IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2026
(@ SLP(C) NO. 14454/2026)

S ...Appellant(s)

VERSUS

THE UNION OF INDIA & ORS. ...Respondent(s)

O R D E R

Leave granted.

2. Learned Solicitor General as well as learned Additional Solicitor General have appeared and submitted on behalf of the first respondent-Union of India and learned standing counsel for second respondent-State has also submitted by adopting the contentions of learned Solicitor General and Additional Solicitor General.

3. We have heard learned counsel for the appellant.

4. This appeal has been filed by the appellant, who is the mother of her minor daughter aged about fifteen years, against the impugned order dated 21.04.2026 passed by the

High Court of Delhi in Writ Petition (Civil) No. 4967/2026 by which the High Court has dismissed the prayer of the minor daughter of the appellant herein for medical termination of pregnancy of twenty-eight (28) weeks.

5. The brief facts of the case are that the appellant, in the first week of April 2026, noticed unusual heaviness in the abdomen of her minor daughter and upon enquiry regarding her last menstrual cycle, the minor was unable to recall the same. Hence, on 10.04.2026, the appellant took her daughter for medical consultation, where an ultrasound scan was conducted and a live pregnancy of about 27 weeks was diagnosed. On the same day i.e., 10.04.2026, the appellant approached several doctors and medical clinics seeking medical termination of pregnancy, however, all the medical practitioners refused to perform the procedure.

5.1 On 13.04.2026, the appellant filed Writ Petition (Civil) No. 4967/2026 before the High Court of Delhi seeking directions to permit termination of pregnancy under Section 3(2)(b)(i) read with Section 3(3) and Section 5 of the Medical Termination of Pregnancy Act, 1971 (for short, “MTP Act”),

along with Rule 3B(c) of the Medical Termination of Pregnancy Rules, 2003 (for short, "MTP Rules") and Guidelines dated 14.08.2017 issued by the Ministry of Health and Family Welfare, Government of India.

5.2 On 15.04.2026, the High Court directed All India Institute of Medical Science (AIIMS Hospital), New Delhi to constitute a Medical Board to examine the minor daughter of the appellant. On 18.04.2026, the Medical Board submitted its report.

6. On 21.04.2026, the High Court passed the impugned order dismissing W.P. (C) No. 4967/2026 by noting that the psychiatric and psychological assessment of minor did not reveal any "major psychiatric disorder in the past or at this point of time" and that in case of delivery at present, the baby would be born alive, although it would require active resuscitation at birth. The High Court then proceeded to hold that the termination of pregnancy may entail significant risk to the minor girl potentially causing adverse effect on her future reproductive health and accordingly, dismissed the Writ Petition. Being aggrieved by the order of the High Court

dated 21.04.2026, the appellant has preferred the present appeal before this Court.

7. Learned counsel for the appellant submitted that the pregnancy of the minor daughter of the appellant is owing to a consensual relationship between the minor girl and her friend, who is also a minor of seventeen years. The pregnancy is an unwanted pregnancy. It was contended by learned counsel for the appellant that the High Court has failed to consider the Guidelines dated 14.08.2017 issued by the Union Government, which contemplate termination of late-term pregnancies in cases involving minors and other exceptional circumstances.

7.1 It was further stated that the minor girl has been subjected to enormous mental trauma and has attempted to commit suicide on two occasions. That compelling her to continue the pregnancy against her will and to give birth to the child is in breach of her right to life, reproductive autonomy and bodily integrity as envisaged under Article 21 of the Constitution of India. Learned counsel for the appellant therefore submitted that the impugned order may be set

aside and the relief sought for by the appellant herein for the sake of her minor daughter may be granted.

8. *Per contra*, learned Solicitor General as well as learned Additional Solicitor General appearing for Union of India and learned standing counsel for the respondent-State submitted that having regard to the fact that the pregnancy is advanced and normal, the minor girl be permitted to deliver the child. It was further submitted that the child to be so delivered shall be taken care of by the State and in case the appellant's minor daughter is not interested in raising the child, she could give the child for adoption and the State would facilitate to ensure that the child is given away in adoption.

8.1 They further submitted that having regard to the medical report that has been submitted by the third respondent-AIIMS Hospital, the appellant's daughter may not be permitted to terminate the pregnancy and, hence, the appeal may be dismissed.

9. We have considered the arguments advanced at the bar and given our anxious consideration to the matter.

10. We have to take note of certain dispositive factors in the present case:

firstly, that the child to be born is not out of a wedlock but out of a consensual relationship between two minors. The pregnancy itself is an unwanted pregnancy.

secondly, the mother-to-be, being herself a minor, has unequivocally expressed her unwillingness to continue with the pregnancy through her mother, the appellant herein.

thirdly, in the present case, the minor has already exhibited signs of psychological distress, including two attempts to take her own life. Thus, forcing continuation of the pregnancy would amount to a direct affront to her right to live with dignity.

fourthly, the continuation of such an unwanted pregnancy could have long-lasting repercussions on the minor's mental health, educational prospects, social standing, and overall development.

