

68 - THE BOOK OF DIVORCE

٦٨ - كتاب الطلاق

(1) CHAPTER. The Statement of Allāh تعالى: "O Prophet! When you divorce women, divorce them at their 'Idda' (prescribed periods) and count (accurately) their 'Idda' (prescribed periods)." (V.65:1)

The divorce according to *As-Sunna* (the Prophet's legal way) is that one should divorce his wife when she is clean from her periods and he has not had sexual intercourse with her (after her period) and there should be two witnesses for the divorce.

5251. Narrated 'Abdullāh bin 'Umar رضي الله عنهما that he had divorced his wife while she was menstruating during the lifetime of Allāh's Messenger ﷺ. 'Umar bin Al-Khattāb asked Allāh's Messenger ﷺ about that. Allāh's Messenger ﷺ said, "Order him (your son) to take her back and keep her, till she is clean from her menses and then to wait till she gets her next period (menses) and becomes clean again, whereupon, if he wishes to keep her, he can do so, and if he wishes to divorce her he can divorce her before having sexual intercourse with her; and that is the *Idda* (prescribed period) which Allāh has fixed for the women meant to be divorced."

(2) CHAPTER. If a woman is divorced during her menses, then that divorce is counted as one legal divorce.

5252. Narrated Anas bin Sirīn : Ibn 'Umar said: I divorced my wife while she was menstruating. 'Umar mentioned that to the Prophet ﷺ. The Prophet ﷺ said, (to my father), "Let your son take her back." I asked (Ibn 'Umar), "Is such a divorce

(١) بَابُ وَقَوْلِ اللَّهِ تَعَالَى: ﴿يَا أَيُّهَا النَّبِيُّ إِذَا طَلَّقْتُمُ النِّسَاءَ فَطَلِّقُوهُنَّ لِعَدَّتِهِنَّ وَأَحْصُوا الْعِدَّةَ﴾ [الطلاق: ١]
﴿أَحْصَيْتُهُ﴾ [يس: ١٢]: حَفِظْنَاهُ وَعَدَدْنَاهُ.

وَطَلَّاقُ النِّسَاءِ أَنْ يُطَلِّقَهَا طَاهِرًا مِنْ غَيْرِ جَمَاعٍ وَيُشْهَدُ شَاهِدَيْنِ.

٥٢٥١ - حَدَّثَنَا إِسْمَاعِيلُ بْنُ عَبْدِ اللَّهِ قَالَ: حَدَّثَنِي مَالِكٌ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا: أَنَّهُ طَلَّقَ امْرَأَتَهُ وَهِيَ حَائِضٌ عَلَى عَهْدِ رَسُولِ اللَّهِ ﷺ، فَسَأَلَ عُمَرُ بْنُ الْخَطَّابِ رَسُولَ اللَّهِ ﷺ عَنْ ذَلِكَ، فَقَالَ رَسُولُ اللَّهِ ﷺ: «مُرْهُ فَلْيُرَاجِعْهَا، ثُمَّ لِيُمْسِكْهَا حَتَّى تَطْهُرَ ثُمَّ تَحِيضَ ثُمَّ تَطْهُرَ، ثُمَّ إِنْ شَاءَ أَمْسَكَ بَعْدُ، وَإِنْ شَاءَ طَلَّقَ قَبْلَ أَنْ يَمْسَ، فَبَلَكَ الْعِدَّةَ الَّتِي أَمَرَ اللَّهُ أَنْ يُطَلَّقَ لَهَا النِّسَاءُ». [راجع: ٤٩٠٨]

(٢) بَابُ: إِذَا طَلَّقْتَ الْحَائِضَ تَعْتَدُ بِذَلِكَ الطَّلَاقِ

٥٢٥٢ - حَدَّثَنَا سُلَيْمَانُ بْنُ حَرْبٍ: حَدَّثَنَا شُعْبَةُ، عَنْ أَنَسِ بْنِ سِيرِينَ قَالَ: سَمِعْتُ ابْنَ عُمَرَ قَالَ: طَلَّقَ ابْنُ عُمَرَ امْرَأَتَهُ وَهِيَ حَائِضٌ،

counted (i.e., as one legal divorce)?” Ibn ‘Umar said, “Of course.”

Narrated Yunus bin Jubair: Ibn ‘Umar said, “The Prophet ﷺ said to ‘Umar, ‘Order him (Ibn ‘Umar) to take her back’.” I asked, “Is such a divorce counted (as one legal divorce)?” Ibn ‘Umar said, “What do you think if someone becomes helpless and foolish?”⁽¹⁾

فَذَكَرَ عُمَرُ لِلنَّبِيِّ ﷺ فَقَالَ: «لِيَرَاكِهَا»، قُلْتُ: تُحْتَسَبُ؟ قَالَ: فَمَهْ؟ [راجع: ٤٩٠٨]

وَعَنْ قَتَادَةَ، عَنْ يُونُسَ بْنِ جُبَيْرٍ، عَنْ ابْنِ عُمَرَ قَالَ: «مَرَّةً فَلْيَرَاكِهَا»، قُلْتُ: تُحْتَسَبُ؟ قَالَ: «أَرَأَيْتَهُ إِنْ عَجَزَ وَاسْتَحَمَقَ؟»

5253. Narrated Ibn ‘Umar: (The divorcing of my wife during her menses) was counted as one legal divorce.⁽²⁾

٥٢٥٣ - حَدَّثَنَا أَبُو مَعْمَرٍ: حَدَّثَنَا عَبْدُ الْوَارِثِ: حَدَّثَنَا أَيُّوبُ، عَنْ سَعِيدِ ابْنِ جُبَيْرٍ، عَنْ ابْنِ عُمَرَ قَالَ: حُسِبَتْ عَلَيَّ بِتَطْلِيقَةٍ. [راجع: ٤٩٠٨]

(3) CHAPTER. Whoever divorced (his wife), and should a man tell his wife face to face that she is divorced.

