

with her seven nights, and thereafter divide the time between them (equally). And if he marries a formerly married woman he should spend with her three nights and thereafter divide the time between his wives (equally). [Agreed upon; the wording is Al-Bukhāri's].

908. Narrated Umm Salama (رضي الله عنها): When the Prophet (ﷺ) married her he stayed with her for three nights and said, "You are not being humbled in my estimation. If you wish I shall stay with you for seven nights, and if I stay with you for seven nights I shall do the same with my other wives." [Reported by Muslim].

909. Narrated 'Aisha (رضي الله عنها): Sauda (رضي الله عنها) daughter of Zam'a gave away^[1] her day to 'Aisha (رضي الله عنها). So the Prophet (ﷺ) allotted a share to 'Aisha (رضي الله عنها) of her day and Sauda's. [Agreed upon].

910. Narrated 'Urwa (رضي الله عنها): 'Aisha (رضي الله عنها) said, "O My nephew, Allāh's Messenger (ﷺ) would not prefer some of us over others regarding the division of the time he would spend with us. It was very rare that he would not visit us all, and come near each of his wives without having intercourse with her, till he reached the one whose day^[2] it was, and spent the night with her." [Reported by Ahmad and Abū Dā'ud, the wording is Abū Dā'ud's. Al-Hākim graded it *Sahib* (authentic)].

Muslim reported 'Aisha (رضي الله عنها) as saying: "When Allāh's Messenger (ﷺ) offered the 'Asr (afternoon) prayer, he would visit his wives in turn, then come close to

النَّبِيِّ، أَقَامَ عِنْدَهَا سَبْعًا، ثُمَّ قَسَمَ، وَإِذَا تَزَوَّجَ النَّبِيُّ، أَقَامَ عِنْدَهَا ثَلَاثًا، ثُمَّ قَسَمَ." مُتَّفَقٌ عَلَيْهِ، وَاللَّفْظُ لِلْبُخَارِيِّ.

(٩٠٨) وَعَنْ أُمِّ سَلَمَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهَا، أَنَّ النَّبِيَّ ﷺ لَمَّا تَزَوَّجَهَا، أَقَامَ عِنْدَهَا ثَلَاثًا، وَقَالَ: «إِنَّهُ لَيْسَ بِكَ عَلَيَّ أَهْلِكَ هَوَانٌ، إِنْ شِئْتَ سَبَعْتُ لَكَ، وَإِنْ سَبَعْتُ لَكَ سَبَعْتُ لِنِسَائِي». رَوَاهُ مُسْلِمٌ.

(٩٠٩) وَعَنْ عَائِشَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهَا، أَنَّ سُودَةَ بِنْتُ زَمْعَةَ وَهَبَتْ يَوْمَهَا لِعَائِشَةَ، وَكَانَ النَّبِيُّ ﷺ يَقْسِمُ لِعَائِشَةَ يَوْمَهَا وَيَوْمَ سُودَةَ. مُتَّفَقٌ عَلَيْهِ.

(٩١٠) وَعَنْ عُرْوَةَ قَالَتْ: قَالَ: قَالَتْ عَائِشَةُ رَضِيَ اللَّهُ تَعَالَى عَنْهَا: يَا ابْنَ أُخْتِي، كَانَ رَسُولُ اللَّهِ ﷺ لَا يَفْضُلُ بَعْضَنَا عَلَى بَعْضٍ فِي الْقِسْمِ، مِنْ مَكْنِيهِ عِنْدَنَا وَكَانَ قَلَّ يَوْمٌ إِلَّا وَهُوَ يَطُوفُ عَلَيْنَا جَمِيعًا، فَيَدْنُو مِنْ كُلِّ أَمْرَأَةٍ، مِنْ غَيْرِ مَسِيَسٍ، حَتَّى يَبْلُغَ النَّبِيَّ هُوَ يَوْمُهَا، فَيَبِيتُ عِنْدَهَا. رَوَاهُ أَحْمَدُ وَأَبُو دَاوُدَ، وَاللَّفْظُ لَهُ، وَصَحَّحَهُ الْحَاكِمُ.

وَلِمُسْلِمٍ عَنْ عَائِشَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهَا قَالَتْ: كَانَ رَسُولُ اللَّهِ ﷺ إِذَا صَلَّى الْعَصْرَ دَارَ عَلَيَّ نِسَائِهِ، ثُمَّ يَدْنُو مِنْهُنَّ. الْحَدِيثُ.

[1] It means that if a woman makes a voluntary decrease in her maintenance allowance or in her turn (for night stay), it is lawful and the man is not to be blamed for it. However, she reserves the right to reclaim her right at anytime.