11. The Court must, while exercising jurisdiction under Article 226 or Article 32 of the Constitution of India, therefore, prioritize the best interests of the minor mother-to-

be in the present case, over the procedural and statutory limitations under the MTP Act. If the interest and welfare of the mother-to-be are to be given due consideration, her reproductive autonomy must be accorded the highest importance. This is particularly having regard to the facts and circumstances of the present case.

11.1 The right to make decisions concerning one's body, particularly in matters of reproduction, is an integral facet of personal liberty and privacy under Article 21 of the Constitution of India. This right cannot be rendered ineffective by imposing unreasonable restrictions, especially in cases involving minors and unwanted pregnancies, such as in the instant case.

11.2 No court ought to compel any woman and more so a minor child, to carry a pregnancy to full term against her express will. Such compulsion would not only disregard her decisional autonomy but could also inflict grave mental, emotional and physical trauma in case she is compelled to give birth. In these circumstances, denying the relief sought would compel the minor to endure irreversible consequences.

Such an approach would be contrary to the constitutional ethos and the settled principles recognizing reproductive choice as a fundamental right. What is of relevance is the choice of the pregnant woman rather than the interest of an unborn child. It is easy to say that if the pregnant woman is not interested in raising the child, she may give away the child in adoption and therefore must be compelled into giving birth to the child. However, that cannot be the correct approach, particularly, in cases where the child to be born is unwanted. In such a situation, directing the pregnant woman to give birth to the child against her wishes and to forcefully continue her pregnancy would negate the welfare of the pregnant woman and make it subordinate to the child yet to be born.

11.3 We find that in cases of unwanted pregnancy, often the decision to terminate is made beyond the statutory period prescribed under the MTP Act owing to several reasons. It is under such circumstances that Constitutional Courts must weigh the circumstances in which a case in relation to the welfare of the pregnant woman has to be considered rather

than the child to be born. In fact, under certain grounds, the MTP Act itself permits termination of pregnancy which is therefore recognised in law. The Constitutional Court is approached only when the statutory remedy is not available to a party. 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. A lack of remedy under a statute does not bar a constitutional remedy. The statute codifies a part of the constitutional remedy. If a case is not covered within the four corners of a statute then, can the constitutional relief be also denied? In our view, in such circumstances, the Constitutional Court ought to weigh all facts and circumstances from the lens of the party who intends to terminate the pregnancy and is willing to undertake the medical risk, rather than compelling her to complete the pregnancy term and give birth to an unwanted child. If the pregnant woman carrying an unwanted pregnancy is compelled to continue such a pregnancy, then the constitutional rights of the pregnant woman would be

breached.

11.4 Further, if the Constitutional Court adopts the view that even an unwanted pregnancy must be continued, then instead of approaching the Court for permission, pregnant women would visit illegal abortion centres and secretly undergo termination of such pregnancies which would only make such women more vulnerable and expose them to more dangerous procedures. It is under such considerations that a Constitutional Court must decide what is best in the interest of the pregnant woman, particularly, when the pregnancy is unwanted as in the present case.

12. It is necessary to revisit the facts in the present case. The appellant's daughter is herself a minor girl of fifteen years. The pregnancy is an unwanted pregnancy which is outside the wedlock and continuing the pregnancy is not in the interest of the pregnant minor particularly when she has attempted to foreclose her life on two occasions. The minor is willing to undergo the medical risk of a termination of pregnancy. The termination of pregnancy would be bearing in mind the long term social, economic and emotional interest of

the pregnant minor.

13. Further, the mental health of a pregnant woman carrying an unwanted pregnancy also must be borne in mind and given its due importance. If she is forced to continue her pregnancy and give birth the consequences would be adverse. An unwanted pregnancy and the effect thereof on the mindset of such a pregnant woman will also have a bearing on the child to be born. The decision not to continue a pregnancy and to seek termination with all attendant risks must be respected rather than compelling such a pregnant woman to continue such a pregnancy.

14. We may usefully refer to a three-Judge Bench judgment of this Court in ***X v. Health & Family Welfare Department*, 2022 SCC OnLine SC 1321**, wherein it has been authoritatively held that a woman's right to reproductive autonomy includes the right to choose whether and when to have children, the number of children to have, and the right to access safe and legal abortion and reproductive healthcare. This Court recognized that the decision to continue or terminate a pregnancy arises out of complex and deeply

personal circumstances, which only the woman herself is best placed to evaluate. Reproductive autonomy, therefore, necessarily entails that every pregnant woman has the intrinsic right to decide whether to undergo an abortion. Importantly, this Court also observed that a mere clinical description of pregnancy cannot capture the profound physical and psychological consequences of forcing a woman to carry an unwanted pregnancy to term. Consequently, the decision to either continue or terminate a pregnancy is firmly rooted in the woman's right to bodily integrity and decisional autonomy, which are integral facets of her fundamental rights under Article 21 of the Constitution.

