

83613 - He divorced her in return for half of the mahr after he accused her. Does he have the right to this money?

the question

I am a religiously-committed young woman, praise be to Allaah. There was a problem between me and my husband – from whom I have a daughter –as the result of which I went to my father’s house. He had doubts about me and accused me with regard to my honour without any convincing reason, then he apologized, then he accused me again. That happened several times, which made me certain that he was afflicted with waswaas (whispers from the shaytaan). I could no longer bear it, so I went to my family. After I went to them, I stayed with them for four months, during which my husband only became more stubborn and insistent upon his position, without any proof or evidence against me. After that my brother went to him to try to work things out, but he insisted on his position, and asked me to repent, and the matter got worse. He spoke ill of my father and how he had raised me. At that point my brother and my father insisted that he should divorce me, otherwise they would refer our problem to the courts, and he would have to prove his accusations against me. My husband asked for half of the mahr in return for divorcing me, but after a while he divorced me without us giving him anything, and he kept quiet about that, and did not ask for the money again.

Now Allaah has compensated me with another husband who is religiously committed, praise be to Allaah. My second husband has pointed out to me that I may owe some money to my first husband. Because I am afraid of doing something haraam and consuming people’s wealth and taking away their rights, I hope that you can advise me with regard to this matter. Please note that I do not have this money, and I do not ask him for any expenses for his daughter, but he sends some to her sometimes, and sometimes he does not send her anything. Does he have any right to my wealth?

May Allaah reward you with good.

Detailed answer

For a

husband to slander his wife and accuse her with regard to her honour is a major sin, which incurs a hadd punishment and means that his testimony is to be rejected. He has to bring shar'i evidence to prove the accusation, or else engage in li'aan.

Ibn Qudaamah

(may Allaah have mercy on him) said:

If he

slanders his chaste wife then he is subject to the hadd punishment, and he is ruled to be a faasiq (evildoer) whose testimony is to be rejected, unless he brings proof or engages in li'aan. If he does not bring four witnesses or he refuses to engage in li'aan, then all of that applies to him. This is the view of Maalik and al-Shaafa'i.

This is

indicated by the verse in which Allaah, may He be exalted, says (interpretation of the meaning):

“And

those who accuse chaste women, and produce not four witnesses, flog them with eighty stripes, and reject their testimony forever. They indeed are the Faasiqoon (liars, rebellious, disobedient to Allaah)”

[al-Noor

24:4]

This is

general in meaning and applies to the husband and others. With regard to the husband in particular, his li'aan may take the place of testimony in order

to cancel out the hadd punishment, judgement of being a faasiq and rejection of his testimony.

Also, the

Prophet (peace and blessings of Allaah be upon him) said: “(Bring) proof, or else the hadd punishment will be on your back.” And he said when he conducted the process of li’aan: “The punishment in this world is easier to bear than punishment in the Hereafter.”

Because he

has slandered (his wife), the hadd punishment should be carried out on him if he admits to lying; therefore the hadd punishment is due unless he brings the proof required by sharee’ah, as is the case with any other man.

Al-Mughni

(9/30).

Based on

this, what the husband must do is fear Allaah with regard to himself and his wife, and he should refrain from bad talk. Speaking against his wife is an attack on his own honour. He must also declare himself to be a liar by asserting his wife’s innocence of what he has fabricated against her. If he does not do that, then he deserves what Allaah has decreed for those who do that, namely the hadd punishment, rejection of his testimony and being judged to be a faasiq, and she has the right to demand that he divorce her, and he should give her her rights in full.

