

Divorce of angry person three times in same sitting

Shaykh Aboo `Abd-al-Mu`iz `Alee Farkous al-Qoobee

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the name of Allaah, the Most Merciful, the Bestower of Mercy

Question: A man divorced his wife in a state of anger three times in the same moment, and this is after a problem between his wife and mother but he is sorry for it now, so, is this considered a Baaynoona Kubra¹ or not?

Answer: All praise is due to Allaah, the Lord of the Worlds. Peace and blessing be upon whom Allaah sent as a mercy to the Worlds, upon his Family, his Companions and his Brothers till the Day of Resurrection.

The threefold divorce at once is a question on which the scholars diverged. The correct and the soundest of their opinions is that such divorce is considered a single revocable divorce. It is the view of some followers of the Imaam Maalik. It is also reported to be the opinion of Ibn `Abbaas, Ibn Mas'ood and `Abdurrahman Ibn `Auf رضي الله عنهم as well as `Ataa', Taawoos and others. It is also the view of Ibn Taymeeyah and his disciple Ibn Al-Qayyim. The divorce will not be considered a Baaynoona Sughra² unless the man does not consummate the marriage or her `Idda (Woman's prescribed retreat or waiting period after divorce or death of husband) has not ended.

However, what is known from the jurisprudential views of the scholars is that the divorce of an intensely angry person who loses his power of reasoning and his willpower, that is to say, a person who is not aware of what he utters, thus becoming like an insane person, is invalid according to all the scholars.

As for the person who is conscious, wants to divorce and means it, and whose mind and intellect are unaltered, if he pronounces it, it is counted a single divorce, whether in the same sitting, or in many sittings, as it is stated above.

In case he does not think of divorce, but pronounces it in a state of anger which is neither intense nor mild, in such a way that perturbation appears in most of his sayings and actions, and that this perturbation prevents him from being reasonable, equanimous and steady, and that his mind and intellect are not altered, or he regrets his divorce after his anger dies down; such divorce, according to the soundest opinions of scholars, is not applicable. It is the view favoured by Ibn Taymeeyah and Ibn Al-Qayyim, as there is no conformity between his tongue and his heart, in accordance with the Prophet's صلى الله عليه وسلم saying: "**Beware! There**

¹ Baaynoona Kubra (major separation): a kind of divorce in which the woman can only return to her husband after she has been married to another husband who divorces her; thus allowing her to return to the first one.

² Baaynoona Sughra (minor separation): a kind of divorce in which the husband can take his wife back, without the condition that she marries another one.

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is a piece of flesh in the body. If it becomes good (reformed), the whole body becomes good but if it gets spoilt, the whole body gets spoilt. That (piece) is the heart"³.

Ibn Al-Qayyim رحمه الله said: "The evidences of the Sharee'ah indicate that his divorce, manumission and contracts in which choice and satisfaction are considered not valid, and it is a kind of Ighlaaq⁴ as the Imaams explained it"⁵.

To sum up, divorce – even if it is pronounced many times and in many sittings - is considered a single divorce according to the soundest opinion of scholars, if the man is not in a state of anger in which he acts without knowing what he is doing and without willpower, or in case anger makes him troubled and perturbed when acting or speaking; in these two last cases, the divorce is not applicable.

The perfect knowledge belongs to Allaah سبحانه وتعالى. Our last prayer is all praise is due to Allaah, the Lord of the Worlds. Peace and blessing be upon our Prophet, his Family, his Companions and his Brothers till the Day of Resurrection.

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³ Reported by Al-Bukhaaree, chapter of "Faith" (1/126), concerning the virtue of he, who saves himself from suspicious things for the sake of his religion, and Muslim, chapter of "Watering": (11/27) concerning accepting what is lawful and leaving what is doubtful from the hadeeth of An-Nu`maan Ibn Basheer رضي الله عنهما.

⁴ Ighlaaq: absence of willpower, because of compulsion, anger...etc.

⁵ "Ighaathat Al-Lahfaan Fi Talaaq Al-Ghadhbaan" (39).