

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10550 OF 2016

Govind Bhagirath Rathod
Age: 23 years, Occu.: Education,
R/o 557, Hamal Galli, Samtha Nagar,
Jalgaon, Tq. & Dist. Jalgaon.

..PETITIONER

VERSUS

Surekha Bhagwanrao Harkal
Age: 25 years, Occu.: Education,
R/o Ambika, Basmat Road,
Near Gandhi Vidhyalay, Sangam Colony,
Parbhani, Tq. & Dist. Parbhani.

..RESPONDENT

....
Mr. A.R. Vyawahare, Advocate for petitioner.
Mr. A.J. Mete, Advocate for respondent.

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**CORAM : S.B. SHUKRE, J.
DATED : 20th MARCH, 2017**

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard finally by consent of both sides.

2. The case of the respondent is based upon the consent obtained by fraud, resulting from making of false representation by the petitioner to her that before marriage, the petitioner was a student of medical

sciences, which was believed by the respondent and which made her to give her consent for marriage with the petitioner, which fact was later on turned out as false. As against such case of the respondent, the petitioner has come with defence that prior to marriage, there was sharing of relevant information between himself and the respondent and such sharing took place at the hotels, where according to the petitioner, the respondent had stayed with him overnight. The petitioner's further case is that these hotels are from Ratnagiri, Mumbai and Latur and as the respondent is denying the fact that she stayed with petitioner in these hotels, it shall be necessary for him to examine the Managers of these hotels.

3. Considering the basis of the case of the respondent and also the defence of the respondent, I find that the application filed by respondent seeking issuance of witness summons to these hotel Managers is consistent with the pleadings in the written statement and therefore, an opportunity ought to have been granted to the respondent to prove her defence. However, by refusing to issue witness summons to these hotel Managers, an opportunity of putting forward the defence has been denied to the respondent. The impugned order is therefore unreasonable and arbitrary and cannot be sustained in the eyes of the law.

4. Writ petition is allowed with costs. The impugned order is hereby quashed and set aside. Application at Exhibit 43 is allowed. Accordingly, witness summons shall be issued. Rule made absolute in those terms. The Hindu Marriage Petition shall be finally disposed of within a period of six months from the date of the order.

(S.B. SHUKRE, J.)

SSD