128751 - He swore that if his son married a particular woman he would to divorce his wife

the question

My husband swore an oath of divorce that if he heard that his son had done the marriage contract with a particular woman, he would divorce me. Please note that he swore similar oaths twice before that in different situations and this is the third time. He did indeed hear that his son had done the marriage contract with that woman, so he came back and told me that he was going to divorce me if he saw the marriage document. What is the Islamic ruling on that? Where do I stand with my husband?.

Detailed answer

Praise be to Allah.

If the husband swore to divorce his wife if he heard that his son had done the marriage contract with a particular woman, then he heard that, divorce does not take place, because the apparent meaning of what the husband said does not appear to suggest that divorce takes place as soon as he hears it; rather he has to issue the divorce himself after hearing that.

Based on this, these words of the husband are a threat to issue a divorce, and he may either go ahead with the divorce or not. If he does not go ahead with the divorce, then no divorce takes place just because of these words.

However, this applies if the husband said that he would divorce.

But if he said that if he heard this news, his wife would be divorced, then the ruling in this case is different from the first wording mentioned.

The majority of scholars are of the view that divorce would take place as soon as he hears that news, and there is no need for him to issue a divorce.

But some of the scholars are of the view that it depends on the husband's intention.

If he intended to threaten his son and scare him and prevent him from marrying this woman, and he did not intend to divorce his wife, then he has to offer expiation for breaking an oath (kafaarat yameen) and no divorce has taken place.

But if he intended that divorce should take place, then it counts as one talaaq as soon as he hears that news.

The husband has to fear Allaah and not transgress His sacred limits; he should avoid using words of divorce because of the rulings and consequences that result from that.

He should understand that issues of divorce should be referred to the sharee’ah court, especially in cases of disagreements and uncertainty as to the husband's intention when he spoke the words of divorce.

And Allah knows best.