(٣) بَابُ مَنْ طَلَّقَ، وَهَلْ يُوَاكِهُ الرَّجُلُ امْرَأَتَهُ بِالطَّلَاقِ

5254. Narrated Al-Awzā’i: I asked Az-Zuhri, “Which of the wives of the Prophet ﷺ sought refuge with Allāh from him?” He said, “I was told by ‘Urwa that ‘Āishah رَضِيَ اللَّهُ عَنْهَا said, ‘When the daughter of Al-Jaun was brought to Allāh’s Messenger ﷺ (as his bride) and he went near her, she said, “I seek refuge with Allāh from you.” He said, “You have sought refuge with the Most Great; return to your family.”’⁽³⁾

٥٢٥٤ - حَدَّثَنَا الْحُمَيْدِيُّ: حَدَّثَنَا الْوَلِيدُ: حَدَّثَنَا الْأَوْزَاعِيُّ قَالَ: سَأَلْتُ الزُّهْرِيَّ: أَيُّ أَزْوَاجِ النَّبِيِّ ﷺ اسْتَعَاذَتْ مِنْهُ؟ قَالَ: أَخْبَرَنِي عُرْوَةُ عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا أَنَّ ابْنَةَ الْجَوْنِ لَمَّا أُدْخِلَتْ عَلَى رَسُولِ اللَّهِ ﷺ وَدَنَا مِنْهَا قَالَتْ: أَعُوذُ بِاللَّهِ مِنْكَ، فَقَالَ لَهَا: «لَقَدْ عُدَّتْ بِعَظِيمٍ الْحَقِّي بِأَهْلِكَ».

قَالَ أَبُو عَبْدِ اللَّهِ: رَوَاهُ حَجَّاجُ بْنُ أَبِي مَنِيعٍ، عَنْ جَدِّهِ، عَنِ الزُّهْرِيَّ: أَنَّ عُرْوَةَ أَخْبَرَهُ، أَنَّ عَائِشَةَ قَالَتْ.

5255. Narrated Abū Usaid رَضِيَ اللَّهُ عَنْهُ: We

٥٢٥٥ - حَدَّثَنَا أَبُو نُعَيْمٍ: حَدَّثَنَا

(1) (H. 5252) If, out of foolishness somebody divorces his wife while she is menstruating, the divorce is valid. (*Fath Al-Bārī*).

(2) (H. 5253) i.e., one of the three divorces.

(3) (H. 5254) “Return to your family” is an indirect way of saying: “You are divorced.”

went out with the Prophet ﷺ to a garden called Ash-Shaṭ till we reached two walls between which we sat down. The Prophet ﷺ said, "Sit here," and went in (the garden). Al-Jauniya (a lady from Banī Jaun) had been brought (as a bride for the Prophet ﷺ) and lodged in a house in a date-palm garden in the home of Umaina bint An-Nu'mān bin Sharāḥīl, and her wet nurse was with her. When the Prophet ﷺ entered upon her, he said to her, "Give me yourself (in marriage) as a gift." She said, "Can a princess give herself in marriage to an ordinary man?" The Prophet ﷺ raised his hand to pat her so that she might become tranquil (as she did not know that he is Allāh's Messenger). She said, "I seek refuge with Allāh from you." He said, "You have sought refuge with One Who gives refuge. Then the Prophet ﷺ came out to us and said, "O Abū Usaid! Give her two white linen dresses to wear and let her go back to her family (i.e. she is divorced)."

5256, 5257. Narrated Sahl and Abū Usaid: The Prophet ﷺ married Umaina bint Sharāḥīl, and when she was brought to him, he stretched his hand towards her. It seemed that she disliked that, whereupon the Prophet ﷺ ordered Abū Usaid to prepare her and dress her with two white linen dresses [and let her go back to her family (i.e. she is divorced)]. (See *Ḥadīth* No.5637).

عَبْدُ الرَّحْمَنِ بْنُ عَسِيلٍ، عَنْ حَمْرَةَ بْنِ أَبِي أُسَيْدٍ، عَنْ أَبِي أُسَيْدٍ رَضِيَ اللَّهُ عَنْهُ قَالَ: خَرَجْنَا مَعَ النَّبِيِّ ﷺ حَتَّى انْطَلَقْنَا إِلَى حَائِطٍ يُقَالُ لَهُ: الشَّوْطُ، حَتَّى انْتَهَيْنَا إِلَى حَائِطَيْنِ فَجَلَسْنَا بَيْنَهُمَا، فَقَالَ النَّبِيُّ ﷺ: «اجْلِسُوا هَاهُنَا» وَدَخَلَ. وَقَدْ آتَى بِالْجَوْنِيَّةِ، فَأَنْزَلَتْ فِي بَيْتٍ فِي نَحْلِ فِي بَيْتِ أُمَيْمَةَ بِنْتِ التُّعْمَانِ بْنِ شَرَّاحِيلَ وَمَعَهَا دَائِيَّتُهَا حَاضِنَةٌ لَهَا، فَلَمَّا دَخَلَ عَلَيْهَا النَّبِيُّ ﷺ قَالَ: «هَبِي نَفْسِكَ لِي»، قَالَتْ: وَهَلْ تَهَبُ الْمَلِكَةَ نَفْسَهَا لِلشُّوْقَةِ؟ قَالَ: فَأَهْوَى بِيَدِهِ يَضَعُ يَدَهُ عَلَيْهَا لِيَسْكُنَ، فَقَالَتْ: أَعُوذُ بِاللَّهِ مِنْكَ، فَقَالَ: «قَدْ عَذِبْتُ بِمَعَاذٍ»، ثُمَّ خَرَجَ عَلَيْنَا فَقَالَ: «يَا أَبَا أُسَيْدٍ، اكْسُهَا رَازِقَتَيْنِ، وَالْحِفْهَا بِأَهْلِهَا». [انظر: ٥٢٥٧]

