

Dar-ul-Iftah Jummah Masjid

39, Royal Street, Port Louis, Mauritius

Tel/Fax : 242-7260

www.jummahmasjid.org

✉ jummahmsjid@intnet.mu

Assalaamu Alaykum Wr Wb

Sir, one of my family members was recently in Nikah; however, due to some unforeseen circumstances he had to give her talaq, the talaq was given as follows:

1. Two Talaq were given verbally;
2. One was given through a written letter (the letter was handed to her personally)

However, the name on the letter was written incorrectly, (for example, her name contained 'bibi' which was omitted in the letter and her surname contains 'baccus' but the name on the letter was written as 'bacus', the intention of the husband was to give the talaq.

There is a lot of discussion in our family on whether the 'talaq' is valid, can you please advise, thanking you in advance

باسمه تعالى

Praise is due to Allah who guided us to the righteous path, And Durood o Salaam Upon the Holy Prophet Muhammad "peace be upon him" and his Family and Companions.

In this Situation the 3rd Talaq is counted and the wife has come outside the Nikah and she is Haraam and unlawful for the husband.

In Holy Quraan it is mentioned:

الطلاق مرتان فامساك بمعروف او تسريح باحسان

The divorce is twice, after that, either you retain her on reasonable terms or release her with kindness.

(Surah Baqarah – Ayat No 229)

Through this verse, it is very clear that there is only two Talaq e Raj'ee طلاق رجعي (Talaq which you have chance to return). If someone gives his wife one or two Talaq, so in this situation he has the chance to return back to his wife which we call Ruj'oo رجوع.

And in case of three Talaq, the man will have no chance to return.

“Aw Tasreehum Bi Ihsaan” (او تسريح باحسان) this is the third Talaq mentioned in the Ayat. Related to a Hadith that someone asked the Holy Prophet “Sallaallahu Alayhi Wasallam”, where is the third Talaq here in this Ayat? The Holy Prophet “Sallaallahu Alayhi Wasallam” said: “Aw Tasreehum Bi Ihsaan” is the third.

Allama Qazi Muhammd Sanaullah Al Mazhari explained the verse as the following:

فاذا طلق ثلاثا لم تحله الا بعد نكاح زوج اخر

Whenever the three Talaq have been given so the wife will not be Halal until the procedure of Halaalah is being done.

(Mazhari – Vol 1 – Page 334)

In Shami it is stated:

ذهب جمهور الصحابة والتابعين ومن بعدهم من أئمة المسلمين إلى أنه يقع ثلاثا

The verdict of the majority of Sahaabas as Taabi'een and Tab'e Taabi'een and Ayimma e Muslimeen is that whenever three Talaq have been given so the three would be applicable.

(Shami – Vol 1 – Page 76)

Hazrat Ubaada bin Saamit “radiallahu anhu” reported that his father gave his wife 1000 Talaq and asked Huzoor “Sallallahu alaihi Wasallam” said that the three Talaq have been counted and you have disobeyed.

(Sharh e Niqaaya – Vol 2 - Page 28)

After three Talaq, the women will come out presently from the Nikah, and if ever the husband wants to take her back in his Nikah so there is only the one way which is the procedure of HALAALAH.

The woman will have to pass her “iddah” period, [3 months 10 days], then after she will have to get married with another one and remember that the consummation of Nikah is necessary, then the husband (second) will give her Talaq, then again she will have to pass the “iddah” period, now the first husband will be able to get married again.

Allah Almighty said:

فان طلقها فلا تحل له من بعد حتى تنكح زوجا غيره
فان طلقها فلا جناح عليهما ان يترجعا ان يرضاها ان يقيما حدود الله
وتلك حدود الله يبينها لقوم يعلمون

Then, if she is divorced for the third time, then that woman will not be lawful to him, until she lives (marries) with another husband. Then, if that second (husband) divorces her, then there is no sin on them they re-unite, provided they will now observe the limits of Allah. And these are the limits of Allah, which He makes clear for those who possess knowledge.

(Baqarah V 230)

1. For giving Talaq, it is not necessary to have witnesses, If the husband gives Talaq, so, at any way (there is any witness or no, the name was written incorrectly or not) positively the Talaq is counted.

2. It is mentioned in Hadith that in all permissible acts, only one act, Allah Almighty dislikes, this permissible act is Talaq, so it is not good to give Talaq unreasonable, but if the husband has given Talaq unreasonable, Talaq will be applicable.

May Allah guide us on the right path and show us his blessings.

Jazaakallah

Mufti Muhammad Ishaq Qadri Razvi

Director of Dar ul Iftha

Jummah Masjid