

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP (c) 236/2025

Reserved on: 21.02.2025.

Pronounced on: 27.02.2025.

xxxx

...Petitioner

Through: Mr. Shabir Ahmad, adv.

vs

UT of J&K (Health and Medical Education
Dept and ors.

...Respondent(s)

Through: Mr. Mubashhir Majid Dy AG with Ms. Shaila Shameem, AC

CORAM:

HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE

JUDGEMENT

1. Through the medium of the instant petition, filed under the Provisions of Article 226 of the Constitution of India, on behalf of petitioner-victim, a helpless father labouring under acute mental trauma has sought the appropriate directions/orders in respect of the termination of pregnancy of the petitioner her minor mentally retarded daughter who as on date is carrying an unwanted pregnancy of about 28-29 weeks.
2. The father of the petitioner-victim has *inter alia* mentioned in the petition, that victim being minor of unsound mind is hardly possessing the ability to recognize the person who has subjected her to sexual assault about some more than six months earlier leading to her unwanted pregnancy and the said fact was not known to anyone in his family. That the family was shocked to hear about the unfortunate

incident only on 14th January, 2025, when the victim after falling from upstairs at her home was taken to a nearby hospital for treatment, where doctors advised for her USG abdomen and informed them about 24-25 weeks pregnancy of the victim. That the hospital authorities informed the police concerned and an FIR came to be registered with the concerned Police Station. That the victim is presently lodged in the Shelter Home at Baramulla run by the Social Welfare Department. That the respondents (Police Department) is on their job to ascertain and arrest the accused person involved in the commission of the offence, however, till date (date of filing of the petition) the accused could not be traced out despite the details of two persons having been given by the victim. That the life of the victim may be saved and protected by allowing the termination of the pregnancy at this stage as the minor victim is supposed to be suffering from great mental and physical injury. That since the DNA profiling is to be done for ascertaining the accused as such the same may also be directed to be conducted.

3. This Court on the very day of presentation of the instant petition through order dated 07.02.2025 *inter alia* directed the Director Health Services, Kashmir to constitute a Medical Board or if the competent Board stands already constituted under the '***Medical Termination of Pregnancy Act, 1971***' (hereinafter referred to as the "**Act**" for short) then to refer the case of the petitioner-victim for her immediate and the complete medical examination and thereupon to submit a detailed status report with respect to her state of health, physical, mental as well as pregnancy related and scope and suggestion for pregnancy termination

within a period of ten days from the date of passing of the order. Through the said order appropriate directions were also passed to police concerned.

4. Status report was filed by the respondents in pursuance of the directions of this Court dated 07.02.2025 on the basis of the reports of the competent Medical Board constituted under the Act and the Psychiatry Board on 18.02.2025. The relevant portions of the report are reproduced herein under:-

“As per the MTP Act fetus has already crossed age of visibility (USG documented) and is capable of independent assistance. So not a candidate for MTP”.....

..... “It is apposite to state that as per the opinion of Psychiatry Board furnished on 14.02.2025 petitioner is suffering from Mild Intellectual Disability. Further it is stated that the Consultant Radiologist in his report dated 14.02.2025 has not reported any substantial congenital anomaly.”

5. In pursuance of the order dated 07.02.2025, report was furnished for perusal of the court on 17.02.2025 and filed in the Registry on 18.02.2025.
6. Vide order dated 17.02.2025, this Court for passing of appropriate orders in the case directed the Director Health Services Kashmir to submit a further report of the Medical Board which has already examined the victim to the following effect:-
- i) Whether termination of the pregnancy of the victim can be done even at this stage without any danger to the life of the victim. ?
 - ii) Whether the fetus of the victim is normal or suffering from any sort of abnormality. ?
7. Besides, Consultant Gynecologist Dr Rafia Aziz, AH GMC Baramulla and Dr Asim, Radiologist, Block Sopore, were also directed to appear

before the Court on the next date of hearing fixed as 19.02.2025 at 3:30 PM for assistance of the Court to address some medical issues involved in the case.

8. It is also needful to mention that SHO concerned who was present in person before the Court submitted that he has already questioned some suspects and has also taken their samples for DNA profiling in connection whereof he needs the samples from the victim mother also. The police officer concerned also submitted that he is going to conduct a test identification parade of the suspects. He also apprised the Court that there are adequate arrangements of lodging in the Shelter Home where the victim is presently lodged.

