IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE

ON THE 7th OF NOVEMBER, 2026

WRIT PETITION No. 47352 of 2026

CNR No.: MPHC030318692026

IN REFERENCE CASE OF PROSECUTRIX X CRIME NO. 763/2026 PS KARERA

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Dharmendra Nayak - Govt. Advocate for State.

ORDER

The present matter has been referred by the learned Trial Court seeking appropriate directions from this Court for medical termination of the pregnancy of a minor girl/prosecutrix, stated to be approximately 14 years of age.

2. From the material placed on record, including the communication received from the Child Welfare Committee, Shivpuri, it emerges that the minor girl is a victim of an offence registered under the provisions of the Protection of Children from Sexual Offences Act, 2012, as well as the Bharatiya Nyaya Sanhita, 2023. The documents further indicate that the minor girl is carrying a pregnancy of approximately 26 weeks and 1 day.

3. The record further reveals that, in compliance with the directions issued by the Division Bench of this Court in **W.P. No.5184/2025, In Reference (Suo Motu) Vs. The State of Madhya Pradesh and Others, decided**

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on 20.02.2025, the matter was referred for necessary medical examination and for obtaining the opinion of the duly constituted Medical Board. The learned Special Judge, POCSO, Karera, District Shivpuri transmitted the matter to this Court for consideration and appropriate orders.

4. As per the directions issued by this Court on 06.11.2026, a specific report regarding the feasibility, medical advisability and safety of medical termination of pregnancy of the minor victim was requisitioned from the Medical Board constituted at Kamlaraja Hospital and G.R. Medical College, Gwalior. In compliance thereof, the Medical Board has submitted its report dated 07.11.2026 before this Court.

5. Since the matter concerns a minor victim of sexual assault carrying a pregnancy of approximately 26 weeks and 1 day, the medical opinion assumes considerable significance in determining the appropriate course of action. This Court is, therefore, required to carefully examine the findings and recommendations of the Medical Board before proceeding further in the matter.

6. The relevant contents of the report dated 07.11.2026, as furnished by the Medical Board, are reproduced hereinbelow for ready reference and consideration:

> *माननीय उच्च न्यायालय के पोस्को अधिनियम क. 651/2026 विरूद्ध म.प्र.शासन में जारी आदेश दिनांक 05.11.2026 के पालन में पिडिता विरुद्ध म.प्र. शासन का गर्भपात कराने हेतु दिनांक 06.11.2026 को शाम 07:30 बजे कमलाराजा अस्पताल में भर्ती हुई है। जिसके एम.टी.पी. टर्मिनेशन के अभिमत देने के संबंध में दिनांक 07.10.2026 को सुबह 09:00 बजे मेडिकल बोर्ड की बैठक का आयोजन किया गया है। बैठक में सभी सदस्य उपस्थित हये। मेडिकल बोर्ड के सदस्य डॉ. पुनीत रस्तोगी, प्राध्यापक एवं विभागाध्यक्ष, कार्डियोलॉजी विभाग, डॉ. वृन्दा जोशी, प्राध्यापक एवं विभागाध्यक्ष, प्रसूति एवं स्त्री रोग विभाग, डॉ. अजय गौड़, प्राध्यापक एवं विभागाध्यक्ष, बाल एवं शिशु रोग विभाग, डॉ. आई. के. बाथम, प्राध्यापक एवं प्रतिनिधि विभागाध्यक्ष, रेडियोलॉजी विभाग, डॉ.*

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एम.एम. मुदगल, प्राध्यापक एवं प्रभारी विभागाध्यक्ष, सर्जरी विभाग, डॉ. सुधा अयंगर, प्राध्यापक एवं विभागाध्यक्ष, पैथोलॉजी विभाग, डॉ. अर्चना गुप्ता प्राध्यापक एंव विभागाध्यक्ष मेडिसिन विभाग उपस्थित रहे। उपस्थित सभी सदस्यों द्वारा पीड़िता विरूद्ध मध्यप्रदेश शासन मरीज के आधार कार्ड के अनुसार उम्र 14 वर्ष का 26 हफ्ते 01 दिवस पाया गया है. सी. आर. कमांक 252209, यूनिट 5 को परीक्षण कर उसकी जांचो को भेजा गया। परीक्षण कर उसकी जांचो का अवलोकन किया गया, सभी जांचो के सामान्य पाये जाने पर ही उचित सुविधा के साथ गर्भपात किया जा सकता है।

7. The report of the Medical Board dated 07.11.2026 has been carefully perused. Upon consideration of the medical investigations conducted, the Medical Board has opined that termination of pregnancy may be undertaken with appropriate medical facilities, subject to all the medical investigation reports being found normal. However, the aforesaid report does not contain any clear and categorical opinion as to whether termination of the pregnancy is medically permissible in the present case. In view of the ambiguity in the report, learned Government Advocate was directed to seek further clarification from the Medical Board and obtain a specific opinion as to whether termination of pregnancy can be undertaken in the facts and circumstances of the present case.