٥٢٥٦، ٥٢٥٧ - وَقَالَ الْحُسَيْنُ بْنُ الْوَلِيدِ النَّسَابُورِيُّ، عَنْ عَبْدِ الرَّحْمَنِ، عَنْ عَبَّاسِ بْنِ سَهْلٍ، عَنْ أَبِيهِ وَأَبِي أُسَيْدٍ قَالَا: تَزَوَّجَ النَّبِيُّ ﷺ أُمَيْمَةَ بِنْتِ شَرَّاحِيلَ، فَلَمَّا أُدْخِلَتْ عَلَيْهِ بَسَطَ يَدَهُ إِلَيْهَا، فَكَانَتْهَا كَرِهَتْ ذَلِكَ، فَأَمَرَ أَبَا أُسَيْدٍ أَنْ يُجَهِّزَهَا وَيَكْسُوَهَا ثَوْبَيْنِ رَازِقَتَيْنِ. [راجع:

[٥٢٥٥]

حَدَّثَنَا عَبْدُ اللَّهِ بْنُ مُحَمَّدٍ: حَدَّثَنَا

إِبْرَاهِيمُ بْنُ أَبِي الْوَزِيرِ: حَدَّثَنَا عَبْدُ الرَّحْمَنِ، عَنْ حَمْرَةَ، عَنْ أَبِيهِ، وَعَنْ عَبَّاسِ بْنِ سَهْلٍ بْنِ سَعْدٍ عَنْ أَبِيهِ بِهَذَا. [انظر: ٥٦٣٧]

5258. Narrated Abū Ghallāb Yūnus bin Jubair: I asked Ibn 'Umar, "(What is said regarding) a man divorces his wife during her period?" He said, "Do you know Ibn 'Umar? Ibn 'Umar divorced his wife while she was menstruating. 'Umar then went to the Prophet ﷺ and mentioned that to him. The Prophet ﷺ ordered him to take her back and when she becomes clean, he could divorce her if he wanted." I asked (Ibn 'Umar), "Was that divorce counted as one legal divorce?"⁽¹⁾ He said, "If one becomes helpless and foolish (will he be excused? Of course not)."

٥٢٥٨ - حَدَّثَنَا حَجَّاجُ بْنُ مِنْهَالٍ: حَدَّثَنَا هَمَّامُ بْنُ يَحْيَى، عَنْ قَتَادَةَ، عَنْ أَبِي غَلَّابِ يُونُسَ بْنِ جُبَيْرٍ قَالَ: قُلْتُ لِابْنِ عُمَرَ: رَجُلٌ طَلَّقَ امْرَأَتَهُ وَهِيَ حَائِضٌ؟ فَقَالَ: أَتَعْرِفُ ابْنَ عُمَرَ؟ إِنَّ ابْنَ عُمَرَ طَلَّقَ امْرَأَتَهُ وَهِيَ حَائِضٌ، فَأَتَى عُمَرَ النَّبِيَّ ﷺ فَذَكَرَ ذَلِكَ لَهُ، فَأَمَرَهُ أَنْ يُرَاجِعَهَا فَإِذَا طَهَّرَتْ فَأَرَادَ أَنْ يُطَلِّقَهَا فَلْيُطَلِّقَهَا. قُلْتُ: فَهَلْ عَدَّ ذَلِكَ طَلَاقًا؟ قَالَ: أَرَأَيْتَ إِنْ عَجَزَ وَاسْتَحَقَّقَ؟. [راجع: ٤٩٠٨]

(4) CHAPTER. Whoever thinks it permissible to divorce one's wife thrice (at a time), depending on the Statement of Allāh تعالى:

"The divorce is twice; after that either you retain her on reasonable terms or release her with kindness." (V.2:229)

(٤) بَابُ مَنْ جَوَّزَ الطَّلَاقَ الثَّلَاثَ. لِقَوْلِ اللَّهِ تَعَالَى: ﴿الطَّلَاقُ مَرَّتَيْنِ فَمَا مَسَاكُكُمْ بِمَعْرُوفٍ أَوْ تَسْرِيحٍ بِإِحْسَنٍ﴾ [البقرة: ٢٢٩]

Ibn Az-Zubair said regarding a patient divorcing his wife: I am not of the opinion that his irrevocably divorced wife will be his heir.

Ash-Sha'bī said: I think she will be his heir. Ibn Shubruma said: If the prescribed period ('Idda – legal period after the divorce) is over, can she marry? Ash-Sha'bī said: Yes. Ibn Shubruma said: If her second husband

وَقَالَ ابْنُ الزُّبَيْرِ فِي مَرِيضٍ طَلَّقَ: لَا أَرَى أَنْ تَرِثَ مَبْنُوتَةً. وَقَالَ الشَّعْبِيُّ: تَرِثُهُ. وَقَالَ ابْنُ شُبْرُمَةَ: تَزَوُّجٌ إِذَا انْقَضَتِ الْعِدَّةُ؟ قَالَ: نَعَمْ، قَالَ: أَرَأَيْتَ إِنْ مَاتَ الزَّوْجُ الْآخَرُ؟ فَرَجَعَ عَنْ ذَلِكَ.

(1) (H. 5258) i.e., one of the three divorces? (See *Fatḥ Al-Bārī*).

should die too (would she be the heir of two husbands)? On that Ash-Sha'bī withdrew his verdict.

