128823 - Making his wife's divorce conditional upon something that she did by mistake

the question

A man said to his wife: If you argue with my sister and maternal uncle, then you are thrice divorced. Twenty-five days later, she argued with them and claims that she did not remember what her husband had said.
Her husband’s intention was to prevent her from arguing with his sister and maternal uncle; he did not intend to divorce her.

Detailed answer

Praise be to Allah.

The divorce mentioned does not count as such and his wife is still married to him, because she did the action that implied divorce by mistake, as she forgot, and Allah says (interpretation of the meaning): “Our Lord! Punish us not if we forget or fall into error” [al-Baqarah 2:286]. And Allaah says, “I have done that [answered that prayer],” as is mentioned in a saheeh report from the Prophet (blessings and peace of Allah be upon him). The more correct scholarly view is that if a condition is made and the person concerned does it because he forgot or because he was ignorant of it, then the matter that was made conditional upon that does not apply. But if she does that deliberately in the future, then her husband must offer the expiation for breaking an oath, according to the more correct scholarly opinion, because the condition he stipulated comes under the rulings on oaths. End quote.