



AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2768 of 2023

1. Xyz Nil.
2. Abc Nil.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Home Affairs (Police), New Raipur, Mantralaya, District : Raipur, Chhattisgarh
2. The Superintendent Of Police District - Bilaspur, C.G.
3. The Station House Officer Police Station Civil Lines, District : Bilaspur, Chhattisgarh
4. District Hospital Through The Chief Medical Health Officer, Old Bus Stand, District : Bilaspur, Chhattisgarh
5. Gagan Agrawal S/o Late Shri Punam Chand Agrawal Aged About 37 Years R/o Gulmohar Park, Uslapur, P.S. Civil Lines, District : Bilaspur, Chhattisgarh

---- Respondents

For Petitioner	: Mr. Ritesh Verma, Advocate.
For State	: Mr. Pawan Kesharwani, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

22/06/2023

1. The present Writ Petition has been filed seeking for a direction and permission to the petitioner for grant of medical termination of pregnancy.
2. On a query being put to the counsel for petitioner, he accepts the fact that the petitioner herein is a married lady aged about 29 years of age. Further from the pleadings of the writ petition, it is also revealed that the petitioner has got conceived from the respondent No. 5. In paragraph 8.2 of the present Writ Petition itself, the petitioner has accepted the fact that the petitioner has got conceived after her marriage with the respondent No. 5. The petitioner has also provided a date 28.11.2022, to be the date of her marriage with the respondent No. 5. The marriage certificate also is enclosed along with writ petition as (Annexure P/3).



3. Thus, from the aforegiven facts and circumstances of the case, it is apparently clear that the petitioner did not get conceived because of any sex crime committed upon her without her consent and knowledge. The petitioner is a married lady there is no claim of the petitioner that she got conceived by any other person other than her husband, neither has the petitioner been able to make out a case seeking for permission for medical termination of pregnancy on the grounds which are otherwise provided under Section 3(2)(a)(b). For ready reference sub-Section 2 of Section 3 of the Medical Termination Pregnancy Act 1971 is being reproduced here-in-under:-

3(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 twelve weeks, if such medical practitioner is, or

(b) where the length of the pregnancy exceeds twelve weeks but does not exceed twenty weeks, if not less than two registered medical practitioners are,

of 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 such physical or mental abnormalities as to be seriously handicapped.

Explanation 1. Where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.

Explanation 2. Where any pregnancy occurs as a result of failure of any device or method used by any married woman or her husband for the purpose of limiting the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to mental health of the pregnant woman.

4. No case, as such under any of those conditions prescribed under the aforequoted provision, has been made out by the petitioner in their present case. The relationship of the petitioner getting strained with





the respondent No. 5 or if the marriage life for some reason gets derailed, are not grounds which are permissible under sub-Section 2 of Section 3 of the Act 1971.

1. If this Court starts entertaining such petitions seeking for medical termination of pregnancy on grounds as have been claimed in the present Writ Petition, the very purpose and object for the enactment of the said Act of 1971 would get defeated.
2. In India, abortion is considered to be a crime. The medical practitioners are restrained from carrying out abortion unless until the situation gravely requires the pregnant lady to undergo abortion. That too is only on the advice of a qualified medical practitioner who upon medically examining the pregnant lady, reaches to the conclusion that there is an apparent danger to the life or risk to the physical and mental health of the pregnant lady or there could also be a situation where there is a substantial risk that the child if born would suffer from serious deformities and diseases.
3. In the instant case, since none of these grounds are made out and more particularly taking into consideration that the petitioner is a married lady and she has got conceived through her husband, the permission sought for cannot be granted only for the sake of asking as the relationship between the two have got strained.
5. Accordingly, the present Writ Petition deserves to be and is accordingly dismissed.

Sd/-

(P. Sam Koshy)
JUDGE