5259. Narrated Sahl bin Sa'd As-Sā'idī: 'Uwaimir Al-'Ajlānī came to 'Āsim bin Adī Al-Anṣārī and asked, "O 'Āsim! Tell me, if a man sees his wife with another man, should he kill him, whereupon you would kill him in *Qīṣās*⁽¹⁾, or what should he do? O 'Āsim! Please ask Allāh's Messenger ﷺ about that." 'Āsim asked Allāh's Messenger ﷺ about that. Allāh's Messenger ﷺ disliked that question and considered it disgraceful. What 'Āsim heard from Allāh's Messenger ﷺ was hard on him. When he returned to his family, 'Uwaimir came to him and said, "O 'Āsim! What did Allāh's Messenger ﷺ say to you?" 'Āsim said, "You never bring me any good. Allāh's Messenger ﷺ disliked to hear the problem which I asked him about." 'Uwaimir said, "By Allāh, I will not leave the matter till I ask him about it." So 'Uwaimir proceeded till he came to Allāh's Messenger ﷺ who was in the midst of the people and said, "O Allāh's Messenger! If a man finds with his wife another man, should he kill him, whereupon you would kill him (in *Qīṣās*): or otherwise, what should he do?" Allāh's Messenger ﷺ said, "Allāh has revealed something concerning the question of you and your wife. Go and bring her here." So they both carried out the judgement of *Li'an*, while I was present among the people (as a witness). When both of them had finished, 'Uwaimir said, "O Allāh's Messenger! If I should now keep my wife with me, then I have told a lie". Then he pronounced his decision to divorce her thrice, before Allāh's Messenger ﷺ ordered him to do so. (Ibn Shihāb said, "That was the

٥٢٥٩ - حَدَّثَنَا عَبْدُ اللَّهِ بْنُ يُوسُفَ: أَخْبَرَنَا مَالِكٌ، عَنِ ابْنِ شِهَابٍ، أَنَّ سَهْلَ بْنَ سَعْدِ السَّاعِدِيِّ أَخْبَرَهُ: أَنَّ عُويْمِرَ الْعَجْلَانِيَّ جَاءَ إِلَى عَاصِمِ بْنِ عَدِيٍّ الْأَنْصَارِيِّ، فَقَالَ لَهُ: يَا عَاصِمُ، أَرَأَيْتَ رَجُلًا وَجَدَ مَعَ امْرَأَتِهِ رَجُلًا، أَيْقَتْلُهُ فَتَقْتُلُونَهُ أَمْ كَيْفَ يَفْعَلُ؟ سَلْ لِي يَا عَاصِمُ عَنْ ذَلِكَ رَسُولَ اللَّهِ ﷺ. فَسَأَلَ عَاصِمٌ عَنْ ذَلِكَ رَسُولَ اللَّهِ ﷺ، فَكَرِهَ رَسُولُ اللَّهِ ﷺ الْمَسَائِلَ وَعَابَهَا. حَتَّى كَبُرَ عَلَى عَاصِمٍ مَا سَمِعَ مِنْ رَسُولِ اللَّهِ ﷺ، فَلَمَّا رَجَعَ عَاصِمٌ إِلَى أَهْلِهِ جَاءَ عُويْمِرٌ فَقَالَ: يَا عَاصِمُ، مَاذَا قَالَ لَكَ رَسُولُ اللَّهِ ﷺ، فَقَالَ عَاصِمٌ: لَمْ تَأْتِنِي بِخَيْرٍ، قَدْ كَرِهَ رَسُولُ اللَّهِ ﷺ الْمَسْأَلَةَ الَّتِي سَأَلْتُهُ عَنْهَا. قَالَ عُويْمِرٌ: وَاللَّهِ لَا أَنْتَهِيَ حَتَّى أَسْأَلَهُ عَنْهَا، فَأَقْبَلَ عُويْمِرٌ حَتَّى أَتَى رَسُولَ اللَّهِ ﷺ وَ سَطَّ النَّاسُ فَقَالَ: يَا رَسُولَ اللَّهِ، أَرَأَيْتَ رَجُلًا وَجَدَ مَعَ امْرَأَتِهِ رَجُلًا، أَيْقَتْلُهُ فَتَقْتُلُونَهُ، أَمْ كَيْفَ يَفْعَلُ؟ فَقَالَ رَسُولُ اللَّهِ ﷺ: «قَدْ أُنْزِلَ اللَّهُ فِيكَ وَفِي صَاحِبِكَ فَادْهَبْ فَأَتِ بِهَا». قَالَ سَهْلٌ:

(1) (H. 5259) See the glossary.

tradition for all those who are involved in a case of *Li'an*.”⁽¹⁾

فَتَلَاعَنَا وَأَنَا مَعَ النَّاسِ عِنْدَ رَسُولِ اللَّهِ ﷺ، فَلَمَّا فَرَعَا قَالَ غُويِمِرٌ: كَذَبْتُ عَلَيْهَا يَا رَسُولَ اللَّهِ إِنَّ أُمْسَكْتُهَا، فَطَلَّقَهَا ثَلَاثًا قَبْلَ أَنْ يَأْمُرَهُ رَسُولُ اللَّهِ ﷺ.

قَالَ ابْنُ شِهَابٍ: فَكَانَتْ تِلْكَ سُنَّةَ الْمُتَلَاعِنِينَ. [راجع: ٤٢٣]

5260. Narrated 'Āishah رَضِيَ اللَّهُ عَنْهَا: The wife of Rifā'a Al-Quraẓi came to Allāh's Messenger ﷺ and said, "O Allāh's Messenger! Rifā'a divorced me irrevocably. After him I married 'Abdur-Raḥmān bin Az-Zubair Al-Quraẓi who proved to be impotent." Allāh's Messenger ﷺ said to her, "Perhaps you want to return to Rifā'a? Nay (you cannot return to Rifā'a) until you enjoy the sexual relation (consummate your marriage) with Abdur-Raḥmān and he with you."

