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MEDICO-LEGAL

Supreme Court Affirms Reproductive Autonomy: Constitutional Right to Abortion Extends Beyond Statutory Limits

AUTHOR Nidhi Singh, Aditya Yuvaraj

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The Supreme Court of India has delivered a landmark judgment reaffirming that a woman's constitutional right to reproductive autonomy under Article 21 takes precedence over statutory restrictions under the Medical Termination of Pregnancy Act, 1971 (MTP Act), particularly in cases involving minors and unwanted pregnancies. The decision underscores that constitutional courts must prioritise the welfare and decisional autonomy of the pregnant woman over procedural limitations, even when statutory remedies are unavailable.

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Factual Matrix

The appeal arose from a distressing case involving a fifteen-year-old minor who was found to be carrying a 28-week pregnancy resulting from a consensual relationship with a seventeen-year-old boy. The pregnancy was discovered in the first week of April 2026 when the appellant, the minor's mother, noticed unusual heaviness in her daughter's abdomen. An ultrasound scan conducted on 10 April 2026 confirmed a live pregnancy of approximately 27 weeks.

The appellant immediately approached multiple medical practitioners seeking termination of the pregnancy, but all refused to perform the procedure given the advanced gestational age. On 13 April 2026, the appellant filed a writ petition before the Delhi High Court under Sections 3(2)(b)(i), 3(3), and 5 of the MTP Act, read with Rule 3B(c) of the Medical Termination of Pregnancy Rules, 2003, and the Ministry of Health and Family Welfare Guidelines dated 14 August 2017.

The High Court directed the All India Institute of Medical Sciences (AIIMS), New Delhi, to constitute a Medical Board to examine the minor. The Board submitted its report on 18 April 2026. On 21 April 2026, the High Court dismissed the writ petition, noting that the psychiatric assessment revealed no major psychiatric disorder and that delivery at the present stage would result in a live birth requiring active resuscitation. The High Court concluded that termination could entail significant risks to the minor's future reproductive health.

Critically, the minor had exhibited severe psychological distress following the discovery of her pregnancy, including two suicide attempts. She unequivocally expressed her unwillingness to continue the pregnancy through her mother.

Submissions Before the Supreme Court

Counsel for the appellant contended that the High Court had failed to consider the Guidelines dated 14 August 2017, which contemplate termination of late-term pregnancies in cases involving minors and exceptional circumstances. It was submitted that compelling the minor to continue the pregnancy violated her rights to life, reproductive autonomy, and bodily integrity under Article 21 of the Constitution.

The Solicitor General, Additional Solicitor General, and State counsel opposed the appeal, arguing that given the advanced and normal pregnancy, the minor should be permitted to deliver the child. They proposed that the State would care for the child and enable adoption if the minor was unwilling to raise the child. They relied on the AIIMS Medical Board report and submitted that termination should not be permitted.

The Court's Reasoning: Constitutional Primacy Over Statutory Limits

The two-judge Bench, comprising Justices B.V. Nagarathna and Ujjal Bhuyan, allowed the appeal and set aside the High Court's order. The judgment rests on several foundational principles of constitutional jurisprudence relating to reproductive rights.

Reproductive Autonomy as a Fundamental Right

The Court reaffirmed the constitutional status of reproductive autonomy, citing with approval the three-judge Bench decision in *X v. Health & Family Welfare Department*, 2022 SCC OnLine SC 1321. That judgment authoritatively recognised that a woman's right to reproductive autonomy includes the right to choose whether and when to have children, the number of children, and access to safe and legal abortion and reproductive healthcare.

Importantly, the Court held that reproductive autonomy necessarily entails that every pregnant woman has the intrinsic right to decide whether to undergo an abortion. This decision arises from complex and deeply personal circumstances that only the woman herself is best placed to evaluate.

The Primacy of the Pregnant Woman's Choice

The Court rejected the State's position that the minor should be compelled to give birth and then give the child up for adoption. It held that such an approach subordinates the welfare of the pregnant woman to the interest of the unborn child, which is constitutionally impermissible.

The Court stated unequivocally: "What is of relevance is the choice of the pregnant woman rather than the interest of an unborn child." Compelling a woman, particularly a minor, to carry an unwanted pregnancy to full term would disregard her decisional autonomy and inflict grave mental, emotional, and physical trauma.

Constitutional Courts and Statutory Gaps

A significant aspect of the judgment concerns the role of constitutional courts when statutory remedies are unavailable. The Court held that the absence of a remedy under the MTP Act does not bar a constitutional remedy. The statute codifies only a part of the constitutional remedy. Where a case falls outside the four corners of the statute, constitutional relief cannot be denied.

