169808 - He gave her a third talaaq (divorce) and claimed that he said that in anger

the question

My sister, my mother and I were arguing with my mother's husband, because he struck her on her hand, and my brother started screaming at him and insulting him, and threw him out of the house. When he went out, he stood there for two minutes then he said, "Open the door!" When my mother opened the door, he said to her: "You are divorced," then my mother shut the door. This was the third divorce. The next day, he told her that he said it in anger and that the divorce definitely did not count and we are not divorced. I hope that you can help me and give me the ruling on this divorce, because we wear hijab and we are afraid that our mother may fall into major sins.

Detailed answer

Praise be to Allah.

Divorce uttered in anger is subject to further discussion, which has been discussed previously in the answer to question no. 45174. In this case we advise you to refer this issue to one of the trustworthy scholars in your country who can listen to your mother and her husband, and find out the nature of the anger he was feeling when he uttered the divorce.

Shaykh Ibn 'Uthaymeen (may Allah have mercy on him) said, after discussing types or levels of anger – that were mentioned in the question put to him –: The opinion that a divorce uttered by one who is angry does not count as such is the more correct view in theory, but for practical and educational reasons, do we issue a fatwa on that basis or do we refrain from issuing a fatwa on that basis except in specific cases in which we know that the husband is being honest? We do the latter, because if we were to follow the opinion that a divorce uttered by one who is angry does not count as such, there would be many who would say, "I was angry and I issued a divorce," without differentiating between the first and second degrees (of anger). Then there would be a lot

of mischief. It is for this reason that issuing a fatwa in all cases saying that divorce issued by one who is angry does not count as such would lead to uttering divorce becoming widespread. But if we think that the husband is a righteous man who could not be heedless, in that case we may issue a fatwa that the divorce does not count as such, but if we thinks that he is heedless and wants his wife to come back to him by any means, then in this case we should issue a fatwa stating that the divorce does count as such. This comes under the heading of handling each case on its merits, which is very important in sharee ‘ah. Perhaps we may prevent one man from eating a specific food, even though it is halaal, because it will harm him, but we would not prevent another man from eating it, because it will not harm him.

End quote from ash-Sharh al-Mumti‘, 13/29

And Allah knows best.