

Fatwa no. 711

Q: A man disputed with his wife because she had gone to her father's house without asking permission. The husband cursed her and her father, and when one of those who were present asked him to seek refuge with Allah from Satan, he said, "She is unlawful for me." Then he wrote a letter to her father informing him that he divorced his daughter. Now this man asks whether he is permitted to take his wife back, and what are the consequences of what he did?

A: If the reality is as you mentioned that the husband cursed his wife and her father, this is a sin from which he should perform Tawbah (repentance to Allah), ask Allah's Forgiveness and resolve never to do again.

As for his saying that he divorced his wife, if this was not the last of three divorces and no compensation was paid, it is revocable divorce. He is permitted to take his wife back in marriage as long as she is still in `Iddah (woman's prescribed waiting period after divorce or widowhood).

However, if the period of `Iddah was over before taking her back, or he divorced her in return for compensation while it was not the last of the three divorces, he is permitted to return to his ex-wife with her consent with a new Mahr (mandatory gift to a bride from her groom) and contract which fulfills the pillars and conditions of marriage.

On the other hand, if this was the last of three divorces, this woman is not lawful for him anymore, until she marries another person and consummates the marriage then is divorced or widowed.

If the husband in question takes his wife back in marriage with a new marriage contract, he is not permitted to have intercourse with her until he makes Kaffarah (expiation) for saying, "She is not lawful for me", i.e. Zihar (a man likening his wife to an unmarriageable relative).

As such, he must free a slave, and if he cannot, then he should fast for two consecutive months. If this is beyond his ability, he should feed sixty poor persons. Allah (Exalted be He) says:

And those who make unlawful to them their wives by Zihâr and wish to free themselves from what they uttered, (the penalty) in that case is the freeing of a slave before they touch each other. That is an admonition to you (so that you may not repeat such an ill thing). And Allâh is All-Aware of what you do.

And he who finds not (the money for freeing a slave) must fast two successive months before they both touch each other. And he who is unable to do so, should feed sixty Miskins (poor). That is in order that you may have perfect Faith in Allâh and His Messenger. These are the limits set by Allâh. And for disbelievers, there is a painful torment.

May Allah grant us success. May peace and blessings be upon our Prophet Muhammad, his family, and Companions.

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