9. Through the same order dated 17.02.2025, Director Health Services, Kashmir and Medical Superintendent, Associated Hospital GMC Baramulla, were directed that they shall in co-ordination ensure that the victim is kept under complete medical supervision and surveillance so that no inconvenience/difficulty is faced by her on medical side. In-charge Shelter Home, was also requested to co-operate with the SHO /Investigating officer police station concerned of case FIR No. 4 of 2025 in connection with the investigation of the case. Besides district Social Welfare Officer Baramulla, was directed to ensure that the proper arrangement for the lodging of the victim are kept in the Shelter Home so that no inconvenience is being caused to her in terms of food, bedding and wash room facilities etc.

10. The Judicial Magistrate concerned (Chairman Tehsil Legal Service Committee) was directed to ensure the initiation of process for

compensation in favor of the victim under the relevant victim compensation Scheme at an earliest under report of the compliance to the Court.

11.The respondent Director Health Services Kashmir filed the status report in terms of the order dated 17.02.2025 of this Court on 19.02.2025. The relevant part of the report bearing the requisite opinion of the medical Board is reproduced as herein below:-

S.No.	Observation	Remarks
1.	Whether the termination of the pregnancy of the victim can be done even at this stage without any danger to the life of the victim?	As per MTP Act, the foetus has already crossed the age of viability (that is 24 weeks). However termination can be done at any stage but the victim being anemic with documented HB of 8.2 gm and needs to be build up before termination as the same poses a risk to victim.
2.	Whether the foetus of the victim is normal or suffering from any sort of abnormality?	As per the USG report issued by Consultant Radiologist GMC Baramulla dated 14.02.2025, the foetus is of 27 weeks gestational age and there is no evidence of any substantial foetal abnormality.

12.Dr. Rafia Aziz, Consultant Gynecologist, AH GMC Baramulla and Dr. Asim Radiologist, Block Sopore, appeared before the Court on 19.02.2025 as per previous direction whose advice was taken in respect of the issues involved in the case. However, the reply to one of the important issues made through written report hereinbefore mentioned was not found in agreement with the clarified replies made by the appearing doctors in the open court. Dr. Rafia Aziz, Consultant Gynecologist, submitted in response to the queries of the court that the fetus of the victim is capable of independent existence and as such this court has to consider the permission for termination of pregnancy by premature delivery/birth of the baby through a medical procedure/surgery. It was also reported and stated that there is no abnormality in the fetus of the victim as per the Radiologist report.

13. Learned AAG, Mr. Allau ud din Ganaie, appearing for the respondent/UT of J&K in the back drop of the situation was directed to get a clarified report from the Director Health Services Kashmir, which was filed before this Court on 21.02.2025. The relevant portion of the report based on the opinion of the Medical Board is reproduced as under:-

S.No.	Observation	Remarks
1.	Whether the termination of the pregnancy of the victim can be done even at this stage without any danger to the life of the victim?	<p>The foetus has already crossed the age of viability that is (Foetus is 27-28 weeks by USG) and as per the MTP Act, no pregnancy beyond 24 weeks should be terminated unless there is some substantial abnormality in the foetus not compatible with life. Moreover victim is anaemic with documented HB of 8.2 needs to be build up for the delivery at the proper time to avoid complications associated with anaemia.</p> <p>The foetus has the probability to survive as well.</p> <p>Baby born will be extremely premature associated with number of complications (physical/mental disability) if baby survives.</p>
2.	Whether the foetus of the victim is normal or suffering from any sort of abnormality?	As per the USG report issued by Consultant Radiologist GMC Baramulla dated 20.02.2025, the foetus is of 27 weeks gestational age and there is no evidence of any substantial foetal abnormality.

14. It is also needful to mention that as informed by the SHO concerned in the open court on 19.02.2025, the accused has been arrested in the case FIR.

15. The father of the minor/petitioner-victim who has been desperately pursuing the instant petition and remaining present during the hearing days has been interacted with 2 to 3 times by myself in my office chamber and he has all the times requested for termination of the pregnancy of the victim. He revealed that victim who is lodged in the

shelter Home is not feeling well and uses to shed her tears. He also revealed that his family can donate the blood for her daughter if required. He further revealed that the condition of grand-father of victim suffering from Hypertension deteriorated badly out of the trauma with which his entire family is suffering on account of the unfortunate incident.

