

## Delhi High Court

Xx vs Govt Of Nct Of Delhi And Anr on 17 September, 2025

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THE HIGH COURT OF DELHI AT NEW DELHI

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IN

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Date of decision: 17.09.2025  
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W.P. (CRL) 2949/2025

XX

.....Petitioner

Through: Mr. Rahul Yadav and Ms.

Minakshi Yadav, Advs.

versus  
GOVT OF NCT OF DELHI AND ANR

.....Respondents

Through: Ms. Rupali

Bandhopadhya,

ASC with Mr.

Abhijeet Kumar

and Ms.

Amisha Gupta, Advs.

SI Asha,

P.S.Sarita Vihar.

CORAM:  
HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT (ORAL)

RAVINDER DUDEJA, J.

1. The present writ petition has been filed under Article 226 of the Constitution of India with the following prayers:

*"a) Permit the petitioner to get her pregnancy medically terminated;*

*b) Direct the respondent no. 1 to get the pregnancy of the petitioner terminated;*

*c) Direct the respondent no. 2 to obtain the foetus as evidence and send the same to laboratory FSL for obtaining DNA report to ascertain the paternity of the foetus and collect the same as evidence in case FIR No. 459/2025 U/S 69/1 15(2)/351(2) BNS2023 registered at PS Sarita Vihar:*

*d) Or any other order or directions, which this Hon'ble Court may deem fit and proper, in the interest of Justice."*

2. The case of the petitioner is that she was in a live-in relationship with Aman Singh for about two years on the assurance of marriage, during which he repeatedly established physical relations with her on the false pretext of marrying her. In November/December 2024 she first conceived and was compelled by the accused to terminate the pregnancy through medicines, and again in June 2025 she became pregnant. When she refused to undergo another termination, the accused assaulted her on 15.05.2025 and thereafter abandoned her. On 01.07.2025 she lodged a written complaint at PS SaritaVihar, leading to registration of FIR No. 459/2025 under Sections 69/115(2)/351(2) BNS 2023 against Aman Singh.

3. Learned counsel for the petitioner submits that the petitioner, an unmarried woman aged 30 years, conceived in June 2025 as a result of sexual relations established by the accused Aman Singh on the false pretext of marriage. The petitioner's pregnancy, which is presently over 22 weeks, is unwanted, being the result of sexual abuse, and its continuation would cause grave injury to her physical and mental health besides exposing her to social stigma. Reliance has been placed upon *Suchita Srivastava v. Chandigarh Administration* (2009) 9 SCC 1, *X v. Principal Secretary, Health & Family Welfare Deptt.* AIR 2022 SC 4917, and *XYZ v. State of Gujarat SLP (Crl.) Diary No. 33790/2023*, to contend that the right to reproductive choice and bodily integrity is part of Article 21 and that every woman, irrespective of marital status, has the right to terminate an unwanted pregnancy caused by sexual assault.

4. It is further submitted that under Explanation 2 to Section 3(2)(b) of the Medical Termination of Pregnancy Act, 1971, a pregnancy caused by rape may be terminated up to 24 weeks. The petitioner, having consulted doctors at Cloud 9 Hospital, Faridabad, has been found clinically fit for termination, but since the pregnancy is beyond 20 weeks and an FIR is pending, court permission is necessary. It has been urged that the investigating agency may be directed to collect foetal tissue and other evidence post-termination for DNA analysis to establish paternity. In these circumstances, the petitioner has approached this Court under Article 226 of the Constitution read with Section 528 BNSS, 2023, seeking permission for medical termination of pregnancy and appropriate directions.

5. Learned ASC submits that she has received the medical report from the Medical Superintendent, AIIMS Hospital, which states that the petitioner is fit for the MTP and she has been admitted for the said purpose. The Investigating Officer produces the copy of such report.

