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O R D E R

A.Muhamed Mustaque, J.

The death is not the greatest loss in life. The greatest loss is what one dies inside us while we live<sup>(1)</sup>. This case unbundled the trauma of a couple in a live-in relationship, isolation of a single mother, love of mother for her child, rights of biological father, entangled in legal vortex.

2. The couple in this revision, John and Anitha (names changed to protect their privacy) met during the tragic floods in the year 2018 happened in Kerala. They are active in NGOs. John is a Christian and Anitha is Hindu by their faith. Anitha is from Thrissur. Soon the couple realised that their intimacy knew no bounds to chart a new path in their life. They start to live together at Ernakulam, 65 kms away from the parental house of Anitha. Opposition came from their own kith and kin. They waited to officially marry once their parents are convinced. But the biological instincts of

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1 Norman Cousins Author of Anatomy of illness

the couple could not be arrested. Anitha became pregnant in the month of May 2019. She gave birth to a baby girl on 3/2/2020 in the Government Hospital, Aluva. The birth certificate indicates names of father and mother of the child. The entire case perhaps revolves around the importance of the birth certificate, to decide the outcome of this case.

3. John is an artist. He seems to have travelled to Karnataka to act in a Malayalam Film. He appears to have broke the relationship with Anitha for a while or remained elusive (as narrated in the revision memorandum). Anxious Anitha made attempts to contact John; but in vain. Isolated, desperate and repressed Anitha had no option but to approach the Child welfare Committee, Ernakulam, and handed over the child to the Committee on 8/5/2020. She executed a Deed of Surrender on 8/6/2020. Thereafter, she constantly kept in touch with the Committee and the Child Care Institution where the child was put up, to keep a track of the wellbeing of the child. Chat messages of Anitha with the Social worker depicts how vulnerable it is for a woman becoming mother not in a legally wedded relation. Desperation and plight of the motherhood reflected through the chat messages that depicts the care for the baby from the womb of the person, Anitha.

4. The Committee set the law into motion. Deed of surrender executed by Anitha in no uncertain terms permits the Committee to give the child in adoption. The Committee, noting that Anitha is an unmarried mother, followed the procedure that delineated for surrender of the child by an unwed mother as referable under the Adoption Regulations, 2017. On completion of the procedure, the Committee declared that the child is legally free for adoption in the manner contemplated under Section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as "JJ Act"). This declaration was on 17/8/2020. The child thereafter was given in adoption to a couple by the order of the Family Court, Ernakulam, on 2/2/2021.

5. The petitioners claiming themselves as live-in relationship couple approached this Court with a writ of habeas on 10/2/2021. Notice was issued to the State and the Child Welfare Committee. The learned Government Pleader and counsel appearing for the Committee submitted before the Court that the child had already been given in adoption. Based on this submission, on 11/2/2021, the Court was of the firm opinion that a writ of habeas as such would not lie as the proceedings concluded under the JJ Act have legal

colour. However, the Court, noting Section 102 of the JJ Act, *suo motu* converted it to a revision petition as contemplated in the aforesaid provision.

6. Legality and propriety of the declaration under Section 38 of JJ Act therefore, has to be tested invoking the revisional power of this Court in this matter. If this Court finds the entire proceedings leading to the declaration under Section 38, is held as bad, necessarily, all consequential proceedings would fall into ground.

7. The central issue in this context perhaps is more related to a perplexing mind; accepting and recognising live-in relationships. Did the law differentiate between unwed and legally wed couple in matters or relationships not connected with marriage, as a social institution? In other words, to put it in the context of juvenile justice does the law differentiate unwed couple and legally wed couple to recognize biological parents. The issues involved in this matter cannot be resolved without answering these pointed questions.

8. We shall answer these questions when we advert to the procedure required to be followed regarding the

declaration that the child is legally free for adoption.

