

**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**BEFORE**

**HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA**

**ON THE 23<sup>rd</sup> OF APRIL, 2024**

**WRIT PETITION No. 10278 of 2024**

**BETWEEN:-**

**VICTIM A D/O NOT MENTION OCCUPATION:  
THROUGH NATURAL GUARDIAN MOTHER NOT  
MENTION (MADHYA PRADESH)**

**.....PETITIONER**

**(BY SHRI M.R. VERMA - ADVOCATE)**

**AND**

- 1. THE STATE OF MADHYA PRADESH  
THROUGH ITS PRINCIPAL SECRETARY  
HOME DEPARTMENT MANTRALAYA  
VALLABH BHAWAN BHOPAL (MADHYA  
PRADESH)**
- 2. THE STATE OF MADHYA PRADESH  
THROUGH ITS PRINCIPAL SECRETARY  
DEPARTMENT OF HEALTH AND FAMILY  
WELFARE MANTRALAYA VALLABH  
BHAWAN, BHOPAL (MADHYA PRADESH)**
- 3. THE STATE OF MADHYA PRADESH  
THROUGH ITS PRINCIPAL SECRETARY  
DEPARTMENT OF WOMEN AND CHILD  
DEVELOPMENT MANTRALAYA VALLABH  
BHAWAN, BHOPAL (MADHYA PRADESH)**
- 4. THE CHIEF MEDICAL AND HEALTH  
OFFICER, SARDAR VALLABH BHAI PATEL,  
DISTRICT HOSPITAL SATNA DISTRICT  
SATNA (MADHYA PRADESH)**
- 5. THE SUPERINTENDENT, GOVT. CIVIL  
HOSPITAL, MAIHAR DISTRICT MAIHAR  
(MADHYA PRADESH)**

6. **THE SUPERINTENDENT OF POLICE SATNA DISTRICT SATNA (MADHYA PRADESH)**
7. **THE STATION HOUSE INCHARGE MAIHAR NOW DISTRICT MAIHAR (MADHYA PRADESH)**

.....RESPONDENTS

*(BY SHRI MOHAN SAUSARKAR – GOVERNMENT ADVOCATE)*

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*This petition coming on for admission this day, the court passed the following:*

### **ORDER**

The petitioner is present in person although her presence was not required.

2. In order to avoid her identity, live streaming of the case was stopped.

3. The petitioner was duly identified by her counsel.

4. In the case of **Suo Moto in the Matter of the State of M.P. vs. Father of Prosecutrix ‘A’ and others in Contempt Petition No.415/2022** (Gwalior Bench), this Court had found that the authority of the Court was misused by the prosecutrix and her parents in order to get rid of the unwanted child and later on they turned hostile.

5. Accordingly, they were tried for committing contempt of Court and by order dated **02.11.2022** passed in **Contempt No.415/2022** they were held guilty. The appeal filed by them had also been dismissed by a Division Bench of this Court in **Contempt Appeal No.05/2022** (Gwalior Bench) by order dated **14.03.2024**.

6. In the present case also the accused is the son-in-law (*Damad*) of the petitioner who is alleged to have taken away his younger sister-in-law (*Sali*) subsequently who was found to be pregnant. The FIR was lodged by the petitioner.

7. Accordingly, this Court on 22.04.2024 had gone through the case diary and found that in fact the allegations are against the son-in-law (*Damad*) of the petitioner and in order to avoid the misuse of lawful authority of this Court for getting rid of an unwanted child, the counsel for petitioner was directed to file an affidavit of the petitioner and her husband to the effect that they would not turn hostile in the trial. Although, this Court is conscious of the fact that the witnesses cannot be bound by their statements and they can state whatever they want in the trial but they cannot be allowed to misuse the lawful authority of this Court to kill an unborn baby. Accordingly, in the first half of the day, it was submitted by counsel for petitioner that since the mother of the petitioner is on the way and is likely to reach to Jabalpur at 3:30 PM, therefore, the case may be taken up at 04:00 PM so that she can file an affidavit.