٥٢٦٠ - حَدَّثَنَا سَعِيدُ بْنُ عَفِيرٍ قَالَ: حَدَّثَنِي اللَّيْثُ، عَنْ عُقَيْلٍ، عَنْ ابْنِ شِهَابٍ قَالَ: أَخْبَرَنِي عُرْوَةُ بْنُ الزُّبَيْرِ: أَنَّ عَائِشَةَ أَخْبَرَتْهُ: أَنَّ امْرَأَةً رِفَاعَةَ الْقُرَظِيِّ جَاءَتْ إِلَى رَسُولِ اللَّهِ ﷺ فَقَالَتْ: يَا رَسُولَ اللَّهِ، إِنَّ رِفَاعَةَ طَلَّقَنِي فَبِتَّ طَلَاقِي، وَإِنِّي نَكَحْتُ بَعْدَهُ عَبْدَ الرَّحْمَنِ بْنَ الزُّبَيْرِ الْقُرَظِيَّ، وَإِنَّمَا مَعَهُ مِثْلُ الْهَذْبَةِ. قَالَ رَسُولُ اللَّهِ ﷺ: «لَعَلَّكَ تُرِيدِينَ أَنْ تَرْجِعِي إِلَيَّ رِفَاعَةَ؟ لَا، حَتَّى يَذُوقَ عُسَيْلَتَكَ وَتَذُوقِي عُسَيْلَتَهُ». [راجع: ٢٦٣٩]

5261. Narrated 'Āishah رَضِيَ اللَّهُ عَنْهَا: A man divorced his wife thrice (by expressing his decision to divorce her thrice), then she married another man who also divorced her. The Prophet ﷺ was asked if she could legally marry the first husband (or not). The Prophet ﷺ replied, "No, she cannot marry the first husband unless the second husband enjoys the sexual relation (consummate his marriage) with her, just as the first husband had done."

٥٢٦١ - حَدَّثَنِي مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا يَحْيَى، عَنْ عُبَيْدِ اللَّهِ قَالَ: حَدَّثَنِي الْقَاسِمُ بْنُ مُحَمَّدٍ، عَنْ عَائِشَةَ: أَنَّ رَجُلًا طَلَّقَ امْرَأَتَهُ ثَلَاثًا، فَتَزَوَّجَتْ فَطَلَّقَ، فَسُئِلَ النَّبِيُّ ﷺ: أَتَحِلُّ لِلأَوَّلِ؟ قَالَ: «لَا، حَتَّى يَذُوقَ عُسَيْلَتَهَا كَمَا ذَاقَ الْأَوَّلُ».

[راجع: ٢٦٣٩]

(1) (H. 5259) See the glossary for '*Li'an*'.

(5) CHAPTER. Whoever gave option to his wives. And the Statement of Allāh تعالى: “O Prophet (Muhammad ﷺ)! Say to your wives: ‘If you desire the life of this world and its glitter, – then come! I will make a provision for you and set you free in a handsome manner (divorce)’.” (V.33:28)

5262. Narrated ‘Āishah رضي الله عنها: Allāh’s Messenger ﷺ gave us the option (to remain with him or to be divorced), and we selected Allāh and His Messenger ﷺ. So, giving us that option was not regarded as divorce.

5263. Narrated Masrūq: I asked ‘Āishah about the option: She said, “The Prophet ﷺ gave us the option. Do you think that that option was considered as a divorce?” I said, “It matters little to me if I give my wife the option once or a hundred times after she has chosen me.”

(6) CHAPTER. If a man says (to his wife): “I have parted with you,” or “I have released you,” or any other expression which may indicate divorce, then the real meaning of what he says depends on his intention.

The Statement of Allāh عز وجل:

“And set them free (divorce them) in a handsome manner.” (V.33:49)

“And set you free in a handsome manner (divorce).” (V.33:28)

(The divorce is twice) “After that, either you retain her on reasonable terms or release her with kindness.” (V.2:229)

“Or part with them in a good manner.” (V.65:2)

(٥) بَابُ مَنْ خَيَّرَ أَزْوَاجَهُ وَقَوْلَ اللَّهِ تَعَالَى: ﴿قُلْ لِأَزْوَاجِكُمْ إِنْ كُنْتُمْ تُحِبُّونَ الْحَيَاةَ الدُّنْيَا وَرَبَّتْهَا فَمَعَالِيكَ أُمِّتُكُمْ وَأُسْرِحَكُمْ سَرَكَامًا جَمِيلًا﴾ [الأحزاب: ٢٨]

٥٢٦٢ - حَدَّثَنَا عُمَرُ بْنُ حَفْصٍ: حَدَّثَنَا أَبِي، حَدَّثَنَا الْأَعْمَشُ: حَدَّثَنَا مُسْلِمٌ، عَنْ مَسْرُوقٍ، عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا قَالَتْ: خَيَّرَنَا رَسُولُ اللَّهِ ﷺ فَاخْتَرْنَا اللَّهَ وَرَسُولَهُ فَلَمْ يَعُدَّ ذَلِكَ عَلَيْنَا شَيْئًا. [انظر: ٥٢٦٣]

