Issues with Medical Termination of Pregnancy Act, 1971

Why in news?

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A Malformed baby was born to woman whose abortion plea was denied.

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Why the women approached the Supreme Court?

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- The couple found out about the anomaly in the foetus in the 24th week of pregnancy.
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- The Medical Termination of Pregnancy Act, 1971, allows abortion **only up to 20 weeks**.
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- So they approached the Supreme Court.
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- The Supreme Court rejected the plea of the woman.
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- Now the woman gave birth to a baby boy with the **Arnold Chiari Type II syndrome.**
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- It leads to a malformed brain and spinal cord.
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- The baby is now battling for life in a neonatal intensive care unit.
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- The baby also had a ruptured meningocele, a fluid filled sac protruding from the spinal column, which makes him prone to infection.
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What is the court’s rationale?

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- The Supreme Court rejected the plea of the woman to abort her pregnancy in the 27th week.
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- It stated that the baby could be ‘born alive’ during the process of abortion.
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What is MTP Act, 1971?

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- Abortion in India is legal only up to twenty weeks of pregnancy under specific conditions and situations.
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- One, the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury of physical or mental health, or
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- Two, there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped.
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Was the law challenged on any other occasion?

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- On 2015, a 14-year-old rape victim sought and received permission from the Supreme Court to abort after the 20 weeks deadline had passed.
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- Her petition was treated as a “special case”, meaning it could not be used as a precedent to grant permission in another case.
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- On January 2017, the Judges had relaxed the 20-week cap to permit another woman to terminate her 24-week pregnancy.
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- Then, the foetus in that case was diagnosed with anencephaly — a congenital defect in which the baby is born without parts of the brain and skull.
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- The court had said that the abortion was necessary to preserve the woman’s life.
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- In the case of the foetus with Down's Syndrome, the court said the foetus posed no danger to the woman's life.
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What the draft MPT bill 2014 provides?

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- The draft MTP increased the legal limit for abortion from 20 weeks to 24 weeks.
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- It provides for abortion beyond 24 weeks under defined conditions.
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- The Bill amends Section 3 of the 1971 Act to provide that "the length of pregnancy shall not apply" in a decision to abort a foetus diagnosed with "substantial foetal abnormalities" or if it is "alleged by the pregnant woman to have been caused by rape".
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- Under the 1971 Act, even pregnant rape victims cannot abort after 20 weeks, compelling them to move court.
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- It allows a woman to take an independent decision in consultation with a registered health-care provider.
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- It also takes into account the reality of a massive shortage of both doctors and trained midwives, and seeks to allow Ayurveda, Unani and Siddha practitioners to carry out abortions.
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Why is it essential to change the MTP law?

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- Foetal abnormalities show up only by 18 weeks, so just a two-week window after that is too small for the would-be parents to take the difficult call on whether to keep their baby.
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- Even for the medical practitioner, this window is too small to exhaust all possible options before advising the patient.
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- There is an urgent need to empower women with sexual rights, legal

protraction against sex crimes and sex choices both in their own interest and for the sake of reducing the fertility rate as a whole.
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- The lack of legal approval moves abortion to underground and they are done in unhygienic conditions by untrained, thus, putting thousands of women at risk.
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Source: The Hindu

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