

3292 - He swore that if he did something, the first wife he married would be thrice-divorced

the question

Assalam-u-alaikum,

A close friend of mine is about to marry and is in difficulty because of a statement he had made some time ago. A few years ago when he was single, he swore that if he does a certain work which he hated, he gives three divorces on his first wife. He told me that he believes he did that work later on. At that time he was not engaged, nor did he know for sure who he was going to marry. Now its been a long time and he intends to marry a women, but isn't sure if his statement is going to make his marriage null or not. The brother realizes that he made a foolish statement and wants to know what to do. Jazakumullaho khair.

Wassalamu alaikum

Detailed answer

Imaam al-Bukhaari (may Allaah have mercy on him) said in his book al-Jaami al-Saheeh:

Chapter: there is no divorce before marriage. Allaah says (interpretation of the meaning): O you who believe! When you marry believing women, and then divorce them before you have sexual intercourse with them, no iddah have you to count in respect of them. So give them a present, and set them free, i.e., divorce in a handsome manner. [al-Ahzaab 33:49]. Ibn Abbaas said: Allaah made divorce after marriage.

Among the evidence that there is no divorce before marriage (nikaah) are the following reports:

The hadeeth of Abd-Allaah ibn Amr (may Allaah be pleased with him), who said: The Messenger of Allaah (peace and blessings of Allaah be upon him) said: There is no vow for the son of Adam with regard to that which he does not possess; there is no setting free of (a slave) whom he does not possess; there is no divorce of (a wife) whom he does not possess. (

Reported by al-Tirmidhi, who said: a saheeh hasan hadeeth).

The hadeeth of Abd-Allaah ibn Amr (may Allaah be pleased with him), who reported that the Messenger of Allaah (peace and blessings of Allaah be upon him) said: No divorce except of (the wife) whom you possess; no setting free except of (the slave) whom you possess, and no selling except of (the goods) that you possess. (

Reported by Abu Dawood; it is a hasan hadeeth).

The hadeeth of Ibn Makhramah from the Prophet (peace and blessings of Allaah be upon him), who said, No divorce before marriage, and no setting free before taking possession. (Reported by Ibn Maajah; it is a hasan hadeeth).

Ibn al-Qayyim (may Allaah have mercy on him) said: Abu Ubayd reported that Ali (may Allaah be pleased with him) was asked about a man who said, If I marry so-and-so, then she is divorced (straightaway). Ali said: There is no divorce except after taking possession.

It was also reported that Ali said: There is no divorce except after marriage even if he mentioned (the woman) by name.

This is the opinion of Aaishah, and also of al-Shaafai, Ahmad and Ishaq and their companions, and of Dawood and his companions, and of the majority of hadeeth scholars.

Among the evidence to support this opinion is the fact that when a man says, If I marry so-and-so then she is divorced, at the time when this suspended divorce is uttered, the woman is still ajnabiyyah (literally, a stranger, not his wife or mahram) to him, and the thing that comes later [i.e., marriage] takes precedence over whatever went before [i.e., the vow of divorce]. Nikaah (marriage) cannot be divorce. Similarly, if he said to a woman to whom he is not married yet, If you enter the house you will be divorced, then she entered the house after she became his wife, then she is not divorced. There is no dispute (among the scholars).

(Zaad al-Maaad, 5/217)

And Allaah knows best.