BLOGS

X v. Principal Secretary: Abortion Rights of Unmarried Women

Indrasish Majumder · 31 Mar 2025

Introduction

The landmark case of X v. Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi was a watershed moment in Indian constitutional and reproductive rights jurisprudence.

The Supreme Court of India, through this decision, addressed the rights of an unmarried woman to seek abortion beyond 20 weeks of gestation. The court not only allowed the petitioner to terminate her pregnancy but also delivered a progressive and inclusive interpretation of the Medical Termination of Pregnancy Act, 1971 (MTP Act), as amended in 2021.

Background of the Case

The petitioner, referred to as “X” to maintain her anonymity, was a 25-year-old unmarried woman residing in Delhi. She became pregnant due to a consensual relationship but decided to terminate the pregnancy after the partner refused to marry her.

By the time she sought medical assistance to terminate her pregnancy, the gestational period had crossed 20 weeks and was approximately 22 weeks.

She approached a government hospital in Delhi to seek medical termination of her pregnancy, but the request was denied. The denial was based on Rule 3B of the Medical Termination of Pregnancy Rules, 2003 (as amended in 2021), which lists specific categories of women eligible for termination of pregnancy between 20 and 24 weeks.

Notably, this list includes survivors of rape or incest, minors, mentally ill women, and married women who face a change in marital status (such as divorce or widowhood) during the pregnancy. The list did not include unmarried women whose pregnancies arose from consensual relationships.

Feeling aggrieved by this exclusion, the petitioner approached the Delhi High Court seeking interim relief to terminate her pregnancy. The High Court refused to grant her permission, leading her to file a special leave petition before the Supreme Court under Article 136 of the Constitution.

Legal Framework

The relevant provisions under scrutiny in this case were from the Medical Termination of Pregnancy Act, 1971, and the corresponding rules. The Act permits termination of pregnancy:

- Up to 20 weeks for all women, subject to the opinion of a registered medical practitioner that the continuance of the pregnancy would involve a risk to the life of the pregnant woman or grave injury to her physical or mental health.
- Between 20 and 24 weeks for specific categories of women mentioned in Rule 3B of the MTP Rules, 2003.

The 2021 amendment to the MTP Act expanded the permissible gestational period from 20 to 24 weeks for these special categories.

However, the amendment removed the distinction between married and unmarried women under Section 3(2)(b) and used the term “any woman.” Despite this, Rule 3B continued to mention “married woman” explicitly in the category of those facing a change in marital status, thereby excluding unmarried women in consensual relationships from accessing abortions between 20 and 24 weeks.

Issues Before the Court

1. Is it constitutionally valid to exclude unmarried women from Rule 3B of the MTP Rules (2003)?
2. Whether an unmarried woman whose pregnancy arises out of a consensual relationship is entitled to access abortion under the MTP Act beyond 20 weeks.
3. Does this exclusion violate Articles 14 (right to equality), 19 (freedom of expression), and 21 (right to life and personal liberty) of the Constitution?

Arguments by the Petitioner

The petitioner, through her counsel, contended that:

1. The 2021 amendment to the MTP Act, by using the term “any woman,” clearly intended to remove the distinction between married and unmarried women for the purposes of accessing abortion.
2. Rule 3B, which restricted access to certain categories and included “married women” facing change in marital status, unjustly excluded unmarried women, thereby creating an unconstitutional classification.
3. Denying access to safe abortion facilities beyond 20 weeks to an unmarried woman violated her right to bodily autonomy, dignity, and privacy under Article 21.
4. The classification between married and unmarried women was not based on any intelligible differentia and did not have any rational nexus with the object of the MTP Act, which is to protect the physical and mental health of the woman.
5. The continued pregnancy would result in grave psychological trauma and social ostracism, and it would affect her career and future prospects.

Arguments by the Respondents

The Union of India and the Government of the NCT of Delhi contested this.

1. Rule 3B of the MTP Rules, 2003, was framed based on expert consultations and reflected the legislative intent to provide abortion access to certain vulnerable categories.
2. The rule did not intend to discriminate against unmarried women but to create safeguards against misuse of the law.
3. The gestational limit of 20 weeks for general cases and 24 weeks for special categories was a carefully drawn balance between the rights of the woman and the state’s interest in protecting potential life.
4. Any further expansion in the category of women eligible for abortion between 20 and 24 weeks would require legislative intervention and could not be granted judicially.

Judgment and Key Observations

The judgment was delivered by a three-judge bench led by Justice D.Y. Chandrachud. The court granted permission to the petitioner to terminate her pregnancy and also pronounced a detailed and forward-looking interpretation of the MTP Act.

1. “Any Woman” Includes Unmarried Women

The Court noted that Section 3(2)(b) of the MTP Act, post the 2021 amendment, uses the phrase “any woman.” This deliberate change from the earlier wording signified the legislative intent to extend the benefit of abortion rights to all women, irrespective of marital status. The exclusion of unmarried women from Rule 3B, therefore, created an unjust and unconstitutional distinction.

2. Reading Down Rule 3B

The Court held that Rule 3B of the MTP Rules must be read in a manner consistent with the constitutional values of equality, dignity, and privacy. Accordingly, the category of “change in marital status” under Rule 3B must be interpreted to include women who are unmarried and whose relationships may have broken down or changed during the course of pregnancy.

3. Bodily Autonomy and Reproductive Rights

The Court reaffirmed that reproductive autonomy is intrinsic to the right to personal liberty under Article 21. The decision to carry a pregnancy to term or to terminate it falls squarely within a woman’s decisional autonomy, bodily integrity, and privacy. Forcing a woman to continue with an unwanted pregnancy constitutes a violation of her fundamental rights.

4. There is no justification for marital classification.

The court categorically held that the marital status of a woman cannot be a ground to deny her the right to abortion. Making such a distinction is discriminatory and against the MTP Act’s goals.

5. Mental Health Considerations

The court accepted the petitioner’s argument that the continuance of an unwanted pregnancy can have serious mental health consequences. The Act itself recognizes this by allowing abortion where pregnancy causes grave injury to the mental health of the woman. This ground, the Court held, was equally applicable to unmarried women.

The Court reiterated that laws must be interpreted in a manner that furthers constitutional values. In this case, the exclusion of unmarried women from Rule 3B would defeat the purpose of the MTP Act and undermine women’s reproductive rights. A purposive interpretation was

therefore essential.

Conclusion

In X v. Principal Secretary, the Supreme Court of India delivered a progressive and rights-affirming judgment that marked a crucial development in reproductive rights jurisprudence. By recognizing the right of unmarried women to seek abortion beyond 20 weeks, the Court aligned the interpretation of the MTP Act with constitutional principles of equality, dignity, and autonomy.

The judgment reaffirmed that reproductive choices are central to a woman's identity and freedom and must not be constrained by outdated notions of morality or marital status. It also emphasized the need for inclusive statutory interpretation that keeps pace with evolving social realities.

In doing so, the Court not only provided relief to the petitioner but also laid down a foundational precedent that will influence future decisions and policy on reproductive healthcare and gender justice in India.

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