99597 - Divorce before consummation is final and irrevocable

the question

I was engaged to a man by a legal contract. But the actual marriage (consummation) did not take place. It was not written for us to continue this relationship. He divorced me by saying: “you are divorced”. I want to ask that if he wants to return to me should he pay a new mahr (dowry) and make a new contract or is it enough that he says: “I return to you”? Bearing in mind that he divorced me two months ago, and paid half the dowry.

Detailed answer

Praise be to Allah.

If a man divorces his wife before consummating the marriage with her, then he cannot take her back, because a husband can only take his wife back during the ‘iddah, and the woman who is divorced before consummation does not have any ‘iddah, because Allaah says (interpretation of the meaning):

“O you who believe! When you marry believing women, and then divorce them before you have sexual intercourse with them, no ‘Iddah have you to count in respect of them”

[al-Ahzaab 33:49].

Ibn Qudaamah said in al-Mughni (7/397):

The scholars are unanimously agreed that the woman with whom the marriage has not been consummated is irrevocably divorced with a single talaaq, and the one who divorces her has no right to take her back, because taking the wife back can only be done during the ‘iddah, and there is no 'iddah before consummation, because Allaah says (interpretation of the meaning): “O you who believe! When you marry believing women, and then divorce them before you have sexual intercourse with them, no ‘Iddah have you to count in respect of them”[al-Ahzaab 33:49]. End

quote.

Based on that, if your former husband wants to take you back, he has no option but to make a new marriage contract with you, with a new mahr (dowry).
We ask Allaah to help and guide you both.

And Allaah knows best.