9. Section 38 of JJ Act set out different procedures for the declaration as above. Separate procedure has been referred for orphan and abandoned child and a distinct procedure for a surrendered child. which of the procedures have to be followed is the question involved in this case. It is appropriate to refer Section 38, which reads thus:

**38. Procedure for declaring a child legally free for adoption:** (1) In case of orphan and abandoned child, the Committee shall make all efforts for tracing the parents or guardians of the child and on completion of such inquiry, if it is established that the child is either an orphan having no one to take care, or abandoned, the Committee shall declare the child legally free for adoption:

Provided that such declaration shall be made within a period of two months from the date of production of the child, for children who are up to two years of age and within four months for children above two years of age:

Provided further that notwithstanding anything contained in this regard in any other law for the time being in force, no first information report shall be registered against any biological parent in the process of inquiry relating to an abandoned or surrendered child under this Act.

(2) In case of surrendered child, the institution where the child has been placed by the Committee on an application for surrender, shall bring the case before the Committee immediately on completion of the

period specified in section 35, for declaring the child legally free for adoption.

(3) Notwithstanding anything contained in any other law for the time being in force, a child of a mentally retarded parents or a unwanted child of victim of sexual assault, such child may be declared free for adoption by the Committee, by following the procedure under this Act.

(4) The decision to declare an orphan, abandoned or surrendered child as legally free for adoption shall be taken by at least three members of the Committee.

(5) The Committee shall inform the State Agency and the Authority regarding the number of children declared as legally free for adoption and number of cases pending for decision in the manner as may be prescribed, every month.

10. The distinction in Section 38 for the procedure of declaration has been made for abandoned child and surrendered child keeping in mind the paramount parental rights of the biological parents. Therefore, it is necessary to distinguish abandoned child and surrendered child with reference to the procedure as well.

11. We shall now refer to the meaning of abandoned child and its procedure for declaration under section 38. Section 2(1) defines abandoned child as follows:

(1) "abandoned child" means a child deserted by his biological or adoptive parents or guardians, who has been declared as abandoned by the Committee after due inquiry;

12. Abandonment refers to voluntary relinquishment of a known right. Parental right is a natural as well as universally recognised legal right. Child also has a fundamental right to preserve his identity with biological parents. It is a necessary concomitant with right to life as protected under Article 21 of the Constitution of India. Article 8 of the United Nations Convention on the Rights of the child, clearly spell out the right of identity of the child with the family. Unlawful interference of such rights would deny the right to life guaranteed under Article 21 of the Constitution. Abandonment, therefore, has to be understood as an involuntary relinquishment or termination of parental right. This enables the state to protect the welfare of the child through the procedure laid down under law. In order to protect the welfare of the child, JJ Act commands the constitution of the Child welfare Committee. Sections 31, 36 and 38 prescribe procedure for the Committee in the matter of abandoned children. It is a mandatory procedure for the Committee to make all efforts for tracing the parents or guardians of the child in the light of Section 38(1). As seen from the above provision, only

after it is established that the child is either an orphan having no one to take care of or abandoned, the committee is competent to declare that the child is legally free for adoption. For children who are upto two years of age, such a declaration has to be made within two months from the date of production of the child before the Committee.

13. For surrender of a child, a distinct provision has been made as referable under Section 35 of the JJ Act. Section 2(60) defines surrendered child as follows:

(60) "surrendered child" means a child, who is relinquished by the parent or guardian to the Committee, on account of physical, emotional and social factors beyond their control, and declared as such by the Committee;

14. Section 35(1) speaks about surrender by a single parent. Section 35(3) speaks about surrender by both the parents. Surrender of child therefore, has to be understood as voluntary relinquishment or termination of parental rights by biological parents or guardians. The dichotomy of single parent and parents demands elaboration in the context of Section 35. Law makers left it to the choice of rule makers to explain. Declaration under Section 38, declaring that the child is free for adoption, is intrinsically related to the



obligation that cast upon the Committee to restore the child in need of care and protection as prescribed in a manner under Sections 37 and 40 of JJ Act. One of the modes of restoration prescribed in Section 40 is restoration with adoptive parents. Section 68 of JJ Act confers regulations making power on the Central Adoption Resource Authority. Accordingly, Adoption Regulations, 2017 were formulated. Therefore, the procedure as mentioned in the Adoption Regulations also assumes importance to differentiate the procedure for declaration under Section 38 of an abandoned child and surrendered child.

