

169557 - A woman who was thrice-divorced (three talaqs) married another man, with the intention of asking for divorce. Can she ask for divorce now?

the question

I was married before and have a baby girl with my previous husband. I got married again but before I got married to my current husband I had the intentions of going back to my ex husband because I am still in love with him. I couldn't help how I feel about my ex husband. so now can I divorce my current husband so I could go back with my ex husband?

furthermore I could not help how I feel about my ex husband and no matter how hard I tried to get these intentions out of my heart I could not. I had no agreement for divorce so I could go back to my ex husband.

am just not happy with my current husband is that a valid reason to divorce him?.

Detailed answer

If a man divorces his wife three times, she is not permissible for him until she has married another man in a genuine marriage, not a tahleel marriage (one that is aimed at making it permissible for her to go back to her first husband), then he leaves her, because Allah, may He be exalted, says (interpretation of the meaning):

“And if he has divorced her (the third time), then she is not lawful unto him thereafter until she has married another husband” [al-Baqarah 2:230].

Abu Dawood (2076) narrated that the Prophet (blessings and peace of Allah be upon him) said: “Allah has cursed the muhallil and the muhallal lahu.” Classed as saheeh by al-Albani in Sunan Abi Dawood. [The muhallil is the one who marries a woman and divorces her so that she can go back to her first husband, and the muhallal lahu is the first husband for whom this is done.]

If a divorced woman married a second husband with the intention of getting divorced from him so that she can go back to the first one, there is a difference of opinion among the fuqaha' in this

case. Some of them regard this as tahleel, which is haram, and some say that her intention does not affect anything.

Now you are the wife of a Muslim man who has rights and dignity, and it is not permissible to deceive him or mistreat him; it is also not permissible for you to ask for divorce or khula' unless there is a reason that makes it permissible to do that, because of the report narrated by Abu Dawood (2226), at-Tirmidhi (1187) and Ibn Maajah (2055) from Thawbaan (may Allah be pleased with him) who said: The Messenger of Allah (blessings and peace of Allah be upon him) said: "Any woman who asks her husband for a divorce when it is not absolutely necessary, the fragrance of Paradise will be forbidden to her."

Classed as saheeh by al-Albani in Saheeh Abi Dawood

A reason that would make it necessary to resort to divorce would be something like bad treatment, evildoing or deviation on the part of the man.

It was narrated from 'Uqbah ibn 'Aamir in a marfoo' report: "Women who seek khula' are the hypocrites." Narrated by at-Tabaraani in al-Kabeer, 17/339; classed as saheeh by al-Albani in Saheeh al-Jaami', 1934.

What is meant is the one who asks her husband for khula' without any legitimate shar'i reason that would make it permissible for her to do that.

One of the reasons that make it permissible for a woman to ask for khula' is if she dislikes her husband cannot give him his rights, or she fears that if she does not do that then she will be one of those who are ungrateful to their husbands, because of the report narrated by al-Bukhaari (4867) from Ibn 'Abbaas (may Allah be pleased with him) according to which the wife of Thaabit ibn Qays came to the Prophet (blessings and peace of Allah be upon him) and said: "O Messenger of Allah, I do not blame Thaabit ibn Qays for any defect in his character or his religious commitment, but I would hate (to show the attitude of) kufr when I am a Muslim." The Messenger of Allah (blessings and peace of Allah be upon him) said, "Will you give him back his garden [which he had given as mahr]?" She said, "Yes." The Messenger of Allah (blessings and peace of Allah be upon him) said (to Thaabit), "Accept the garden, and divorce her once."

Shaykh Ibn Jibreen (may Allah have mercy on him) said, describing what justifies asking for khula': If the wife dislikes some characteristics of the husband, such as if he is strict and harsh, quick-tempered, gets angry a lot, criticizes for the least mistakes and rebukes for the slightest shortcoming, then she may ask for khula'.

Secondly: if she dislikes his physical appearance, such as a defect or ugly appearance or some problem with his physical faculties, then she may ask for khula'.

Thirdly: if the shortcoming in religious commitment takes the form of not praying, or being heedless about praying in congregation, or not fasting in Ramadan with no excuse, or doing haram things such as zina, alcohol, listening to music and so on, then she may ask for khula'.

Fourthly: if he withholds her rights such as maintenance, clothing, and essential needs, when he is able to afford it, she has the right to ask for khula'.

Fifthly: if he does not give her her rights to regular intimacy because of a defect that means he cannot have intercourse (impotence), or he has no interest in her, or he is interested only in someone else, or he does not divide his time fairly (among co-wives), she has the right to ask for khula'.

And Allah knows best. End quote.

See the answer to question no. [1859](#)

If any of these reasons are applicable, then you have the right to ask for khula' and to return his mahr to him.

If none of these apply, then it is haram for you to ask for divorce or khula', and you have to give your husband his rights and not harm him in word or deed. In that case you have to be patient and forget about your first husband. Perhaps the marriage you are in is better and a blessing for you. Allah, may He be exalted, says (interpretation of the meaning):

“and it may be that you dislike a thing which is good for you and that you like a thing which is bad for you. Allah knows but you do not know” [al-Baqarah 2:216]

“it may be that you dislike a thing and Allah brings through it a great deal of good” [an-Nisa’ 4:19].

And Allah knows best.