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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: 29.05.2025*

+ **W.P. (CRL.) 1804/2025**

MINOR S (THR. MOTHER M) .....Petitioner

Through: Mr. Anwesh Madhukar  
(DHCLSC), Ms. Prachi Nirwan  
Mr. Ishat Singh Mr. Pranjal  
Shekhar, Advocates, along with  
mother of the minor/petitioner.

versus

STATE & ANR. ....Respondents

Through: Mr. Amol Sinha, ASC (Crl.),  
Mr. Ashvini Kumar and Mr.  
Kshitiz Garg, Advocates.  
Mr. Satya Ranjan Swain (Panel  
Counsel-AIIMS) with Dr Swati  
Tomar, AIIMS / R-2

**CORAM:**  
**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA**

## **JUDGMENT**

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## **DR. SWARANA KANTA SHARMA, J. (ORAL)**

### **INTRODUCTION**

1. This Court has once again been called upon, by way of the present writ petition preferred by a minor sexual assault victim through her mother, who is presently admitted and confined within the four walls of a hospital ward – carrying the enormous burden not only of a pregnancy resulting from sexual assault, but also of the memories associated with such trauma.

2. The victim’s statement to the doctor who conducted her medico-legal examination, and the medical records itself revealed additional shocking details, i.e. that the victim was burnt by the accused with a lighter at different places on her body. As if the physical injuries and sexual assault were not enough to traumatize



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her, the indifference shown by the medical staff has only compounded her suffering. The doctors chose not to perform her ultrasound on the first day she was brought to the hospital solely because she did not possess an identity card.

3. This is also, yet another unfortunate occasion where this Court is confronted with the distressing reality of a minor rape victim, aged about 17 years, seeking medical termination of pregnancy [hereafter also referred to as 'MTP'], only to be turned away by the hospital authorities on the ground that an order of this Court is first required before any medical assessment could be carried out by the Medical Board.

#### **FACTUAL BACKGROUND**

4. The facts, as they unfold from the perusal of the petition, are that an FIR bearing no. 335/2025 was registered at Police Station Fatehpur Beri, Delhi on 11.05.2025, for commission of offence punishable under Section 64(1) of the Bharatiya Nyaya Sanhita, 2023 and Section 6 of the Protection of Children from Sexual Offences Act, 2012, on the statement of minor victim S, who alleged that the accused 'A' had committed sexual assault with her on several occasions on the false promise of marriage, due to which he had become pregnant.

5. On the same date, the victim was taken to All India Institute of Medical Sciences (AIIMS), Delhi for her medical examination. The Medico-Legal Certificate (MLC) was prepared, which recorded a



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positive Urine Pregnancy Test (**UPT**). However, the MLC also notes that the petitioner declined to undergo any gynaecological examination or provide her biological samples. She also, on that day, refused to get her pregnancy terminated. It is further recorded that the victim informed the examining doctor that she had been subjected to physical violence, including being burnt at multiple places on her body with a lighter by the accused.

6. However, despite the urgency of the situation and clinical indications (pregnant abdomen examination) suggesting a pregnancy of about 20 weeks, the attending medical personnel at the Hospital declined to conduct an ultrasound examination. In this regard, one Form F had been filled up, however, it was mentioned on the same that no identity card of the victim was available, and thus, citing the absence of a valid identity proof, her ultrasound was not conducted. This was so even though the petitioner had been brought by an investigating officer of the Delhi Police with the official case file, pursuant to registration of the FIR.

7. Subsequently, the matter was placed before the Child Welfare Committee (**CWC**) on 13.05.2025. The CWC, upon interacting with the victim child and her mother, both of whom expressed consent for going ahead with the MTP, directed the Investigating Officer to ensure that the procedure was carried out at AIIMS, Delhi, without delay and called upon the Hospital to comply and submit a status report.

8. However, despite the CWC's clear directions, the Investigating



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Officer has informed this Court that on 14.05.2025, the petitioner was taken to AIIMS, Delhi by Constable Yogita, regarding which DD entry No 103-A was recorded, again turned away by the attending doctors at the Hospital, who reiterated their refusal to conduct the ultrasound or proceed with MTP in the absence of identity documents of the petitioner. The CWC was apprised of the same through a status report dated 22.05.2025. The said report reveals that even after being handed over a copy of the CWC's order, the doctors at AIIMS, Delhi declined to proceed with the required ultrasound, insisting upon identity proof and age verification through an ossification test. **It is a matter of deep concern** that despite being fully aware of the petitioner's pregnancy, the hospital authorities insisted on conducting an ossification test, which involves radiological procedures that are generally contraindicated during pregnancy. An application for the same was moved before the learned Trial Court and the date for the test was fixed as 26.05.2025.

9. It is pointed out that on 22.05.2025, following a telephonic request from a CWC member to the concerned medical personnel, the Investigating Officer had once again approached the Hospital concerned. The Hospital, however, scheduled the petitioner's ultrasound only on 24.05.2025. On that day, the ultrasound was finally conducted. The doctor's order dated 24.05.2025 clearly records that the victim had no ID card due to which her ultrasound had not been conducted earlier, but conducted today. The said ultrasound, conducted on 24.05.2025, revealed that the petitioner was carrying a pregnancy of about 25 weeks and 4 days.

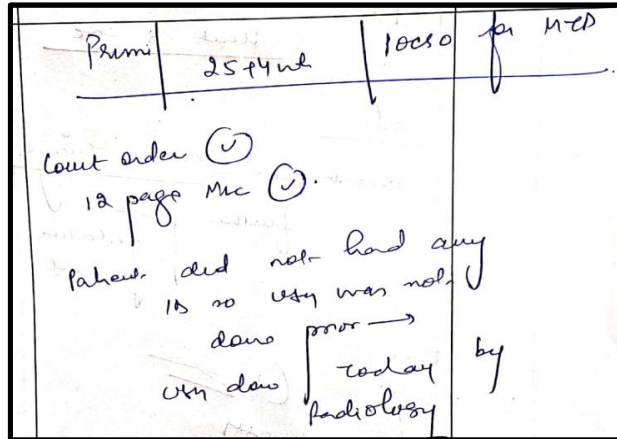


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10. However, thereafter, the victim was not examined by a Medical Board as it was opined by the doctor concerned that a court order was required since the pregnancy exceeded 24 weeks. The doctor's order dated 24.05.2025 is as follows:



11. It is in this background that the petitioner was compelled to approach this Court.

#### PROCEEDINGS BEFORE THIS COURT

12. On 27.05.2025, when the matter came before this Court for the first time at 4 PM, the Investigating Officer, who was present before this Court, stated that though the victim child is currently admitted at AIIMS, Delhi, the attending doctor has insisted that, since the pregnancy is of more than 24 weeks, unless an order is obtained from this Court, they would not medically examine the child and provide their report regarding the medical assessment as to whether MTP can be safely conducted or not.

13. This Court had, *vide* order dated 27.05.2025, directed that the petitioner be medically examined/assessed by the Medical Board of



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respondent no. 2 immediately, and that a report regarding the feasibility and safety of MTP be placed before this Court on the very next day. The relevant portion of the said order is extracted hereunder:

“3. The learned counsel appearing for the petitioner submits that the petitioner is a minor victim of rape, who seeks to get her pregnancy medically terminated. However, it is pointed out that the victim has yet not been examined (as per provisions of the Medical Termination of Pregnancy Act, 1971) by the Medical Board of respondent no. 2.

