45174 - Ruling on Divorce in Anger

the question

A Muslim woman says that her husband has often said, in moments of intense anger, “You are divorced.” What is the ruling on that especially as they have children?

Summary of answer

When a person is angry and is no longer aware of what he is doing, this is likened to the insane, so divorce does not take place according to all scholars.

Detailed answer

Praise be to Allah.

Is divorce in anger valid?

Shaykh Ibn Baz (may Allah have mercy on him) was asked about a man whose wife treats him badly and insults him, so he divorced her at a moment of anger .

He replied:

“If you uttered the words of divorce at a moment of intense anger and without realising it, and you could not control yourself, because of her bad words and insults etc., and you did that at a moment of intense anger and without realising it, and she acknowledges that, or you have a witness of good character, then divorce has not taken place. The Shar`i evidence indicates that divorce does not take place if the words are spoken at a moment of intense anger – and if it is accompanied by not realising what is happening then the ruling applies even more so.

For example, Ahmad, Abu Dawud and Ibn Majah narrated from `Aishah (may Allah be pleased with her) that the Prophet (peace and blessings of Allah be upon him) said: “There is no divorce and no

manumission in the event of Ighlaq.”

The majority of scholars said that Ighlaq means compulsion or anger, i.e., intense anger . His anger made him unaware of what he was saying, so he is like one who is unconscious, insane or drunk, because of the intensity of his anger .

So divorce does not take place in this instance. If he does not realise what he is doing and cannot control his words or actions because of the intensity of his anger, then divorce does not take place.

Types of anger

Anger may be of three types:

1. When a person is angry and is no longer aware of what he is doing. This is likened to the insane, so divorce does not take place according to all scholars.

2. Where a person is very angry but is still aware of what is going on, but his anger is so intense that it makes him say the words of divorce. In this case too, divorce does not take place according to the correct scholarly opinion.

3. The ordinary type of anger which is not very intense. In this case, divorce takes place , according to all the scholars.” (Fatawa At-Talaq, pp. 19-21, compiled by Dr. `Abdullah At-Tayyar and Muhammad Al-Musa)

What the Shaykh mentioned about the second type of anger is also the view favoured by Shaykh Al-Islam Ibn Taymiyah and his student Ibn Al-Qayyim (may Allah have mercy on them both).

Ibn Al-Qayyim (may Allah have mercy on him) wrote an essay on that entitled Ighathat Al-Lahfan fi Hukm Talaq Al-Ghadban, in which he said the following:

Types of anger according to Ibn Al-Qayyim

Anger is of three types:

1. That which is not so intense as to affect a person’s mind or rational thinking; he knows what he is saying and what he means. There is no dispute that in this case divorce, manumission and contracts are valid.

2. Where his anger reaches such a limit that he no longer knows what he is doing or saying. There is no dispute that in this situation divorce does not take place. If his anger is so intense that he does not know what he is saying, there is no doubt that none of his words should be implemented in this case. The words of the Mukallif (adult of sound mind) are only to be implemented if he knows what he is saying and what it means, and if the speaker really means that.

3. The kind of anger that falls between the two categories mentioned above, where the anger goes beyond the ordinary level but not so far as to make him behave like a madman. This is an area of scholarly differences of opinion. The Shar`i evidence indicates that divorce, manumission and contracts in such cases are not valid, and this is a kind of Ighlaq as the Imams explained. (From Matalib Uli an-Nuha, 5/323; see also Zad Al-Ma’ad, 5/215)

Words of advice for Muslim couples

The husband has to fear Allah and avoid using the word of divorce so that this will not lead to the disintegration of his family.

We advise husband and wife alike to fear Allah and heed His limits, and to look at what the husband said to his wife in a fair manner: is this the ordinary kind of anger, which is the only case in which divorce can take place, and this is the third type in which divorce does take place according to scholarly consensus.

They should be cautious and not transgress the limits of their religion, and they should not let the fact that they have children make them describe the husband’s anger at the time he spoke the words of divorce to the Mufti as intense so as to get the Fatwa they want, even though both parties know that this was not the case.

Based on this, the fact that the couple have children together should motivate them to avoid using the words of divorce recklessly; it should not cause them to try to find a loophole in the Shar`i rulings after divorce has taken place and look for a way out or seek concessions from the jurists with regard to that.

We ask Allah to bless us all with understanding of His religion and help us to venerate His laws.

And Allah knows best.