16. The statement of the guardian/father of the victim was recorded on today i.e 27.02.2025 by the Registry by way of his consent/option in respect of the matter; who stated that he prays for and as such has no objection in case of the termination of pregnancy of her daughter/petitioner. He stated that he willingly and without any coercion consents for the termination of the pregnancy of the victim.

17. Now this court is required to address in the given situation as to whether permission for termination of the pregnancy as prayed for, needs to be accorded or not ?

18. Admittedly, the case of the present victim for termination of her pregnancy is not covered under the Provisions of the *Medical Termination of Pregnancy Act, 1971* and the *Rules of 2003* framed thereunder. As per the opinion of the Competent Medical Board, which stands constituted by the Government for the concerned District under the Provisions of Section 3 Sub Section 2 (c) and 2 (d) of the Act conveyed to this Court in compliance to its orders through the status reports filed by the respondent/Director Health Services, Kashmir, the age of the fetus of the victim as on 20.02.2025 is 27-28 weeks by USG. There is also no evidence of any substantial fetal abnormality.

19. It is felt appropriate to reproduce the relevant Provisions of the Section 3 of the Act and Rule 3-B of the Rules of 2003:-

“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.

(2-A) 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.

(2-B) 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.

(2-C) 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.

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

- (a) a Gynecologist;

(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 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;

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
- (g) women with pregnancy in humanitarian settings or disaster or emergency situations as may be declared by the Government.”

20. From the perusal of the above referred Provisions of the Law, it reveals that the pregnancy of a woman may be terminated where the length of pregnancy does not exceed 20 weeks, by a registered medical practitioner if he is of the opinion that 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. It can also be done by the medical practitioner if there is substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped. The statute further provides that in case length of pregnancy exceeds 20 weeks but does not exceed 24 weeks, such opinion has to be formed by not less than two registered medical practitioners.

21. Likewise it is again revealed by the Provisions of Rule 3-B of the Rules of 2003, hereinbefore reproduced that a survivor of sexual assault or rape or incest or minor shall be considered eligible for termination of pregnancy for a period up to 24 weeks. It is also needful to mention that as per Explanation-2 appended to the Sub Section-2 of Section-3 of the Act, the anguish caused by a woman being pregnant as a result of sexual assault shall be presumed to constitute a grave injury to her mental health.

22. In the instant case as hereinbefore mentioned the victim carries pregnancy of 28-29 weeks.

23. In the attending facts and circumstances of the case, this Court feels compelled to invoke its extraordinary discretionary jurisdiction vested under the Article 226 of the Constitution of India and to permit the termination of the pregnancy of the victim through the applicable medical procedure/surgical intervention. The victim who is a minor and a diagnosed case of Mild Intellectual Disability (MID) is deemed to be suffering from grave mental injury. On account of her mild mental retardation, she is supposed to be, not in a position to express her deep pain. Her helpless father and guardian has all along as hereinbefore mentioned been desperately requesting for her termination of the pregnancy. The family out of social stigma, apathy and abhorrence has preferred to keep the victim in shelter home run by the Government Social Welfare Department. The expected date of delivery as per USG of the victim is reported as 11th May 2025 and it is felt intolerable for the family to wait till such time. In a conservative rural society, the chastity of a girl is of very importance in connection with her marriage and the society looks up with great hatred and abhorrence an un-chaste girl, notwithstanding the fact of her becoming so as a result of forced act and without her consent.

24. In its opinion this Court feels fortified with the order passed by the Hon'ble Apex Court in *case titled A (Mother of x) vs. State of Maharashtra & anr, SLPL (C) No. 9163/2024 decided on 24.04.2024*, in which the Hon'ble Apex Court was pleased to express its inclination to exercise its

powers under Article 142 of the Constitution for permitting termination of pregnancy of a minor rape victim who had a pregnancy of 28 weeks. It is felt apt to reproduce the paras 9 to 11 of the authoritative order for the sake of convenience:-