4. The matter has been heard at length today. Certain lapses on the part of respondent no. 2 have been pointed out by the learned counsel for the petitioner.

5. Be that as it may, considering the urgency in the matter, it is directed that the petitioner herein shall be medically examined/assessed by the Medical Board of respondent no. 2, immediately. The assistance given by Mr. Satya Ranjan Swain, the Standing Counsel for AIIMS, who came to the Court to assist in the matter, is appreciated, who has coordinated and sought instructions on phone from the Private Secretary of Medical Superintendent, AIIMS, Delhi and has assured this Court that a Medical Board will be constituted by the respondent no. 2 today itself, and after the medical examination/ assessment of the petitioner, a report in this regard will be placed before this Court tomorrow morning i.e. 28.05.2025.

6. Accordingly, list the matter tomorrow i.e. 28.05.2025.”

14. When the matter was taken up on 28.05.2025, a report prepared by the 7-member Medical Board of AIIMS, Delhi, had been received, wherein it was mentioned that upon conducting the ultrasound of the victim, it was found that the gestational age of the foetus was 23 weeks and 4 days. **This contradicted the Hospital’s own record** dated 24.05.2025, which mentioned the gestational age as 25 weeks and 4 days. No explanation was offered for this inconsistency. It was also surprising that a doctor, appearing *via* video-conferencing,



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submitted that no court order was now needed since the gestation period was under 24 weeks – despite the Hospital earlier insisting the victim, her family and the I.O. on obtaining a court order. In view of these contradictions and the absence of a clear opinion, a clarification report was sought from AIIMS, Delhi, specifically stating whether MTP would pose any risk to the life of the minor victim, *vide* order dated 28.05.2025. The relevant portion of the said order reads as under:

“4. The matter has been taken up again today. A report dated 28.05.2025, prepared by the Medical Board, has now been placed on record.

5. While several submissions have been made, which are not being discussed in this order, this Court, considering the urgency, finds it necessary to note with concern that despite the constitution of the Medical Board, the report submitted today fails to provide any clear opinion as to whether the medical termination of pregnancy (MTP) can be safely performed on the minor rape victim without posing a risk to her life. The relevant portion of the opinion reads as follows:

“After due consideration, it was observed that the chronological age of the mother is 17 years and 6 months (report attached), and the gestational age of the fetus is 23 weeks and 4 days as on 28.05.2025. As this falls under the MTP Act (minor category for 20-24 weeks), MTP may be permitted without the need for Medical Board.”

6. It is also strange that today it has been stated that the gestation period is 23 weeks and 4 days, whereas in the Hospital’s own prior record dated 24.05.2025 (Doctor’s Order), it was noted that the gestational age was 25 weeks and 4 days. There is no explanation for this discrepancy in the reports within a span of just four days.

7. It must be emphasized that the purpose of seeking a report from the Medical Superintendent, based on the findings of a Medical Board, is to enable the Court to pass an order based on expert medical opinion — particularly as to whether the procedure will endanger the minor victim’s life. Unfortunately, the report is completely silent on this vital aspect.



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8. It is also surprising that during the hearing today, it was submitted by one of the doctors, who appeared through video-conferencing, that a court order is no longer required since the gestation period is less than 24 weeks, whereas their own record dated 24.05.2025 specifically mentioned that an order from the Court is required for conducting the MTP in this case.

9. In view of the above inconsistencies and lack of a conclusive opinion, let a clarification report be filed by the Medical Board. Additionally, a specific opinion, as required for submission to a Court of law, shall be furnished clearly stating whether, in the expert view of the Medical Board, conducting MTP in the present case would pose any threat to the life of the child victim.

10. List this matter tomorrow i.e. 29.05.2025.”

15. On 29.05.2025, i.e, today, a clarification report has been received from the Medical Board of AIIMS, Delhi explaining the discrepancy in gestational age, and further, it has now been opined that the minor was physically and mentally fit for medical termination of pregnancy, and the same would not endanger her life. Given the contradictory submissions regarding the necessity of a court order and to avoid any confusion, and also upon such a request being made on behalf of the Hospital, this Court has passed a specific order directing AIIMS, Delhi to conduct MTP of the minor rape victim on 30.05.2025. It was also clarified in the order passed today that a reasoned judgment, addressing the procedural lapses and systemic issues, would follow separately. The relevant portion of the said order reads as under:

“5. This Court, *vide* order dated 28.05.2025, had expressed its displeasure regarding the inconsistent medical opinions and contradictory stands taken by the respondent no. 2 Hospital, regarding the requirement of a court order for conducting Medical Termination of Pregnancy (MTP), and had called for a



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clarification from the Hospital in the following terms:

“8. It is also surprising that during the hearing today, it was submitted by one of the doctors, who appeared through video-conferencing, that a court order is no longer required since the gestation period is less than 24 weeks, whereas their own record dated 24.05.2025 specifically mentioned that an order from the Court is required for conducting the MTP in this case.

9. In view of the above inconsistencies and lack of a conclusive opinion, let a clarification report be filed by the Medical Board. Additionally, a specific opinion, as required for submission to a Court of law, shall be furnished clearly stating whether, in the expert view of the Medical Board, conducting MTP in the present case would pose any threat to the life of the child victim.”

6. Today, a report has been placed before this Court wherein an explanation has been provided for the discrepancy in the gestational age recorded in the earlier medical documents vis-à-vis the later Medical Board report. It has also been opined today that *“the minor is physically and mentally fit to undergo termination of pregnancy and it will not endanger the minor victim’s life.”*

7. As already noted in the previous order dated 28.05.2025, the doctor’s order dated 24.05.2025 issued by respondent no. 2 Hospital had opined that the pregnancy of the minor rape victim was of 25 weeks and 4 days, which being beyond 24 weeks, would require a court order under the MTP Act. Conversely, in the Medical Board report dated 28.05.2025, it was stated that the gestational age was 23 weeks and 4 days, and hence, a court order was not required.

8. Today, in the forenoon, it was submitted before this Court that no court order was required for conducting the MTP, considering the revised gestational age of the fetus. However, in the afternoon, it was submitted on behalf of respondent no. 2 that a court order may be passed.

9. In view of these submissions, and for the sake of clarity and to avoid any further confusion, taking into account the earlier report of hospital – which recorded the gestational age to be 25 weeks and 4 days – and also considering that by tomorrow, even as per the opinion dated 28.05.2025 of medical board, the gestational age shall be 24 weeks, this Court deems it appropriate to pass specific directions for the medical termination of pregnancy of the petitioner/minor rape victim, aged about 17 years:

- i. The petitioner/victim, the Court is informed, is admitted in the hospital/respondent no. 2. The competent authority of



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AIIMS, New Delhi shall make necessary arrangements for medical termination of pregnancy of the victim which has resulted due to alleged rape committed upon her, tomorrow i.e. 30th May, 2025, subject to all necessary medical precautions and procedures etc.;

ii. The Superintendent, AIIMS, New Delhi, and the Medical Board will ensure that the termination of pregnancy of the minor victim/petitioner is undertaken by competent doctors in accordance with the provisions of the MTP Act, its rules and all other rules, regulations and guidelines prescribed for the purpose;

iii. A complete record of the procedure which will be performed on the petitioner for termination of her pregnancy shall be maintained by the Medical Board;

iv. The doctors concerned shall also preserve the tissue of the fetus as the same may be necessary for DNA identification and other purposes, in reference to the criminal case which stands registered against the accused by the petitioner/victim;

v. The State shall bear all the expenses necessary for the termination of the pregnancy of the petitioner, her medicines, food etc.;

vi. If the child is born alive, the Superintendent, AIIMS, New Delhi, shall ensure that everything, which is reasonably possible and feasible in the circumstances is offered to such child, and the Child Welfare Committee concerned shall do the needful in accordance with law.