٥٢٦٣ - حَدَّثَنَا مُسَدَّدٌ: حَدَّثَنَا يَحْيَى، عَنْ إِسْمَاعِيلَ: حَدَّثَنَا عَامِرٌ، عَنْ مَسْرُوقٍ قَالَ: سَأَلْتُ عَائِشَةَ عَنِ الْخِيَرَةِ فَقَالَتْ: خَيَّرَنَا النَّبِيُّ ﷺ، أَفَكَانَ طَلَاقًا؟ قَالَ مَسْرُوقٌ: لَا أَبَالِي أَخَيَّرْتُهَا وَاجِدَةً أَوْ مَائَةً بَعْدَ أَنْ تَخْتَارَنِي. [راجع: ٥٢٦٢]

(٦) بَابُ إِذَا قَالَ: فَارْقُتْكِ، أَوْ سَرَحْتُكِ، أَوْ الْخَلَيْتُ، أَوْ الْبَرَيْتُ، أَوْ مَا غَنَى بِهِ الطَّلَاقُ فَهُوَ عَلَى نِيَّتِهِ، وَقَوْلُ اللَّهِ عَزَّ وَجَلَّ: ﴿وَسَرِّحُوهُنَّ سَرَكَامًا جَمِيلًا﴾ [الأحزاب: ٤٩] وَقَالَ: ﴿وَأُسْرِحَكُمْ سَرَكَامًا جَمِيلًا﴾ [الأحزاب: ٢٨] وَقَالَ تَعَالَى: ﴿فَلِمَسَاكُكُمْ بِمَعْرُوفٍ أَوْ تَسْرِيحٍ بِإِحْسَنٍ﴾ [البقرة: ٢٢٩] وَقَالَ: ﴿أَوْ فَارْقُوهُنَّ بِمَعْرُوفٍ﴾ [الطلاق: ٢] وَقَالَتْ عَائِشَةُ: قَدْ عَلِمَ النَّبِيُّ ﷺ أَنَّ

And 'Aishah said: The Prophet ﷺ knew that my parents would never order me to part with him.

(7) CHAPTER. Whoever said to his wife: "You are *Harām* (unlawful) for me."

And Al-Hasan said: Its meaning depends on his intention.

And a religious learned man said: If somebody divorces (his wife) thrice then she becomes unlawful for him. So it is called '*Harām*' (unlawful) by virtue of divorce and separation. This is not like the one who bans certain food for himself because one cannot call lawful food unlawful, but a divorced lady can be called unlawful.

And some (learned men) said regarding a woman divorced thrice: She will not be lawful for that husband till she marries somebody else (and her new husband divorces her).

5264. Nāfi' said: When Ibn 'Umar was asked about a person who had given three divorces, he said, "Would that you gave one or two divorces, for the Prophet ﷺ ordered me to do so. If you give three divorces then she cannot be lawful for you until she has married another husband (and is divorced by him)."

5265. Narrated 'Āishah رَضِيَ اللَّهُ عَنْهَا: A man divorced his wife and she married another man who proved to be impotent and divorced her. She could not get her satisfaction from him, and after a while he divorced her. Then she came to the Prophet ﷺ and said, "O Allāh's Messenger! My first husband divorced me and then I married another man who entered upon me to consummate his marriage but he proved to be impotent and did not approach me except once during which he benefited nothing from

أَبُوِّي لَمْ يَكُنَا بِأَمْرَانِي بِفِرَاقِهِ.

(٧) بَابُ مَنْ قَالَ لِامْرَأَتِهِ: أَنْتِ عَلَيَّ حَرَامٌ،

وَقَالَ الْحَسَنُ: نِيَّتُهُ، وَقَالَ أَهْلُ الْعِلْمِ: إِذَا طَلَّقَ ثَلَاثًا فَقَدْ حُرِّمَتْ عَلَيْهِ. فَسَمَّوْهُ حَرَامًا بِالطَّلَاقِ وَالْفِرَاقِ. وَلَيْسَ هَذَا كَالَّذِي يُحَرِّمُ الطَّعَامَ لِأَنَّهُ لَا يُقَالُ لِلطَّعَامِ الْحِلُّ: حَرَامٌ، وَيُقَالُ لِلْمُطَلَّقَةِ: حَرَامٌ. وَقَالَ فِي الطَّلَاقِ ثَلَاثًا: لَا تَحِلُّ لَهُ مِنْ بَعْدُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ.

٥٢٦٤ - وَقَالَ اللَّيْثُ عَنْ نَافِعٍ قَالَ: كَانَ ابْنُ عُمَرَ إِذَا سُئِلَ عَمَّنْ طَلَّقَ ثَلَاثًا قَالَ: لَوْ طَلَّقْتَ مَرَّةً أَوْ مَرَّتَيْنِ، فَإِنَّ النَّبِيَّ ﷺ أَمَرَنِي بِهَذَا، فَإِنْ طَلَّقْتَهَا ثَلَاثًا حُرِّمَتْ عَلَيْكَ حَتَّى تَنْكِحَ زَوْجًا غَيْرَكَ. [راجع: ٤٩٠٨]

٥٢٦٥ - حَدَّثَنَا مُحَمَّدٌ: حَدَّثَنَا أَبُو مُعَاوِيَةَ: حَدَّثَنَا هِشَامُ بْنُ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ قَالَتْ: طَلَّقَ رَجُلٌ امْرَأَتَهُ فَتَزَوَّجَتْ زَوْجًا غَيْرَهُ فَطَلَّقَهَا وَكَانَتْ مَعَهُ مِثْلُ الْهَدْبَةِ فَلَمْ تَصِلْ مِنْهُ إِلَى شَيْءٍ تُرِيدُهُ، فَلَمْ يَلْبَثْ أَنْ طَلَّقَهَا فَأَتَتْ النَّبِيَّ ﷺ فَقَالَتْ: يَا رَسُولَ اللَّهِ، إِنَّ زَوْجِي طَلَّقَنِي، وَإِنِّي

me. Can I re-marry my first husband in this case?" Allāh's Messenger ﷺ said, "It is unlawful to marry your first husband till the other husband consummates his marriage with you."

