

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
Friday, the 19th day of May 2023 / 29th Vaisakha, 1945
WP(C) NO. 15534 OF 2023**

PETITIONER:

XXX

RESPONDENTS:

1. THE UNION OF INDIA, REPRESENTED BY ITS SECRETARY, MINISTRY OF WOMEN AND CHILD DEVELOPMENT, SASTHRI BHAVAN, NEW DELHI, PIN - 110001.
2. THE STATE OF KERALA, REPRESENTED BY ITS SECRETARY, DEPARTMENT OF HEALTH AND FAMILY WELFARE DEPARTMENT, SECRETARIAT, TRIVANDRUM, PIN - 695001.
3. THE DISTRICT COLLECTOR, COLLECTORATE, CIVIL STATION, UP-HILL, MALAPPURAM, PIN - 676505.
4. THE DISTRICT MEDICAL OFFICER, OFFICE OF THE DISTRICT MEDICAL OFFICER, UPHILL, MALAPPURAM, PIN - 676505.
5. THE SUPERINTENDENT, GOVERNMENT MEDICAL COLLEGE HOSPITAL, MANJERI, MALAPPURAM DISTRICT, PIN - 676121.
6. THE SUPERINTENDENT, GOVERNMENT MEDICAL COLLEGE HOSPITAL, KOZHIKKODE, PIN - 673008.
7. THE STATION HOUSE OFFICER, VAZHIKADAVU POLICE STATION, VAZHIKADAVU P.O., MALAPPURAM DISTRICT, PIN - 679333.
8. THE CHILD WELFARE COMMITTEE, REPRESENTED BY ITS CHAIRMAN, THAVANOR, MALAPPURAM DISTRICT, PIN - 679573.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to direct the respondents to terminate the pregnancy of the victim girl in Crime No.331/2023 of the Vazhikadavu Police Station as expeditiously as possible, pending disposal of the above Writ Petition (Civil).

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this Court's order dated 16.05.2023 and upon hearing the arguments of SRI. K.RAKESH, Advocate for the petitioner, DEPUTY SOLICITOR GENERAL OF INDIA for R1 and of GOVERNMENT PLEADER for R2 to R7, the court passed the following:

P.T.0

ZIYAD RAHMAN A.A., J.

WP(C) No.15534 of 2023

Dated this the 19th day of May, 2023

ORDER

The petitioner is the father of a minor girl aged 15 years and he has approached this Court, seeking the following reliefs:

- (i) Issue a writ of mandamus or any other appropriate writs, orders of directions directing the respondents to terminate the pregnancy of the victim girl in crime No.331/2023 of the Vazhikadavu Police Station as expeditiously as possible;
- (ii) Declare that the pregnancy would cause serious mental injury to the minor girl and hence the same is liable to be terminated;
- (iii) Issue a writ of mandamus or any other appropriate writs, orders of directions directing the 8th respondent to restore the custody of the minor girl child to her parents forthwith;
- (iv) Dispense with the filing of English translation of Vernacular documents;
- (v) Grant such other reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case."

2. The unfortunate situation in this case is as follows:

The minor daughter of the petitioner got impregnated by the son of the petitioner and as of now the daughter is 7 months pregnant.

The prayer as above is sought in such circumstances.

3. In response to the averments contained in the writ petition, the Medical Board after examination, submitted a report wherein, their opinion was expressed in the manner as follows:

“Opinions of the Medical Board after Examination are

1. Child is physically and mentally fit for Medical Termination of pregnancy.
2. Continuation of pregnancy is likely to cause grave injury to the social and mental health of the child.
3. Physical health of the child is likely to be affected by the complication of teenage pregnancy.
4. As she has crossed 32 weeks of pregnancy there is a possibility of giving birth to a live baby with all the problems of prematurity. So the Medical Board has raised concerns about the further care of the baby in case needed.”

4. Earlier, when the matter came up for consideration before this Court, taking note of the eventuality as highlighted by the Medical Board as serial No.4 above, the petitioner was directed to submit an affidavit, undertaking to undergo the risks as highlighted by the Medical Board. In compliance of the aforesaid direction, an affidavit has been submitted by the petitioner.

5. Upon perusal of the medical report, it is evident that, the child is physically and mentally fit for medical termination of pregnancy. It is also stated that continuation of pregnancy is likely to cause grave injury to the social and mental health of the child. Considering the fact, the child is born from his own sibling, various social and medical complications are likely to arise. In such circumstances, the permission as sought for by the petitioner to terminate the pregnancy is inevitable. However,

even while addressing the said issue and passing appropriate orders in this regard, the possibility of giving birth to a live baby cannot be overruled, as highlighted by the Medical Board.

6. In such circumstances, I am inclined to allow medical termination of pregnancy of the daughter of the petitioner, in the light of the principles laid down by this Court in the decisions reported in **xxx v. Union of India and others** [2021(3) KLT 279] and **xxx v. Union of India and others** [2022 KHC 2022]. Therefore, it is ordered that, respondents 4 and 5 are directed to take urgent steps to medically terminate the pregnancy of minor daughter of the petitioner without any delay. After completion of the procedure, a report in this regard shall be submitted before this Court to enable the Court to pass appropriate orders for addressing the further issues that are likely to arise in this case.

Post after a week.

Sd/-
ZIYAD RAHMAN A.A.
JUDGE

ncd/19.05.2023
Handover