15. It is appropriate to refer Regulations 6(6) to 6(14) of the Adoption Regulations:

(6) For tracing out the biological parents or the legal guardian(s), the Child Welfare Committee, after taking into account the risk factors, and in the best interest of the child, may direct the District Child Protection Unit to advertise the particulars and photograph of an orphan or abandoned child in a national newspaper with wide circulation within three working days from the time of receiving the child and also ensure entry of data in the designated portal in its missing or found column by the concerned Child Care Institution or Specialised Adoption Agency.

(7) In case where the child is from another State, the publication shall be done in the known place of origin of the child in the local language and such publications shall be facilitated by State Adoption Resource Agency concerned.

(8) Wherever District Child Protection Unit is not functional, the District Magistrate concerned shall get such advertisement issued.

(9) In case the biological parents or legal guardian cannot be traced, despite the efforts specified in sub-regulations (6) to (8), the District Child Protection Unit shall accordingly, submit a report to the child welfare Committee within thirty days from the date of production of the child before the Child welfare Committee.

(10) The Child Care Institution or Specialised Adoption Agency shall submit a report to the Child welfare Committee, immediately on completion of thirty days from the date of production of the child, before the Child welfare Committee and the report shall include any information revealed by the child during his short term placement and details of person(s) whosoever approached for claiming the child, if any.

(11) In case the report from the local police regarding the non-traceability of the biological parents or legal guardian is not submitted within two or four months in the case of an abandoned child less than two or four years of age respectively, such report shall be deemed to have been given.

(12) The Child welfare Committee shall use the designated portal to ascertain whether the abandoned child or orphan child is a missing child.

(13) The Child welfare Committee, after taking actions as per the provisions of the Act, rules made thereunder and these regulations shall issue an order signed by any three members of the Child welfare Committee declaring the abandoned or orphan child as legally free for adoption in the format at Schedule I within a period of two or four months, from the date of production of the child before the Child welfare Committee, in case of a child upto two or above two years of age respectively.

(14) The inquiry under section 36 of the Act and the order declaring an abandoned or orphan child as legally free for adoption by the Child Welfare Committee under section 38 of the Act shall be completed in the district where the child was initially found, or in the district to which the child is shifted under orders of the Child Welfare Committee.

16. It is also appropriate to refer the relevant procedure for 'surrendered child' in Regulation 7 of Adoption of Regulations :

7. Procedure relating to a surrendered child.- (1) A parent or guardian wishing to surrender a child under subsection (1) of section 35 of the Act, shall apply to the Child Welfare Committee in the Form 23 of Juvenile Justice (Care and Protection of Children) Model Rules, 2016.

(4) If the surrendering parent is an unmarried mother, the Deed of Surrender may be executed in the presence of preferably any single female member of the Child Welfare Committee.

(5) If a child born to a married couple is to be surrendered, both parents shall sign the Deed of Surrender and in case one of them is dead, death certificate is required to be furnished in respect of the deceased parent.

(6) If a child born to a married couple is to be surrendered by one biological parent and the whereabouts of the other parent are not known, the child shall be treated as abandoned child and further procedures in accordance with regulation 6 of these regulations shall be followed.

(8) If the surrender is by a person other than the biological parents who is not appointed as a guardian by a court of law, the child shall

be treated as abandoned child and further procedures in accordance with regulation 6 shall be followed.

