

254304 - He said to his wife: “I divorce you” or “I am divorcing you”

the question

I want to know that my husband said me I divorce you. you are free and go to your parents but no one pay attention to it. did divorce happen. After six months he again said in anger I divorce you. you can marry to other one. did divorce happen.???there is no one is with me to support me please help me to tell the fact. i am too tention.

Detailed answer

Firstly:

Your husband's words: “I divorce you (or I am divorcing you), you are free, go to your parents” contain phrases that may or may not mean divorce.

His saying “I divorce you” or “I am divorcing you” is not a clear statement of divorce, because what may be meant is divorce in the future, in which case it comes under the heading of telling what he intends to do in the future, or it may come under the heading of warning and threatening. Divorce does not occur with the mere utterance of a threat, until he carries out what he said or threatened he would do, and actually does it.

It says in Zaad al-Mustaqni' (p. 178): The clear statement of divorce is when mentioning the word divorce (talaaq) and the like, and when it is not stated in an imperative form (a command) or in the future tense.

It says in al-Mutli' 'ala al-Mustaqni' (p. 314): The divorce does not take place by using the future tense or the imperative, because the future tense is a promise to do something, such as if one says “I am manumitting (a slave – referring to something that is going to take place in the future)” or “I am divorcing you”. And the imperative (or command) is not a statement and is not telling of something that happened, so that the one who utters it might be called to account for it. End quote.

But if his intention (when saying I am divorcing you) was to issue a divorce at that moment, then it does count as such. In other words, if his intention was divorce with immediate effect, then divorce has taken place.

Shaykh Ibn ‘Uthaymeen (may Allah have mercy on him) said: If what he meant was with immediate effect, then she is divorced, because the phrase could be applicable to the present or to the future. End quote from ash-Sharh al-Mumti‘ (13/61)

So the matter has to do with your husband; if he intended that divorce to take place with immediate effect, then it counts as such.

But if he was speaking of what he was going to do, or threatening to do it in the future, then it does not count as such until he actually does it.

This is according to English usage, but you should see how that is understood in your language, according to what past, present and future tenses mean in your language. As for his saying, “You are free, go to your family”, that may have been a metaphor for divorce, but it does not count as a divorce unless that was his intention. If he did not intend it, then it does not count as such.

If we assume that he did intend it as a divorce in the three phrases that he said the first time, then it only counts as one talaq. This is the view favoured by Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) and is the view regarded as more likely to be correct by Shaykh Ibn ‘Uthaymeen (may Allah have mercy on him).

Shaykh Ibn ‘Uthaymeen (may Allah have mercy on him) said: The more correct view is that there is no threefold divorce at all, unless in between he took you back or made a new marriage contract. Otherwise, it does not count as three talaqs. This was the view favoured by Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him), and it is the correct view.

End quote from ash-Sharh al-Mumti‘ (13/94).

Secondly:

The same may be said with regard to your husband's saying "I divorce you (or I am divorcing you); you can marry someone else."

If what he meant by that was a divorce with immediate effect, or he said something in your language to indicate the past, such as saying "I have divorced you" or "you are divorced", then this counts as a divorce.

But if he meant divorce in the future, then it does not count as a divorce until he actually divorces you.

If he meant it as a divorce, but that was in a state of extreme anger, and if he was not so angry he would not have uttered these words, then it does not count as a divorce, according to the more correct view. For a detailed discussion on cases of anger and how it affects the validity of the divorce, please see the answer to question no. [45174](#).

Even if we assume that he meant he wanted a divorce with immediate effect, and was not so angry that it made the divorce invalid, then if this was the first or second divorce, he has the right to take you back so long as your 'iddah has not ended. If your 'iddah has ended, then he cannot take you back except with a new marriage contract.

And Allah knows best.