118458 - He authorized her to get divorced and she got divorced herself

the question

My wife insisted on divorce a lot so I just said to her: " I am not going to divorce you, if you want to get yourself divorced, then it is up to you" and I authorized her to divorce herself. She said openly after this: "I get myself divorced". She tried a lot to make me take her back at that night. She thinks that what happened does not count as divorce, because she did not mean it. She does not believe that there is no joking when it comes to the matter of divorce. I did not authorize her again after this when I saw how rush and irresponsible she behaved. While I thought that it would stop her to ask for divorce again. What is the ruling on what happened?.

Detailed answer

Praise be to Allah.

If the husband says to his wife: Divorce yourself, or It's up to you, or You choose, or I authorize you to get divorced, and she says, I divorce myself, then it counts as a divorce.

The fuqaha' discussed in detail a number of divorces that the wife may do, depending on the phrase used by the husband, but as the wife only issued one divorce to herself, there is no need to go into those details here.

Based on that, one divorce takes place if the wife says "I divorce myself from you" and it cannot be accepted from her that she did not intend a divorce, because if divorce is mentioned clearly, then the one who issued it is not to be asked about his intention, and the divorce counts as such even if he says I did not intend it.

If this was a first or second divorce, then you may take her back so long as the 'iddah has not yet ended.

The wife has to understand that divorce is a serious issue, and that there is no room for joking or playing about in this matter. It counts as a divorce whether it is issued in earnest or in jest, as the Messenger of Allaah (peace and blessings of Allaah be upon him) said: “There are three matters in which seriousness is serious and joking is serious: marriage, divorce and taking back (one’s wife).” Narrated by Abu Dawood (2194), al-Tirmidhi (1184) and Ibn Majaah (2039); classed as hasan by al-Haafiz Ibn Hajar in al-Talkhees al-Habeer (3/424) and by al-Albaani in Saheeh Sunan al-Tirmidhi (944).

It is not permissible for a woman to ask her husband for a divorce unless there is a reason which makes it permissible for her to do so, such as bad treatment. See the answer to question no. 117185.

See also the issue of Tafweed al-Talaaq (delegating divorce) in al-Mawsoo’ah al-Fiqhiyyah (13/113) and al-Sharh al-Mumti’ (13/84).

And Allaah knows best.