(8) CHAPTER. "O Prophet! Why do you forbid (for yourself) that which Allāh has allowed to you...?" (V.66:1)

5266. Narrated Sa'd bin Jubair that he heard Ibn 'Abbās saying, "If a man makes his wife unlawful for him,⁽¹⁾ it does not mean that she is divorced." He added, "Indeed in the Messenger of Allāh (Muhammad ﷺ), you have a good example to follow..." (V.33:21)

5267. Narrated 'Ubaid bin 'Umar: I heard 'Āishah رضي الله عنها saying, "The Prophet ﷺ used to stay for a long while with Zainab bint Jahsh and drink honey at her house. So Hafsa and I decided that if the Prophet ﷺ came to any one of us, she should say to him, 'I detect the smell of *Maghāfir* (a nasty smelling gum) in you. Have you eaten *Maghāfir*? So the Prophet ﷺ visited one of them and she said to him similarly. The Prophet ﷺ said, 'Never mind, I have taken some honey at the house of Zainab bint Jahsh, but I shall never drink of it anymore.' So there was revealed: 'O Prophet! Why do

تَزَوَّجْتُ زَوْجًا غَيْرَهُ فَدَخَلَ بِي وَلَمْ يَكُنْ مَعَهُ إِلَّا مِثْلُ الْهُدْبَةِ فَلَمْ يَقْرَبْنِي إِلَّا هَنَةً وَاحِدَةً لَمْ يَصِلْ مِنِّي إِلَى شَيْءٍ، أَفَأَحِلُّ لَزَوْجِي الْأَوَّلِ؟ فَقَالَ رَسُولُ اللَّهِ ﷺ: «لَا تَحْلِلِينَ لَزَوْجِكَ الْأَوَّلِ حَتَّى يَذُوقَ الْآخَرَ عُسَيْلَتَكَ وَتَذُوقِي عُسَيْلَتَهُ». [راجع: ٢٦٣٩]

(٨) بَابُ: ﴿لِمَ تَحْرِمُ مَا أَحَلَّ اللَّهُ لَكَ﴾

[التحريم: ١]

٥٢٦٦ - حَدَّثَنِي الْحَسَنُ بْنُ الصَّبَّاحِ: سَمِعَ الرَّبِيعَ بْنَ نَافِعٍ: حَدَّثَنَا مُعَاوِيَةُ، عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ، عَنْ يَعْلَى بْنِ حَكِيمٍ، عَنْ سَعِيدِ بْنِ جُبَيْرٍ: أَنَّهُ أَخْبَرَهُ أَنَّهُ سَمِعَ ابْنَ عَبَّاسٍ يَقُولُ: إِذَا حَرَّمَ امْرَأَتَهُ لَيْسَ بِشَيْءٍ. وَقَالَ: لَقَدْ كَانَ لَكُمْ فِي رَسُولِ اللَّهِ أُسْوَةٌ حَسَنَةٌ. [راجع:

[٤٩١١]

٥٢٦٧ - حَدَّثَنِي الْحَسَنُ بْنُ مُحَمَّدٍ ابْنِ الصَّبَّاحِ: حَدَّثَنَا حَبَّاجٌ، عَنْ ابْنِ جُرَيْجٍ قَالَ: رَعِمَ عَطَاءٌ: أَنَّهُ سَمِعَ عُيَيْدَ ابْنَ عُمَيْرٍ يَقُولُ: سَمِعْتُ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا: أَنَّ النَّبِيَّ ﷺ كَانَ يَمْكُثُ عِنْدَ زَيْنَبَ ابْنَةِ جَحْشٍ وَيَشْرَبُ عِنْدَهَا عَسَلًا، فَتَوَاصَيْتُ أَنَا وَحَفْصَةُ: أَنَّ أَتَيْنَا دَخَلَ عَلَيْهَا النَّبِيُّ ﷺ فَلَنَقُلْ: إِنِّي لِأَجِدُ مِنْكَ رِيحَ مَغَافِيرٍ، أَكَلْتُ

(1) (H. 5266) By saying to her, "You are unlawful for me."

you forbid (for yourself) that which Allāh has allowed to you... (up to)... If you two (wives of Prophet ﷺ) turn in repentance to Allāh,' (V.66:1-4) addressing 'Āishah and Ḥafṣa. 'When the Prophet ﷺ disclosed a matter in confidence to one of his wives (Ḥafṣa).' (V.66:3) namely his saying: 'But I have taken some honey'."

5268. Narrated رَضِيَ اللَّهُ عَنْهَا 'Āishah: Allāh's Messenger ﷺ was fond of honey and sweet edible things and (it was his habit) that after finishing the 'Aṣr prayer he would visit his wives and stay with one of them at that time. Once he went to Ḥafṣa, the daughter of 'Umar and stayed with her more than usual. I got jealous and asked the reason for that. I was told that a lady of her folk had given her a skin filled with honey as a present, and that she made a syrup from it and gave it to the Prophet ﷺ to drink (and that was the reason for the delay). I said, "By Allāh, we will play a trick on him (to prevent him from doing so)." So I said to Sauda bint Zam'a, "The Prophet ﷺ will approach you, and when he comes near you, say: 'Have you taken *Maghāfir* (a bad-smelling gum)?" He will say, 'No.' Then say to him: 'Then what is this bad smell which I smell from you?' He will say to you, 'Ḥafṣa made me drink honey syrup.' Then say: 'Perhaps the bees of that honey had sucked the juice of the tree of *Al-'Urfut*.'⁽¹⁾ I shall also say the same. O you, Ṣāfiyya, say the same." Later Sauda said, "By Allāh, as soon as he (the Prophet ﷺ) stood at the door, I was about to say to him what you had ordered me to say because I