10. This Court has passed the aforesaid directions after it was brought to the notice of the Court that the informed consent of the guardian of the minor victim has been obtained in this case, the statement made by the mother of the victim, who is present before the Court, and after perusing the opinion of Medical Board of AIIMS, New Delhi. *Needless to say*, the doctors concerned while performing the procedure for medical termination of pregnancy of the victim herein are expected to keep every safety aspect in view.

11. The present order is being passed considering the urgency involved in this case. However, the detailed reasons for passing the order, along with certain guidelines and directions – in light of the various procedural and systemic issues, lapses and non-compliance of judicial orders that have pointed out and argued before this Court – shall be dealt with *in extenso* in a separate, reasoned judgment of even date...”



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16. It is in this backdrop that the present judgment is being authored, *primarily*, to address certain procedural lapses, conflicting medical opinions, shifting stands taken before this Court, and the lack of institutional clarity in cases involving medical termination of pregnancy of minor victims of sexual assault.

17. The present case has brought to fore the systemic shortcomings that require judicial attention, not only to ensure that justice is done in the individual case but also to lay down necessary safeguards and guidelines for the future, so that similarly placed victims are not left in a state of confusion, delay, or distress at such a critical juncture.

#### **ANALYSIS & FINDINGS**

18. Before delving into the merits of the present case, this Court finds it apposite to first examine the legal framework governing medical termination of pregnancy in India, particularly in the context of victims of sexual assault. It is also necessary to revisit earlier decisions rendered by this Court wherein detailed directions were issued from time to time to streamline the procedure to be followed in cases where the pregnancy of a rape victim exceeds the statutory gestational limit of 24 weeks.

19. In the present case, the respondent Hospital, AIIMS, Delhi, sought to justify its insistence on the production of an identification document by the victim before conducting an ultrasound, by citing the requirements under the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 [hereafter



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‘PC&PNDT Act’] and the Rules made thereunder. It was submitted that as per the said Act and Rules, a Form F is required to be filled prior to conducting any ultrasound, and for this purpose, as per their institutional protocol, a copy of the victim’s ID card is to be attached.

20. **Initially, this Court was not inclined to pass a detailed judgment, particularly in view of the comprehensive statutory provisions under the MTP Act, and catena of judicial precedents that have already clarified the protocol to be followed in cases involving pregnancy of a sexual assault victim.** However, during the proceedings, the concerned doctor once again reiterated that there existed some degree of confusion regarding the applicable protocol. It was also submitted that while AIIMS, Delhi, had its own internal protocol for dealing with such cases, there was not sufficient awareness about the specific directions already laid down by this Court in earlier judgments, i.e., the directions which had been duly communicated to all the Hospitals in Delhi and a compliance affidavit in respect thereof had also been filed.

21. **In light of the aforesaid submissions, and the unfortunate events that happened in this case, it has become necessary for this Court to once again clarify and reiterate the directions to be followed in such cases.**

**(A) The Medical Termination of Pregnancy Act, 1971: The Statutory Framework**

22. In India, the termination of pregnancy is governed by the



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Medical Termination of Pregnancy Act, 1971, which lays down the legal framework under which registered medical practitioners may lawfully terminate certain pregnancies. Initially, the Act permitted termination of pregnancy up to 12 weeks with the opinion of one registered medical practitioner, and between 12 to 20 weeks with the opinion of two such practitioners formed in good faith. However, it was amended by the Medical Termination of Pregnancy (Amendment) Act, 2021, which extended the upper gestational limit to 20 weeks with the opinion of one registered medical practitioner, and further permitting termination between 20 to 24 weeks in certain specified categories, with the opinion of two practitioners. It also introduced new sub-sections i.e. Sections 3(2A) to 3(2D). The amended Section 3 of MTP Act, as it stands today, reads as under:

**“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



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(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.

(2A) 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.

(2B) 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.

(2C) 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.

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

(a) a Gynaecologist;

(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 a 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



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of eighteen years, or, who having attained the age of eighteen years, is a 2[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.”

23. The statute permits termination of pregnancy where a registered medical practitioner, or practitioners, form the opinion that – continuation of the pregnancy would pose a risk to the life of the woman, or cause serious harm to her physical or mental health. In cases where the gestational period is between 20 and 24 weeks, the specific categories of women eligible for termination have been notified by the Central Government under the Medical Termination of Pregnancy Rules, 2003, as amended by the Medical Termination of Pregnancy (Amendment) Rules, 2021. Rule 3B enumerates seven distinct categories of women who are eligible for termination of pregnancy up to 24 weeks. In the said Rule, clause (a) relates to victims of sexual assault, rape or incest and clause (b) relates to minors.

24. Notably, Explanation 2 appended to the Section 3 of MTP Act provides that in cases where the pregnancy is alleged to have resulted from rape, the mental anguish suffered by the woman shall be presumed to amount to grave injury to her mental health for the purposes of Section 3(2)(i) of the MTP Act. Therefore, it is not in dispute that in case of a minor victim who is alleged to be sexually assaulted or raped and as a consequence thereof she has conceived, the injury that is caused to her mental health is presumed even



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statutorily.

**(B) Medical Termination of Pregnancy of beyond 24 weeks of a Rape Victim: Law and the Judicial Precedents**

25. As evident from above, the statute does not provide for termination of pregnancies over the gestational age of 24 weeks except in case of detection of substantial foetal abnormalities, the provision with regard to it is laid down under Section 3(2B) of MTP Act, or in a case where the medical practitioner is of opinion, formed in good faith, that the termination of such pregnancy is immediately necessary to save the life of the pregnant woman (as per Section 5 of MTP Act).

26. However, it is now well-recognized that the extraordinary jurisdiction of Constitutional Courts can be invoked in exceptional circumstances to permit termination even beyond the statutory upper limit for medical termination of pregnancy. This power has been acknowledged and exercised by the Hon'ble Supreme Court as well as various High Courts in appropriate cases. This is so because in instances of sexual assault, compelling a woman to continue with an unwanted pregnancy and imposing upon her the burden of motherhood can amount to violation of her fundamental right to live with dignity. Such a right necessarily encompasses the autonomy to make reproductive choices, including the decision to continue or terminate a pregnancy. Section 3(2) of the MTP Act reinforces this principle by recognising the importance of protecting not only the physical but also the mental health of the pregnant woman.



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27. This position was affirmed by the Hon'ble Supreme Court in case of *A (Mother of X) v. State of Maharashtra & Anr.: Civil Appeal No. 5194 of 2024*, wherein the Court had allowed termination of pregnancy of more than 29 weeks being carried by a rape victim. Prior thereto also, in case of *Venkatalakshmi v. State of Karnataka & Ors.: Civil Appeal No. 15378 of 2017*, the Hon'ble Supreme Court had permitted termination of a pregnancy at 26 weeks on the basis of severe mental trauma caused by rape.

28. This Court, including this Bench, has passed similar directions in other similar cases, where continuation of pregnancy beyond 24 weeks posed serious risks to the mental or physical health of the woman, especially in cases arising from sexual assault.

