125715 - He said to his wife “anti qaaliq (which sounds like taaliq = divorced)” as a joke

the question

A man was joking with his wife, and he said to her as he was joking: I am going to deprive you of inheritance because you are qaaliq (a word that sounds like taaliq, meaning divorced), but he did not intend divorce and he did not intend even to say the words “anti taaliq (you are divorced)”. But his wife told him that he had divorced her, based on the hadeeth, “Three words which if they are said in earnest, they are serious, and if they are said in jest, they are serious.” Is this true? Please note that he regretted it and repented from joking about such matters. What should he do if divorce has indeed taken place?.

Detailed answer

Praise be to Allah.

If a man says to his wife “anti qaaliq”, it does not count as divorce, as it is not one of the phrases that mean divorce either explicitly or implicitly. But if he intended divorce thereby, then it does count as a divorce according to some of the scholars.

Al-Kharashi (may Allah have mercy on him) said in Sharh Mukhtasar Khaleel (4/48): If a man says to his wife: pour the water, or go in, or go out, or eat, or drink, or anything else that is not one of the phrases of divorce or a clear phrase of zihaar (a jaahili form of divorce), but he intends divorce thereby, then it is binding according to the well-known opinion, because these phrases are metaphors and he is bound by whatever he intended of one or more divorces. But if he did not intend divorce, then it does not count as such. End quote.

The hadeeth “There are three matters in which seriousness is serious and joking is serious: marriage, divorce and taking back (one’s wife)” was narrated by Abu Dawood (2194), al-Tirmidhi

(1184), Ibn Maajah (2039); classed as saheeh by al-Haafiz Ibn Hajar in al-Talkhees al-Habeer (3/424) and al-Albaani in Saheeh Sunan al-Tirmidhi (944).

The hadeeth has to do with the explicit phrases of divorce. If the man says to his wife: Anti taaliq (you are divorced) intending it as a joke or to scare her, then divorce has taken place.

But as for metaphors or implicit phrases which may be understood as intending divorce or otherwise, such as saying " go to your family" or "you are free" or " I have no need of you" or " you are no longer under my care," these do not count as divorce unless they were intended as such.

You should beware of using words of divorce whether in a serious or joking manner, because of the consequences that result from them.

And Allah knows best.