(11) To discourage surrender by biological parents, efforts shall be made by the Specialised Adoption Agency or the Child Welfare Committee for exploring the possibility of parents retaining the child, which shall include counselling or linking them to the counselling center set up at the Authority or State Adoption Resource Agency, encouraging them to retain the child and explaining that the process of surrender is irrevocable.

(15) In case the surrendering biological parent has not claimed back the child during the reconsideration period, the same shall be intimated by the Specialised Adoption Agency to the Child Welfare Committee on completion of sixty days from the date of surrender.

(16) The reconsideration period for the biological parents is specified in sub-section (3) of section 35 of the Act and no further notice shall be issued to the surrendering parents.

(21) The surrender of a child by an unwed mother before a single woman member of the Child Welfare Committee shall be considered as surrender of the child before the Committee as envisaged under section 35 of the Act, and her right to privacy has to be protected.

(23) The surrender of child or children by the biological parents for adoption by the step-parent shall be before the Child Welfare Committee, for adoption, on the ground of emotional and social factors as envisaged under subsection (1) of section 35 of the Act, in the format given at Schedule XXI.

17. The procedure under Regulation 7 clearly distinguishes surrender by unmarried mother as from married couple. The entire legal issue is surmounted

on the legality of the surrender by Anitha, unilaterally. Therefore, if surrender is legally valid, the entire challenge in this case comes to an end. As seen from the perusal of records produced before this Court by the Committee, they have followed the procedure for surrendering the child applicable to an unmarried mother.

18. There are two circumstances wherein normally a child needs care and protection from the State/Committee:

- i. Orphan or abandoned child
- ii. Surrendered child

'Surrendered child' needs further classification under law:

- i. surrendered by married couple
- ii. surrendered by an unmarried mother.

19. Law posit in this matter on the question of definition of married couple under JJ Act. Can we hold that a couple in a live-in relationship is not a married couple for the purpose of law related to surrender? This question has perplexed our mind.

Interpretation of law must be contextually relevant based on the text of legislation. Married couple has to be understood in contrast to an unwed mother. Unwed mother has to be understood as a mother who begotten a child as a result of sexual assault or in a casual relationship. Law in such circumstances places importance to the right of such mothers. In such circumstances, an unmarried mother would be recognised as a single parent and surrender by such mother is legally considered as valid in the light of Section 35(1) of JJ Act and Regulations 7(4), 7(7), & 7(21).

20. In the matter of married couple, the procedure ensures that both the parents execute deed of surrender and; if the child born to a married couple and surrendered by one of the biological parent, and whereabouts of the other parent are not known, the child shall be treated as an abandoned child and procedure under Regulation 6 will have to be followed. This procedure mandates an inquiry to trace out the biological parents or the legal guardians.

21. The point therefore, to be considered is whether a married couple includes a couple in a live-in relationship or not. This has to be deliberated in the context of the concept of juvenile justice under law.

22. The scheme of the enactment itself is to protect the welfare of the child. As seen from sections 37 and 40 of JJ Act itself, the prime aim of the law is restoration and protection of the child in a sequential order as mentioned in the explanation. In the first place, restoration is with parents. Then in the order of adoptive parents, foster parents; guardian or fit person. Attempting to trace out the biological parents in the matter of abandonment is to restore the child with the biological parents. Marriage as a social institution depends upon personal law or secular law like Special Marriage Act. It has no bearing on the concept of Juvenile Justice. Parental right of biological parents is a natural right not preconditioned by institutionalization of legal marriage. In a live-in relationship, a couple acknowledges the mutual rights and obligations. It is more of a contract. Offspring in such a relationship is acknowledging biological parental rights of both. In **D.Velusamy vs D.Patchaiamma** [(2010) 10 SCC 469], the Hon'ble Supreme Court laid down certain parameters for live-in relationship in the context of the Protection of Women from Domestic Violence Act, 2005. The Apex Court considered it similar to the marriage

provided it fulfills the requirements referred as follows:

(a) The couple must hold themselves out to society as being akin to spouses.

(b) They must be of legal age to marry.

