial discord or misunderstanding of routine married life, which can be taken care of by an expert counsellor. It is equally true that the Legislature has not provided that a domestic dispute, by itself, shall be presumed to constitute a grave injury to the mental health of a married pregnant woman so as to confer a right upon her to seek termination of pregnancy. More particularly, in the case in hand, there is no concrete or cogent material establishing the alleged domestic violence so as to demonstrate that the continuance of pregnancy would cause grave injury to the physical or mental health of the petitioner.

61. The case set up by the petitioner is that she has suffered mental distress on account of the marital discord between the parties. The distress, if any, arising from the ongoing marital discord may, in our considered opinion, be addressed and overcome through appropriate marital counselling.

62. The petitioner and her learned counsel have attempted to impress upon this Court that the petitioner is not mentally prepared to raise and nurture the child on account of her lack of financial stability. It cannot be gainsaid that, even during the gestational period, both the mother and the child in the womb require proper medical care and treatment. Thus, the financial constraints faced by the petitioner may further aggravate her mental distress, and her apprehension cannot be said to be wholly

unfounded, particularly if respondent no. 3, being her husband, is not taking care of her.

63. Here, there is no abandonment by any of the parties and no such circumstance with material particulars and proof has been brought to our notice which may lead to an inference of abandonment on the part of any of the spouse at this stage and no such proceedings has yet been drawn. Thus, we would not delve into surmises and conjectures. The only point which convinced us is the lack of financial resources to raise the child and no doubt, that is a reason which cannot be completely ignored; nor we can shut our eyes to it. Thus, we have enquired from the respondent no.3/husband who is present today in Court and he has not only offered to accompany the petitioner but expressed his willingness to take care of both the petitioner and the child in the womb. He has unequivocally expressed that he is in government service and is ready to bear the medical expenses incurred in the pregnancy. We have been informed that respondent no. 3 being a police constable is drawing a monthly salary of Rs.40,000/- in hand and on being asked to part at least one-third of his salary, he said that he has the liability of maintaining his and old ailing parents. But he does not shirk from his responsibility to the petitioner and the child in the womb and has readily agreed to pay Rs.12,000/- per month for medical bills and proper nurture and upbringing of the child, including the petitioner's health. Thus, it would be appropriate for the Superintendent of Police, Ghazipur, to make suitable arrangement for deducting Rs.12,000/- per month from the respondent's salary and ensure its transfer to the petitioner's bank, under information to her.

64. In this case, we find that there is no material to indicate that any grave injury to the physical or mental health of the petitioner is likely to occur on account of the continuance of the pregnancy. So far as the actual or reasonably foreseeable environment of the petitioner is concerned, there is also no material to demonstrate any imminent or real danger to her mental health. The petitioner is presently residing with her parents, and the environment in which she is presently living cannot, therefore, be characterised as non-conducive to her mental well-being.

The financial burden spoken of by the petitioner in relation to the raising and upbringing of the child, however, carries some force. Nevertheless, the said concern is substantially addressed by the readiness and willingness expressed by respondent no. 3 to part with a portion of his salary towards the medical expenses of the petitioner and the care, nurture and upbringing of the child.

Conclusion

65. In the case in hand, the financial burden is no longer an issue, as respondent no. 3 has expressed his willingness to take care of both the child and the petitioner by setting apart a substantial portion of his salary for their maintenance and welfare. Thus, the pregnancy, having occurred during the subsistence of the marriage, cannot, in the facts and circumstances of the present case, be said to have become unwanted merely on account of the financial constraints pleaded by the petitioner, and therefore does not merit medical termination.

66. The Act, 1971 was enacted with the object and purpose of permitting medical termination of pregnancy in circumstances where there is danger to the life of the pregnant woman or a risk to her physical or mental health; on humanitarian grounds, such as where the pregnancy is alleged to have resulted from a crime; and, lastly, on eugenic grounds, where there is a substantial risk that, if born, the child would suffer from serious deformities or disease. None of the aforesaid parameters has been established in the present case so as to warrant invocation of our equitable jurisdiction.