**(C) Directions & Guidelines Issued by this Bench: Summed Up**

(i) Decision in Minor R Through Mother H v. State (NCT of Delhi) and its Compliance

29. As early as January 2023, this Bench was faced with a distressing situation involving a 14-year-old minor rape victim who was carrying a pregnancy of about 25 weeks. On 24.01.2023, this Court had directed the constitution of a Medical Board at the concerned Hospital to examine the victim and opine whether it was medically safe to terminate the pregnancy. The very next day, on 25.01.2023, a detailed judgment was passed, directing the medical termination of pregnancy.

30. However, this Court was deeply concerned to note the



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considerable delay that routinely occurred in such cases, particularly when the gestational period exceeded 24 weeks. It was brought to the notice of this Court that Hospitals used to frequently decline to conduct either medical examination or the termination itself without a court order. This delay used to affect minor victims, many of whom came from economically disadvantaged backgrounds and were thus compelled to first seek legal assistance, get a petition filed, and await listing before the Court, by which time several critical days were lost. Further aggravating the issue was the absence of permanent Medical Boards in most hospitals across Delhi, except a few. The Court in such cases were first required to pass directions for constitution of a Medical Board and await its report before passing any order for termination of pregnancy. Recognizing the urgency of such matters and the undue hardship being caused to victims, this Court issued a set of guidelines in *Minor R Through Mother H v. State (NCT of Delhi): 2023 SCC OnLine Del 383 (dated 25.01.2023)* to be adhered to by investigating officers and hospitals in all cases involving pregnancies beyond 24 weeks. These directions were as follows:

“24. It is also pertinent to note that the victim child was carrying pregnancy of 25 weeks when she was produced before this Court. Due to financial constraints, they were able to file a writ petition only through Delhi High Court Legal Services Committee. In these circumstances, this Court feels that crucial time is lost in the process of passing orders for medical examination of victim by a board in case of 24 weeks or above of pregnancy due to sexual assault which further endangers her life.

24.1. Considering the same, this Court passes the following guidelines to be followed by the investigating officers, in cases where pregnancy exceeds 24 weeks, which will be circulated through the Commissioner of Police to all investigating



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officers concerned:

- i. At the time of medical examination of a victim of sexual assault, it will be mandatory to conduct a Urine Pregnancy Test, as in many cases, this Court has noticed that such test is not conducted.
- ii. Upon the victim being found pregnant due to sexual assault, and in case the victim is major gives her consent and expresses her desire for conducting medical termination of pregnancy, the concerned investigating officer will ensure that on the same day, the victim will be produced before such Medical Board envisaged under Section 3 of MTP Act, which this Court has been informed is constituted in following four hospitals in Delhi: (i) All India Institute of Medical Sciences (AIIMS), New Delhi, (ii) Dr. Ram Manohar Lohia Hospital, New Delhi, (iii) Safdarjung Hospital, New Delhi, and (iv) Lok Nayak Jai Prakash Narayan Hospital, New Delhi.
- iii. In case a minor victim of sexual assault is carrying pregnancy, upon the consent of her legal guardian and desire of such legal guardian for termination of pregnancy, the victim will be produced before such Board.
- iv. In case a minor victim is examined by such Board, appropriate report will be placed before concerned authorities, so that if an order is being sought regarding termination of pregnancy from the Courts, the Court concerned does not lose any more time and is in a position to pass an order on the same expeditiously.
- v. As per Section 3(2C) and 3(2D) of MTP Act, it is mandated that the State Government or Union Territory has to ensure that the Medical Boards are to be constituted in the hospitals. The Court is informed that such boards are not available in hospitals in each district, causing inconvenience to the Investigating Officers as well as to the victim at times who has to be taken for MTP and for further examination. Thus, State Government/Union Territory should ensure that such mandate of Section 3(2C) and 3(2D) of MTP Act, are complied with and such Boards are constituted in all Government Hospitals which have proper MTP Centres and it should be mandatory to have such Boards constituted before hand.”



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*Compliance of these Directions*

31. The matter was subsequently taken up for compliance on 01.08.2023. Pursuant to this Court's directions, the Union of India submitted a compliance report dated 17.08.2023, wherein it was informed that:

“i. the Govt. of NCT of Delhi vide Notification dated 03.04.2023 has constituted the Medical Boards in several Hospitals in Delhi;

ii. in compliance of the order of this Court, Union of India vide its letter dated 11.08.2023 had directed the concerned Department of Govt. of NCT of Delhi to comply with the directions of this Court as contained in the judgment dated 25.01.2023;

iii. pursuant to aforesaid letter issued by Union of India, the concerned Department of Govt. of NCT of Delhi has furnished an action taken report dated 14.08.2023”

32. In light of this, it was noted that the judgment had been circulated across all hospitals in Delhi for their information and compliance. Furthermore, the Government of NCT of Delhi had issued a Notification dated 03.04.2023 constituting permanent Medical Boards under Section 3 of the MTP Act in 13 hospitals across Delhi. While disposing of the said matter on 21.08.2023, this Court had observed as under:

“4. This Court takes note of the fact that the concerned Department of NCT of Delhi has complied with the order/directions of this Court dated 25.01.2023 in its letter and spirit. **This Court expresses appreciation for the concerned authorities/Union of India that they have taken note of the emergent situation regarding termination of pregnancy of the victims wherein the pregnancy period exceeds 24 weeks and have included all the directions of this Court in the**



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**notification which was circulated, as reproduced above, after constituting the medical boards as required under law.**

5. This Court further **hopes that the Delhi Police and the doctors concerned will diligently follow the directions** which have now been circulated vide notification dated 03.04.2023. The notification also notifies the Government and Private hospitals and the medical boards constituted therein in compliance of the order of this Court.

6. **With this, the compliance of the order dated 25.01.2023 has been made which will ensure that a victim carrying pregnancy of period of more than 24 weeks, will face no problem when she is produced before the Court seeking appropriate directions for termination of pregnancy, so that crucial time is not lost in the process of passing orders for medical examination of victim by a medical board in case of pregnancy due to sexual assault which further endangers her life.”**

33. The **core objective** behind the issuance of these guidelines was clear – to ensure that the medical examination of a minor rape victim carrying pregnancy of more than 24 weeks is conducted immediately in terms of the MTP Act, and a report is prepared and placed before appropriate authorities. This would allow the concerned court, when approached by the victim or someone on her behalf, to pass appropriate directions for termination without unnecessary delay.

34. Following the constitution of permanent Medical Boards in 8 government hospitals (both Central and State-run) and 5 private hospitals, it was expected that these Boards would not insist on a court order prior to conducting a medical examination or preparing a report when the victim expresses desire to terminate pregnancy resulting from rape. The purpose was to ensure that a court is equipped to issue necessary directions on the very first date of



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hearing.

(ii) Decision in Minor L Through Guardian J v. State & Anr.

35. Despite the aforementioned directions, this Bench was once again faced with a similar situation in November 2023 in ***Minor L Through Guardian J v. State & Anr.: 2023 SCC OnLine Del 7159 (dated 03.11.2023)***. In that case, the concerned hospital had refused to conduct medical examination of the minor rape victim without a court order. This Bench had recorded its strong displeasure, noting that while the directions issued in ***Minor R Through Mother H (supra)*** had been acknowledged and appeared to have been complied with on paper, the ground reality was markedly different. The directions were not being implemented by the hospitals. This Court expressly observed that future lapses of this nature would be viewed seriously, given the grave risk such delays pose to the physical and mental well-being of the minor victim, and the diminishing feasibility of conducting an MTP with each passing day.

