183870 - Husband uttering the words of zihaar in front of his wife by way of telling something that happened, asking a question or commenting on someone who said that

the question

I was watching television, my wife and I, and we heard someone say something like zihaar [a jaahili form of divorce in which the husband says to his wife “You are to me like my mother’s back”]. My wife said to me: “There is such a thing in religion that is called zihaar, such as you telling me, ‘You are to me like my mother’s back,’ and there is a hadd punishment for that, and expiation that must be offered.” At that time, I did not know what zihaar was, or even what it meant, or what was meant by the phrase “like my mother’s back.” When my wife said that to me, that there is something called zihaar, I did not believe her, and I was about to say to her, “You are to me like my mother’s back.” But halfway through the sentence – “You are to me like” – I paused, and in this fraction of a second, and before completing the rest of the sentence – “my mother’s back” – I thought to myself that it was possible that what she was saying was correct, and there could indeed be something called zihaar. So I got scared and did not know what to do. And the words came out of my mouth as follows, without any pause after any of the words, and I said: “ ‘You are to me like my mother’s back’; if I say that to you, will I have committed something?” And she said “Yes.”
Have I committed something by doing that?

Detailed answer

Praise be to Allah.

Firstly:

If the Muslim wants to do any act of worship or engage in any interaction with others, he must be aware of the Islamic rulings that will help him to do that act of worship or that interaction in the

correct manner, in accordance with Islamic teachings, such as knowing the rulings on marriage and divorce, for one who wants to get married, or knowing the rulings on buying and selling, for one who wants to do business, and so on.

Secondly:

No divorce or zihaar takes place on the husband's part unless he utters it or words to that effect.

Al-'Ayni (may Allah have mercy on him) said in 'Umdat al-Qaari (30/12 1):

There is no difference of scholarly opinion concerning the fact that if he intends divorce in his heart but does not utter the word, then nothing happens, apart from what al-Khattaabi narrated from az-Zuhri and Maalik, that it takes place once he decides upon it in his heart. It was also narrated by Ibn al-'Arabi from Ashhab from Maalik concerning divorce, manumission and vows, that it is sufficient for him to have decided in his heart and made his mind up to go ahead. But this is very far-fetched and unlikely to be correct, and al-Khattaabi refuted that argument concerning the issue of zihaar and the like, because the scholars are unanimously agreed that if a person decides upon zihaar, it does not take effect unless he actually utters the word. If he thinks to himself of slander (accusing someone of zina), he is not to be regarded as a slanderer (unless he actually speaks of it). If ideas cross his mind (lit. if he says something to himself – without him speaking of them) whilst he is praying, he does not have to repeat his prayer. Allah has forbidden speaking during the prayer, so if thinking (lit. speaking) to oneself was the same as speaking words out loud, then his prayer would have been rendered invalid. End quote.

The scholars of the Standing Committee said:

Divorce does not take place except by means of uttering or writing the word. As for merely having the intention of divorce or thinking to oneself and deciding to do it, that does not count as divorce, because the Prophet (blessings and peace of Allah be upon him) said: "Verily Allah has pardoned my ummah for whatever crosses their minds, so long as they do not act upon it or speak of it." Saheeh – agreed upon.

End quote from Fataawa al-Lajnah ad-Daa'imah (20/211)

For more information, please see the answer to question no. 81726.

Thirdly:

If a man says to his wife, "You are div-", then he stops and does not complete the sentence – and by the same token, if he says "You are to me like", then he stops and does not complete the sentence (by saying "my mother's back") – then it does not mean anything.

Ibn Nujaym (may Allah have mercy on him) said:

If he omits the final syllable of the word talaaq (divorce), such as if he says "You are div-" then he stops, or someone puts his hand over his mouth, it does not count as divorce, even if he intended it, because people do not usually omit the last syllable of the word.

End quote from al-Bahr ar-Raa'iq (3/274).

There is a detailed discussion concerning the omission of words and letters in the books of the madhhabs of fiqh.

Fourthly:

With regard to your saying to your wife, "'You are to me like my mother's back'; if I say that to you, will I have committed something?" there are no consequences regarding that now, because what appears to be the case is that it was like putting a condition for zihaar when you said that to your wife. It is as if you were saying to her: "If I say the words of zihaar to you, then you will be haraam for me," and this is more akin to idle talk, because it is well-known that if he did speak the words of zihaar to her, then she would become haraam for him.

The same applies if it so happened that he uttered the words in the context of a question. Whoever says these words concerning divorce or zihaar to his wife by way of explaining or clarifying something, or by way of enquiring and asking a question, or by way of narrating a story, without intending divorce or zihaar thereby, there are no consequences attached to that.

See also the answer to question no. 177733.

Fifthly:

Zihaar is haraam, because it comes under the heading of ill words (i.e., evil words) and lies. Allah, may He be exalted, says (interpretation of the meaning):

“Those among you who make their wives unlawful to them by (Zihaar) (i.e. by saying to them "You are like my mother's back.") they cannot be their mothers. None can be their mothers except those who gave them birth. And verily, they utter an ill word and a lie”

[al-Mujaadilah 58:2].

So it is not permissible for a man to separate from his wife by uttering the word of zihaar, whether that is conditional or definitive.

If he does utter the word of zihaar, then he must repent and offer expiation.

For information on the expiation for zihaar, please see the answer to question no. 50305 .

For information on the ruling on watching television, please see the answer to question no. 3633.

And Allah knows best.