67. Having considered the ratio of the judgment of the Supreme Court **Principal Secretary, Health** with regard to the change in marital status during the ongoing pregnancy we find that Supreme Court has observed that Rule 3B of the Rules 2003 enumerates only limited circumstances, may be faced by a woman and a straight jacket formula cannot be laid down. But a change of woman's marital circumstances, at least based upon material of an impeccable character should be brought on record to consider any other circumstance, except widowhood and divorce for

permitting termination of pregnancy to a married woman, who conceived out of her sweet will as a result of consensual cohabitation. Persistent domestic cruelty may probably be one of the such causes leading to a change in her marital circumstance but still the marital status would remain the same. There must be overwhelming evidence of cruelty affecting the mental health of a pregnant woman and the trauma faced by her must be such as directly affect the mental health of the pregnant woman. Such cruelty must be of an aggravated character. The parties must establish at least *prima facie* cruelty before a Constitutional Court through evidence /material of sterling character in order to secure a direction for the medical termination of pregnancy. The case must, therefore, rest on something more than a mere desire or a whimsical decision to terminate the pregnancy. It is only upon the existence of cogent, credible and objectively assessable material that the Court can arrive at a judicial satisfaction warranting medical termination of pregnancy. Such an exercise, particularly when undertaken in the extraordinary jurisdiction of a Constitutional Court, can by no stretch of imagination be regarded as routine.

68. While the Court must accord due primacy to the bodily autonomy and reproductive rights of a woman, it cannot lose sight of the profound consequences that may follow from an order directing termination of pregnancy. In the absence of reliable material demonstrating persistent and aggravated cruelty and its consequential impact upon the mental health of the pregnant woman, the Court would be venturing into an area where the exercise of jurisdiction may rest more upon conjecture than legally demonstrable circumstances. The Court cannot, in such a situation, permit itself to be placed in the unenviable position of having its hands metaphorically stained by a decision resulting in the termination of developing life, when the statutory and factual foundation necessary for such an order is conspicuously absent.

69. It is perhaps for this very reason that the Legislature, while recognizing and protecting a woman's bodily autonomy and reproductive choice, has consciously regulated the circumstances in

which a pregnancy may lawfully be terminated. The legislative scheme thus requires the Court to maintain a delicate equilibrium between the reproductive autonomy of the woman and the other interests protected by the law, and to exercise its extraordinary jurisdiction only when the statutory conditions are duly satisfied and the material on record makes such intervention necessary and legally sustainable. The Courts are only to interpret and execute the laws, and that too, within the four corners of statutory limitations. While taking a decision to allow medical termination of pregnancy it must be the last resort and such a decision must be the inevitable cause viewed from all relevant parameters.

70. In view of the medical report and there being no lethal congenital anomaly, or other abnormality in the foetus, we are not inclined to supplant the opinion of the medical experts or to assume a domain that properly falls within their specialised expertise by taking a contrary view, particularly when the facts and circumstances of the case do not establish that termination of pregnancy is warranted within the statutory parameters prescribed under the Act, 1971 read with the Rules, 2003.

71. Thus, in our well considered opinion based on material placed and argument advanced by the parties, we refrain ourselves from issuing a writ of mandamus in the terms sought. Accordingly, we decline the prayer of the petitioner for medical termination of pregnancy. Thus, Writ petition is **dismissed**.

72. However, we direct the Chief Medical Officer, Bhadohi, to arrange marital counselling either by someone posted in the department or may request the nearest Medical College for such purposes which shall be without any expenditure or cost for the petitioner. Any major medical expenditure shall incurred by the Government Hospital. Thus, aforesaid directions shall be carried out by the Chief Medical Officer, Bhadohi without fail.

73. Since we have already directed that a sum of Rs.12,000/- per month be deducted from the salary of respondent no.3, the said direction shall be given effect to by the Superintendent of Police, Ghazipur, who

would act strictly and without fail. The petitioner by means of written information give the details of her bank account number, IFSC Code and the branch details where she is maintaining her account to the Superintendent of Police, Ghazipur, forthwith for necessary compliance of remittance of expenses ordered by us.

74. The Court places on record its sincere appreciation for the diligent efforts demonstrated by Ms. Shreya Shukla, Research Associate. Her meticulous analysis, clarity of thought, and keen attention to the legal issues involved have been of considerable assistance to the Court in adjudicating the present matter.

75. The writ petition is, accordingly, consigned to the record.

76. The Registrar (Compliance) is directed to communicate this order to the Superintendent of Police, Ghazipur and the Chief Medical Officer, Bhadohi by the learned Chief Judicial Magistrates, Ghazipur and Bhadohi respectively, **within 48 hours**.

(Indrajeet Shukla,J.) (J.J. Munir,J.)

October 5, 2026

Mohit