

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

WRIT PETITION NO.13405 OF 2018

**GOPAL VINAYAK DORIK
VERSUS
URMILA ALIAS MAYA GOPAL DORIK**

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Advocate for the Petitioner : Shri M. S. Kulkarni

Advocate for the Respondent : Shri A. S. Savale

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 06th MARCH, 2019.

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PER COURT :

1. The petitioner husband is aggrieved by the order dated 04/09/2018 passed by the Trial Court vide which application Exhibit 35 filed by the respondent wife in HMP No. 400/2007, has been allowed and the petitioner, as well as, the respondent are directed to appear before the Civil Surgeon, Civil Hospital, Dhule on 06/09/2018 at 10.00 a.m. Further directions are issued that the petitioner, as well as, the respondent would be medically examined and a report would be submitted indicating as to whether the petitioner has undergone a family planning operation and whether the respondent can conceive on account of her relation with the petitioner.

2. I have heard the learned Advocates for the respective sides.

3. I find that the issue in between the husband and the wife can hardly be termed as a marital discord. The petitioner's first wife, who is the first cousin of the respondent herein, had passed away prematurely. The families of the petitioner and the respondent decided to solemnize the marriage between these two persons as the respondent was the real cousin of the first deceased wife of the petitioner. After marriage, the respondent came to know that the petitioner had undergone a family planning operation and, therefore, she developed an apprehension that the petitioner would not have the capacity to impregnate her. She preferred HMP No. 400/2017 seeking a divorce.

4. As I find that a family planning operation, which is medically termed as vasectomy and is a medically reversible situation, I called upon the learned Advocates for the respective sides to take instructions as to whether this

marriage could be saved. After a pass over, when the matter was called out, learned Advocate for the petitioner husband submits that he had undergone the family planning operation and he is prepared to have the said surgery medically reversed, which is possible and thereby the respondent could conceive a child. He was agreeable to refer this matter to the mediator so that the marriage could be saved. However, learned Advocate for the respondent submits, on instructions, that the respondent does not desire to continue with the marriage and does not desire to cohabit with the petitioner.

5. Though I find the approach of the respondent to be unusual in the fact situation recorded as above, it must be borne in mind that a family planning operation does not render an individual impotent, unless he suffers from any other medically predicament.

6. Now that the petitioner has declared that he had undergone a family planning operation and is prepared to undergo another medical procedure for reversing the situation, I do not find that any purpose would be serve by sustaining the

impugned order which is stayed by this Court on 06/12/2018.

7. In view of the above, this petition is allowed. The impugned order is quashed and set aside and application Exhibit 35 stands rejected.

(RAVINDRA V. GHUGE, J.)

shp/-