50305 - He said to his wife: “You are to me like my mother”

the question

A woman’s husband said to her: “You are to me like my mother.” Is this regarded as a talaaq divorce or is there expiation for it? What is the expiation?.

Detailed answer

Praise be to Allah.

Firstly:

This phrase is not regarded as a talaaq divorce, rather it is a kind of zihaar [a jaahili form of divorce in which the husband says to his wife, “You are to me as my mother’s back”] which is not explicitly zihaar, rather it may be understood as zihaar or as something else.

Secondly:

The ruling on this phrase depends on the intention of the speaker (the husband) and the context.

As for the intention, if the husband intended by saying that that she was forbidden to him like his mother, then it is zihaar.

Or he may have meant that she is like his mother in honour and love etc, in which case it is not zihaar, and does not mean anything.

As for context, if the context of words and events that came before this indicate that the husband intended zihaar, then it is zihaar. Examples of such contexts are: if the husband was having an argument with his wife and during that argument he said, “You are to me like my mother.” This context suggests that he intended zihaar so it is zihaar,

Shaykh al-Islam Ibn Taymiyah was asked in Majmoo’ al-Fataawa (34/5) about a man who said to his wife: “You are to me like my mother or my sister.” He replied: If what he meant was you are to

me like my mother or my sister in terms of honour, then he does not have to do anything, but if what he meant was likening her to his mother or sister in terms of marriage, then this is zihaar and he has to do the same as the one who divorces his wife by zihaar: if he chooses to keep her, he should not approach her until he has offered the expiation for zihaar. End quote.

He also said (34/7):

If he meant when he said, “you are like my mother to me” that he would refrain from physical relations with her which are forbidden in the case of the mother, then this is zihaar and he is obliged to do what the man who divorces his wife by zihaar is obliged to do. It is not permissible for him to have intercourse with her until he has offered the expiation for zihaar, namely freeing a slave. If that is not possible then he must fast for two consecutive months. If he cannot do that then he must feed sixty poor persons. End quote.

Ibn Qudaamah said in al-Mughni (11/60):

If he says: You are to me like my mother, intending zihaar thereby, then it is zihaar, according to the majority of scholars, including Abu Haneefah and his two companions, al-Shaafa’i and Ishaaq. If he intended thereby to show honour and respect, or to say that she is like her in age or in some other way, then this is not zihaar. What matters is what he says about his intention. End quote.

i.e., the husband is the one who has to clarify what he intended.

It says in Fataawa al-Lajnah al-Daa’imah (20/274):

If the husband says to his wife: I am your brother or You are my sister or You are my mother or like my mother, or You are to me like my mother or my sister, if he means thereby that she is like them in honour, family ties or respect, or he did not have any particular intention, or there is no context to suggest that he intended zihaar, then this does not result in zihaar and he does not have to do anything. But if he intended zihaar with these or similar words, or there is a context that indicates zihaar, such as these words being uttered in anger or as a threat to her, then it is zihaar. This is haraam and he must repent, and also offer expiation before he touches her. The

expiation is to free a slave; if that is not possible then he must fast for two consecutive months. If he cannot do that then he must feed sixty poor persons. End quote.

To sum up:

If the husband intended zihaar by these words, or if there is a context that points to that, then it is zihaar. If it is other than that, then it is not zihaar and he does not have to do anything.

Thirdly:

Zihaar is haraam, and Allaah has described it as an ill word and a lie, and He 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]

The one who speaks the words of zihaar to his wife has to repent to Allaah, may He be exalted.

Fourthly:

The husband who divorces his wife by zihaar has to offer expiation if he wants to keep her and not divorce her and it is not permissible for him to have intercourse with her until he has offered expiation. The expiation is to free a slave. If that is not possible then he must fast for two consecutive months. If he cannot do that then he must feed sixty poor persons. The evidence for that is the verse in which Allaah says (interpretation of the meaning):

“And those who make unlawful to them (their wives) by Zihaar and wish to free themselves from what they uttered, (the penalty) in that case is the freeing of a slave before they touch each other. That is an admonition to you (so that you may not repeat such an ill thing). And Allaah is All-Aware of what you do.

4. And he who finds not (the money for freeing a slave) must fast two successive months before they both touch each other. And he who is unable to do so, should feed sixty Masaakeen (poor). That is in order that you may have perfect faith in Allaah and His Messenger. These are the limits set by Allaah. And for disbelievers, there is a painful torment”

[al-Mujaadilah 58:3-4].