(c) They must be otherwise qualified to enter into a legal marriage, including being unmarried.

(d) They must have voluntarily cohabited and held themselves out to the world as being akin to spouses for a significant period of time.

(see 'Common Law Marriage' in wikipedia on Google) In our opinion a 'relationship in the nature of marriage' under the 2005 Act must also fulfill the above requirements, and in addition the parties must have lived together in a 'shared household' as defined in Section 2(s) of the Act. Merely spending weekends together or a one night stand would not make it a 'domestic relationship'.

23. In the context of what we said earlier, the married couple or unwed mother has to be understood in the backdrop of juvenile justice. If a mother does not acknowledge any sort of relationship with the biological parent such mother has to be treated as an unmarried mother for the purpose of Juvenile Justice. A woman becoming a mother in a rape or sexual assault, or accidentally, does not want to recognise or acknowledge biological father; in such circumstances, such mother has to be treated as an unmarried mother. The woman in a live-in-relationship, acknowledging the



biological father of the child, out of such a relationship, will have to be treated as a married woman for the purpose of Juvenile Justice. If the artificial difference of the couple distinguishing them 'legally married' and 'not legally married' has no bearing in the ultimate object of law, the court must adopt an approach of interpretation to serve the object of law giving it a meaning to promote law and not to denounce the same. The dominant object of law in making the distinction between the married couple and unmarried mother is in the context of the nature of inquiry to be conducted for tracing the biological parents to restore the child with biological parents or guardian. The legal marriage has no relevance at all in such circumstances. In matters of surrender by unwed mother no such inquiry is contemplated as she does not acknowledge any relationship with the biological father. She may be a victim of sexual assault or begotten a child accidentally. If statutory provision is not assigned the meaning consistent with the object of law, it may take away the right of the biological father which statute never intended. Taking away of right of biological father would arise only in extreme circumstances where he has no right to claim the fatherhood.

24. A woman's womb is precious possession of her personhood and no one can claim right over it; except with her consent.

25. In **Suchita Srivastava & Anr v. Chandigarh Administration [(2009) 9 SCC 1]**, the Apex Court recognized woman's right to make reproductive choices as a dimension of 'personal liberty'. In **Revanasiddappa and Another v. Mallikarjun and Other [(2011) 11 SCC 1]** apex court while considering the coparcenary rights of illegitimate children in void marriage in the wake of amendment to section 16 (3) of Hindu Marriage Act in the year 1976 observed in para 30 as follows:

with changing social norms of legitimacy in every society, including ours, what was illegitimate in the past may be legitimate today. The concept of legitimacy stems from social consensus, in the shaping of which various social groups play a vital role. Very often a dominant group loses its primacy over other groups in view of ever changing socio-economic scenario and the consequential vicissitudes in human relationship. Law takes its own time to articulate such social changes through a process of amendment. That is why in a changing society law cannot afford to remain static. If one looks at the history of development of Hindu Law it will be clear that it was never static and has changed from time to time to meet the challenges of the changing social pattern in different time.

26. In **K.S.Puttaswamy v. Union Of India And Ors. [(2017) 4 KLT 1]** at paras.72 and 169 held as follows:

72. The decision in *Suchita Srivastava* dwells on the statutory right of a woman under the MTP Act to decide whether or not to consent to a termination of pregnancy and to have that right respected where she does not consent to termination. The statutory recognition of the right is relatable to the constitutional right to make reproductive choices which has been held to be an ingredient of personal liberty under Article 21. The Court deduced the existence of such a right from a woman's right to privacy, dignity and bodily integrity.

