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### Pregnancy Week-by-Week

Pick a week to know about your baby's growth

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# On abortion right of unmarried women, Supreme Court gives a major order

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The Supreme Court of India has granted rights to unmarried women to abort **pregnancy**, thus making it clear that the marital status of women can not be a ground to deny or get access to this fundamental right.

In what can be called a milestone judgment, the Supreme Court said that even a single and unmarried woman has the right to abort under Medical Termination of Pregnancy Act and the rules till 24 weeks of pregnancy.

#### The distinction between married and unmarried women unconstitutional

"If Rule 3B(c) is understood as only for married women, it would perpetuate the stereotype that only married women indulge in sexual activities. This is not constitutionally sustainable. The artificial distinction between married and unmarried women cannot be sustained. Women must have autonomy to have free exercise of these rights, said Justice Chandrachud, the presiding judge of the bench reported Live Law.

#### World Heart Day: "After menopause, women are as prone to heart attack as men"

He further said that including married women and excluding unmarried ones will be in violation of Article 14 of the Constitution.

The rule 3B of the Medical Termination of Pregnancy Rules, 1971 lists the categories of women whose pregnancy can be terminated within 20-24 weeks and unmarried women are not included in it.

On the Supreme Court order, Dr. Malini Saba, human rights activist, global advocate for women and girls, psychologist, and founder and chairman of the Ananke Foundation, says, "It is an admirable and commendable decision by the Supreme Court of India; a woman's marital status cannot be used to deny her the right to terminate an unwanted pregnancy, and now all women will have access to safe and legal abortion, which will protect their physical autonomy and dignity. It reflects India's progressive outlook, while the United States has retracted on this issue. Prohibiting unmarried and single women from obtaining an abortion while allowing married women to do so would have violated the intent of the amendment. Appreciable and important is that a woman doesn't have to file an FIR for rape in order to get an abortion, even if she says her husband did it. Also, a minor won't be denied an abortion, and their identity won't be revealed by a registered medical practitioner.

Modern law has abandoned the premise that marriage is not a prerequisite for individual rights. The court has taken into account the realities of the present and has not restricted the previous rules. The law has not remained static and has accounted for shifting societal situations. It has not determined the beneficiaries of a statute based on restrictive patriarchal preconceptions regarding what constitutes permissible sexual behavior. "

#### Questions to ask your daughter to boost her confidence

#### In view of the changing societal trends and customs

The bench noted that when the Medical Termination of Pregnancy Act was passed in 1971 only married women were taken into consideration. But now things are changing and accordingly the laws should be more inclusive towards the changing norms.

The Supreme Court said that law cannot be static and should evolve with changing times and that non-traditional relationships like live-in should be recognised under the law.

#### The unfolding of this historical judgement

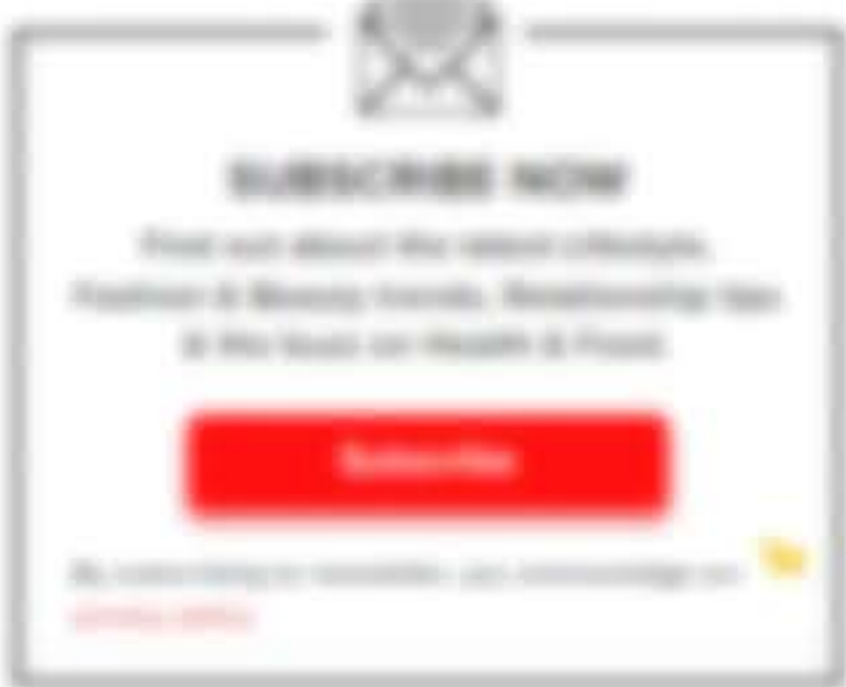
It began when a 25 year old unmarried woman sought the direction of the Delhi High Court for termination of her 23 weeks pregnancy which was from a consensual relationship. She could not abort the pregnancy as she was unmarried and her partner had refused to marry her.

She was denied interim relief with reference to the Medical Termination of Pregnancy Rules.

Following this she approached the Supreme Court in July 2022 to which the top court said that the Delhi High Court had taken an "unduly restrictive view". The bench comprising Justices DY Chandrachud, Surya Kant and AS Bopanna took into account the amendments made to Medical Termination of Pregnancy Act in 2021 in which the term husband was replaced with partner and then ruled that excluding unmarried women and single women from the ambit of the statute goes against the purpose of the legislation.

"There is no basis to deny unmarried women the right to medically terminate the pregnancy, when the same choice is available to other categories of women," the bench noted.

End of the article



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