- “9. In view of the urgency of the situation, we are inclined, while reserving judgment, to issue the following directions. We have duly borne in mind the provisions of the Medical Termination of Pregnancy Act 1971. This Court is inclined to exercise its powers under Article 142 of the constitution. In a similar case which is reported as **X v Union of India and Another**, this Court had adverted to its constitutional jurisdiction under Article 142.
10. The following circumstances have been borne in mind, at this stage:
- (i) The medical termination of pregnancy is sought in respect of a minor who is 14 years old;
 - (ii) The pregnancy is alleged to be an emanation from a sexual assault which has resulted in the registration of a First Information Report. The FIR was recorded on 20 March 2024 beyond the period of 24 weeks envisaged in the MTP Act;
 - (iii) The minor was unaware of the fact that she was pregnant until a very late stage;
 - (iv) The Medical Board at Sion Hospital has clearly opined that the continuation of the pregnancy against the will of the minor “may impact negatively on physical and mental well being of the minor who is barely 14 years old”; and
 - (v) While a certain degree of risk is involved in every procedure for medical termination, the Medical Board has opined that the threat to life of the patient if termination of pregnancy is carried out at this stage is not higher than the risk of delivery at full term of pregnancy.
11. We will further elaborate on the guiding parameters in a reasoned order which will be delivered separately. However, bearing in mind the exigencies of the situation, the welfare of the minor, which is of paramount importance and her safety, we pass the following order:
- (i) The judgment and order of the High Court of Judicature at Bombay dated 4 April 2024 shall stand set aside for reasons to follow;
 - (ii) The Dean at Sion Hospital is requested to immediately constitute a team for undertaking the medical termination of pregnancy of the minor in respect of whom the Medical Board has submitted its report dated 20 April 2024;
 - (iii) Arrangements shall be made by the State for transportation of the minor to the Hospital and for her return home after the completion of the procedure;
 - (iv) The State has agreed to bear all the expenses in connection with the procedure and all medical expenses required in the interest of the safety and welfare of the minor; and
 - (v) Post-termination if any further medical care is required, this may be ensured in the interest of the minor.”

25. This Court also feels supplemented in its opinion with the authoritative law laid down by the Hon’ble Supreme Court of India in *xyz vs. State of Gujrat and ors. (Cr. Appeal No.....2023 arising out of SIP (Crl) Dy No. 33790/2023)* decided on August 21st 2023, in which the Hon’ble Court permitted the termination of pregnancy of a victim of rape at the stage of 27-28 weeks of her pregnancy. It is felt apt to reproduce the

relevant paras (i.e 13 to 21) of the authoritative judgment of the Hon'ble Apex Court for the sake of convenience:-

13. In Indian society, within the institution of marriage, generally pregnancy is a reason for joy and celebration and of great expectation, not only for the couple but also for their families and friends. By contrast, pregnancy outside marriage, in most cases, is injurious, particularly, after a sexual assault/abuse and is a cause for stress and trauma affecting both the physical and mental health of the pregnant woman the victim. Sexual assault or abuse of a woman is itself distressing and sexual abuse resulting in pregnancy compounds the injury. This is because such a pregnancy is not a voluntary or mindful pregnancy.

14. In *Suchita Srivastava v. State (UT of Chandigarh)*, (2009) 9 SCC 1, this Court expressed that the right of a woman to have reproductive choice is an inseparable part of her personal liberty, as envisaged under Article 21 of the Constitution. She has a sacrosanct right to her bodily integrity.

15. In *Sarmishtha Chakraborty and Another v. Union of India Secretary and Others*, (2018) 13 SCC 339; this Court, considered the medical report and held that unless the pregnancy was terminated, the life of the mother and that of the baby to be borne would be in great danger and, therefore, permitted termination of the pregnancy.

16. A three-Judge Bench of this Court in *Murugan Nayakkar v. Union of India & Ors.*, Writ Petition (Civil) No.749 of 2017, disposed of on 06.09.2017, while considering the case of a minor petitioner survivor of alleged rape and sexual abuse, held that it would be appropriate that termination of pregnancy be allowed in accordance with the opinion of the Medical Board constituted by an order of this Court, to the effect that termination of pregnancy should be carried out. A direction was issued that on a very next date i.e. 07.09.2017, the petitioner was to be present so that on 08.09.2017 the termination of pregnancy could be carried out.