8. Accordingly, an affidavit has been filed by the petitioner which reads as under:-

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में श्रीमती निर्मला सोनकर पति श्री रमेश सोनकर उम्र लगभग 45 वर्ष, व्यवसाय स्ट्रीट वेण्डर, निवासी ग्राम व थाना राजापुर, जिला चित्रकूट म.प्र. वर्तमान निवासी पुरानी बस्ती, उत्तर दरवाजा, वार्ड नं. 9 मैहर, जिला सतना म.प्र. निम्न लिखित शपथ पूर्वक कथन करती हूँ:-

1. यह कि, दिनांक 12/11/2023 को मेरे द्वारा एक गुमशुदगी की रिपोर्ट थाना मैहर जिला सतना में पंजीबद्ध करायी गयी थी जिसको संज्ञान में लेते हुये संबंधित थाने द्वारा जाँच के दौरान मेरी पुत्री को आरोपी

के कब्जे से दस्तयाब कर मुझे सौपा गया था। एवं जॉच के दौरान आरोपी के विरुद्ध अपराध क्रमांक 981/2023 पंजीबद्ध कर अपराध अंतर्गत धारा 363, 366, 376(2) (एन) आफ आईपीसी एवं 5, 6 ऑफ पाक्सों एक्ट रजिस्टर्ड कर आरोपी को अभिरक्षा में लिया गया है।

2. यह कि, इसी दौरान मुझे यह जानकारी प्राप्त हुयी कि मेरी पुत्री डेढ़ माह के गर्भ से है उक्त बात की जानकारी प्राप्त होते ही मेरे द्वारा माननीय न्यायालय के समक्ष एक रिट याचिका गर्भ के निष्कासन हेतु प्रस्तुत की गयी है जो कि विचाराधीन है।

3. यह कि, मैं शपथ पूर्वक कथन करती हूँ कि मैं ट्रायल के दौरान जैसे मैंने एफ.आई.आर. में बयान दिये है वैसे ही बयान में ट्रायल कोर्ट के समक्ष दूँगी एवं कोई रद्दोबदल नहीं करूँगी यही मेरा कथन है।

4. यह कि, मेरे पति श्री रमेश सोनकर के भी शपथ पर बयान चाहे गये थे किंतु मानसिक स्थिति ठीक ना होने के कारण कुछ दिनों से घर के बाहर है इस कारण से उनके कथन पुलिस बयान में भी नहीं लिये गये एवं इस कारण से कथन शपथ पत्र लिया जाना संभव नहीं है।

#### सत्यापन

मैं श्रीमती निर्मला सोनकर उपरोक्त शपथकर्ती यह सत्यापित करती हूँ कि उपरोक्त शपथ पत्र की कडिका क्रमांक 1 से 4 तक में वर्णित कथन मेरे निजी ज्ञान व विश्वास के आधार पर सत्य व सही है।

आज दिनांक 23/4/24 को स्थान जबलपुर में उपस्थित होकर इस शपथ पत्र पर हस्ताक्षरित कर सत्यापित किया गया।

सत्यापनकर्ता”

9. Although, this Court had not directed for personal appearance of the petitioner but she was present on her own. When it was inquired by the Court about the relationship of the accused with the petitioner, then she admitted that he is her son-in-law (*Damad*/husband of the elder daughter of the petitioner) and she fairly conceded that she and prosecutrix would make every attempt to save him in the trial.

10. Thus, it was admitted by the petitioner that she and prosecutrix would not support the prosecution case in the trial.

11. Whether the petitioner wants to ensure the conviction of her son-in-law or not is not the concern of this Court but the only concern is whether this Court can be used as a tool for getting rid of an unwanted child and thereafter claiming that no offence had taken place.

12. No body can be allowed to play the game of hide and seek for committing murder of an unborn child.

13. Looking to the real intention behind the filing of petition and admission of the petitioner that she and prosecutrix would not support the prosecution case in the trial and would make every endeavor to save the accused, this Court is of considered opinion that although the unwanted child may have some adverse effect on the mental status of the girl but if the prosecutrix and her mother are going to take a somersault by claiming that no offence was committed, then this Court would like to ignore the said aspect.

14. Accordingly, no case is made out for grant of permission for medical termination of pregnancy.

15. The petition fails and is hereby **dismissed**.

**(G.S. AHLUWALIA)**  
**JUDGE**

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