36. The order dated 04.11.2023 in the said case, also directed that in all such cases, the Medical Board as well as the investigating police officer must explain the implications of medical termination of pregnancy to the minor victim and her guardian(s), in Hindi (or any other language understood by them) or English, as applicable. It was observed that medical termination of pregnancy has enduring mental and physical repercussions, and hence, the process must be carried out with sensitivity, not as a mere procedural formality.

37. The judgment was directed to be circulated to the



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Commissioner of Police, Delhi; Secretaries of the Ministry of Health and Family Welfare, GNCTD and Government of India; and the Delhi State Legal Services Authority.

(iii) Decision in Minor S Through Father B v. State & Anr.

38. In the year 2025, yet again, a similar issue arose before this Bench in *Minor S Through Father B v. State & Anr.: 2025 SCC OnLine Del 2506*. The minor rape victim, aged around 15 years, was carrying pregnancy of over 24 weeks. Despite the Child Welfare Committee (CWC) having passed appropriate directions, the Medical Board of the Hospital concerned had initially refused to examine the victim without a court order. Thereafter, due to lack of awareness of legal remedies, the victim was only able to approach this Court after a delay of about one week. By the time the matter was heard, the Medical Board had finally commenced examination, but only after an unjustified delay. In response, this Court had sought an explanation from the Medical Superintendent of the concerned hospital as to why, despite the victim having been presented in compliance with the CWC's direction and despite clear judicial guidelines already in place, there had been a delay of more than a week in the examination and preparation of the medical report.

39. In the said case, taking note of the fact that, another issue, i.e. lack of legal awareness among the victims of sexual assault as to which Court they had to approach for seeking permission for MTP, this Court had found it necessary to issue certain directions to ensure that the rights of such victims are protected without any delay or



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confusion. Therefore, in its order dated 17.04.2023, the following directions were issued by this Court:

“32. Accordingly, in order to ensure that such confusion or delay is avoided in the future, and that victims of sexual assault are provided prompt and appropriate legal guidance and medical support, the **following directions** are issued:

i. Whenever a minor victim of sexual assault, who is found pregnant with a gestational period of pregnancy exceeding 24 weeks, is produced before the CWC and is referred to a hospital for medical examination or medical termination of pregnancy, the concerned CWC shall forthwith inform the Delhi High Court Legal Services Committee (DHCLSC) regarding the case, since in case, medical termination of pregnancy is sought and consent is given by the victim or her family, as the case may be, an urgent order from a Court of law will be required for such medical termination of pregnancy. The communication shall include the details of the victim as permitted under law (without disclosing the identity of the victim), the order passed by CWC, the copy of the FIR which is placed before CWC, when the victim is produced before it, by the IO and any other document relevant for filing a petition before the competent Court.

ii. Upon receiving such information, DHCLSC shall immediately take appropriate steps to assess whether any legal intervention is required, including the need to approach the competent Court seeking an order for medical termination of pregnancy which is beyond 24 weeks in case of a rape victim where she or her guardian seek medical termination of pregnancy. This will enable DHCLSC to take timely action, and where necessary, ensure that the matter is brought before the competent court without delay.

iii. The above direction shall be circulated to all CWCs functioning in the National Capital Territory of Delhi and shall be scrupulously followed.

iv. To conclude, this Court reiterates that, as directed in the judgment titled *Minor R Thr. Mother H v. State (NCT of Delhi)* (*supra*) dated 25.01.2023, as well as in the judgment titled *Minor L Thr. Guardian J v. State & Anr.* (*supra*) dated 03.11.2023, the medical examination of a minor rape victim carrying a pregnancy beyond 24 weeks must be conducted immediately by the Medical Board of the concerned Hospital



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in terms of the MTP Act, and the report be prepared and kept ready, without insisting the victim to first approach a Court of law for obtaining an order for medical examination by the Board.”

40. Lest one wonders, as to why, the directions issued in the aforesaid three decisions are being reiterated in the present judgment, it is important to clarify that their reiteration has been necessitated by the repeated instances of their non-compliance that have come to the notice of this Court. Despite earlier decisions laying down clear procedural safeguards and guidelines for conducting MTP of a rape victim carrying pregnancy of more than 24 weeks, cases continue to surface where these directions are either overlooked or inadequately implemented, to the serious prejudice of the minor rape victims involved.

**(D) The Present Case: Undue Delay in Carrying out MTP**

41. In the present case, **the chain of events reveals a troubling picture of delay, miscommunication, and lack of clarity on the part of hospital authorities**, all of which culminated in a significant lapse in providing timely medical care to a 17-year-old rape survivor. The FIR in the present case was registered on 11.05.2025, and the minor victim was taken the same day to AIIMS, Delhi, where a Urine Pregnancy Test confirmed that she was pregnant. Clinically, the pregnancy appeared to be around 20 weeks. However, despite this, the doctors on duty refused to conduct an ultrasound, stating that an identity card had not been produced. This insistence is difficult to



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understand, especially when the victim was accompanied by the Investigating Officer, a Sub-Inspector of Delhi Police, who had brought the official case file. In the facts of the present case, such insistence on documentation, when the presence of law enforcement and official papers should have sufficed, appears unnecessary and has only contributed to delay without any justification.

42. The matter was again taken to the CWC by the IO, which, after interacting with the victim and her mother, both of whom unequivocally consented to medical termination of pregnancy, directed on 13.05.2025 that the MTP be carried out without delay. Yet, even with this categorical direction and official communication in hand, the doctors at the Hospital concerned persisted in their refusal, reiterating their demand for ID proof, and going so far as to recommend an ossification test to verify the victim's age.

43. Despite repeated efforts by the Investigating Officer, and even intervention by a CWC member, it was only on 24.05.2025 – thirteen days after the first hospital visit – that the ultrasound was finally conducted. By then, the petitioner's pregnancy had reportedly crossed 25 weeks, which had placed her beyond the statutory limit under the MTP Act. Even then, no Medical Board was constituted, as the doctor concerned had opined that a judicial order was necessary before proceeding further [order extracted in paragraph 10 of this judgment].

44. This entire sequence of events reflects an unfortunate and avoidable situation, where legal formalities, administrative confusion, and lack of clarity took precedence over immediate medical needs and



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basic humanitarian concern, moreover, since the medical record reveal as recorded earlier also that the victim had undergone brutal sexual assault and was burnt with a lighter by the accused at different places of her body, as mentioned in the MLC of the victim also.

45. As noted above, the victim was kept waiting for several days in the hospital, unable to undergo an essential medical procedure, and the reason, as emerged from the record and submissions, was confusion among the hospital authorities, regarding whether a court order was necessary, what documentation was sufficient, and whether an ultrasound could be conducted in absence of the victim's identity proof.

**(E) Issue Regarding Identity Proof for Ultrasound in Cases Involving Rape Victims**

46. In the present case, it is an admitted position that the minor victim was taken to AIIMS, Delhi by the Investigating Officer on the same day the FIR was registered, for her medical examination. The MLC was duly prepared, noting that the victim was pregnant and had suffered physical violence. However, despite clear clinical indications and an urgent need to assess the stage of pregnancy, the hospital authorities declined to perform an ultrasound. The stated reason was the absence of an identity document of the minor. This insistence on formal identification resulted in a critical delay in the assessment of the pregnancy and, consequently, the necessary medical and legal procedures required for medical termination.