169. Privacy of the individual is an essential aspect of dignity. Dignity has both an intrinsic and instrumental value. As an intrinsic value, human dignity is an entitlement or a constitutionally protected interest in itself. In its instrumental facet, dignity and freedom are inseparably inter-twined, each being a facilitative tool to achieve the other. The ability of the individual to protect a zone of privacy enables the realization of the full value of life and liberty. Liberty has a broader meaning of which privacy is a subset. All liberties may not be exercised in privacy. Yet others can be fulfilled only within a private space. Privacy enables the individual to retain the autonomy of the body and mind. The autonomy of the individual is the ability to make decisions on vital matters of concern to life. Privacy has not been couched as an independent fundamental right. But that does not detract from the constitutional protection afforded to it, once the true nature of privacy and its relationship with those fundamental rights which are expressly protected is understood. Privacy lies across the spectrum of protected freedoms. The guarantee of equality is a guarantee against arbitrary state action. It prevents the state from discriminating between individuals. The destruction by the state of a sanctified personal space whether of the body or of the mind is violative of the guarantee against arbitrary state action. Privacy of the body entitles an individual to the integrity of the physical aspects of personhood. The intersection between one's mental integrity and privacy entitles the individual to freedom of thought, the freedom to believe in what is right, and the freedom of self-determination. When these guarantees intersect with gender, they create a private space which protects all those elements which are crucial to gender identity. The family, marriage, procreation and sexual orientation are all integral to the dignity of the individual. Above all, the privacy of the individual recognises an inviolable right to determine how freedom shall be exercised. An individual may perceive that the best form of expression is to remain silent. Silence postulates a realm of privacy. An artist

finds reflection of the soul in a creative endeavour. A writer expresses the outcome of a process of thought. A musician contemplates upon notes which musically lead to silence. The silence, which lies within, reflects on the ability to choose how to convey thoughts and ideas or interact with others. These are crucial aspects of personhood. The freedoms under Article 19 can be fulfilled where the individual is entitled to decide upon his or her preferences. Read in conjunction with Article 21, liberty enables the individual to have a choice of preferences on various facets of life including what and how one will eat, the way one will dress, the faith one will espouse and a myriad other matters on which autonomy and self-determination require a choice to be made within the privacy of the mind. The constitutional right to the freedom of religion under Article 25 has implicit within it the ability to choose a faith and the freedom to express or not express those choices to the world. These are some illustrations of the manner in which privacy facilitates freedom and is intrinsic to the exercise of liberty. The Constitution does not contain a separate article telling us that privacy has been declared to be a fundamental right. Nor have we tagged the provisions of Part III with an alpha suffixed right of privacy: this is not an act of judicial redrafting. Dignity cannot exist without privacy. Both reside within the inalienable values of life, liberty and freedom which the Constitution has recognised. Privacy is the ultimate expression of the sanctity of the individual. It is a constitutional value which straddles across the spectrum of fundamental rights and protects for the individual a zone of choice and self-determination.

27. It is for the woman to recognize and decide on recognition of fatherhood of child. If she chooses the preference to acknowledge the biological father at the time of conceiving, the father has every right to be recognized as a biological father. Woman alone has the right of choice on her body and motherhood. It is the time when she exercises the option on conception that reckons - a child is born to a married couple or unmarried couple. If at the time of

conception, she has not recognized the right of fatherhood, in the context of JJ Act, a man has no right to recognize himself as the biological father, except with her consent and; she continues to be recognized as an unwed mother for the purpose of JJ Act. Decisional autonomy is the key in privacy rights. Once a woman acknowledges the biological father that cannot be questioned to deny the right of biological father on the ground of want of legal marriage. Any such denial would amount to encroaching upon her decisional autonomy and freedom to choose. JJ Act intends to exclude only such biological father, who became father without the consent of the woman. Thus in the light of scheme of law as above there is no difficulty in holding that a child born in a live-in relationship also has to be construed as a child born to a married couple.

