144016 - She wants a divorce and is asking about the delayed portion of the mahr and household effects

the question

I got married 8 months ago to a man of good character who is religiously committed and of a different nationality. He is a doctor and I have a university level education that is lower than his. My problem is that my husband always looks down at me and believes that he saved me from poverty, despite the fact that my family is well off, praise be to Allah. Our life was not free of problems but we got along with one another, praise be to Allah. But for the past month and a half I have been staying with my family because he spoke to me in a bad way and told me that he is Dr. So and So, which made me get in touch with my father, who came after I begged him to take me with him. Even though I told him that I was going to call my father, my husband said to me: “Go,” and he left the house. I waited for three hours until my father came, and since that day my husband has not asked about me or got in touch at all. Even his mother and father have not spoken to me at all. I want to ask for divorce. Do I have the right to the delayed portion of my mahr? What about my belongings in the house?.

Detailed answer

Praise be to Allah.

Firstly:

It is not permissible for the woman to ask for a divorce without a legitimate, shar‘i reason, because of the report narrated by Abu Dawood (2226), al-Tirmidhi (1187) and Ibn Maajah (2055) from Thawbaan (may Allah be pleased with him) who said: The Messenger of Allah (blessings and peace of Allah be upon him) said: “Any woman who asks her husband for a divorce when it is not absolutely necessary, the fragrance of Paradise will be forbidden to her.” This hadeeth was classed as saheeh by al-Albaani in Saheeh Abi Dawood.

Among the reasons which make it permissible to ask for divorce is bad treatment on the part of the husband, refusal to spend on the wife's maintenance, his being away for more than six months without any prior agreement between them, and the wife's disliking the husband so much that it is too difficult for her to stay with him or she is afraid that that may push her to disobey him and fall short in her duties towards him.

Al-Bukhaari narrated in his Saheeh (4867) from Ibn 'Abbaas (may Allah be pleased with him) that the wife of Thaabit ibn Qays came to the Prophet (blessings and peace of Allah be upon him) and said: O Messenger of Allah, I am not complaining about Thaabit ibn Qays with regard to his good character or religious commitment, but I hate to go back to kufr after coming to Islam. The Messenger of Allah (sa) said: "Will you give his garden back to him?" She said: Yes. The Messenger of Allah (sa) said (to Thaabit): "Accept your garden, and divorce her (one talaaq)."

Her words "I hate to go back to kufr after coming to Islam" mean: I hate to do things that are contrary to Islamic rulings such as hating the husband, disobeying him and not giving him his rights, and so on.

See: Fath al-Baari, 9/400.

Married couples should understand that married life may be faced with some problems that can be resolved in an atmosphere of love and understanding, without resorting to divorce. Their families and relatives should also try to bring about reconciliation between the spouses, and to deal with the causes of disputes between them, in accordance with the words of Allah (interpretation of the meaning):

"If you fear a breach between them twain (the man and his wife), appoint (two) arbitrators, one from his family and the other from hers; if they both wish for peace, Allaah will cause their reconciliation. Indeed Allaah is Ever All-Knower, Well-Acquainted with all things"

[al-Nisa' 4:35].

Secondly:

If there is a reason that makes divorce permissible, and the man divorces his wife, she is entitled to the delayed portion of her mahr. With regard to household effects, whatever belongs to the wife and was not given by her to her husband remains her property and she can take it at any time.

Whatever belonged to the husband but he made it part of her mahr, she also has the right to take it in the event of divorce.

Thirdly:

If the husband refuses to give a divorce (talaaq), and there is no harm being done that would dictate that he should be compelled to give a divorce, then the wife has no option but to seek khula‘, as seen in the hadeeth of the wife of Thaabit ibn Qays. In that case he may stipulate that she should give up her mahr or part of it.

See also the answer to questions no. 26247 and 1859.

And Allah knows best.