[2] Here 'turn' means night stay. Otherwise, one is allowed to talk to the other wives and go to their houses.

them (to kiss or hug them).” [The narrator reported the rest of the *Hadith*].

911. Narrated ‘Aisha ؓ: During the illness of which Allāh’s Messenger ﷺ died, he was asking, “Where shall I be tomorrow?”^[1] He desired that it would be ‘Aisha’s day. His wives therefore permitted him to stay where he wished, and he stayed in ‘Aisha’s house. [Agreed upon].

(٩١١) وَعَنْ عَائِشَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهَا، أَنَّ رَسُولَ اللَّهِ ﷺ كَانَ يُسْأَلُ فِي مَرَضِهِ الَّذِي مَاتَ فِيهِ: أَيُّنَ أَنَا عَدَا؟ يُرِيدُ يَوْمَ عَائِشَةَ، فَأُذِنَ لَهُ أَزْوَاجُهُ، يَكُونُ حَيْثُ شَاءَ، فَكَانَ فِي بَيْتِ عَائِشَةَ. مُتَّفَقٌ عَلَيْهِ.

912. Narrated (‘Aisha) ؓ: When Allāh’s Messenger ﷺ intended to go on a journey, he cast lots among his wives. Then, he would take with him the one who was chosen by the lot.^[2] [Agreed upon].

(٩١٢) وَعَنْهَا قَالَتْ: كَانَ رَسُولُ اللَّهِ ﷺ إِذَا أَرَادَ سَفْرًا أَفْرَعَ بَيْنَ نِسَائِهِ، فَأَتَيْتُهُنَّ خَرَجَ سَهْمُهَا، خَرَجَ بِهَا مَعَهُ. مُتَّفَقٌ عَلَيْهِ.

913. Narrated ‘Abdullāh bin Zam‘a^[3] ؓ: Allāh’s Messenger ﷺ said, “None of you should whip his wife like the whipping of a slave.”^[4] [Reported by Al-Bukhārī].

(٩١٣) وَعَنْ عَبْدِ اللَّهِ بْنِ زَمْعَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهُ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «لَا يَجْلِدُ أَحَدُكُمْ امْرَأَتَهُ جَلْدَ الْعَبْدِ». رَوَاهُ الْبُخَارِيُّ.

Chapter 6 AL-KHUL^[5]

٧ - بَابُ الْخُلْعِ

(SEPARATING FROM A WIFE FOR A COMPENSATION)

914. Narrated Ibn ‘Abbās ؓ: The wife of

(٩١٤) عَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ تَعَالَى

^[1] It means that during illness, mere intention of permanent stay with one of the wives is not an offense. It also means that with the permission of the other wives, one can stay with one of them. The illness of the Prophet ﷺ began at the house of Maimuna ؓ.

^[2] The one whose name came up in the draw was to accompany the Prophet ﷺ in the journey. The days spent during a journey were not accounted for in turns. The wives are also allowed to agree on one without drawing lots.

^[3] He is ‘Abdullāh bin Zam‘a bin Al-Aswad bin ‘Abdul-Muttalib bin Asad bin ‘Abdul-Uzza Al-Asadi, the brother of *Ummul-Mu‘minin* Sauda bint Zam‘a ؓ. He was a famous *Sabābi* considered to be among the residents of Al-Madinah. He was martyred during the day of Ad-Dār.

^[4] It is strictly forbidden to beat the woman except for one violation, and that is in the case of illegal sexual relations. It is not allowed to hit her on face or to beat her so severely that would break a bone, in which case one will have to bear the penalty.

^[5] *Kbul* (الخلع) means to take off the clothes. According to *Shari‘a* terminology *Kbul* means the woman’s right of cancellation of her marriage. She has the right to cancel her marriage after returning the dowry (*Mabr*). The man can divorce if he has a genuine reason. Similarly, a woman can also have *Kbul* – after returning the dowry – if she has a genuine excuse.

Thābit bin Qais^[1] came to the Prophet ﷺ and said, “O Allāh’s Messenger, I do not find fault with Thābit bin Qais (ﷺ) in respect of character or religion, but I dislike (and fear) that I might commit an act of *Kufr fil-Islam* (that which is contradictory to Islamic behavior).” Allāh’s Messenger ﷺ asked her, “Will you give him back his garden?” And she replied, “Yes,” so Allāh’s Messenger ﷺ said to him, “Accept the garden and divorce her, with one pronouncement (of divorce).” [Reported by Al-Bukhāri]. Another narration by him has: “He commanded him to divorce her.”

Abū Dā’ud and At-Tirmidhi reported this *Hadīth* and the later graded it *Hasan* (good): “The wife of Thābit bin Qais got a divorce from him in return for a compensation (paid by her), and the Prophet ﷺ made her *Iddah* (period of waiting before re-marrying) one menstruation course.”