17. More recently, in the case of *X vs. The Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi and Ors.*, AIR 2022 SC 4917; this Court, in another three-judge Bench led by Dr. D.Y. Chandrachud, J. (as the learned Chief Justice then was) observed that a woman can become pregnant by choice irrespective of her marital status. In case the pregnancy is warranted, it is equally shared by both the partners. However, in case of an unwanted or incidental pregnancy, the burden invariably falls on the pregnant woman affecting her mental and physical health. Article 21 of the Constitution recognizes and protects the right of a woman to undergo termination of pregnancy if her mental or physical health is at stake. Importantly, it is the woman alone who has the right over her body and is the ultimate decision-maker on the question of whether she wants to undergo an abortion.

18. In the context of abortion, the right of dignity entails recognizing the competence and authority of every woman to take reproductive decisions, including the decision to terminate the pregnancy. Although human dignity inheres in every individual, it is susceptible to violation by external conditions and treatment imposed by the State. The right of every woman to make reproductive choices without undue interference from the state is central to the idea of human dignity. Deprivation of access to reproductive healthcare or emotional and physical well-being also injures the dignity of women.

19. The whole object of preferring a Writ Petition under Article 226 of the Constitution of India is to engage with the extraordinary discretionary jurisdiction of the High Court in exercise of its constitutional power. Such a power is vested with the constitutional courts and discretion has to be exercised judiciously and having regard to the facts of the case and by taking into consideration the relevant facts while leaving out irrelevant considerations and not vice versa.
20. In view of the above discussion and on perusal of the latest medical report we permit the appellant to terminate her pregnancy. We direct the appellant to remain present before the KMCRI Hospital, Bharuch, Gujarat during the course of the day, today (21.08.2023) or 09:00 A.M. tomorrow (22.08.2023) as she deems fit so that the termination of pregnancy could be carried out preferably during the course of the day today (21.08.2023) or tomorrow i.e. 22.08.2023.
21. Subsequently to the medical procedure to be carried out either today or tomorrow, in the event, the fetus is found to be alive, the hospital shall give all necessary medical assistance including incubation either in that hospital or any other hospital where incubation facility is available in order to ensure that the fetus survives. Further, in case the fetus survives, then State shall take steps for ensuring that the child could be adopted in accordance with law.”
26. The fundamental right to life of a person available under Article 21 of the Constitution of India guarantees a life which is free from mental trauma and worries. It is the obligation of the state to take all steps for ensuring that a citizen within his own standard of his life lives free from worries. Not only the minor victim but her entire family and all her nears and dears are supposed to be labouring under trauma. The State through its concerned instrumentalities viz Health and Medical Education as well as Social Welfare Departments is always under a legal obligation to address to the issues of the sensitive nature as involved in the instant petition under the provisions of the Medical Termination of Pregnancy Act and the Rules framed thereunder when a case is covered under the provisions of the aforesaid legislation. The petitioner has approached this Court invoking its extraordinary powers vested under Article 226 of the Constitution for redressal of her agony as her case is not covered under the provisions of the Act.
27. The competent Medical Board in its latest report submitted pursuant to the direction of this Court dated 19.02.2025 has *inter alia* reported that the victim is anemic with documented HB of 8.2 gms and needs to be buildup for delivery at the proper time to avoid complications associated with anemia. It has been further reported that fetus has the probability to

survive as well and the baby born will be extremely premature associated with number of complications (physical/mental disability) if baby survives. The fetus has been reported to be of the age of 27 weeks and with no evidence of any substantial abnormality. The petitioner/victim can be buildup as opined by the competent medical board so that her HB level raises up to a desired mark. The Board has not reported that in case HB level of the victim is raised by proper treatment/management, there can be any danger to her life by terminating her pregnancy through medical procedure/surgical intervention. The baby if born alive can be managed in the NICU for any known complications.

28. The petition accordingly needs to be disposed of at this stage by treating the status reports of the respondents as their replies.

