81984 - If he says to his wife: “You are haraam for me”

the question

If the husband says to his wife: “You are haraam for me”, does this count as a divorce?.

Detailed answer

Praise be to Allah.

A husband declaring his wife to be haraam for him is something concerning which the fuqaha’ differed. Some of them ruled that it is zihaar, and some ruled that it is talaaq.

Perhaps the most correct view is that if he intended talaaq or zihaar or an oath, then it is as he intended.

If he did not intend anything, he must offer expiation for breaking an oath (kafaarat yameen). This is the view of Imam al-Shaafa’i (may Allaah have mercy on him).

This is indicated by the fact that this wording may imply talaaq or zihaar or an oath, so in deciding what it is, reference should be made to the intention of the one who said it, because the Prophet (peace and blessings of Allaah be upon him) said: “Actions are but by intentions, and each person will have but that which he intended.”

It was narrated that Ibn ‘Abbaas (may Allaah be pleased with him) said: If a man declares his wife to be haraam for him, then it is an oath for which expiation must be offered.

Narrated by al-Bukhaari (4911) and Muslim (1473).

Shaykh Ibn ‘Uthaymeen (may Allaah have mercy on him) said:

If someone were to say: What is the difference between these three things (i.e., talaaq, zihaar and an oath)? We say: The difference between them is:

1 – It is an oath if what he intended was to declare her to be haraam for him, either subject to a condition, or starting from that moment, such as if he said, “If you do such and such then you are haraam to me.” This is conditional. In this case he did not mean to make his wife haraam for him, rather he meant to stop his wife doing that thing.

Similarly, “you are haraam to me” means that he wants to refrain from intimacy with his wife. So we say that this is an oath too, because Allaah says (interpretation of the meaning):

“O Prophet! Why do you forbid (for yourself) that which Allaah has allowed to you, seeking to please your wives? And Allaah is Oft-Forgiving, Most Merciful.

2. Allaah has already ordained for you (O men) the absolution from your oaths”

[al-Tahreem 66:1-2]

In the phrase “that which Allaah has allowed to you”, the word ma (translated as “that which”) is a relative pronoun which is general in meaning and includes one's wife, slave woman, food, drink and clothing. This ruling is the ruling on an oath. Ibn ‘Abbaas (may Allaah be pleased with him) said: If he says to his wife, “You are haraam for me,” this is an oath (yameen) for which he must offer expiation. The fact that this view is based on the verse is quite clear.

2 – It is a divorce (talaaq) if that is what he intended. So when he said “You are haraam to me” he meant that he wanted to leave her and this is a talaaq, because these words may mean separating, and the Prophet (peace and blessings of Allaah be upon him) said: “Actions are but by intentions, and each person will have but that which he intended.”

3 – It is zihaar if that is what he intended. What is meant by zihaar is that he means that she is forbidden for him. One of the scholars said: it is not zihaar because it does not include the wording of zihaar. Another scholar said that it is zihaar because the phrase of zihaar, “You are to me like the back of my mother” has no other meaning but “You are haraam.” He has likened her to the most forbidden of things to him, which is his mother’s back, because that is the most haraam thing for him, so this is zihaar.

End quote from al-Sharh al-Mumti’ (5/476)

We should also point out the seriousness of such words, and that we must beware of uttering them, so as to protect the important bond of marriage from being broken.

And Allaah knows best.