Ibn Mājah reported the narration of ‘Amr bin Shu’aib, on his father’s authority, from his grandfather: “Thābit bin Qais was very unattractive and his wife said, ‘Were it not for fear of Allāh, when he entered my presence I would spit in his face.’”

Ahmad reported from Sahl bin Abū Hathma’s *Hadīth* that it was the first ever husband and wife separation for compensation in Islam.

عَنْهَا، أَنَّ أُمَّرَأَةَ ثَابِتِ بْنِ قَيْسِ أَنْتِ النَّبِيِّ ﷺ، فَقَالَتْ: يَا رَسُولَ اللَّهِ! ثَابِتُ بْنُ قَيْسٍ مَا أَعِيبَ عَلَيْهِ فِي خُلُقِهِ وَلَا دِينِهِ، وَلَكِنِّي أَكْرَهُ الْكُفْرَ فِي الْإِسْلَامِ، فَقَالَ رَسُولُ اللَّهِ ﷺ: «أَتُرَدِّينَ عَلَيْهِ حَدِيثَهُ؟» فَقَالَتْ: نَعَمْ، فَقَالَ رَسُولُ اللَّهِ ﷺ: «اقْبَلِ الْحَدِيثَ وَطَلِّقِيهَا تَطْلِيقَةً». رَوَاهُ الْحَارِثِيُّ. وَفِي رِوَايَةٍ لَهُ: «وَأَمَرَهُ بِطَلَّاقِهَا».

وَلِأَبِي دَاوُدَ وَالتِّرْمِذِيِّ - وَحَسَنَهُ - : أَنَّ أُمَّرَأَةَ ثَابِتِ بْنِ قَيْسٍ اسْتَلْعَتْ مِنْهُ، فَجَعَلَ النَّبِيُّ ﷺ عِدَّتَهَا حَيْضَةً.

وَفِي رِوَايَةٍ عَمْرُو بْنِ شُعَيْبٍ. عَنْ أَبِيهِ، عَنْ جَدِّهِ. عِنْدَ ابْنِ مَاجَةَ: أَنَّ ثَابِتَ بْنَ قَيْسٍ كَانَ دَمِيمًا، وَأَنَّ أُمَّرَأَتَهُ قَالَتْ: لَوْلَا مَخَافَةُ اللَّهِ إِذَا دَخَلَ عَلَيَّ لَبَصَفْتُ فِي وَجْهِهِ.

وَلِأَحْمَدَ مِنْ حَدِيثِ سَهْلِ بْنِ أَبِي حَنَمَةَ: «وَكَانَ ذَلِكَ أَوَّلَ خُلْعٍ فِي الْإِسْلَامِ».

According to some scholars *Kbul'* is divorce, while others consider *Kbul'* as cancellation of marriage. There is a difference of opinion about taking back more than the original dowry. However, it seems reasonable that the man take back only that amount which was originally give to the woman as dowry, without any demand for more.

[1] Thābit bin Qais Al-Ansāri Al-Khazraji was among the elder *Sabāba* and was the spokesman of *Al-Ansār* and Allāh’s Messenger ﷺ. He witnessed Uhud and the battles that followed it. The Prophet ﷺ confirmed that he will enter the *Jannab* and he was martyred during the battle of Al-Yamama in 12 H.

Chapter 7 AT-TALĀQ (DIVORCE)

٧ - بَابُ الطَّلَاقِ

915. Narrated Ibn 'Umar ؓ: Allāh's Messenger ﷺ said, "The lawful thing which Allāh hates most is divorce."^[1]
[Reported by Abū Dā'ud and Ibn Mājah, Al-Hākim graded it *Sabih* (authentic), while Abū Hātim held that the stronger view is that it is *Mursal* (missing link after the *Tābi'i*)].

(٩١٥) عَنْ ابْنِ عُمَرَ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «أَبْغَضُ الْحَلَالِ إِلَى اللَّهِ الطَّلَاقَ». رَوَاهُ أَبُو دَاوُدَ وَابْنُ مَاجَةَ، وَصَحَّحَهُ الْحَاكِمُ، وَرَوَّجَعَ أَبُو حَاتِمٍ إِزْسَالَهُ.

916. Narrated Ibn 'Umar ؓ: In the time of Allāh's Messenger ﷺ, he divorced his wife while she was menstruating, so 'Umar asked Allāh's Messenger ﷺ about that and he replied, "Command him to take her back and keep her till she is purified (from menses), has another period, and is then purified. If he then wishes he may keep her and if he wishes he may divorce her before having intercourse with her. That is the *'iddab* (period of waiting) which Allāh commanded for the divorce of women."^[2] [Agreed upon].

