

164649 - He divorced her before consummating the marriage and wants to take her back without her father knowing

the question

I am from an Arab country and my husband did the shar'i marriage contract with me, then the civil marriage. Now we are waiting for a visa so that I can join him in America. My husband is very hot-tempered and he does not know what he is saying when he gets angry, but he always regrets it after that. Whilst we were arguing over the Internet and he was very angry, he said to me "You are divorced (anti taaliq)", one time only. Now he wants to take me back but he does not want anyone to hear about what happened, especially my parents. Is there any way to put things right without the family knowing?.

Detailed answer

Praise be to Allah.

Firstly:

If this divorce took place before the marriage was consummated and before you were alone together, i.e., he was not alone with you in a place where no one could see you, then this is an irrevocable divorce, according to the consensus of the scholars, and it is not permissible for you to go back to him except with a new marriage contract that fulfils all the conditions, namely the consent of the wife and the wali (guardian) and the presence of two witnesses.

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

The scholars are unanimously agreed that a woman with whom the marriage has not been consummated is irrevocably divorced with one talaq, and the one who divorced her is not entitled

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to take her back. That is because taking back can only occur during the 'iddah, and there is no 'iddah before consummation, because Allah, may He be exalted, 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 (divorce prescribed period, see) have you to count in respect of them”

[al-Ahzaab 33:40]. End quote.

Secondly:

If divorce takes place before consummation but after the couple have been alone together, in this case it was a difference of opinion among the fuqaha'. The majority are of the view that it is an irrevocable divorce and there can be no taking back except after doing a new marriage contract.

The Hanbalis are of the view that it is a revocable divorce, so the husband can take his wife back in this case without her consent and without a new marriage contract, so long as the 'iddah has not yet ended.

See the answer to question no. [118557](#)

There is no doubt that following the view of the majority is more on the safe side, but if that will result in telling the parents and their refusing to do a new marriage contract, and the wife wants to go back to her husband, and the husband is satisfactory in terms of religious commitment and character, then perhaps the Hanbali view may offer a way out for her, so that her husband can take her back without a new marriage contract, so long as the 'iddah has not yet ended. But if the 'iddah has ended, she is irrevocably divorced from him.

To sum up, if you have not been alone together, there is no way for you to go back to your

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husband except with a new marriage contract to be done by your guardian in the presence of two witnesses.

If you have been alone together and you want to go back to him, and you think it most likely that he will not harm you in the future by divorcing you because of his hot temper, then you may go back to him without telling your parents, so long as your 'iddah has not yet ended. The 'iddah in the case of divorce for a woman who menstruates is three menstrual cycles; the 'iddah of one who does not menstruates is three months.

Thirdly:

For information on the ruling on divorce in the case of anger, please see the answer to question no. [45174](#).

And Allah knows best.