

229507 - If the spouses disagree as to whether divorce has happened or not, then what counts is the husband's word, unless the wife can produce proof

the question

My wife believes that I divorced her, but in reality I did not. In anger, I sent her a text saying Wallahi you are on your last divorce, but I had the intention of scaring her, not divorcing her. Then I sent another text saying 'I divorce you', with the same intention of scaring her. She refuses to come back to me because she thinks she is irrevocably divorced. I try to explain to her that a written divorce does not count unless the man had the intention of divorce, which I did not. She does not believe me. She claims that I had the intention of divorce and calls me a liar.

Is a woman obliged to believe the husband that he did not have the intention of divorce? Or is it permissible for her to argue that he did have the intention - and not return to him?

She insists on going to people of knowledge to seek the ruling on the validity of the divorce without me. When a scholar gives her the general advice that 'if he divorced you three times then you become haraam for him' - she says this is sufficient for her and stays away from me. I tell her we must both go together to a person of knowledge, so he can study what happened between us in detail, and give a ruling based on both our arguments. She refuses and says she is happy with what the scholar told her. Is this permissible for her to look for a ruling like this?

Now she is talking to another brother. If she gets married to him in this state, without me giving her a legitimate divorce, is her new marriage valid?

Summary of answer

If the spouses disagree as to whether divorce has happened or not, then what counts is the husband's word, unless the wife can produce proof to support what she says.

Detailed answer

Firstly:

If the matter is as you describe, that you wrote these messages to your wife without intending that divorce should happen – rather it was with the intention of threatening or scaring her – then no divorce has taken place, as has been explained previously in fatwa no. [72291](#).

Secondly:

If a woman claims that her husband has divorced her, and the husband denies it, then what counts is his word, unless the wife can produce proof, which is two witnesses of sound character, as has been explained in detail, with mention of the scholars' views, in fatwa no. 175181.

Thus it is known that your wife is still married to you, and is not divorced from you, based on what you have mentioned.

So what she must do is fear Allah, may He be exalted, and comply with the rulings of sharia, which indicate that what counts with regard to whether there was an intention that divorce should happen or not is the word of the husband, as we have explained above.

If the wife is uncertain about her situation, or she is uncertain as to what her husband says about any of the details of what happened, or she herself is not content with what you say concerning this issue, then undoubtedly the only proper thing to do in such situations is for you and her to go to a scholar whose knowledge and trustworthiness you both accept, and tell him what happened between you, and accept his verdict and fatwa concerning your case.

This woman should understand that if she marries somebody else in this situation, then she will be committing an immoral deed, because she is still married to her first husband and has not become separated from him.

In that case, the fatwa of the person whom she asked will be of no benefit, even if he is a scholar, because he gave an answer concerning an abstract issue, without hearing both sides of the story.