(٩١٦) وَعَنْ ابْنِ عُمَرَ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا، أَنَّهُ طَلَّقَ امْرَأَتَهُ، وَهِيَ حَائِضٌ، فِي عَهْدِ رَسُولِ اللَّهِ ﷺ، فَسَأَلَ عُمَرُ رَضِيَ اللَّهُ تَعَالَى عَنْهُ رَسُولَ اللَّهِ ﷺ عَنْ ذَلِكَ، فَقَالَ: «مُرُّهُ، فَلْيُرَاجِعْهَا، ثُمَّ لْيَمْسِكْهَا حَتَّى تَطْهَرَ، ثُمَّ تَحِيضَ، ثُمَّ تَطْهَرَ، ثُمَّ إِنْ شَاءَ أَمْسَكَ بَعْدَ، وَإِنْ شَاءَ طَلَّقَ قَبْلَ أَنْ يَمْسَرَ، فَيَلِكَ الْعِدَّةُ الَّتِي أَمَرَ اللَّهُ أَنْ تُطَلَّقَ لَهَا النِّسَاءُ». مَتَّفَقَ عَلَيْهِ.

A narration by Muslim has: "Command him to take her back, then divorce her when she is pure from the menstrual discharge, or pregnant."

وَفِي رِوَايَةٍ لِمُسْلِمٍ: «مُرُّهُ فَلْيُرَاجِعْهَا، ثُمَّ لْيُطَلِّقْهَا طَاهِرًا أَوْ حَامِلًا».

Another narration by Al-Bukhārī has: "It was regarded as one divorce."

وَفِي رِوَايَةٍ أُخْرَى لِلْبُخَارِيِّ: «وَحَسِبْتُ تَطْلِيقَةً».

[1] This *Hadīth* contains many points [if it were proven to be authentic]. That all *Halāl* (legal and lawful) things are not dear to Allāh, i.e. there are some legal things which are though legal but not liked by Allāh. Divorce is among the things which are *Halāl* but it is not always good. It is *Halāl* because sometimes the situation is so complicated that man is compelled to divorce. In such situation, it is acceptable, if there is no other way out. Divorce is bad, because it is a cause of enmity and also a cause of Satan's delight. *Talāq* (divorce) means to set free and according to *Shari'a*, *Talāq* is to free the woman from the bond of marriage.

[2] This *Hadīth* also makes clear many points: 1) It is prohibited to divorce during menstruation period. 2) Without the consent of woman, man can withdraw his decision. 3) It is *Bid'ab* (innovation) to divorce a woman in the state of *Tubr* (period of purification after menses) in which sexual intercourse is carried out, just as it is to divorce during menses. There are four kinds of divorce, out of which two are lawful and two are unlawful: To divorce during pregnancy or in the state of *Tubr* in which sexual intercourse is not carried out are

A narration of Muslim has: "Ibn 'Umar (رضي الله عنه) said, 'If you had only made one or two pronouncements of divorce [it would have been better]. Indeed Allāh's Messenger ﷺ commanded me to take her back, then keep her till she has another period, then give her a reprieve till she is purified, then divorce her before having intercourse with her. As for you, you have divorced her with three pronouncements (at once), and have therefore disobeyed your *Rabb* [your Lord, the Creator] concerning what He commanded you regarding the divorce of your wife.' "

وَفِي رِوَايَةٍ لِمُسْلِمٍ: قَالَ ابْنُ عُمَرَ: أَمَا أَنْتَ طَلَّقْتَهَا وَاحِدَةً أَوْ اثْنَتَيْنِ فَإِنَّ رَسُولَ اللَّهِ ﷺ أَمَرَنِي أَنْ أُرَاجِعَهَا، ثُمَّ أُمْسِكَهَا حَتَّى تَحِيضَ حِيضَةً أُخْرَى، ثُمَّ أُمْهَلَهَا حَتَّى تَطْهُرَ، ثُمَّ أُطَلِّقَهَا قَبْلَ أَنْ أُمْسَهَا، وَأَمَا أَنْتَ طَلَّقْتَهَا ثَلَاثًا، فَقَدْ عَصَيْتَ رَبَّكَ فِيمَا أَمَرَكَ بِهِ مِنْ طَلَاقِ امْرَأَتِكَ.

Another narration [of Muslim] has: "Abdullāh bin 'Umar (رضي الله عنه) said, 'So he returned her to me and did not regard it as anything, and said: When she is purified, either divorce her or keep her.' "

وَفِي رِوَايَةٍ أُخْرَى: قَالَ عَبْدُ اللَّهِ بْنُ عُمَرَ: فَرَدَّهَا عَلَيَّ، وَلَمْ يَرَهَا شَيْئًا، وَقَالَ: إِذَا طَهَّرْتُ فَلْيُطَلِّقْ، أَوْ لِيُمْسِكْ.

