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WP-27514-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VISHAL MISHRA

ON THE 16th OF JULY, 2025WRIT PETITION No. 27514 of 2025*PROSECUTRIX X**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Alok Agnihotri - Government Advocate for the State.
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ORDER

This petition has been registered and taken up *Suo Moto* in pursuance to the letter addressed to the Registrar General of this Court dated 12.07.2025 by the Special Judge, POCSO Act, Mauganj District Rewa, M.P. seeking permission for termination of pregnancy of a rape victim who was a minor.

2. This Court vide order dated 15/07/2025 had directed to get the medical examination of the victim carried out and produce the report.

3. It is submitted that the Police Authorities went to the house of the victim for taking her to the hospital for getting her medically examined, however she has refused for undergoing the medical examination and *Panchnama* to the aforesaid effect and statement of prosecutrix is also recorded, wherein she has submitted as under:-

"कथन

Prosecutrix 'X' पिता Father of Prosecutrix 'Y'
उम्र 17 वर्ष निवासी पिपरा थाना नईगढ़ी ने अपने
कथनों में बताया कि उक्त पते में रहती थी मेरे
परिवार में माता-पिता एवं मेरे 4 बहिन एवं 2 छोटे



भाई हैं। मेरा छहिया गांव के भूपेन्द्र साकेत से मेरा 1 वर्ष से प्रेम प्रसंग रहा है और वर्तमान में भी भूपेन्द्र साकेत के घर पर ही रह रही हूँ। आज दिनांक 15/07/25 को माननीय न्यायालय में मेरी जांच कराने के प्रकरण लगा था कि पुनः जांच कराई जाये किन्तु मैं अपनी जांच (शारीरिक) नहीं कराना चाहती हूँ न ही अपना गर्भपात कराना चाहती हूँ। मैं अपने साथी भूपेन्द्र साकेत के साथ ही रहना चाहती हूँ।"

4. The Hon'ble Supreme Court in the case of A (Mother of X) Vs. State of Maharashtra and Another reported in (2024) 6 SCC 327 has held as under:-

"35. In *Suchita Srivastava v. Chandigarh Admn.* (2009) 9 SCC 1 : (2009) 3 SCC (Civ) 570, a three-Judge Bench of this Court has held that the right to make reproductive choices is a facet of Article 21 of the Constitution. Further, the consent of the pregnant person in matters of reproductive choices and abortion is paramount. The purport of this Court's decision in *Suchita Srivastava* was to protect the right to abortion on a firm footing as an intrinsic element of the fundamental rights to privacy, dignity and bodily integrity as well as to reaffirm that matters of sexual and reproductive choices belong to the individual alone. In rejecting the State's jurisdiction as the *parens patriae* of the pregnant person, this Court held that no entity, even if it is the State, can speak on behalf of a pregnant person and usurp her consent. The choice to continue pregnancy to term, regardless of the court having allowed termination of the pregnancy, belongs to the individual alone.

36. In the present case the view of X and her parents to take the pregnancy to term are in tandem. The right to choose and reproductive freedom is a fundamental right under Article 21 of the Constitution. Therefore, where the opinion of a minor pregnant person differs from the guardian, the court must regard the view of the pregnant person as an important factor while deciding the termination of the pregnancy."

(Emphasis supplied)



5. If the statement of the prosecutrix/ victim is seen, then it is clear that she is aged about 17 years and residing in the house of accused and does not want to go for any further medical examination and she has denied to undergo termination of pregnancy.

6. The prosecutrix is aged about 17 years and being a minor she cannot reside in the house of the accused. Therefore, the Police Authorities are directed to hand over the prosecutrix to her parents and if they are not willing to keep the prosecutrix with them or the prosecutrix show her willingness not to reside with the parents, then she should be shifted to Nari Niketan (Mauganj/ Rewa) under intimation to the Superintendent of Police, District Mauganj. The Superintendent of Nari Niketan is directed to take all care and precaution with respect to the victim/ prosecutrix as she is having pregnancy of 26 weeks & 4 days as per earlier medical report. The prosecutrix shall stay at Nari Niketan till she attains the age of majority.

7. In view of the fact that prosecutrix has not given any consent for undergoing termination of pregnancy and taking note of judgment passed by the Hon'ble Supreme Court in the case of **A (Mother of X) Vs. State of Maharashtra and Another** reported in (2024) 6 SCC 327, the termination of pregnancy in the present case cannot be ordered.

8. With aforesaid observations, the petition stands **disposed off**.

(VISHAL MISHRA)
JUDGE