

Fatwa no. 9519

Q: I married a woman and we loved each other and remained on good terms for six years. One day, she annoyed me and I became so angry that I divorced her in her menses. I then revoked the divorce after which we remained on better terms for three years. I then traveled to the Kingdom where she sent me a letter including many insults and obscene words. I got so furious that I sent her a document of divorce. One month later, I sent a document of a third pronouncement of divorce. When I came back home, I came to know that it was not her who had sent the letter; rather, it was someone else who confessed his sin. I was driven mad that I was fully unaware. I cried till my tears flowed down my beard and I became like Mughith or even worse, for, in fact, Al-Mughith was not cried for by Barirah. Actually, my wife and I cry for leaving each other as she is also the mother of my child. On knowing about it, scholars asked me to tell them the whole story which I did. One scholar said that he thinks the first pronouncement of divorce was ineffective taking place during menstruation. Another scholar said that divorce was based on a cause which has the effect of rendering divorce ineffective since the effective cause is not existent. He also said that uttering such a cause verbally is not necessary as viewed by Al-Hafizh Ibn Al-Qayyim (may Allah be merciful to him) in his book I`lamul-Muwaqqi`in where he stated: If divorce is based on a cause which turned out to be non-existent, Ahmad views that divorce will not be effective. According to our Sheikh, it is not necessary to utter such a cause verbally and thus it makes no difference whether the cause is uttered verbally or otherwise. Thus, if it turns out that the cause is non-existent, divorce will be ineffective. In fact, this is the only opinion befitting Ahmad's school of jurisprudence and the ultimate inference of scholars' rules. (I`lamul-Muwaqqi`in, p.91, vol. 3).

Moreover, Al-Hafizh Muhammad Jundalwy, a Hadith memorizer, scholar and Muhaddith who has studied Sahih Al-Bukhari for seventy years and taught at the university, perhaps you know him, and is an in-law of the great scholar Ihsan Ilahy Zahir, said something valuable: The third pronouncement of divorce is ineffective as it was sent after the second between which no Ruj`ah (revoking the divorce) took place. This is also the opinion of Shayk Al-Islam Imam Ibn Taymiyyah (may Allah be merciful to him).

A: If the reality is as you have mentioned, regarding the effective cause behind divorce, divorce will be ineffective and inconsiderable. This is because it turned out later that the effective reason was non-existent which renders the divorce null. Likewise, the third pronouncement of divorce is ineffective if its effective reason is the same as that of the second; rather, it will be nonsense in such a case. Moreover, the first pronouncement of divorce is ineffective as it took place during menstruation.

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

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