8. In compliance with the directions issued by this Court, a further medical report dated 07.11.2026 has been submitted before this Court. The said report is reproduced hereinbelow for ready reference::-

माननीय उच्च न्यायालय के पोस्को अधिनियम क. 651/2026 विरूद्ध म.प्र. शासन में जारी आदेश दिनांक 05.11.2026 के पालन में पिड़िता विरूद्ध म.प्र. शासन का गर्भपात कराने हेतु दिनांक 06.11.2026 को शाम 07:30 बजे कमलाराजा अस्पताल में भर्ती हुई है। जिसके एम.टी.पी. टर्मिनेशन के अभिमत देने के संबंध में दिनांक 07.11.2026 को सुबह 09:00 बजे मेडिकल बोर्ड की बैठक का आयोजन किया गया हैं। बैठक में सभी सदस्य उपस्थित हुये। मेडिकल बोर्ड के सदस्य डॉ. पुनीत रस्तोगी, प्राध्यापक एवं विभागाध्यक्ष, कार्डियोलॉजी विभाग, डॉ. वृन्दा जोशी, प्राध्यापक एवं विभागाध्यक्ष, प्रसूति एवं स्त्री रोग विभाग, डॉ. अजय गौड़, प्राध्यापक एवं विभागाध्यक्ष, बाल एवं शिशु रोग विभाग, डॉ. आई. के. बाथम, प्राध्यापक एवं प्रतिनिधि विभागाध्यक्ष, रेडियोलॉजी विभाग, डॉ.

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एम.एम. मुदग़ल, प्राध्यापक एवं प्रभारी विभागाध्यक्ष, सर्जरी विभाग, डॉ. सुधा अयंगर, प्राध्यापक एवं विभागाध्यक्ष, पैथोलॉजी विभाग, डॉ. अजय पाल सिंह प्राध्यापक एंव प्रभारी विभागाध्यक्ष मेडिसिन विभाग उपस्थित रहे। उपस्थित सभी सदस्यों द्वारा पीड़िता विरूद्ध मध्यप्रदेश शासन मरीज के माता का आधार कार्ड के अनुसार उम्र 14 वर्ष का 26 हफ्ते 01 दिवस प्राया गया है, सी. आर. क्रमांक 252209, यूनिट 5 को परीक्षण कर उसकी जांचो को भेजा गया। मरीज की ईको रिपोर्ट नॉर्मल पायी गयी है अतः रक्त की उपलब्धता सुनिश्चित कर गर्भपात की प्रक्रिया को किया जा सकता है। मरीज का ब्लड ग्रुप O positive है।

9. Thus, unlike the earlier report, the subsequent report furnished by the Medical Board contains a specific medical opinion regarding the feasibility of termination of pregnancy. The Medical Board has found the ECHO report to be normal and has categorically opined that the procedure can be undertaken after ensuring the availability of blood. The medical opinion, therefore, indicates that the proposed procedure is medically feasible, subject to the aforesaid precaution and the availability of appropriate medical facilities. Accordingly, the subsequent medical report lends support to the prayer made for termination of pregnancy.

10. This Court has also considered the provisions of Sections 3(1), 3(2) and 5(1) of the Medical Termination of Pregnancy Act, 1971, including the statutory presumption regarding the mental anguish caused by pregnancy resulting from rape. This Court is conscious of the fact that, in the present case, the pregnancy is beyond 26 weeks. The Division Bench of this Court in In Reference (Suo Motu) Vs. The State of Madhya Pradesh and Others (supra), has considered the legal position regarding termination of pregnancy beyond 24 weeks and has observed that in such cases the High Court may exercise its jurisdiction under Article 226 of the Constitution of India and pass appropriate orders. In the present case, the girl is a minor aged about 14

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Signing time: 11/7/2026 2:42:06 PM

years and is carrying a pregnancy of about 26 weeks and 1 day. The record of the Child Welfare Committee also shows that the matter relates to an offence under the provisions of the Protection of Children from Sexual Offences Act, 2012. The Court cannot lose sight of the age of the minor, the circumstances in which the pregnancy has occurred, the trauma suffered by her and the mental agony which she is presently facing. The Court also has to consider the effect of continuation of such pregnancy which may have upon the physical and mental well-being of the minor and her future. At the same time, it has to carefully consider the medical opinion given by the Medical Board. The Board has found that the termination of pregnancy can be undertaken after ensuring the availability of blood. Therefore, the procedure has to be carried out by a team of experienced doctors after taking all necessary medical precautions. Hence, looking to the facts and circumstances of the present case, the prayer made deserves to be allowed.

