

225492 - If he said to his wife: “Go back to your father’s house,” does that count as a divorce (talaaq)?

the question

I had a misunderstanding with my wife last week and it got to the extent that she requested me to tell her that “I DIVOURCE YOU THRICE”. She continued telling me this repeatedly until I said to her that “PACK YOUR LOAD TO YOUR FAMILY HOUSE WHEN YOU GET BACK TO OUR COUNTRY”. We are both presently outside our country but she will return to our country on Wednesday. I actually did not know that implied (implicit) statement of divorce is equivalent to divorce before I made the statement. Furthermore, during the argument, I was repeating this statement but I can’t remember the number of times I told her. However, I am very sure it is more than once. I was not counting because I thought the statement of divorce in Islam has to be explicit like saying that “You are divorced”. I will also like to point it out that my wife is presently pregnant. I want to know whether there is divorce between us or not. And does she have to marry another person and get divorced before I can marry her again. I will appreciate if the answer is properly justified with Quran, Hadith or any other Islamic reference.

Detailed answer

Firstly:

We advise you to treat your wife kindly and to overlook some of the things that you dislike from her. The wise woman should also treat her husband in like manner, for the absence of love and compassion between the spouses, and failing to follow the example of the Prophet’s behaviour with his family or to give others their rights, and allowing anger to prevail, are causes that will turn family life into an unbearable hell. Rather relationships should be based on kindness, overlooking mistakes, remembering good qualities, and

knowing that the home and the family should be a place of stability and calm, so that the burdens of life will be easier to cope with.

The Prophet (blessings and peace of Allah be upon him) said: “The best of you is the one who is best to his wife, and I am the best of you to my wives.” Narrated by at-Tirmidhi (3895) and Ibn Maajah (1977); classed as saheeh by al-Albaani in Saheeh at-Tirmidhi.

And the Prophet (blessings and peace of Allah be upon him) said: “I instruct you to treat women well.” Narrated by al-Bukhaari (3331) and Muslim (1468).

Imam Muslim narrated in his Saheeh (1469) that Abu Hurayrah (may Allah be pleased with him) said: The Messenger of Allah (blessings and peace of Allah be upon him) said: “No believing man should hate a believing woman. If he dislikes one of her characteristics, he may be pleased with another.”

An-Nawawi (may Allah have mercy on him) said concerning the meaning of this hadith: He should not hate her, because if he finds in her a characteristics that he dislikes, he will find another that pleases him, such as if she is bad-tempered but is religiously committed, or beautiful, or chaste, or kind to him, and so on.

End quote from Sharh Muslim (10/58)

Secondly:

Your saying to your wife: “Pack your load to your family house when you get back to our country” and similar phrases that do not implicitly state divorce are called by the scholars “metaphors for divorce”, and a metaphor may be interpreted as referring to divorce or as referring to something else.

The ruling on such phrases is that it depends on the intention of the husband; if he intended (when uttering these words) to issue a divorce, then

his divorce counts as such, but if he had no such intention, then it does not count as such.

Shaykh Muhammad ibn ‘Uthaymeen (may Allah have mercy on him) said:

The correct view is that the metaphor does not count as a divorce unless it was intended as such, because a person may say (to his wife): “Get out” and the like, out of anger, with no intention of divorce at all; he only wants her to get out of his face until their anger cools off... Whatever the case, the correct view is that no divorce has occurred unless it was intended. End quote.

Ash-Sharh al-Mumti’

(13/76)

Based on that, so long as you did not intend divorce, no divorce occurred as a result of the words you mentioned.

And Allah knows best.