The Court observed: "Can the Constitutional Court then say that since the statutory remedy is not available, no constitutional remedy would be available. That, in our view, cannot be the approach."

This principle affirms that constitutional courts retain inherent jurisdiction under Articles 226 and 32 to protect fundamental rights even when statutory schemes offer no recourse. To defer mechanically to statutory limitations would render the fundamental right to bodily autonomy nugatory.

Rejection of Foetal Normalcy and Delay as Bars to Termination

The Court decisively rejected two common arguments raised to deny late-term abortions:

Foetal Normalcy: The Court held that predicated access to termination on the existence of foetal anomaly is constitutionally impermissible. It subordinates the woman's rights to a condition over which she has no control. Rights attach to humans as free moral agents, not as functions of circumstance. To permit termination only where foetal defects exist instrumentalises the pregnant woman into a conduit required to sustain a pregnancy regardless of her will.

Passage of Time: The Court rejected the argument that delay implies acquiescence. It catalogued multiple reasons for late presentation, including delayed detection due to irregular menstrual cycles, lack of reproductive awareness, limited healthcare access, financial constraints, coercion, abuse, or lack of familial support. The passage of time does not extinguish the right to make reproductive choices.

Preventing Unsafe Abortions

The Court emphasised a critical public health dimension: denying legal termination does not prevent late-term abortions. It only displaces them outside the law. Pregnant women may be driven to seek termination through unregulated means, often at greater risk to life and health. Judicial reluctance to permit termination beyond the statutory period reinforces the very conditions the MTP Act seeks to avoid, namely unsafe abortions.

Best Interests of the Minor

The Court identified four dispositive factors in the present case:

1. The pregnancy resulted from a consensual relationship between two minors and was unwanted.
2. The minor mother-to-be unequivocally expressed unwillingness to continue the pregnancy.
3. The minor exhibited signs of severe psychological distress, including two suicide attempts.
4. Continuation of the unwanted pregnancy would have long-lasting repercussions on the minor's mental health, educational prospects, social standing, and overall development.

The Court held that courts must prioritise the best interests of the minor mother-to-be over procedural and statutory limitations. Her reproductive autonomy must be accorded the highest importance.

Critique of the Medical Board Report

The Court rejected the High Court's reliance on the AIIMS Medical Board report. While the report stated that no psychiatric disorder was revealed, the Court held this did not negate the presence of severe distress, trauma, or emotional turmoil. The law cannot remain indifferent to the lived experience of the minor, whose two suicide attempts clearly reflected acute anguish and a compromised emotional state.

The absence of a clinically diagnosed mental disorder does not mean the minor is psychologically unaffected. The Court emphasised that the Medical Board itself found the minor physically fit for termination, coupled with her willingness to undergo the procedure.

The Order

The Supreme Court allowed the appeal and set aside the High Court's order dated 21 April 2026. It directed that:

1. The minor is permitted to undergo medical termination of pregnancy.
2. The appellant shall furnish an undertaking on behalf of her minor daughter consenting to the procedure.
3. All medical safeguards shall be taken by the attending doctors, nurses, and staff at AIIMS.
4. The procedure shall be undertaken at the earliest.

Given the urgency, the operative portion of the judgment was released on the same day.

Concluding Observations

The Supreme Court's decision in *S v. Union of India* represents a principled and rights-based approach to reproductive autonomy. It integrates constitutional doctrine, precedent from *X v. Health & Family Welfare Department*, and a realistic appraisal of the social and medical context in which unwanted pregnancies occur.

By recognising that no woman should be compelled to carry an unwanted pregnancy to term, the Court has reinforced the constitutional commitment to dignity, liberty, and personal autonomy. The judgment is also a reminder that constitutional courts must not mechanically defer to statutory limits where fundamental rights demand protection.

For legal practitioners, this decision provides authoritative guidance on the constitutional dimensions of reproductive rights. It will likely inform future litigation involving late-term abortions, particularly in cases involving minors, survivors of sexual violence, and women facing socio-economic barriers to timely healthcare.

For healthcare providers and policymakers, the judgment underscores the need for accessible, timely, and compassionate reproductive healthcare services. It also highlights the importance of aligning statutory frameworks with constitutional imperatives to ensure that reproductive rights are substantive protections available to all women, not merely formal guarantees.

Source: Supreme Court of India, Civil Appeal arising from SLP(C) No. 14454/2026, decided on 24 April 2026.

Citation: *S v. Union of India & Ors.*, Civil Appeal arising from SLP(C) No. 14454/2026, decided on 24 April 2026 by Hon'ble Justices B.V. Nagarathna and Ujjal Bhuyan.

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