

99328 - He divorced her three times when he was away from her and the news reached her when she was menstruating

the question

I write to you today asking for your opinion in regards to my divorce. My husband and I separated and after two months of separation he said talaq: I am giving you divorce as God is my witness. I had been menstruating, so I told him it doesn't count so he said God saved you this time but be careful next time. After 3 months separation he sent me this email: I have divorced you in presence of witnesses. We are no longer married I had not been menstruating at this time. Then I started menstruating 2 days later and he sent me this in an email: As of now, Islamically you are a divorcee. As for idaat, I think you have already been in one for past 3 months. One more month to go and you can go and find someone for yourself. So then I was menstruating and I called him a day later begging him to come back and he said to me I already divorced you and I did it three times! and then I told him later I was menstruating and he said okay then next week I will give you three divorces again to make sure the marriage is over. Now it has been 2 weeks and he hasn't given me three divorces again. How many times does this count as me being divorced?.

Detailed answer

Firstly:

The fuqaha' differed concerning the divorce of a woman who is menstruating: does it count as such or not? The majority are of the view that it does count as such, but a number of them were of the view that it does not count as such. This is the view of many contemporary scholars such as Shaykh Ibn Baaz and Shaykh Ibn 'Uthaymeen (may Allaah have mercy on him). See also the answer to question no. [72417](#).

Based on this, the first divorce does not count as such.

Secondly:

If your husband divorced you when he was away from you, and sent you a message informing you of that, you should look at the time when he uttered the divorce. If you were pure (i.e., not menstruating) at that time, then the divorce counts as such, whether the message reached you when you were pure or were menstruating.

What we understand from your question is that the first message reached you when you were not menstruating, and the second message reached you when you were menstruating. The time when the message arrived does not affect the ruling; what counts is the time when he uttered the word of divorce.

Having the divorce witnessed is not essential. If he utters the word of divorce then divorce takes place, even if it is in your absence or no one else is present.

Thirdly:

The 'iddah begins as soon as the word of divorce is uttered. The 'iddah of a woman who menstruates is three menstrual cycles.

If he divorced you when you were not menstruating, then you menstruated three times, and the third period ended and you did ghusl, then your 'iddah is over.

Fourthly:

Your husband says that he divorced you three times. The fuqaha' differed concerning the threefold divorce. The most correct view is that it counts as one divorce, whether he uttered in one phrase such as saying "You are thrice divorced", or he uttered it in separate phrases, such as saying "You are divorced, you are divorced, you are divorced." This was the view favoured by Shaykh al-Islam Ibn Taymiyah (may Allaah have mercy on him) and was regarded as more correct by Shaykh al-Sa'di and Shaykh Ibn 'Uthaymeen (may Allaah have mercy on them).

Based on this, it seems from what you say that you have been divorced once.

However, we say that with regard to divorce, every case must be examined in detail. Hence you should refer your case to an Islamic centre in your country, to make sure of what has happened.

And Allaah knows best.