917. Narrated Ibn 'Abbās (رضي الله عنه): In the time of Allāh's Messenger ﷺ, Abū Bakr (رضي الله عنه) and the first two years of the caliphate of 'Umar (رضي الله عنه), the three pronouncements of divorce were regarded as one divorce.^[1] So 'Umar said, "People have made haste in an

(٩١٧) وَعَنِ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا، قَالَ: كَانَ الطَّلَاقُ عَلَى عَهْدِ رَسُولِ اللَّهِ ﷺ، وَأَبِي بَكْرٍ، وَسَتَيْنِ مِنْ خِلَافَةِ عُمَرَ، طَلَاقُ الثَّلَاثِ وَاحِدَةً، فَقَالَ عُمَرُ: إِنَّ النَّاسَ قَدِ اسْتَعْجَلُوا فِي أَمْرِ كَانَتْ لَهُمْ فِيهِ آثَاءٌ، فَلَوْ

lawful, while to divorce during menses and in the *Tubr* in which sexual intercourse is carried out are unlawful. From another point of view there are three kinds of divorce: These are: (i) *Absan*, (ii) *Hasan* and (iii) *Bid'a*. *Absan* is to divorce once during pregnancy or *Tubr* period and let the *'Iddah* pass away. (*'Iddah* is a prescribed period of waiting, during which a divorced or widowed woman can not remarry. It varies according to different circumstances). *Hasan* is to divorce three times, in three separate periods of *Tubr*. Up to two divorces or two *Tubr*, one can cancel the divorce. However, after the third pronouncement of divorce he can neither cancel the divorce nor remarry her without her marriage to someone else, consummation, and then being divorced again or becoming a widow. *Bid'a* is to divorce two or three times in one sitting. Most of the scholars are of the opinion that divorce pronounced during menses will be counted, though in this case revoking it is obligatory.

[1] What is the legal status of three divorces given together at a time? There is difference of opinion on this issue among the scholars. 1) First opinion is that three divorces given together at a time are nothing and have no legal status at all. 2) Second opinion is that three divorces given together at a time are counted, and the woman is divorced. 3) Third opinion is that this is only one divorce. 4) Fourth opinion is that if the woman has carried out the sexual intercourse, then three will count, and if she has not carried out sexual intercourse, then only one will happen. Among these different views the third is stronger and more

affair which they are required to take slowly. What if we execute it on them.” So, he executed it on them. [Reported by Muslim].

أَمْضَيْنَاهُ عَلَيْهِمْ. فَأَمْضَاهُ عَلَيْهِمْ. رَوَاهُ مُسْلِمٌ.

918. Narrated Mahmūd bin Labid^[1] ﷺ: When Allāh’s Messenger ﷺ was informed about a man who had divorced his wife with all the three pronouncements (without any interval between them), he stood up in anger and said, “Is Allāh’s Book being played with while I am among you?” As a result a man got up and said, “O Allāh’s Messenger, shall I kill him?” [Reported by An-Nasā’i; its narrators are reliable (*tbiqab*)].

(٩١٨) وَعَنْ مَحْمُودِ بْنِ لَبِيدِ رَضِيَ اللَّهُ تَعَالَى عَنْهُ، قَالَ: أُخْبِرَ رَسُولُ اللَّهِ ﷺ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ ثَلَاثَ تَطْلِيقَاتٍ جَمِيعًا، فَقَامَ غَضَبَانِ، ثُمَّ قَالَ: أَلَيْعُبُ بِكِتَابِ اللَّهِ، وَأَنَا بَيْنَ أَطْهَرِكُمْ؟ حَتَّى قَامَ رَجُلٌ، فَقَالَ: يَا رَسُولَ اللَّهِ! أَلَا أَقْتُلُهُ. رَوَاهُ النَّسَائِيُّ، وَرَوَاهُ مُوْتَقُونَ.

919. Narrated Ibn ‘Abbās ﷺ: Abū Rukāna^[2] divorced Umm Rukāna. So Allāh’s Messenger ﷺ told him, “Take your wife back.” And he replied, “I have divorced her with three pronouncements.” He said, “I have understood, take her back.” [Reported by Abū Dā’ud].

(٩١٩) وَعَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا، قَالَ: طَلَّقَ أَبُو رُكَّانَةَ، فَقَالَ لَهُ رَسُولُ اللَّهِ ﷺ: «رَاجِعْ امْرَأَتَكَ». فَقَالَ: إِنِّي طَلَّقْتُهَا ثَلَاثًا، قَالَ: «قَدْ عَلِمْتُ، رَاجِعْهَا». رَوَاهُ أَبُو دَاوُدَ.

