72203 - He “divorced” his wife by zihaar and swore that he would not have intercourse with her until he was pleased with her

the question

I had an argument with my wife and I swore that I would not have intercourse with her until I was pleased with her. I said that she would be like my sister until I was pleased with her, but I did not have any intention of divorce or anything else, but I wanted to threaten her so that she would realize that she was in the wrong. After a few days when we had calmed down, I had intercourse with her. Is there any sin on me?.

Detailed answer

Praise be to Allah.

Firstly:

If you swore that you would not have intercourse with your wife until you were pleased with her, and indeed you did not have intercourse with her until you were pleased with her, then there is no sin on you for this oath, because you did not break it.

Secondly:

Your saying to your wife “You are like my sister until I am pleased with you” is a kind a zihaar (a jaahili form of divorce) which Allah has forbidden and has described as evil and false. Even though the words “like my sister” are not the same as the words “like my sister’s back,” if there is the intention of zihaar or anything that could indicate that, then it is zihaar. The indication that it is zihaar is that happens at the time of an argument or when one is angry, as was explained by Ibn Qudaamah (may Allah have mercy on him) in al-Mughni (8/6). But if there was no such intention or indication then it is not zihaar.

Thirdly:

Your saying “You are like my sister until I am pleased” is a temporary form of zihaar which lasted until you were pleased with her. Based on this, if you had intercourse with your wife before you were pleased with her, then you have to offer the expiation for zihaar, but if you had intercourse with her after you were pleased with her, then you do not have to do anything.

Ibn Qudaamah (may Allah have mercy on him) said: Temporary zihaar is valid, such as saying, “You are to me like the back of my mother for one month, or until the month of Ramadaan is over.” When the time has passed, zihaar is no longer in effect and his wife becomes permissible with no expiation, and he does not take her back except by having intercourse within the specified time. This is the view of Ibn ‘Abbaas, ‘Ata’, Qataadah, al-Thawri, Ishaaq and Abu Thawr, and it is one of the two views of al-Shaafa’i… because of the hadeeth of Salamah ibn Sakhar, who said: “I have separated from my wife by zihaar until the month of Ramadaan is over.” But he told the Prophet (peace and blessings of Allah be upon him) that he had had intercourse with her during that month, and he told him to offer the expiation, but he did not rebuke him for setting a time limit. End quote from al-Mughni (11/68).

Shaykh Ibn ‘Uthaymeen (may Allah have mercy on him) gave an example of temporary zihaar when he said: This is something that often happens when a man gets angry with his wife because of her bad conduct, so he says, ‘You are to me like my mother’s back for the rest of this week, or this month,’ and so on. This is valid as zihaar, but our saying that it is valid does not mean that it is permissible; rather what it means is that it counts. If the time period stated for zihaar ends and he has intercourse with her after that, then no expiation is required, because the time has ended and the ruling on zihaar no longer applies. But if the husband has intercourse with his wife during the time that he stipulated as zihaar, then he must offer expiation. But if the time ends and he has intercourse after that, then zihaar no longer applies. End quote from al-Sharh al-Mumti’ ‘ala Zaad al-Mustaqni’, 5/593.

Fourthly:

You have to seek the forgiveness of Allah and repent to Him for committing this evil action. Allah 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. And verily, Allah is Oft-Pardoning, Oft-Forgiving”
[al-Mujaadilah 58:2]

And Allah knows best.