

82622 - If he divorces her before consummation then marries her again, does she have two divorces left or three?

the question

Two years ago I did the marriage contract with a man, then we had an argument and he divorced me, and the consummation had not yet taken place but we had been alone together. Some time after that he came back and we got married with a new contract. Is this divorce regarded as one of the three talaqs? i.e., do I have two divorces left or three?.

Detailed answer

If a man divorces his wife and she does not marry anyone else, then he comes back and does the marriage contract with her again, then she goes back to him on the basis of whatever divorces are left for her, and there is no difference of scholarly opinion on this matter. If he divorced her once, she has two divorces left, whether that happened before or after consummation of the marriage, and whether he spent time alone with her or not.

But if he divorced her then she married someone else, then he divorced her and she went back to her first husband with a new marriage contract, there is some difference of scholarly opinion as to whether she goes back to him with three divorces or two. The majority of scholars are of the view that she goes back to him with whatever is left of the number of divorces.

Ibn Qudaamah (may Allaah have mercy on him) said in al-Mughni (7/388) that if a man divorces his wife and her 'iddah ends, then he marries her with a new contract, one of the following three scenarios must apply:

1 – He divorces her three times then she marries another man, then she leaves him and marries the first one again. In this case, she goes back to him with three divorces and there is no difference of scholarly opinion on this point.

2 – He divorces her once or twice (i.e., less than three,) then her 'iddah ends and he marries her again with a new contract. In this case, she goes back to him with the remaining number of

divorces and there is no difference of scholarly opinion on this point either.

3 – He divorces her once or twice then her ‘iddah ends and she marries someone else, then he leaves her and she marries the first husband again. With regard to this case, the scholars differed as to whether she goes back to him with three divorces or with whatever she had left of divorces. A number of the Sahaabah (such as ‘Umar, ‘Ali, Ubayy, Mu’aadh, Abu Hurayrah and ‘Imraan ibn Husayn – may Allaah be pleased with them) were of the view that she goes back to him with whatever she had left of divorces.

This view was followed by the majority of scholars (such as the three imams Maalik, al-Shaafa’i and Ahmad).

Abu Haneefah was of the view that she goes back to him with three divorces.

The second scenario mentioned by Ibn Qudaamah (may Allaah have mercy on him) is that which is asked about here. Based on that, you have only two divorces left.

We ask Allah to bless you and reconcile between you.

And Allaah knows best.