A wording by Ahmad has: Abū Rukāna divorced his wife with three pronouncements in one sitting. Then, he was grieved about her and Allāh’s Messenger ﷺ told him, “They (the three pronouncements) are reckoned as a single (utterance of divorce).” [The

وَفِي لَفْظٍ لِأَحْمَدَ: طَلَّقَ أَبُو رُكَّانَةَ امْرَأَتَهُ فِي مَجْلِسٍ وَاحِدٍ ثَلَاثًا، فَحَزِنَ عَلَيْهَا، فَقَالَ لَهُ رَسُولُ اللَّهِ ﷺ: «فَأِنَّهَا وَاحِدَةٌ». وَفِي سَنَدِهَا ابْنُ إِسْحَاقَ، وَفِيهِ مَقَالٌ.

reasonable. The same was customary in the time of the Prophet ﷺ, therefore, Abu Rukāna was ordered by the Prophet ﷺ to return his wife after giving three divorces together. If the three divorces had counted, the Prophet ﷺ would not have ordered him to return his wife. This mode of divorce is also logically understandable. For three divorces, the Prophet ﷺ fixed the period of three months.

[1] He is Mahmūd bin Labid bin Abū Rāfi’ Al-Ansāri Al-Ashhali. He was born during the lifetime of (the Prophet ﷺ). Al-Bukhāri said, “He attained the companionship of the Prophet ﷺ”, but Abū Hātim said that his Companionship is unknown, and Muslim counted him among the *Tabi’in*. He was among the *‘Ulamā* and he died in the year 96 H.

[2] Abū Rukāna bin ‘Abd Yazid bin Hāshim bin ‘Al-Muttalib bin Abd Munāf Al-Muttalibi was among those who became Muslims during the conquest of Makkah. It is said that he wrestled with the Prophet ﷺ who beat him and that was the cause of his Islam. He settled at Al-Madīnah and died there at the beginning of Mu’āwiya’s Caliphate. It is also said that he died during his caliphate. It is also said that he died in the year 41. His wife was Suhaima, daughter of ‘Uwaimir Al-Muzaniya.

two *Abadīth* have Ibn Ishāq^[1], in their chains of narrators, and his reliability has been questioned].

Abū Dā'ud have reported (a *Hadīth*) better than the aforesaid one through another chain, it has: "Abu Rukāna divorced his wife Suhaima irrevocably and said, 'I swear by Allāh that I meant it to be only a single utterance of divorce,' so the Prophet ﷺ returned her to him."

920. Narrated Abū Huraira ؓ: Allāh's Messenger ﷺ said, "There are three things which, whether undertaken seriously or in jest, are treated as serious:^[2] marriage, divorce and taking back a wife after a divorce which is not final." [Reported by *Al-Arba'a* except *An-Nasā'i*. Al-Hākim graded it *Sahih* (authentic)].

In a narration of Ibn 'Adi, through another chain of narrators, which is *Da'if* (weak), it has: "Divorce, emancipation and marriage."

Al-Hārith bin Abū Usāma reported from the *Hadīth* of 'Ubāda bin As-Sāmit (ؓ) – tracing it to the Prophet ﷺ: "It is not permissible to play in three things: divorce, marriage and emancipation. Therefore, whoever pronounces (either of) them, they certainly become binding." [Its chain of narrators is *Da'if* (weak)].

921. Narrated Abū Huraira ؓ: The Prophet ﷺ said, "Allāh, the Most High, has forgiven my followers what they contemplate on within themselves (i.e. evil thoughts) as long as they do not act

وَقَدْ رَوَى أَبُو دَاوُدَ مِنْ وَجْهِ آخَرَ أَحْسَنَ مِنْهُ، أَنَّ أَبَا رُكَّانَةَ طَلَّقَ أَمْرَأَتَهُ سُهَيْمَةَ الْبَيْتَةَ، فَقَالَ: وَاللَّهِ مَا أَرَدْتُ بِهَا إِلَّا وَاحِدَةً، فَرَدَّهَا إِلَيْهِ النَّبِيُّ ﷺ.

(٩٢٠) وَعَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهُ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «ثَلَاثٌ جِدُّهُنَّ جِدٌّ، وَهَزْلُهُنَّ جِدٌّ: النِّكَاحُ، وَالطَّلَاقُ، وَالرَّجْعَةُ». رَوَاهُ الْأَرْبَعَةُ إِلَّا النَّسَائِيُّ، وَصَحَّحَهُ الْحَاكِمُ.

