

Islam Question & Answer

General Supervisor:
Shaykh Muhammad Saalih al-Munajjid

195336 - Her husband's family told her that he had divorced her but she did not hear that from her husband, and he did not write any divorce paper for her

the question

Before our marriage, my husband was involved with another married women, because of her, he divorced me, he didnt announce divorce to me, neither send me divorce deed, but his family said he has divorced me,they are still not providing the divorce paper, am i still in his nikah, or an irrevocable divorce has taken place in my situation.

Detailed answer

Praise be to Allah.

Firstly:

If the husband says to someone else, "Tell my wife that she is divorced," then divorce takes place as soon as he says that. It says in al-Mabsoot by as-Sarkhasi (6/141): If he says to someone else, "Tell my wife that she is divorced," then she is divorced whether he tells her about that or not. End quote.

In al-Muheet al-Burhaani fi'l-Fiqh an-Nu'maani (3/210) it says: If he says to another man, "Tell my wife she is divorced," then she is divorced as soon as he says that, whether the other man tells her or not. End quote.

In al-Mudawwanah (2/78) it says: What do you think if a man says to another man, "Tell my wife she is divorced"; when does the divorce take place? Is it on the day he tells her or on the day he told him to tell her? He said: According to the view of Maalik, the divorce takes place on the day he

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told him to tell her. I said: What if he does not tell her? He said: The divorce still counts as such according to the view of Maalik, even if he did not tell her, because Maalik said, concerning a man who sent an envoy to his wife to tell her that he had divorced her, but the envoy withheld that news: It does not matter; the divorce is still binding. End quote.

Secondly:

With regard to the wife, if two men of good character told her that her husband had divorced her, then she must observe 'iddah on the basis of their testimony. If they told her that he had issued a first or second talaaq (divorce), then she must count that among the number of divorces. If they told her that he had issued a third (and final) talaaq, then she must keep away from him and leave him.

As-Sarkhasi al-Hanafi said: If two men of good character testify in a woman's presence that her husband has divorced three times, and he denies that, then they die or disappear before they can give testimony to that effect before the judge, then the woman cannot stay with him, and it is the same as if she had heard him divorce her three times, because if they had given this testimony before the judge, he would have ruled that she is forbidden him. The same applies if they gave that testimony in her presence.

End quote from al-Mabsoot (10/183).

In al-Bahr ar-Raa'iq by Ibn Nujaym al-Hanafi (4/141) it says: If two men testify in her presence that he (the husband) divorced her, then she has no right to let him be intimate with her, but if only one person tells her that, then she has no right to refuse intimacy. End quote.

In the same book (4/141) it also says: ... If a woman is informed of divorce by two men of good character, it is forbidden for her to let him be intimate with her; their testimony alone is sufficient, with no need for a court ruling. End quote.

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Some of the fuqaha' are of the view that if one man of good character tells her that, she should observe 'iddah on the basis of what he says, unlike the case if the one who tells her is not of good character. It says in Qurrat 'Ayn al-Akhyaar li Takmilat Radd al-Muhtaar (7/511): If a man of good character tells her that her husband has died or has divorced her thrice, then she may remarry. But if an individual of bad character tells her that, she should double check. End quote.

But what appears to be the case is that these fuqaha' were speaking of such news being brought by one trustworthy individual on his own in the case of the husband's absence. It says in al-Fataawa al-Hindiyyah (5/312): If a man is absent from his wife, then a Muslim of good character comes to her and tells her that her husband has divorced her thrice or has died, then she may observe 'iddah and marry someone else. But if the one who tells her that is not of good character, then she should double check. End quote.

In al-Mabsootah by as-Sarkhasi (10/179) it says: Based on that, if a woman's husband is absent and a trustworthy Muslim tells her that her husband has divorced her thrice or has died, or if he is not trustworthy but he brings her a letter from her husband telling her that she is divorced, and she does not know whether he wrote it or not, but she thinks it most likely that it is true, then there is nothing wrong with her observing 'iddah and remarrying. End quote.

Whatever the case, you can check with your husband about something that his family told you of. If the husband confirms that the divorce has indeed taken place, then you will be certain and your doubt will be dispelled. If the husband denies it and the one who told you is of good character, then in that case you have to refer the matter to the Islamic judge (qaadi) to decide about this difference. It should be noted that divorce does not become finally irrevocable except in the case of the third talaaq; in the case of the first and second talaaq, it is still revocable. Before consummation of the marriage and being truly alone with the husband, any talaaq is revocable; it is also revocable if the husband issues a revocable divorce and the 'iddah comes to an end without him having taken her back, as we have explained in fatwas no. [118557](#) and [46561](#).

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And Allah knows best.