

355195 - He divorced her once each month, and he thought that he would be able to take her back within one month after the third talaq

the question

My husband and I fought and for four months we were not talking to each other. He had lots of anger issues and psychological problems but never asked for help. In the four months which started from first week of august, he gave me first talaq in first week of October as a written email. He was still not normal and had lots of anger and psychological issues. Then the second he gave in first week of November also as written email. The third he gave me in December as written email thinking that there is a month may be we will be back. We tried talking to sheikh near our mosque and he said that from his side talaq has happened. But he asked to ask a scholar as our case is difficult one. I want to go back to him and so does he. My question is did talaq happen even though he didnot know that there is no one month waiting period as he thought the iddah for each talaq is three months so third month finishes after he said his third talaq and that there was a month for us to be back. Please guide me to the right path.

Detailed answer

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Firstly:

Man taking his wife back after divorce (talaq)

If a man divorces his wife with a first or second talaaq, it is permissible for him to take her back so long as the 'iddah has not yet ended. The 'iddah of a woman who menstruates, if she is not pregnant, lasts for three menstrual cycles, so her 'iddah ends when she does ghusl following the third menstrual period.

In the case of a young woman who has not yet menstruated, or a postmenopausal woman, her 'iddah is three months.

The 'iddah of a pregnant woman lasts until she gives birth.

This applies to the first or second talaaq. In the case of the third talaaq, as soon as the man utters the words, he has no right to take her back after that.

Secondly:

Is it stipulated that he should divorce his wife three times in order for the divorce (talaaq) to count as such?

The man does not need to divorce his wife more than once in order to separate from her. Rather it is sufficient for him to issue a first divorce, then keep away from her until her 'iddah ends. At that point he has no right to take her back except with a new marriage contract, to which she gives her consent. This is called al-baynoonah as-sughra [minor divorce]. But if he has divorced her (talaaq) three times, he has no right to do a new marriage contract with her except after she has married someone else, then he [the second husband] dies or divorces her.

Thirdly:

Ruling on divorce (talaaq) during the 'iddah

There is a difference of scholarly opinion regarding divorce during the 'iddah. The majority of scholars are of the view that it counts as such, but Shaykh al-Islam Ibn Taymiyah and a number of other scholars were of the view that it does not count as such. This is the view that we follow on our website. Please see the answer to question no. [126549](#) .

According to the view of the majority, he has issued three divorces (talaaqs) to you, so you are not permissible for him except after you marry someone else, and his ignorance to which you referred is not regarded as an excuse.

However, according to the view of Shaykh al-Islam Ibn Taymiyah, if he issued the first talaaq to you, and did not take you back, then he divorced you a second time, the second does not count as such. If he divorced you a second time, and did not take you back, then he divorced you a third time, the third does not count as such, because the divorce (talaaq) does not count as such except after taking the wife back or after doing the marriage contract.

But if he divorced you the first time, then took you back, then divorced you a second time, in that case it does count as such. If he took you back after the second time, then divorced you a third time, the third talaaq counts as such.

Fourthly:

Divorce (talaaq) in writing

Divorce in writing, without uttering the word out loud, counts as such if there is the intention to divorce.

But if he utters the words – whether in your presence or absence – then it counts as such, even if there is no intention to divorce.

And Allah knows best.