Secondly:

Putting

pressure on one’s wife by making false accusations, annoying her and beating her in order to make her give up her mahr or any part of it is called al-’adl (treating the wife harshly in order to take away the dowry or part

of it), and it is haraam, unless she has committed blatant immorality. If the husband does that, he has no right to what his wife has given up, and he has to return it to her. If he refuses to divorce her, then she has the right to free herself from him and give up her mahr or more or less than that. If he is lying and is wronging her, then what he takes is evil and haraam, and if he is telling the truth then what he takes is permissible for him, so long as he has proven that which incurs the hadd punishment by means of four witnesses or li'aan. This applies if he has accused her openly; however, if he saw her commit an immoral deed and it is between him and his Lord, then he may put pressure on her so that she may give up part of her mahr in return for divorce.

Shaykh

al-Islam Ibn Taymiyah (may Allaah have mercy on him) was asked about a man who accused his wife of immorality; he did not see her do anything that is disapproved of in sharee'ah, but he claimed that he sent her to a wedding then he spied on her and did not find her at the wedding, but she denied that. Then he went to her guardians and told them what had happened, and they called her to respond to what her husband was saying, but she refused for fear of being beaten, and she went out to the house of her maternal uncle. Then after that the husband used this incident to deny her her rights and he claimed that she had gone out without his permission. Does that invalidate her rights, and should her denial be accepted?

He replied:

Allaah, may

He be exalted, says (interpretation of the meaning):

"O you

who believe! You are forbidden to inherit women against their will; and you should not treat them with harshness, that you may take away part of the

Mahr you have given them, unless they commit open illegal sexual intercourse”

[al-Nisa’
4:19]

So it is not permissible for a man to force his wife by putting pressure on her to make her give up part of the dowry, or to beat her for that purpose. But if she commits open illegal sexual intercourse then he has the right to put pressure on her to give up all or part of the dowry in return for divorce. This is with regard to that which is between a man and Allaah.

As for the family of the woman, they should find out the truth and help to establish it. If they find out that she is the one who has transgressed the sacred limits of Allaah and betrayed her husband, then she is the wrongdoer and transgressor and she should give up the dowry in return for divorce. If he says that he sent her to a wedding and she did not go to the wedding, then he should ask her where she went. If he is told that she went to some people about whom there is no suspicion, and those people confirm what she says, all well and good; if they say that she did not come to them and she did not go to the wedding, then there is something dubious and this supports what the husband is saying.

As for the furniture etc that she brought from her father’s house, he should give it back to her whatever the case, but if they reconcile then reconciliation is good.

If the woman repents, then it is permissible for her husband to keep her and there is

nothing wrong with that, for the one who repents from sin is like one who did not sin at all.

If they do

not agree for her to go back, then she can give up the dowry and the husband can let her go (khula'), because khula' is permissible according to the Book of Allaah and the Sunnah of His Messenger, as Allaah says (interpretation of the meaning):

“Then if

you fear that they would not be able to keep the limits ordained by Allaah, then there is no sin on either of them if she gives back (the Mahr or a part of it) for her Al-Khul' (divorce)”

[al-Baqarah 2:229]

Majmoo'

al-Fataawa (32/283, 284)

Thirdly:

It seems to

us that you owe him nothing, and that what he is demanding of half of the mahr is not his right according to sharee'ah. It seems that he has had second thoughts or that someone has told him about the ruling, so he did not persist in his demands. He may have given up half of the mahr in return for your looking after his daughter and spending on her.

Whatever the

case, he has not produced witnesses for what he has accused you of, and he has not engaged in li'aan, and he has not seen anything that would make him not a sinner between him and his Lord. All of this means that you are in the

right and he is not – according to what is said in your question – so he has no right to stipulate that he be given half of the mahr.

May Allaah

bless your new husband for you, whom Allaah has granted to you, and may He reward him with good for telling you to ask about the rights of your first husband. This is indicative of a good character and great religious commitment.

We ask

Allaah to grant him the best of rewards and to make him a good compensation for you and your daughter, and to bring you together in goodness and bless you with goodly offspring.

We ask

Allaah to guide your first husband to repent sincerely and to heal him if he is sick, and to compensate him with something better.

And Allaah

knows best.