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47. The hospital's contention was that, under the PC&PNDT Act, a Form 'F' must be filled before conducting any ultrasound, and as per the protocol of the Hospital, an identity card of the patient must be annexed with the said form. The doctor concerned submitted before this Court that this is standard protocol followed in all pregnancy-related ultrasound procedures. However, this Court finds it necessary to underline that the present matter does not concern a routine case of pregnancy. It involved a minor girl who had become pregnant due to sexual assault, a fact already recorded in the FIR, supported by the statement of the victim, and the presence of the Investigating Officer who had formally brought her to the hospital for examination and a formal application in this regard enlisting the FIR number and other details of the offence were already before the concerned doctor.

48. This distinction, in this Court's view, goes to the very heart of the matter. In cases of sexual assault, especially where the victim is a minor, the standard procedural safeguards that apply to routine diagnostic cases cannot be applied in a rigid or mechanical manner. The need to conduct an ultrasound in such cases is not optional or elective, but an essential one. Any delay in conducting an ultrasound would not only prolong the physical and emotional distress of the victim but also risk breaching the statutory limits for termination of pregnancy under the MTP Act, particularly in view of the 24-week upper limit.

49. In the considered opinion of this Court, once the Investigating Officer produces a victim of sexual assault before the medical



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authorities for examination, with the official case file and the details of the FIR, the procedural requirement of identity verification through separate documents can be dispensed with. In fact, a similar approach is followed in other sensitive proceedings, such as when the victim's statement is recorded under Section 164 of Cr.P.C. before the Magistrate, where no insistence on an identity card is made, and identification by the Investigating Officer is considered sufficient. Interestingly, if the MLC of the victim could have been prepared and the history of sexual assault given by her could have been recorded therein on the basis of identification by the IO on 11.05.2025, while the USG of the same victim could not have been conducted on her identification is not clear nor sufficiently or satisfactorily accounted for, by the hospital authorities.

50. It is also noteworthy that, in the present case, Form F was in fact filled, and the only missing item was the attachment of the identity document of the victim. Yet, despite the Investigating Officer's presence and the filling of all other relevant information, the ultrasound was deferred. What makes this more perplexing as already discussed above that the MLC was prepared without insisting on identity proof, suggesting that the same officer's identification was sufficient for general medical examination, but somehow deemed insufficient for conducting an ultrasound. Such a dichotomy in approach is difficult to justify and only adds to the confusion and delay faced by victims in such cases.

51. In this Court's view, the refusal to proceed with the ultrasound



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in such circumstances reflects a rigid adherence to the standard operating procedures without accommodating the specific nature of the case. However, hospitals and medical institutions must be sensitised to the fact that cases involving victims of sexual assault, especially minor girls, require a more responsive and sensitive approach. The medical protocols must align not just with statutory obligations, but also with compassion, practicality, and an understanding of the unique challenges that victims of sexual violence face.

52. Therefore, while the requirement of an identity card may be a valid protocol in routine pregnancy cases to ensure compliance with the PC&PNDT Act, since identity verification is necessary to ensure accountability, proper record-keeping, and compliance with legal safeguards, no such insistence should be made when a rape victim is brought for medical examination and ultrasound by the Investigating Officer after the registration of an FIR.

**(F) Issue Regarding Determination of Age of the Victim – Medical Opinion Versus Official Record**

53. One of the concerning aspects that emerged in the present case is the manner in which the issue of age of the victim was dealt with by the doctors concerned. The Investigating Officer had produced the minor victim before the concerned doctor for medical examination, along with the official case file and a copy of the FIR, which recorded her age as 17 years. The attending doctor on the other hand recorded the victim's age as 18 years on the basis of the statement of the



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victim, and thereafter prepared her MLC.

54. Now, since in this case, there was no identity proof available with the victim, the doctor went ahead and recommended ossification tests, including X-rays of the chest, wrist, and elbow joints, apparently for the purpose of age determination. This was done without any formal request from the I.O. or the victim. Thus, even though the minor child in this case was a victim of alleged sexual assault, who was carrying pregnancy of about 20 weeks as per the own opinion of the doctors, the doctors concerned were opining that X-rays of the child be conducted to determine her age.

55. This is a matter of concern since the entire focus was now on determining the age of the victim, despite the FIR clearly stating that she was 17 years old, while the victim herself stated that she was 18. To resolve this difference, the doctors recommended an ossification test. However, it appears to have been overlooked that ossification tests only provide an approximate age range, and even then, they carry a margin of error of up to two years. In such serious circumstances, where the age difference in question was merely one year i.e. between 17 and 18, the utility of such a test is questionable itself. More importantly, the central issue should not have been whether the victim was 17 or 18 years of age, but rather the need to conduct her ultrasound without delay, determine the gestational age of the foetus, and assess whether the pregnancy could and should be medically terminated. Unfortunately, the time spent in this avoidable and confusing exercise led to a further delay in initiating essential



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medical steps, including the ultrasound and consultations needed to proceed with care.

**(G) Delay in Constitution of Medical Board Despite this Court's Directions**

56. On 24.05.2025, the ultrasound of the minor victim was finally conducted, and it was recorded that the pregnancy had advanced to 25 weeks and 4 days. However, the doctor concerned insisted on obtaining a court order before proceeding any further, as evident from doctor's order dated 24.05.2025, and no medical board was constituted to examine/assess the victim for the purpose of considering medical termination of pregnancy, as it was stated before this Court on 27.05.2025 that a medical Board was yet to be constituted to do the needful. Strange though, a permanent medical board already exists for this purpose in AIIMS, as per compliance report filed before this Court, pursuant to judgment passed by this Court, in which this Court's attention was brought to the following notification:



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Annexure - A

c/26

DRAFT

17/c

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI  
DIRECTORATE OF FAMILY WELFARE'B' & 'C' WING, 7<sup>TH</sup> FLOOR,  
VIKAS BHAWAN - II, CIVIL LINES, DELHI - 110054.  
Contact No. 23813216, e-mail: spmhdw3@gmail.com

No.F.6/01/MTP/DFW/2017-18/000689256 - 748-761

Date: 03/04/23

## NOTIFICATION

In exercise of the powers conferred by sub-section (2C) of Section 3 of the Medical Termination of Pregnancy Act, 1971 as amended in the year 2021, the Lt. Governor of the National Capital Territory of Delhi is pleased to constitute the following Medical Boards in the National Capital Territory of Delhi, namely:

| A                                   | B  | C   |
|-------------------------------------|--|---|
| List of Government Hospitals        | List of Private Hospitals                    | Composition/ Structure of the Medical Board   |
| 1. Lok Nayak Hospital               | 1. St. Stephen Hospital                      | 1. HoD Obstetrics & Gynac or any Sr. doctor - Chairperson   |
| 2. Guru Teg Bahadur Hospital        | 2. Sir Ganga Ram Hospital                    | 2. Paediatrician/ Neonatologist - Member  |
| 3. Deen Dayal Upadhyay Hospital     | 3. Apollo Hospital, Sarita Vihar             | 3. Radiologist/ Ultrasonologist/ Fetal specialist/ Genetics - Member  |
| 4. Dr. Baba Saheb Ambedkar Hospital | 4. Dr. B.L. Kapur Hospital                   | 4. Any Other specialist as per requirement of the case - Member   |
| 5. Hindu Rao Hospital               | 5. Max Super Speciality Hospital, Patparganj | 5. Medical Superintendent / an administrative officer nominated by MS Convener.   |
| 6. LHMC & SSK Hospital              |  | 6. For Private Hospital Medical Board a member from Govt. hospital shall be nominated - Member.   |
| 7. Safdarjung Hospital              |  | • Medical Board should have at least one woman member.  |
| 8. AIIMS, Delhi                     |  | • If any Board member is not available at the time of discussion on a case, he/she should be suitably substituted by another member by the chairperson. |

The Chairman/Members (except in case of Government nominee) should be from the concerned hospital only. In case of vacancy in a category, member from the nearby Government hospital may be co-opted.

