

The Shar'iee ruling of divorce pronounced in anger

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The divorce pronounced in the state of anger is valid according to the majority of the scholars. There is one narration from the Hambalis that such a divorce is not valid.

Allamah Ainee Rahmatullahi Alayhi writes in his commentary of Sahih ul Bukhari -

As for divorce pronounced in anger, it is valid. According to one narration from the Hambalis it is not valid. (Umdat ul Qari Pg. 251, V20)

It is worth explaining at this stage that the narration mentioned above has not been narrated from the early Hambali scholars but from some later ones; as pointed out by Hafiz Ibn e Hajar Athqalaani Rahmatullahi Alayhi in Fathul Baari, commentary of Sahih ul Bukhari-Pg. 301, V9)

The later Hambali scholars have based their opinion on the explanation forwarded by Imaam Abu Dawood Rahmatullahi Alayhi of a word appearing in one Hadeeth - *Iglaaq*. Rasulullaah Sallallaahu alayhi wasallam is reported to have said that there is neither divorce nor Itaaq in *Iglaaq*.

Explaining this word Imaam Abu Dawood says, "*I think it means in anger.*" (Sunan Abu Dawood Pg.298, VI)

Most scholars have rejected this explanation on the basis that people normally divorce their wives in the state of anger. If divorce in anger was not regarded as valid then a person will say that I was angry at the time so my divorce is not valid. (Fathul Baari Pg. 301, V9)

Hadhrrat Maulana Khalil Ahmad Saharanpuri Rahmatullahi Alayhi says in his commentary on Abu Dawood that if such was the case then divorce would never take effect as people do not divorce until they are angry. (Bazlul Majhood Pg. 283, VIO)

Imam Bukhari Rahmatullahi Alayhi has prepared a heading in his Sahih - *Divorce in Iglaaq*. The two great commentators of Sahib ul Bukhari -

Hafiz Athqalaani and Hafiz Ainee Rahmatullahi Alayhima write that the purpose of this heading is to reject the opinion of those who say that divorce in anger is not valid. (Fathul Baari Pg.301, V9 and Umdatul Qaari Pg. 251, V20)

It should be noted at this point that although there is a narration from the later Hambali scholars about the invalidity of divorce in anger, this is not the Hambali view. On the contrary their view that is mentioned is that the divorce pronounced in anger without intention, using indirect words will also take effect. It follows that according to them, *that* divorce which is issued using direct words will definitely be valid.

Another evidence that divorce in anger is valid is that when a divorce is issued using indirect words the scholars use the condition of anger as evidence that indeed *divorce* was meant by those words.

Allamah Shami Rahmatullahi Alayhi, with reference to Allamah Ibn ul Qayyim Rahmatullahi Alayhi has mentioned three conditions of anger and the rules and regulations relating to them: -

The first condition is that the sense and intellect is not affected by the anger. The person knows what he is doing. There is no doubt about the validity of the divorce issued in this state. (Shami Pg.587, V2). Generally, anger is of this type.

The former Head Mufti of Darul uloom Deoband and the Grand Mufti of India Hadhrat Mufti Mahmood Hasan Gangohi Rahmatullahi Alayhi wrote in answer to a question: -

- Divorce is generally pronounced in anger, rarely in happiness; When a person says something in anger that has a bad consequence then he starts giving excuses that I was not in control, I lost my consciousness etc., whereas this is not the case. He does not lose his senses so that he does not know the meaning of the words of divorce, or that he cannot differentiate between the sky and the earth or he has to be sent to a mad house. He knows that the wife will suffer a lot due to divorce and the relationship will be severed, just as when he is angry with someone, he selects words which convey his displeasure. Therefore, in the case in question divorce is in force. (Fatawa Mahmoodiyah Pg.387, VJO)

Anger is generally such that it does not affect the senses and in this case divorce will be valid.

The second condition is that due to anger the person becomes mad so much so that he cannot even differentiate between the sky and the earth and is ignorant of his actions. Without doubt his divorce will not take effect. (Shami Pg.587, V2)

The third condition is in between the above two. There is a doubt regarding the validity of divorce in this condition but the preferred opinion is that divorce will come into effect. (Shami Pg.587, V2). Care is necessary in this case so that it does not lead to a haram act.

It is worth noting here that there is some explanation to the rule mentioned in condition two above about divorce not being valid if the anger leads to madness. If the person's condition of madness is famous then if he declares on oath that during the pronouncement of divorce, he was under this condition then the divorce will not be in effect. On the other hand, if his condition is not well known then if two trustworthy males or one trustworthy male and two trustworthy females testify that during the pronouncement of divorce, he was under this condition then the divorce will not be in effect. If the above conditions are not satisfied then divorce will be regarded as valid.

Recently it has been insinuated that the Ulama e Deoband do not regard divorce in anger to be valid. This is incorrect, as the Ulama e Deoband *do* regard the divorce issued in anger (so long as it did not reach the state of madness) to be valid. The ruling in this regard of Mufti Gangohi Rahmatullahi Alayhi - the former Head Mufti of Darul uloom Deoband has already been mentioned above.

Some people say that due to the current ignorance and un-islamic conditions prevailing amongst the people, it will be doing a favour to the ummah by not validating divorce in anger. The answer to this is that this is tantamount to correcting the Shariah instead of the people. If the masses are ignorant of the Shariah then they should be corrected, not the Shariah.

Verily Allah knows the best

