

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) D.No(s).20988/2009

(From the judgement and order dated 09/06/2009 in CWP No. 8760/2009 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

SUCHITA SRIVASTAVA & ANR.

Petitioner(s)

VERSUS

CHANDIGARH ADMINISTRATION

Respondent(s)

Date: 21/07/2009 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE P. SATHASIVAM
HON'BLE DR. JUSTICE B.S. CHAUHAN

For Petitioner(s) Ms.Tanu Bedi, Adv.
Mr.D.P.Singh, Adv.
Mr. Sanjay Jain,Adv.
Ms.Suchita Srivastava, Adv.

For Respondent(s) Ms.Kamini Jaiswal, Adv.
Mr.Anupam Gupta, Adv.
Mr.Ashish Rawal,Adv.

UPON hearing counsel the Court made the following
O R D E R

Ms.X, was an inmate of Nari Niketan, which was within the administrative control of U.T.of Chandigarh. It is alleged that she had been raped by some persons, while she was in this Nari Niketan. Thus, she became pregnant and now her pregnancy has reached a stage of about 19 weeks. According to medical opinion, she is a mentally retarded girl. The Chandigarh administration has filed a Writ Petition before the High Court seeking permission for medical termination of pregnancy of this mentally retarded girl. The Court has appointed the Advocate General and also appointed an amicus curiae to assist the Court and sought opinion of a team of doctors as to what steps should be taken in this regard. The team of doctors interviewed the girl and gave an opinion and later another team of doctors also given its opinion. On the basis of that opinion, the Court passed the impugned order holding that there may be a medical termination of pregnancy of the girl. One of the petitioners, who appeared in person, has challenged the order passed by the Division Bench of the High Court. As the matter is of an urgent nature, we issued notice to the Chandigarh Administration and heard learned counsel appearing for the Chandigarh administration as also Mr.Colin Gonsalves, learned senior counsel for the intervenor.

The main reason given by the High Court for terminating the pregnancy is that if a child is born to the girl as she is a mentally retarded girl, she would not be able to rear the child and nobody would be there to protect the child. Learned counsel appearing for the petitioners submitted that several social organisations, including the National Trust established under the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mentally Retarded and Multiplied Disabilities Act, 1999(44 of 1999) would render help. In view of that statement and also taking into consideration that pregnancy has reached the 19th week, we are not in favour of terminating the pregnancy of the girl. We stay the operation of the impugned judgment. However, detailed reasons would be given later.

Orders reserved.

(G.V.Ramana) (Veera Verma)
Court Master Court Master