28. Now, we turn to the facts of the case. The child was born in a Government Hospital, Aluva. Father's name is disclosed to the hospital authority and also to the local authority. Name of the child was also given in the birth certificate. Birth certificate shows the name of the father, mother and child. Surname of the child reflects the name of the father. Birth certificate is a crucial document for public

authority to verify that the child is born to a married couple or not. It is not the duty of the Committee to inquire about the legal status of the marriage as they are not the competent authority to decide on such status. Once it is found that the child is born to a couple, for all practical purposes of JJ Act, inquiry must be initiated as though the child belonged to a married couple.

29. Under Regulation 7(5) of the Adoption Regulations, if a child born to a married couple is surrendered, both parents have to sign a deed of surrender. If surrender is by one parent and the whereabouts of the other parent are not known, the child shall be treated as an abandoned child [Regulation 7(6)]. In the matter of abandoned child, Regulation 6 will have to be followed. In this case, no such procedure was adopted. Admittedly, the procedure applicable to an unwed mother alone was followed. That is legally unsustainable as the child has to be treated as born to a married couple. The declaration and issuance of certificate under Section 38 of JJ Act that the child is legally free for adoption is possible only after conducting due enquiry as contemplated under the Adoption Regulations. Due enquiry procedure postulates an institutional decision

of the Committee treating the child as abandoned or surrendered. The enquiry in this case must have been an enquiry as contemplated for an abandoned child as only one parent alone had executed the surrender deed.

30. Once the declaration under Section 38 is found invalid, all consequential proceedings would also fall. We paused for a moment to issue notice to the adopted parents. We refrained from issuing notice as they shall not come into contact with the biological parents. That would be against the law laid down by the Apex Court in **Lakshmi Kant Pandey v. Union Of India** [AIR 1984 SC 469]. Further, we find no notice is required to be sent to the adoptive parents as they have no accrued or vested right prior to the declaration under Section 38. If the entire proceedings leading to Section 38 fall, consequently, the adoption becomes illegal.

31. Before we part with the judgment, we may add, in a country where the people worship Goddess, in the land where people have been taught about woman: *Yatra naryastu puhyante ramante tatra Devata, yatra itaastu na puhyante sarvaastatrafalaahkriyaah*". (Manusmriti (3.56)). [Gods abide where women are worshiped and all actions go futile where they are

dishonoured](Manusmriti 3:56). In the State where we boast cent percent literacy, our attitude to woman is despising; a single mother has no financial or social support. She faces emotional challenges and forced to believe she is destined to be isolated as result of guilt. She gets hardly any support from the system. It is time for the Government to evolve a scheme to support the single mother. The anomie Anitha had to face as a single mother is the hurdle created by the society. Anitha never attempted to exterminate her womb; she bore the pain to give birth; like every mother she loved to care the child... but was not allowed by circumstances in the society. She thought without support of man, she cannot survive. If a woman feels she is nothing without the support of the man that is the failure of the system. She shall not succumb to the temptation of giving up. The power of human in this Universe is the power of motherhood. It is for the State to make her realize that her struggle with the forces undermining her existence can be validated with the support of rule of law. That self belief must be her identity and respect due to her.

32. Accordingly, we set aside the certificate issued under section 38 and allow this revision. In view of the willingness of the biological father to



take care of the child, we direct the Committee to consider his rights to claim for restoration under Sections 37 and 40 of JJ Act. The Committee shall take necessary steps for initiating the proceedings for restoration in accordance with law within a period of one month. Care and protection of the child with the adoptive parents would depend upon the outcome of such decision of Committee. No order as to costs.

N.B.

In order to protect the privacy of parties involved, the parties name shall be masked while uploading the judgment. Publishing the names of parties is prohibited without their consent. We noticed in certified copy issued by the Family Court name of adoptive parents is disclosed. Confidentiality of adoptive parents have to be maintained in public portal and adoption records under Regulation 45 of the Adoption Regulations. We direct the Registrar (District Judiciary) to give necessary directions to all the Family Courts in the State to mask the names of adoptive parents while issuing the certified copies.

**A.MUHAMED MUSTAQUE, JUDGE**

**DR.KAUSER EDAPPAGATH, JUDGE**

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