This notification shall come into force on the date of its publication in the official Gazette.

By Order and in the Name of the Lieutenant Governor  
Of National Capital Territory of Delhi

(Deputy Secretary)  
(Department of Health & Family Welfare)  
(as Rule 3(3) of TBR)

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57. Thus, the omission on the part of respondent Hospital is contrary and in contempt of the directions issued by this Court in case of *Minor R Through Mother H v. State (NCT of Delhi)* (*supra*), wherein it had been clearly directed that once the gestational age is determined to be over 24 weeks and the pregnancy is a result of sexual assault, the Medical Board in terms of MTP Act must be constituted without delay to assess the possibility of termination. In addition, it is also contrary to the compliance report filed before this Court regarding adherence to these directions filed by the Union of



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India, wherein it was submitted that the said decision had been circulated to all the Hospitals in Delhi for necessary information and compliance and a list as mentioned in the preceding paragraph.

#### **(H) Discrepancy in Determination of Gestational Age**

58. Another serious issue that emerged during the course of this matter was the conflicting assessments regarding the gestational age of the foetus. On 24.05.2025, when the first ultrasound was conducted, the pregnancy was opined to be 25 weeks and 4 days. The doctor had opined that a Court order was required for conducting medical termination of pregnancy. However, just four days later, on 28.05.2025, following this Court's direction, a second ultrasound was performed on the victim, and the pregnancy was then stated to be 23 weeks and 4 days and the doctor opined that the order of this Court was not required. The difference between the two reports was not minor – there was a gap of 18 days, which is substantial given the critical stage of the pregnancy and the legal consequences tied to it. Resultantly, it was the victim who suffered silently admitted in the hospital as one report on 25.04.2025 opined that MTP can be conducted only after Court order and therefore was not conducted in absence of order of this Court. On the other hand, a legal battle in the Court ensued on 27.05.2025, till when, even a medical board was not constituted. On 28.05.2025, it was stated, contrary to its own report dated 24.05.2025 seeking an order of this Court that now no Court order was required as the ultrasound conducted on 28.05.2025 reveal the gestational period of pregnancy lesser than 25 weeks.



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59. In response to this discrepancy, a clarification was sought by this Court. AIIMS, Delhi in its written explanation, stated that a variation of 10 to 14 days is medically acceptable while calculating gestational age through ultrasound. Disturbing is the fact that this variation of 10-14 days will be critical in a case of medical termination of pregnancy of a sexual assault victim, as to whether, a Court order to conduct MTP will be required or not. In absence of any clear report, how will then a MTP be conducted either with or without an order of the Court. However, it was not explained how the difference in the present case went beyond that accepted range. This Court was further informed during the course of hearing that the second ultrasound conducted on 28.05.2025 was performed by a senior and experienced doctor, and hence, that assessment should be relied upon. If that is to be accepted, it naturally raises a concerning question: was the first ultrasound conducted by an inexperienced doctor? *or* whether the initial report was prepared in haste or without due attention? Necessarily, this Court asks a question as to on which reports, the Court should rely on to base their orders? Should the Courts now ask for a certificate so that the medical reports can be relied upon for passing an order? When a medical report is placed before a Court of law, the Courts presume that the reports are correct and can be relied upon and therefore a duty is cast on the hospitals and the doctors to send the reports in cases as the present one where variations of even a few days will materially alter an order are sent with due care. In case, the gestational period of the pregnancy, on the day the first ultrasound was conducted on 24.05.2025, was less than



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25 weeks since the second ultrasound conducted after four days state so and the doctor concerned opined that they did not need a Court order, it would mean that the MTP could have been conducted on 24.05.2025 itself without Court order. However, since the earlier ultrasound opined categorically without any margin of error mentioned in the report and specifically asked for a Court order, the Court had no other option but to believe that indeed, a Court order was required for conducting MTP since the gestational period was more than 25 weeks and the report of the medical board was mandatorily required for the same.

**(I) Incomplete or Silent Report of the Medical Board: The information required**

60. **Another serious issue** in this case was that the report tendered before this Court on 28.05.2025, of the Medical Board that had examined the victim of sexual assault, which reads as under:

“After due consideration, it was observed that the chronological age of the mother is 17 years and 6 months (report attached), and the gestational age of the fetus is 23 weeks and 4 days as on 28.05.2025. As this falls under the MTP Act (minor category for 20-24 weeks), MTP may be permitted without the need for Medical Board.”

61. However, the information and opinion a Court requires for passing an order for medical termination of pregnancy is as follows:

- (i) The exact gestational period of the pregnancy of the victim.
- (ii) Whether the victim is physically fit to undergo MTP?
- (iii) Whether the victim is mentally fit to undergo MTP?



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(iv) Whether it will pose risk to the life of the victim in case of MTP?

62. However, the report tendered by the medical board in the present case was silent on the above three aspects. Thus, compelling this Court to direct that the report of the medical board in such cases must adhere to the basic information *qua* the victim mentioned above, in addition to any other information that the doctor concerned or the medical board may deem necessary.

63. In any case, the Court at present is more concerned about ensuring that the victim receives appropriate medical care and that no further delay is caused in processing her case. At the same time, it must be ensured that in future, victims of sexual assault are not subjected to such uncertainty and confusion at the hands of the medical system. The manner in which this victim was dealt with, particularly the conflicting reports regarding a matter as crucial as gestational age, making the victim wait from 13.05.2025 to 27.05.2025 for conducting an MTP despite order of CWC, reflects a troubling lack of coordination and seriousness. The hospital authorities of all hospitals where such victims are brought are directed to take this as a reminder of the sensitivity and care such cases demand.

#### **(J) Comprehensive Directions and Guidelines**

64. The present case has brought to light the pressing need for medical protocols that are clear, practical, and sensitive when it comes



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to victims of sexual assault, especially those who are minor pregnant and seek medical help. The lack of clarity on procedures, the insistence on identity documents, and the delay in carrying out necessary medical examinations like ultrasounds have all contributed to the further distress of the victim in this case. Doctors and medical staff must have well-defined instructions on how to proceed in such cases, and these must clearly distinguish between routine medical terminations and those involving victims of sexual violence. These instructions should be easily accessible in emergency rooms and gynecology departments, and medical professionals should be trained to handle such situations with the urgency and sensitivity they demand. This Court is, therefore, of the view that directions are necessary so that no other victim is left to suffer due to procedural confusion or lack of preparedness in the medical response system.

65. For the convenience of all stakeholders involved, and to ensure clarity and uniformity in handling cases of sexual assault where the victim is found to be pregnant, it is directed that the **following directions** shall henceforth be strictly followed, which are to be read in addition to any earlier directions issued by this Court:

- A. In all cases where a victim of rape/sexual assault is found to be pregnant, a comprehensive medical examination shall be conducted without any delay by the Hospital and doctor concerned. Relevant provisions of law, including Section 164A of Cr.P.C./Section 184 of BNSS, Section 27 of POCSO Act, etc., as well as other medical protocols and judicial precedents



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in this regard shall be followed.