11. Accordingly, the petition is allowed with the following directions:

(i) The Dean/Medical Superintendent of the Kamlaraja Hospital and G.R. Medical College, Gwalior, shall constitute a team of senior and experienced doctors, including doctors from the Departments of Obstetrics and Gynaecology, Anaesthesia, Medicine and Paediatrics. The Medical Team shall undertake the procedure of medical termination of pregnancy on 7th November 2026 at 4:00 PM, subject to the minor being found medically fit for the procedure immediately before it is undertaken. Before the procedure, the Medical Team shall again examine the minor,

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Signing time: 11/7/2026 2:42:06 PM

particularly her haemoglobin level, and shall take all necessary treatment and precautions to reduce the risk of excessive bleeding and other complications.

(ii) The procedure shall be undertaken at a hospital having necessary facilities for emergency treatment, blood transfusion, anaesthesia, intensive care and neonatal care, keeping in view the gestational age of about 26 weeks and 1 day. The minor and her parents/natural guardian shall be properly informed and counselled regarding the procedure, its possible risks and complications, including the increased risk due to anaemia and the possibility of complications to the child, if born alive. Necessary consent shall be obtained in accordance with law and applicable medical protocol.

(iii) The Medical Team shall take all necessary steps for the safety and well-being of the minor during and after the procedure and, in case of any medical complication, shall provide immediate and appropriate treatment in accordance with accepted medical practice. If the child is born alive during or after the procedure, the Medical Team shall provide necessary medical and neonatal care in accordance with law and accepted medical practice. It is further directed that, in terms of the law laid down by the Division Bench of the **Bombay High Court in Shaikh Ayesha Khatoon Vs. Union of India , reported in 2018 SCC OnLine Bom 11**, the parents of the minor shall be duly sensitized by the Committee/Medical

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Signing time: 11/7/2026 2:42:06 PM

Board regarding the risks and complications involved in the procedure. It is further made clear that the doctors who have given their opinions in the matter shall have immunity from any liability in the event of any litigation arising out of the said procedure.

(iv) The Medical Team shall preserve such medical records, samples and other material as may be required for the purpose of criminal investigation or trial, including DNA sampling and preservation, if required by the Investigating Officer or the competent Criminal Court, in accordance with law. The identity, confidentiality and dignity of the minor shall be strictly maintained. After completion of the procedure, the Medical Team shall prepare a medical report regarding the procedure and the condition of the minor and shall submit a confidential compliance report to the concerned Court/Registry. The procedure shall be carried out strictly in accordance with the opinion of the Medical Board and accepted medical practice, and all necessary precautions shall be taken to protect the life and health of the minor.

(v) The Registry shall communicate a copy of this order forthwith to the Dean/Medical Superintendent, Kamlaraja Hospital and G.R. Medical College, Gwalior, the Chief Medical and Health Officer, District Gwalior, the Child Welfare Committee, Shivpuri and the learned Government Advocate for immediate compliance. A copy of this order shall also be forwarded to the concerned

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Signing time: 11/7/2026 2:42:06 PM

Medical Board/Medical Team for necessary action. The identity of the minor shall be kept confidential in all Court records, communications and proceedings, in accordance with law.

12. Before parting with the record, this Court considers it appropriate to issue a general direction to the Trial Courts that, in all cases involving a request for medical termination of pregnancy, the Trial Court shall ensure that, while forwarding the relevant record to the competent Court, a medical report of the Medical Board, specifically addressing the medical condition of the victim and the feasibility and advisability of termination of pregnancy, is invariably annexed along with the record. Such report shall specifically indicate the medical condition of the victim, the gestational age of the pregnancy, and the feasibility and advisability of medical termination of pregnancy, along with the requisite medical opinion in that regard. This would enable the concerned Court to take an informed and expeditious decision on the request for termination of pregnancy without unnecessary procedural delay. It is needless to emphasise that in matters involving medical termination of pregnancy, every moment is of considerable significance, and even a delay of a single day may have serious and irreversible consequences for the victim, both medically and legally. The Trial Courts are, therefore, expected to accord utmost priority to such matters and ensure that the requisite medical report of Medical Board accompanies the record so that the matter can be considered and decided at the earliest, in accordance with law.

13. Let a copy of this order be circulated to the Registrar General,

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Principal Seat at Jabalpur and its Benches at Indore and Gwalior, all the District Courts in the State of Madhya Pradesh, as well as the Office of the Advocate General, Madhya Pradesh, for information.

14. In view of aforesaid directions, this reference petition stands disposed of.

(MILIND RAMESH PHADKE)
JUDGE

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