14.1 In the context of the present case, we may refer to the decision of ***A (Mother of X) v. State of Maharashtra & Others*** **in Civil Appeal No.827 of 2026**, where, on similar facts, this Court had allowed medical termination of pregnancy of 30 weeks of a minor girl. In that case too, the pregnancy in question arose out of a consensual relationship, and much like the present case, the continuation of the pregnancy was stated to be traumatic both mentally as well

as physically to the minor girl as it was an unwanted pregnancy.

15. Thus, what is relevant is whether the pregnant woman intends to give birth to a child or not. In the instant case, the facts of the case reveal that the minor girl intends not to give birth.

15.1 Keeping that in view, when Constitutional Courts are approached by unintending mothers seeking termination of pregnancy, they ought not take a prohibitory approach. The consequence of such an approach will not be the cessation of late-term terminations, which will happen anyway, but only their displacement outside the law. Pregnant women may be driven to seek termination through unregulated means, often at a greater risk to their life and health. Thus, the unintended consequence of judicial reluctance to permit termination beyond the statutory period reinforces the very conditions that the MTP Act seeks to avoid, namely unsafe abortions.

15.2 Moreover, the invocation of foetal normalcy or the fact that the pregnancy has been carried for a considerable duration as grounds to deny termination is of no

constitutional persuasiveness. These arguments proceed on the assumptions: *first*, that in the absence foetal abnormality, the continuation of pregnancy is unobjectionable, and *second*, that the passage of time extinguishes the pregnant woman's claim to decisional autonomy.

15.3 We wish to lay to rest both the above arguments.

Firstly, to predicate access to termination on the existence of foetal anomaly is to make the exercise of a fundamental right over one's body contingent upon pathology of the foetus, which is not in the hands of the unintending mother. In other words, her rights are subordinated to the condition of the foetus over which she has no control. As a matter of constitutional principle, this cannot be allowed. Rights are not functions of circumstance, they attach to humans for the reason that they are free moral agents. To say that termination of pregnancy is thinkable only in the presence of foetal defect instrumentalises the pregnant woman into a conduit who is required to sustain a pregnancy no matter her will. *Secondly*, the passage of time does not extinguish the right to make reproductive choices. This

argument rests on the untenable presumption that delay means acquiescence, disregarding the manifold reasons that may account for late presentation of pregnancy including but not limited to delayed detection due to irregular menstrual cycles or lack of reproductive awareness, limited access to healthcare services, financial constraints that impede timely medical consultation, and hesitation to disclose a pregnancy coercion, abuse, or lack of familial support: all of which may prevent earlier disclosure.

15.4 Constitutional courts cannot overlook that parties approach them in such hard cases precisely because no effective statutory right remains available. The absence of a legal remedy under the MTP Act is the very reason for the court's jurisdiction being invoked in the first instance. Therefore, to defer mechanically to statutory limitations is to disregard the distinct role of the Constitutional Court in protecting individual rights even when no other statutory remedies exist. The effect of such an approach is to render the fundamental right to bodily autonomy nugatory.

16. The High Court in the present case relied principally on the report dated 18.04.2026 of the Medical Board constituted by AIIMS and concluded that continuation of pregnancy will entail no major danger to the physical and mental health of the minor. We are of the view that this conclusion is not borne out on facts of the case. The report of the Medical Board is silent on the effect of a forced pregnancy on the psychological, emotional, and mental state of the minor, saying only that no psychiatric disorder was revealed in the examination of the minor. However, as we have noted, the minor girl is said to have attempted to commit suicide on two occasions since the factum of pregnancy was revealed to her. It cannot, therefore, be accepted that the minor girl is unaffected in her psychological and emotional well-being merely because no formal psychiatric disorder has been diagnosed. The absence of a clinically diagnosed mental disorder does not negate the presence of severe distress, trauma, or emotional turmoil. The law cannot remain indifferent to the lived experience of the minor, whose actions clearly reflect acute anguish and a compromised state of

mental and emotional well-being.

16.1 Further, the report of the Medical Board itself considers the minor girl physically fit for the termination of pregnancy. That, coupled with her own willingness to have the termination undertaken, as also the potential harm in the event of carrying the pregnancy to term, convinces us that the request for termination of pregnancy could not have been denied by the High Court.

17. In the circumstances, we direct that the appellant's daughter is permitted to undergo medical termination of pregnancy. The appellant, on behalf of her minor child, shall furnish an undertaking consenting to the medical termination of pregnancy of her minor daughter.

17.1 We direct that all medical safeguards shall be taken by the attending doctors, nurses and staff of the third respondent-AIIMS where the procedure is to be conducted.

17.2 We direct that aforesaid procedure shall be undertaken at the earliest.

17.3 In the result, we allow this appeal and set aside the order dated 21.04.2026 passed by the High Court of Delhi in Writ Petition (Civil) No. 4967/2026.

Having regard to the urgency in the matter, the operative portion of this judgment and order shall be released today itself.

..... J.
(B.V. NAGARATHNA)

..... J.
(UJJAL BHUYAN)

NEW DELHI
APRIL 24, 2026