وَفِي رِوَايَةٍ لِابْنِ عَدِيٍّ، مِنْ وَجْهِ آخَرَ ضَعِيفٍ: «الطَّلَاقُ، وَالْعَتَاقُ، وَالنِّكَاحُ».

وَلِلْحَارِثِ بْنِ أَبِي أُسَامَةَ، مِنْ حَدِيثِ عُبَادَةَ ابْنِ الصَّامِتِ، رَفَعَهُ: «لَا يَجُوزُ اللَّعِبُ فِي ثَلَاثٍ: الطَّلَاقِ، وَالنِّكَاحِ، وَالْعَتَاقِ، فَمَنْ قَالَهُنَّ فَقَدْ وَجِبْنَ». وَسَنَدُهُ ضَعِيفٌ.

(٩٢١) وَعَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهُ، عَنِ النَّبِيِّ ﷺ، قَالَ: «إِنَّ اللَّهَ تَعَالَى تَجَاوَزَ عَنِ أُمَّتِي مَا حَدَّثْتُ بِهِ أَنْفُسَهَا، مَا لَمْ تَعْمَلْ، أَوْ تَكَلِّمْ». مُتَّفَقٌ عَلَيْهِ.

[1] Abū 'Abdullāh Muhammad bin Ishāq bin Yasār Al-Muttalibi, the manumitted slave of Qais bin Makhrama Al-Madani was the master of the history of the military expeditions of the Prophet ﷺ and his Companions رضي الله عنهم. He died in 51 H.

[2] It means that the following four things happen merely because of utterances even if spoken by way of joke: 1) *Nikāb* – marriage. 2) *Talāq* – divorce. 3) Revocation of a divorce, and 4) Freeing of a slave.

upon or speak about them.” [Agreed upon].

922. Narrated Ibn ‘Abbās ؓ: The Prophet ﷺ said, “Allāh, the Most High, has overlooked my follower’s mistakes and forgetfulness, and what they are forced to do against their will.”^[1] [Reported by Ibn Mājah and Al-Hākim. Abū Hātim said that it is not an established (authentic) *Hadīth*].

923. Narrated Ibn ‘Abbās ؓ: “If anyone makes his wife unlawful^[2] for himself – it is nothing.” He said, “Indeed you have a good example in Allāh’s Messenger.”^[3] [Reported by Al-Bukhārī].

Muslim has: “When a man makes his wife unlawful for himself, it is (treated like) an oath for which atonement must be made (if broken).”

924. Narrated ‘Aisha ؓ: When the daughter of Al-Jaun was admitted into the presence of Allāh’s Messenger ﷺ and he went near her, she said, “I seek refuge in Allāh from you.” He replied, “You have sought refuge in the Supreme [One Who is worthy of refuge being taken in], return to your family.”^[4] [Reported by Al-Bukhārī].

925. Narrated Jābir ؓ: Allāh’s Messenger ﷺ said, “There is no divorce

(٩٢٢) وَعَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا، قَالَ: «إِنَّ اللَّهَ تَعَالَى وَضَعَ عَنِ أُمَّتِي الْخَطَأَ، وَالنِّسْيَانَ، وَمَا اسْتَكْرَهُوا عَلَيْهِ». رَوَاهُ ابْنُ مَاجَةَ. وَالْحَاكِمُ. وَقَالَ أَبُو حَاتِمٍ: لَا يَثْبُتُ.

(٩٢٣) وَعَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا، قَالَ: إِذَا حَرَّمَ أَمْرَأَتَهُ، لَيْسَ بِشَيْءٍ. وَقَالَ: لَقَدْ كَانَ لَكُمْ فِي رَسُولِ اللَّهِ أُسْوَةٌ حَسَنَةٌ. رَوَاهُ الْبُخَارِيُّ.

وَلِمُسْلِمٍ: إِذَا حَرَّمَ الرَّجُلُ عَلَيْهِ أَمْرَأَتَهُ، فَهَوَّ يَوْمِنَ، يَكْفُرُهَا.

(٩٢٤) وَعَنْ عَائِشَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهَا، أَنَّ ابْنَةَ الْجَوْنِ لَمَّا أُدْخِلَتْ عَلَى رَسُولِ اللَّهِ ﷺ، وَدَنَا مِنْهَا: قَالَتْ: أَعُوذُ بِاللَّهِ مِنْكَ، فَقَالَ: «لَقَدْ عَذَبْتُ بِعَظِيمٍ، الْحَقِيقِي بِأَهْلِكَ». رَوَاهُ الْبُخَارِيُّ.

(٩٢٥) وَعَنْ جَابِرٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُ،

^[1] It means that mere thinking of divorce does not effectuate it. It also means that the divorce given under compulsion is not a divorce. Similarly marriage under compulsion is also not a marriage.

