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**(2026) 01 MP CK 0041**

**Madhya Pradesh High Court**

**Case No:** Writ Petition No. 1086 Of 2026

In Re Suo Moto

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

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**Date of Decision:** Jan. 13, 2026

**Acts Referred:**

- Bharatiya Nyaya Sanhita, 2023-Section 64(1), 64(2)(K), 64(2)(M)

**Hon'ble Judges:** Pavan Kumar Dwivedi, J

**Bench:** Single Bench

**Advocate:** Dr. Amit Bhatia

**Final Decision:** Disposed Of

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### **Judgement**

Pavan Kumar Dwivedi, J

1. This petition is registered pursuant to a letter received by the Registry on 8.1.2026 of Special Judge (POCSO Act), Manawar, District Dhar, where a case is pending with respect to an offence under Section 64(1), 64(2)(M), 64(2)(K) of BNS at Crime No.836/2025. The concerned Judge has stated in his letter that victim of the offence is mentally unstable person and her uncle has requested for termination of pregnancy, which came to be occasioned due to the illegal act done with victim repeatedly. It has been stated that the uncle has consented for procedure for termination of pregnancy. The matter was referred to this Court in the light of law as laid down by Division Bench of this Court in the case In Reference (Suo Motu) Vs. State of M.P., 2025 SCC OnLine MP 1533.

2. The Registry on receiving the letter has registered the same as writ petition and has placed for consideration of the Court on 9.1.2026 on which date the Court directed the State to constitute a Medical Board at M.T.H.Hospital on 10.1.2026 for examining the condition of the victim and for opinion whether the procedure can be performed on her or not.

Simultaneously, it was also directed that consent from the victim or parents of the victim be also taken. Pursuant to the direction given by this Court on 9.1.2026 the Medical Board was constituted, which has conducted examination of victim and has opined thus:-

**"Call in view of evaluation/termination of pregnancy.**

**Currently no psychiatry complaints reported by attender. However, history suggestion of intellectual disability.**

**As per previous prescription dated 31.12.2025 IQ documented to be 46**

**Currently no psychiatric coordination for termination and can be taken for the procedure after due consent from nominated representative or legal representative and as per the discretion of physician and surgeon."**

3. As such, in the opinion of Medical Board procedure can be performed, however, at the time of procedure it would depend on the discretion of Physician and Surgeon to perform the procedure or not.

4. As regards the consent of parents and the victim, it has been placed on record by learned Govt. Advocate that both the parents of the victim are mentally unstable. They have been given disability certificate for their mental incapacity by the competent doctor i.e. doctor of Govt. District Hospital, Dhar.

5. In view of the same the consent of parents of the victim as per the submission of learned counsel for the State becomes immaterial. However, he submits that victim and her parents are being taken care of by uncle of the victim i.e. brother of father of the victim and he has expressly consented for termination of pregnancy. As regards the consent of victim he submits that in view of the fact that she is mentally unstable and this is the reason that advantage taken by the offender, her consent also becomes irrelevant.

6. Considering the provisions of Medical Termination of Pregnancy Act, 1971 and the directions given by Division Bench of this Court in the above-referred writ petition the facts of the present case are considered. The uncle of the victim has requested for termination of pregnancy occasioned due to illegal act performed on the victim. The request was made by uncle of the victim in view of the fact that victim is mentally unstable. She is not able to take care of herself. Even, mother and father of the victim are mentally unstable. As such, it is not possible for the victim or her parents to take care of the child. In addition, it has also been stated that the pregnancy is not safe for the child as well as for the victim. In these peculiar background of facts, this Court is of the considered view that as opined by the Medical Board the pregnancy of 27 months can be terminated.

7. Considering the peculiar facts of the case and the opinion given by the Medical Board of M.T.H. Hospital, it is hereby directed that the victim be immediately

i.e. today itself taken to the institution, where the facility is available i.e. M.T.H. Hospital. At this stage it has been informed to the Court that she is already admitted in M.T.H. Hospital. As such, concerned team of doctors is hereby directed to immediately start the procedure and the same shall depend on discretion of the concerned doctors whether procedure can be performed or not. However, the steps are to be taken today itself.

8. With the aforesaid directions, the present writ petition stands disposed off.