- B. It shall be the responsibility of the Investigating Officer to identify the victim, and ensure that when the victim is produced before the concerned doctor, Hospital or Medical Board, necessary documents, case file, etc. pertaining to the rape victim are carried by the Investigating Officer.
- C. Where the victim of sexual assault (major or minor) is accompanied by the Investigating Officer or has been produced pursuant to direction of a Court or CWC, identification proof/identity card of the victim shall not be insisted upon by Hospital and doctor concerned for the purpose of conducting ultrasound or any relevant/necessary diagnostic procedure. The identification by the IO will suffice in such cases.
- D. In cases of rape victims, where the gestational period exceeds 24 weeks, the Medical Board shall be constituted immediately, and without waiting for any specific direction from the Court, the Board shall conduct the necessary medical examination and prepare an appropriate report at the earliest and place before appropriate authorities, so that an order may be passed without delay when a victim approaches this Court for passing of directions for medical termination of pregnancy [*Ref: Judgment dated 25.01.2023 in Minor R Through Mother H v. State (NCT of Delhi), (supra)*].
- E. This Court also notes that there continues to be some lack of coordination among the CWC, Investigating Officers, and the



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legal aid authorities (DHCLSC), as far as approaching this Court for seeking an order for MTP of a rape victim is concerned. In this regard, detailed directions issued by this Court in judgment dated 17.04.2025 in *Minor S Through Father B v. State & Anr. (supra)*, which have been reiterated in paragraph 39 of this judgment, shall be adhered to by CWC and DHCLSC.

- F. In all cases where MTP is conducted of a rape victim, the foetus shall be preserved properly, as per law, so that it may be sent in future for DNA analysis or other forensic purposes, for the purpose of investigation.
- G. The consent for medical termination of pregnancy shall be obtained (from the victim or her guardian, as the case may be) in the vernacular language understood by them, such as in Hindi or English, after explaining them the implications of conducting the MTP [Ref: Order dated 04.11.2023 in *Minor L Through Guardian J v. State & Anr. (supra)*].

66. In addition to the above directions, and to ensure that the same are followed and complied with in their letter and spirit, this Court also deems it appropriate to frame **following guidelines**:

- A. The Hospital administration is directed to make available the latest, updated Standard Operating Procedure (SOPs) and relevant legal guidelines in both Emergency and Gynaecology Departments, and to ensure that duty doctors are briefed and sensitised regularly regarding their obligations under the MTP



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Act, POCSO Act, and guidelines laid down by the Supreme Court and High Courts.

- B. Training programs for doctors, medical staff, and legal officers attached to all Hospitals be conducted quarterly in collaboration with DSLSA/ DHCLSC or any such designated body, to equip them with legal and procedural awareness necessary for handling such cases sensitively and efficiently.
- C. A dedicated nodal officer may be designated in every Government hospital, specifically trained and empowered to coordinate MTP and medico-legal processes for victims of sexual assault. This officer may act as the single point of contact for Investigating Officers, CWC, and Courts, and maintain a checklist to ensure that no procedural formality causes undue delay, and his name and contact details be mentioned on the website of all hospitals for easy accessibility of the victims and the IO.
- D. A standardised format for MTP request, consent, ultrasound requisition, and medical opinion may be developed and made available in both English and Hindi in all emergency and gynaecology units. This will ensure that doctors and medical staff can respond uniformly to such cases without legal confusion.
- E. The Delhi Police shall ensure that Investigating Officers dealing with POCSO and sexual assault cases undergo mandatory training every six months, with a focus on MTP



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procedures, court orders, and coordination with medical and welfare authorities. Certificates of completion shall be maintained in the officers' service record.

- F.** The directions in the preceding paragraph shall be incorporated in the medico-legal manuals issued by hospitals and health departments, and the same shall be annexed with induction materials for new resident doctors, forensic experts, and gynaecologists.

**(K) Directions for Circulation and Implementation of Directions**

67. It is directed that this judgment be circulated and implemented in the following manner to ensure its strict and uniform compliance, while dealing with cases of sexual assault:

- I.** The learned Registrar General of this Court is directed to forward a copy of this order to the following authorities for their information and immediate necessary action: (a) Secretary, DHCLSC; (b) Commissioner of Police, Delhi; (c) Secretary, Department of Health & Family Welfare, Government of NCT of Delhi; and (d) Secretary, Ministry of Health & Family Welfare, Government of India.
- II.** These authorities shall take steps to ensure that the directions and protocols contained in this judgment are disseminated and complied with by all relevant stakeholders.



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- III.** This judgment, which compiles the Standard Operating Procedures (SOPs) and relevant guidelines shall be circulated to:
- a. Heads of Departments (HoDs) of Emergency, Gynaecology, and Obstetrics in government and private hospitals, especially those having permanent medical boards;
  - b. All medical professionals likely to handle cases of sexual assault, especially those involving minors;
- IV.** The Department of Health & Family Welfare, Government of NCT of Delhi; and Ministry of Health & Family Welfare, Government of India shall:
- a. Ensure state-wide distribution of the protocols to all relevant medical institutions;
  - b. Facilitate translation into Hindi language to ensure accessibility and comprehension by frontline healthcare personnel.
- V.** The Commissioner of Delhi Police shall:
- a. Circulate the protocols to all police stations, Special Juvenile Police Units (SJPU), and relevant units through formal departmental communication, including electronically on the official e-mail IDs of the concerned officials;
  - b. Ensure that translated version is made available and incorporated into the regular training curriculum at the Police Training Academies.



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VI. Copy of this judgment, including the protocols and list of hospitals having permanent medical boards for the purpose of conducting assessment requirement for the purpose of carrying out MTP of a sexual assault victim with or without a Court order, as the case may be, shall be kept physically available at all times in the Emergency Departments and Gynaecology & Obstetrics Departments of hospitals for ready reference by attending doctors.

### CONCLUSION

68. **This case serves as an important reminder that a victim of sexual assault carrying the burden of an unwanted pregnancy may need more sensitivity to deal with as in many cases, such victims are under deep distress unable to process their situation and life. Further, each day's delay in such cases in conducting MTP puts the victim under enhanced potential danger to her life.** The system's failure to respond with clarity, sensitivity, and urgency in such cases will only deepen the trauma and suffering of a young girl who should have been met with care, not delay. This judgment, therefore, is an attempt to resolve the issues which were pointed out before this Court, and also to ensure that in future, no victim of sexual assault, carrying an unwanted pregnancy, is left adrift in a maze of confusion.

69. Before parting with this case, this Court places on record its appreciation for the learned counsels appearing for the victim, learned counsel for the hospital and the learned ASC for the State for



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contributing in the formulation of fresh guidelines.

70. The present writ petition is disposed of with above directions.

71. However, the Registry is directed to list this matter for **filing of compliance reports** by (a) Commissioner of Police, Delhi, (b) Health & Family Welfare, Government of NCT of Delhi, and (c) Ministry of Health & Family Welfare, Government of India on 16.07.2025.

72. The Registrar General of this Court is also requested to get this judgment translated into Hindi through the concerned Committee of this Court, and get the same uploaded in the judgment section of the website.

73. The judgment be uploaded on the website forthwith.

**DR. SWARANA KANTA SHARMA, J**

**MAY 29, 2025/ns**

*TS/TD*