

ITEM NO.7

COURT NO.2

SECTION XVI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No.14327/2017

(Arising out of impugned final judgment and order dated 26/04/2017
in CWJC No. 5286/2017 passed by the High Court of Patna)

INDU DEVI

Petitioner(s)

VERSUS

THE STATE OF BIHAR & ORS.

Respondent(s)

(With appln. (s) for exemption from filing O.T.)

Date : 03/05/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Petitioner(s) Ms. Vrinda Grover, Adv.
Mr. Archit Rajpal, Adv.
Mr. T. Mahipal, AOR

For Respondent(s) Mr. P.S. Narasimha, ASG
Mr. Tushar Mehta, ASG
Mr. Ajit Kumar Sinha, Sr. Adv.
Mr. Vibhu Shanker Mishra, Adv.
Ms. Kiran Bhardwaj, Adv.
Mr. G.S. Makker, Adv.

Ms. Abha R. Sharma, Adv.

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

Heard Ms. Vrinda Grover, learned counsel for the petitioner, Mr. P.S. Narasimha and Mr. Tushar Mehta, learned Additional Solicitor General, Mr. Ajit Kumar Sinha, learned senior counsel for the Union of India. Be it clarified, the Union of India was not a party before the High Court. However, the learned counsel appearing for the Union of India have gladly come forward to assist the Court. We have also

heard Ms. Abha R. Sharma, learned counsel for the State of Bihar.

The present case expositis a situation of its own kind. The petitioner, a woman, aged about thirty-five years, invoked the jurisdiction of the High Court of Patna in Civil Writ Jurisdiction Case No.5286 of 2017, seeking termination of the pregnancy on the ground that after being sexually assaulted, she was given rehabilitation in the Women Rehabilitation Centre, namely, 'Shanti Kutir', Mahila Punarwas Kendra, Patliputra, Patna, Bihar, where her pregnancy was discovered. It has also been found that she is HIV Positive. She expressed her desire to terminate the pregnancy on 4th March, 2017. Thereafter, she was examined by the Patna Medical College and Hospital. As nothing fruitful happened in the said College, the petitioner was compelled to knock at the doors of the High Court under Article 226 of the Constitution of India.

The High Court directed the petitioner to be examined by a Medical Board at Indira Gandhi Institute of Medical Sciences, Patna. The Board submitted a report that a major surgical procedure was required. The High Court took up the matter for hearing and, after referring to certain decisions of this Court, came to hold that the Medical Board report has stated that it would be unsafe to the life of the petitioner and further there is compelling State's responsibility to keep the child alive. We do not intend to get into those analysis of the High Court at present.

When the matter was taken up today, we requested Mr. P.S. Narasimha and Mr. Tushar Mehta, learned Additional Solicitor General as to whether arrangements can be made for the petitioner to come to Delhi to be examined by a Medical Board at All India Institute of Medical Sciences (AIIMS), New Delhi. Be it noted, Ms. Vrinda Grover, learned counsel along

with Mr. T. Mahipal, learned counsel appearing for the petitioner, after obtaining instructions from the petitioner, has submitted that she is inclined to be examined by a Medical Board at AIIMS, New Delhi.

Mr. P.S. Narasimha and Mr. Tushar Mehta have submitted that a member from the Non Governmental Organization, namely, Koshish-TISS, the respondent No.5 herein, should accompany the petitioner to Delhi. As far as the travel is concerned, Mr. Narasimha and Mr. Mehta spoke in unequivocal voice that the arrangements shall be made for the petitioner and the accompanying member so that they can come to Delhi where further arrangements shall be made for their stay and the petitioner can be examined by the Medical Board at AIIMS latest by 6th May, 2017.

The report of the Medical Board shall be produced before this Court and we would also request Mr. Narasimha and Mr. Mehta to assist the Court on the issue and also to have some discussion with the doctors, for we are concerned with saving a life of a destitute woman. As we are inclined to think that a woman, who has already become a destitute being sexually assaulted and suffering from a serious medical ailment, not to go through further sufferings. The quintessential purpose of life, be it a man or a woman, is the dignity of life and all efforts are to be made to sustain it.

Let the matter be listed on 8th May, 2017.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master

Note: Copy of the order be given dasti.