164548 - If her husband gets a contagious disease can she ask for divorce?

the question

My husband and I have been married for many years, and we have children.The other day he came home with a cold sore which is Herpes 1 on his lip and in his mouth.The doctor ordered the blood test to check and it came back postive.This is a very contagious disease, and can be transferred to the body.I love my husband dearly, but I fear that he can transfer the disease to me and/or the kids.After speaking to the doctors they confirmed that there is around a 10% chance that he can transfer it to us without a breakout.This is signifcantly greater during a breakout,especially to me due to intimacy.This could lead to me getting genital herpes.Please keep in mind he has never had a symptom before.According to the doctors we can try to minize risks, but we are still at risk.I fear for the healthy and safety of my children, and I.What am I to do in this situation? I am feeling extremely depressed, and would appreciate any help.

Detailed answer

Praise be to Allah.

Firstly:

We ask Allah, may He be exalted, to heal your husband and grant him well being.

Our advice to you is to be patient in bearing this calamity and to stand by your husband’s side and strive to find ways of treating this disease and reducing the possibility of the sickness being passed to you or your children.

Secondly:

If it is not possible to avoid contagion with the disease and the doctors are certain that it is contagious, it is permissible for you to ask for a divorce so as to avoid harm. At-Tirmidhi (1187), Abu Dawood (2226) and Ibn Maajah (2055) narrated from Thawbaan (may Allah be pleased with

him) that the Messenger of Allah (blessings and peace of Allah be upon him) said: “Any woman who asks her husband for a divorce when it is not absolutely necessary, the fragrance of Paradise will be forbidden to her.” This hadeeth was classed as saheeh by al-Albaani in Saheeh at-Tirmidhi.

The words “when it is not absolutely necessary,” mean: when there is no case of hardship that would make her resort to asking for divorce.

Shaykh Ibn ‘Uthaymeen (may Allah have mercy on him) said: If the one who has contracted a contagious disease is not allowed to have any contact with people, then contact with his wife is more likely to be disallowed, i.e., the wife has the right to ask for divorce and is entitled to do so. End quote.

Al-Liqa’ al-Maftooh, 74/13.

And Allah knows best.