^[2] If a man says to his wife that he will not keep any relation with her and makes her unlawful for himself, it will not be regarded as a divorce, it is only a vow and has to be expiated.

^[3] The Prophet’s example here refers to his boycotting of his wives for a period of time.

^[4] Another division of divorce is made clear in this *Hadīth*, which is as follows: 1) Evident and clear divorce: In this form no intention is involved because of the clear and definite words. Just the words spoken are deemed enough to accomplish the divorce. 2) Indirect or by hint: In this form the words are equivocal, and may or may not mean divorce. For example: ‘You are free’ or ‘Go to your parents’, etc. When such words are spoken, their intention will be considered, and not the words. If the speaker means divorce, then it will be effected, and if he does not mean divorce then it will not happen.

except after marriage, and no freeing (of a slave) till one has possession (of one).”^[1] [Reported by Abū Ya‘la and Al-Hākim graded it *Sabih* (authentic), but it is *Ma‘lul* (containing a hidden defective). Ibn Majah reported a similar narration, on the authority of Al-Miswar bin Makhrama, and its chain of narrators is (or appears to be) *Hasan* (good), but it is also *Ma‘lul* (hidden defect)].

926. Narrated ‘Amr bin Shu‘aib on his father’s authority from his grandfather: Allāh’s Messenger ﷺ said, “No descendant of Adam may make a vow concerning something he does not possess, or set free (a slave) that he does not possess, or divorce (a woman) whom he does not possess (in marriage).” [Abū Dā‘ud and At-Tirmidhi reported it; the latter graded it *Sabih* (authentic), and transmitted from Al-Bukhāri his statement that it is the most authentic *Hadīth* on this subject].

927. Narrated ‘Aisha ؓ: The Prophet ﷺ said, “There are three people whose actions are not recorded:^[2] a sleeping person till he awakes, a child till he is a grown up, and an insane person till he is restored to reason or recovers his senses.” [Reported by Ahmad and *Al-Arba‘a*, except At-Tirmidhi. Al-Hākim graded it *Sabih* (authentic)].

Chapter 8

AR-RAJ‘A (TAKING BACK A WIFE AFTER A DIVORCE WHICH IS NOT FINAL)

928. Narrated ‘Imrān bin Husain ؓ: He was asked about a man who divorces

قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «لَا طَلَاقَ إِلَّا بَعْدَ نِكَاحٍ، وَلَا عِتْقَ إِلَّا بَعْدَ مِلْكٍ». رَوَاهُ أَبُو يَعْلَى، وَصَحَّحَهُ الْحَاكِمُ، وَهُوَ مَعْلُولٌ، وَأَخْرَجَهُ ابْنُ مَاجَهَ عَنِ الْمِسْوَرِ بْنِ مَخْرَمَةَ مِثْلَهُ، وَإِسْنَادُهُ حَسَنٌ، لَكِنَّهُ مَعْلُولٌ أَيْضًا.

(٩٢٦) وَعَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ، قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «لَا نَذَرَ لِابْنِ آدَمَ فِيمَا لَا يَمْلِكُ، وَلَا عِتْقَ لَهُ فِيمَا لَا يَمْلِكُ، وَلَا طَلَاقَ لَهُ فِيمَا لَا يَمْلِكُ». أَخْرَجَهُ أَبُو دَاوُدَ وَالتِّرْمِذِيُّ، وَصَحَّحَهُ، وَنَقَلَ عَنِ الْبُخَارِيِّ أَنَّهُ أَصَحُّ مَا وَرَدَ فِيهِ.

(٩٢٧) وَعَنْ عَائِشَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهَا، عَنِ النَّبِيِّ ﷺ قَالَ: «رُفِعَ الْقَلَمُ عَنْ ثَلَاثَةٍ: عَنِ النَّائِمِ حَتَّى يَسْتَيْقِظَ، وَعَنِ الصَّغِيرِ حَتَّى يَكْبُرَ، وَعَنِ الْمَجْنُونِ حَتَّى يَعْقِلَ، أَوْ يُبَيِّنَ». رَوَاهُ أَحْمَدُ وَالْأَرْبَعَةُ إِلَّا التِّرْمِذِيُّ، وَصَحَّحَهُ الْحَاكِمُ وَأَخْرَجَهُ ابْنُ جِبَانَ.

٨ - بَابُ الرَّجْعَةِ

[1] It means that one can only divorce that woman who is married to him.

[2] It means that if anybody divorces during sleep, it will not be regarded a divorce. If a minor divorces, it will not be considered divorce. Similarly, if an insane person divorces, it will not be counted as divorce.