29. In the backdrop, the petition is allowed and the minor petitioner through her guardian/father is permitted to undergo medical termination of her pregnancy through a recognized Medical procedure in connection whereof the following directions are passed:-

- (i) Director Health Services, Kashmir in co-ordination with Superintendent, Associated Hospital GMC, Baramulla, shall take steps to buildup the petitioner-victim for the proposed procedure so that her HB level and other vital parameters are maintained up to normal desired level, by her proper treatment to achieve that end. The needful should be done without lapse of any time and a bonafide and affectionate exercise should be done so that she is prepared for the procedure within few days.
- (ii) Since the baby if born alive may need the immediate treatment in Neonatal ICU, as such, the petitioner-victim needs to be admitted in the tertiary care maternity Hospital where NICU facilities are available, therefore, the Commissioner Secretary Health and Medical Education Department UT of J&K shall pass immediate orders/instructions regarding the termination of the pregnancy of the petitioner-victim through a competent team of doctors at LD Hospital Srinagar, with the liberty to refer the mother and/or baby if alive to any other hospital if

needed at any time for their further management/incubation facilities. The petitioner-victim upon being built-up for proposed procedure for termination of her pregnancy shall be immediately moved to the LD Hospital, Srinagar in the company of her parent(s)/home people so that her pregnancy is terminated as hereinbefore directed. However, fresh consent should be obtained at the hospital from the father/guardian of the petitioner-victim as per the Medical Protocol.

- (iii) That it shall be the duty of the UT of J&K through Health and Medical Education as well as Social Welfare Departments to take care of the petitioner-victim until the petitioner-mother is discharged from the Hospital and handed over to her parent(s) and that of the baby if alive until he/she is managed for overcoming of any complications and until he/she is given in adoption by the Government authorities (Social Welfare Deptt) in accordance with law.
- (iv) Government through Social welfare Department shall bear all the expenditure for the treatment/nourishment of petitioner-mother as well as the neonate if born alive which may not be available at the Govt. Hospitals.
- (v) Secretaries to the Government of J&K Health and Medical Education and Social Welfare Departments shall pass appropriate directions/instructions in accordance with this order of the Court.
- (vi) The Hospital authorities shall, at the request of the SHO/IO concerned of the criminal case/FIR (04/2025 P/S Kunzer), facilitate the taking of samples for DNA profiling.
- (vii) Chairman District Legal Services Authority Baramulla shall see that the process for payment of compensation to victim, under the relevant victim compensation Scheme is initiated and finalized at an earliest, in connection whereof directions have already been conveyed to Tehsil Legal Services Committee concerned. (Case FIR No. 04 of 2025 of Police Station Kunzer Baramulla).

(viii) Copies of this order shall be forwarded for compliance to the Commissioner Secretary Health and Medical Education Department; Commissioner Secretary Social Welfare Department UT of J&K; Senior Superintendent of Police, Baramulla; Director Health Services Kashmir; Superintendent LD Hospital, Srinagar; Superintendent Associated Hospital GMC Baramulla.

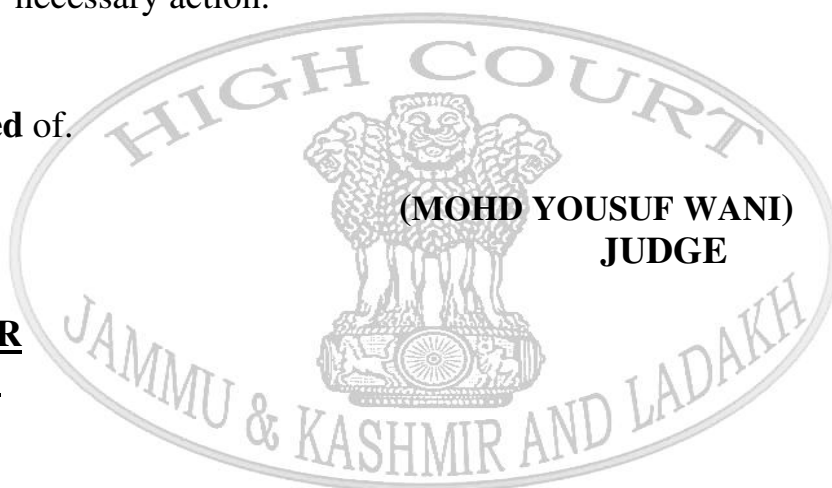
(ix) A copy of the order be also forwarded to Chairman District Legal Services Authority Baramulla for information and necessary action.

30. Disposed of.

SRINAGAR

27.02.2025

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i) Whether the judgment is speaking ? Yes
ii) Whether the judgment is reportable in law journal ? Yes