

## MOHINI @ MOHAN V. STATE OF GORELIA

1. '*Gorelia*' is a State in the Indian Union. Geographically the State is cordoned off from the rest of India by the '*Sundure*' Mountain Ranges which runs across the western border of the State from its northern end to southern tip. The State has a very long coastline with an abundant number of natural harbours which enabled the people of *Gorelia* to trade with traders from different parts of the world. From ancient times, merchants from Europe, China and Arabia had trade relations with the '*Gorelites*'. Many of these foreign trade men married local women and settled in the coastal belt of the state. The offsprings of interracial relationship between Europeans and *Gorelites* formed a new community called '*Eurogs*'. In course of time the '*Eurog*' population multiplied and presently it amounts to 15% of *Gorelia*'s population. Rest of the State's population is almost equally shared by the 3 major communities of Hindus, Catholics and Islamites. *Eurogs* are demographically concentrated in three coastal districts of '*Somonia*', '*Gumral*' and '*Lavaria*'. In these districts, *Eurogs* are the majority. *Eurogs* though Christians by faith, their rituals and practices are pagan in nature. They have no allegiance to any conservative Christian church and have their own church priest, practices and prayers. Among the *Eurogs* there exists a sizeable number of persons with deviant sexual orientation like the homosexuals, lesbians and transgenders. There queer people are socially recognized and accepted by the *Eurog* community. Gay and lesbian couples living together as a family are common among *Eurogs* and not a taboo to them.

2. '*Mohini*' @ '*Mohan*' is the daughter of a Hindu couple resident in *Somonia*. Though born a girl, *Mohan* was tomboyish in nature. It was noticed that the child from a very young age was more comfortable in the company of boys rather than girls. She disliked playing with dolls and enjoyed climbing trees and fighting more. As she grew older it became evident that *Mohini* @ *Mohan* is more of a boy than girl. *Mohan* believed herself to be a boy and despised being identified as a girl. She wanted herself to be addressed only as *Mohan* and hated the name *Mohini*. She always wore male attire and kept her hair short.

3. On attaining teenage *Mohan*'s character of moving around with the boys of her age created a lot of hue and cry among her very conservative Hindu family members. *Mohan*'s parents took her to a Doctor who diagnosed the problem and identified her as a transgender man. According to the Doctor, *Mohan* though anatomically and physiologically a woman with female genital organs, in psyche she identifies herself as a man. *Mohan* also conveyed to the Doctor her desire for converting herself into a man physiologically also. Upset by these

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disclosures, *Mohan's* parents went into desperation. As medical remedies were ineffective, the poor parents left *Mohan* to live her own life. They financially supported her but stopped interfering in her personal life.

4. From her schooldays onwards *Mohan* used to excel in sports especially Tennis. She was a champion Tennis player and teamed with '*Sylvester*' her intimate boy friend in mixed doubles. This pair was the district level champions in intercollegiate meets.

5. After completing her B.Tech Course *Mohan* joined a multinational firm '*Blownest*' and started living together with her bosom friend and former tennis partner '*Sylvester Dali*' @ '*Sylvie*' in a one bedroom apartment at '*Transyria*', the information technology hub of *Somonia*. *Sylvie* was the son of *Eurog* parents who resided near *Mohan's* house. *Sylvie* and *Mohan* were thick friends from childhood days. During *Mohan's* traumatic childhood of identity crisis and conflict, *Sylvie* was always a pillar of support to *Mohan*. For *Sylvie*, in times of desperation, *Mohan* was always a shoulder to cry on. *Sylvie*, though a boy, had many feminine qualities. In his intimate circle it was believed that *Sylvie* is bisexual in his sexual orientation.

6. *Mohan* obsessed with her passion to transform into a male in a complete sense, started consulting a Doctor *Sanson*. On the Doctor's advice, sex reassignment therapy was initiated with the use of hormones like testosterone. When the Physician cautioned *Mohan* of the risk of reassignment therapy, *Mohan* retorted that her sole aim in life is to live a life as a complete man at least for a day. *Sylvie* was full of support of *Mohan's* therapy. The living together of *Mohan* and *Sylvie* didn't create any ripples in *Sylvie's* family but *Mohan's* parents were apprehensive about it. Ultimately both the families accepted them as a family unit.

7. While undergoing her therapy, *Mohan* felt a feeling of fullness, enlargement and pain in the abdomen. For some time, *Mohan* didn't worry about it and thought it to be the effects of the medicines she took as part of the treatment. Later when the enlargement of the abdomen became conspicuous, she consulted her Doctor. On examination it was revealed that, *Mohan* is carrying a single intrauterine foetus of 24 weeks and five days. This news was a bolt in the blue for *Mohan* and her dreams were shattered. *Mohan* went into a state of despondency and depression. *Sylvie* however was not much affected by the news and was able to reconcile with the facts and reality. In a state of depression, *Mohan* consulted the Chief Gynaecologist at *Somania* District Government Hospital with a request to abort the foetus and terminate her pregnancy. As *Mohan* was in a state of acute depression and at times hysterical in behaviour,

the Doctor referred the case to the Medical Superintendent for clarification. In turn the Medical Superintendent referred the matter to two Senior Professors of Gynaecology and Neonatology to determine the condition of *Mohan* and the foetus. It was opined by the Doctors that even though *Mohan* was physically capable of carrying the pregnancy, this might be acutely dangerous for her mental health. Further the sex reassignment therapy might cause severe congenital problems for the child on birth and its magnitude can be assessed only on future examination of the foetus. In spite of these recommendations, the Medical Superintendent was unwilling to grant permission for abortion as the foetus was in the late state of pregnancy. At this juncture the Doctor consulted *Sylvie* for his opinion in this regard. *Sylvie* was totally against this abortion and wanted the baby to be born. He considered as a blessing to have a baby out of this relationship and vehemently opposed the termination of foetus. After considering all relevant materials and having decided not to allow abortion, the Doctor explained to *Mohan*, the existing legal position and his inability to grant permission for abortion. *Mohan* however was adamant in her stance as to abortion and it was her conviction that being a transgender man, provisions of the Medical Termination of Pregnancy Act 1971 are not applicable to her. Further giving birth to a child will shatter her dream of being a complete man. Furthermore the child will not be able to get adequate care which can affect its identity and personality. Further opinion of *Sylvie* is irrelevant in the instant case. Though *Mohan* admits the fact that sexual relationship with *Sylvie* is the cause of the pregnancy, she denies any claim by him over her body or on the foetus. To *Sylvie* there is neither any marriage nor a living together in the 'common law accepted legal sense' in their relationship. Hence consulting and considering *Sylvie*'s opinion in the instant case is irrelevant and uncalled for.

8. In spite of her repeated pleas, the Doctor was unwilling to grant permission for an abortion without a judicial direction. Aggrieved by this and in need of immediate intervention, *Mohan* moved the Honourable High Court of *Gorelia*. She prays for a direction to the Medical Superintendent of *Somania* District Government Hospital for abortion. *Mohan* further wants a declaration that the Medical Termination of Pregnancy Act 1971 is not applicable to the transgenders and the various provisions of the Act are violative of Articles 14 and 21 of the Constitution of India. On behalf of the State of *Gorelia* all the contentions are refuted.

***This moot proposition was framed by Prof. Manoj Krishna, Government Law College, Thiruvananthapuram.***