6. On 12.09.2025, this Court directed the Director, AIIMS to have the petitioner medically examined by at least two practitioners to opine whether continuance of her pregnancy would endanger her life or cause grave injury to her physical or mental health, and to assess her fitness for termination. Pursuant to these directions, the petitioner was examined by medical practitioners at AIIMS. The report dated 16.09.2025 from the Medical Superintendent, AIIMS, states that the petitioner was evaluated on 15.09.2025 vide UHID No. 108607877. As per the ultrasound report of the same date, the petitioner is fit to undergo medical termination of pregnancy and has been admitted for the procedure. The medical report dated 16.09.2025 is placed below:

*7. In India, termination of pregnancy is governed and regulated by the Medical Termination of Pregnancy Act, 1971 [MTP Act]. It provides the legal frame work for termination of certain pregnancies by registered medical practitioners. The Section 3 of the MTP Act, 1971, as it stands post 2021 amendment reads as under;*

*"Section 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.

(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 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."*

8. A perusal of the above provision shows that, under Section 3(2), the pregnancy can be terminated under various conditions. For the present case, Section 3(2)(b) of the MTP Act would be applicable as the gestation period is less than 24 weeks. Apparently, in terms of Explanation 2, for the purpose of clause (a) and (b) of sub section (2) of Section 3 of the MTP Act, whensoever any pregnancy is alleged to be 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.

9. Coming back to the present case and having considered the submissions made and on perusal of the material on record, this Court finds that the petitioner, an unmarried woman aged 30 years, is carrying a pregnancy of over 22 weeks, which is the result of sexual relations established on the false pretext of marriage. The pregnancy is unwanted, has caused her severe physical and mental trauma, and is the subject matter of FIR No. 459/2025 registered at PS SaritaVihar.

10. The Supreme Court in *Suchita Srivastava*(supra), held that a woman's right to reproductive choice is a dimension of personal liberty under Article 21 of the Constitution and that she has the sacrosanct right to bodily integrity. Similarly, in *X v. Principal Secretary, Health & Family Welfare Department* (supra), it was held that irrespective of marital status, a woman has the absolute right to decide whether to continue with or terminate her pregnancy if continuation would endanger her mental or physical health. The Apex Court reiterated that pregnancy outside marriage as a result of sexual assault or abuse is inherently distressing, causes grave injury to mental health, and that reproductive autonomy and dignity are central to Article 21 in *XYZ v. State of Gujarat* (supra).

11. In *X2 v. State (NCT of Delhi)*(2023) 9 SCC 433, the Supreme Court interpreted Rule 3-B of the MTP Rules purposively, recognising that women in difficult circumstances, such as survivors of sexual violence, incest, or those facing social and financial constraints, may delay disclosure or decision-making regarding pregnancy. The Court clarified that the Rule was designed to overcome such barriers and ensure meaningful access to abortion. Importantly, it anchored reproductive rights within Article 21 as encompassing not only the choice to have or not have children, but also access to contraception, safe abortion, and healthcare. By linking reproductive autonomy to bodily autonomy, the Apex Court affirmed that forcing a woman to carry an unwanted pregnancy violates her dignity, privacy, and decisional freedom, making abortion access an essential facet of constitutional personhood rather than a mere statutory benefit.

12. Dr. Garima Kachhawa, Professor, Department of Obstetrics & Gynaecology and Chairperson of the Medical Board who along with Dr. Deepali Garg, Associate Professor in the same department examined the petitioner appeared through VC and confirmed that the petitioner is

clinically fit for termination of pregnancy. According to her there is no risk involved in undergoing the procedure, and petitioner had already been admitted in the hospital for MTP. The petitioner, present through VC, confirms that she is taking cautions and well informed decision, while seeking termination of pregnancy.

13. Accordingly, in view of the above catena of precedents and the facts of the present case, the court is of the considered opinion that suffering of the victim cannot be compounded if she is forced to continue the pregnancy. Apart from above, victim is bound to face social stigma which may not permit the scars left by the defilement of her body to heal. As discussed, the decision of the victim whether to give birth to the conceived child or to terminate the pregnancy has to be given primacy. The petition is therefore allowed with directions that the petitioner be permitted to undergo medical termination of pregnancy forthwith either today or tomorrow at AIIMS Hospital, with the Investigating Officer ensuring that foetal tissue and other relevant samples are collected and preserved for DNA examination at the FSL for the purpose of investigation in FIR No. 459/2025.

14. The petition accordingly stands disposed of.

RAVINDER DUDEJA, J SEPTEMBER 17, 2025/na

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