مَغَافِيرٍ؟ فَدَخَلَ عَلَى إِحْدَاهُمَا فَقَالَتْ لَهُ ذَلِكَ، فَقَالَ: «لَا بَأْسَ، شَرِبْتُ عَسَلًا عِنْدَ زَيْنَبَ بِنْتِ جَحْشٍ وَلَنْ أَعُودَ لَهُ»، فَتَرَلْتُ ﴿يَأْتِيهَا النَّبِيُّ لِمَ تُحَرِّمُ مَا أَحَلَّ اللَّهُ لَكَ﴾ إِلَى ﴿إِنْ نُبَوِّأَ إِلَى اللَّهِ﴾ لِعَائِشَةَ وَحَفْصَةَ ﴿وَإِذَا أَسْرَ النَّبِيُّ إِلَى بَعْضِ أَزْوَاجِهِ حَدِيثًا﴾ لِقَوْلِهِ: «بَلْ شَرِبْتُ عَسَلًا». [راجع: ٤٩١٢]

٥٢٦٨ - حَدَّثَنَا قُرُوبُ بْنُ أَبِي الْمَغْرَاءِ: حَدَّثَنَا عَلِيُّ بْنُ مُسْهِرٍ، عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا قَالَتْ: كَانَ رَسُولُ اللَّهِ ﷺ يُحِبُّ الْعَسَلَ وَالْحَلْوَى، وَكَانَ إِذَا انْصَرَفَ مِنَ الْعَصْرِ دَخَلَ عَلَى نِسَائِهِ، فَيَذْنُو مِنْ إِحْدَاهُنَّ، فَدَخَلَ عَلَى حَفْصَةَ بِنْتِ عُمَرَ، فَاحْتَبَسَ أَكْثَرَ مَا كَانَ يَحْتَبِسُ فِغْرَتُ فَسَأَلْتُ عَنْ ذَلِكَ، فَقِيلَ لِي: أَهْدَتْ لَهَا امْرَأَةٌ مِنْ قَوْمِهَا عُكَّةَ عَسَلٍ فَسَقَتِ النَّبِيَّ ﷺ مِنْهُ شَرْبَةً، فَقُلْتُ: أَمَا وَاللَّهِ لَنُحْتَالَنَّ لَهُ: فَقُلْتُ لِسَوْدَةَ بِنْتِ زَمْعَةَ: إِنَّهُ سَيَذْنُو مِنْكَ، فَإِذَا دَنَا مِنْكَ فَقُولِي: أَكَلْتُ مَغَافِيرَ؟ فَإِنَّهُ سَيَقُولُ لَكَ: لَا. فَقُولِي لَهُ: مَا هَذَا الرِّيحُ الَّتِي أَجِدُ مِنْكَ؟ فَإِنَّهُ سَيَقُولُ لَكَ: سَقَتْنِي حَفْصَةُ شَرْبَةَ عَسَلٍ، فَقُولِي لَهُ: جَرَسَتْ نَحْلُهُ الْعُرْفُطُ، وَسَأَقُولُ ذَلِكَ. وَقُولِي أَنْتِ

(1) (H. 5268) *Al-'Urfut* is the tree which produces *Maghāfir*.

was afraid of you.” So when the Prophet ﷺ came near Sauda, she said to him, “O Allāh’s Messenger! Have you taken *Maghāfir*?” He said, “No.” She said, “Then what is this bad smell which I detect on you?” He said, “Ḥaṣṣa made me drink honey syrup.” She said, “Perhaps its bees had sucked the juice of *Al-‘Urfut* tree.” When he came to me, I also said the same, and when he went to Ṣafīyya, she also said the same. And when the Prophet ﷺ again went to Ḥaṣṣa, she said, “O Allāh’s Messenger! Shall I give you more of that drink?” He said, “I am not in need of it.” Sauda said, “By Allāh, we deprived him (of it).” I said to her, “Keep quiet.”

يَا صَفِيَّةَ ذَلِكَ، قَالَتْ: تَقُولُ سَوْدَةُ: فَوَاللَّهِ مَا هُوَ إِلَّا أَنْ قَامَ عَلَى الْبَابِ فَأَرَدْتُ أَنْ أَبَادِيَهُ بِمَا أَمَرْتَنِي بِهِ فَرَقَا مِنْكَ، فَلَمَّا دَنَا مِنْهَا قَالَتْ لَهُ سَوْدَةُ: يَا رَسُولَ اللَّهِ، أَكَلْتُ مَغَافِيرَ؟ قَالَ: «لَا»، قَالَتْ: فَمَا هَذِهِ الرِّيحُ الَّتِي أَجِدُ مِنْكَ؟ قَالَ: «سَقَنِي حَفْصَةُ شَرْبَةَ عَسَلٍ»، فَقَالَتْ: جَرَسَتْ نَحْلُهُ الْعُرْفُطُ. فَلَمَّا دَارَ إِلَيَّ قُلْتُ لَهُ نَحْوَ ذَلِكَ، فَلَمَّا دَارَ إِلَى صَفِيَّةَ قَالَتْ لَهُ مِثْلَ ذَلِكَ. فَلَمَّا دَارَ إِلَى حَفْصَةَ قَالَتْ: يَا رَسُولَ اللَّهِ، أَلَا أَسْقِيكَ مِنْهُ؟ قَالَ: «لَا حَاجَةَ لِي فِيهِ». قَالَتْ: تَقُولُ سَوْدَةُ: وَاللَّهِ لَقَدْ حَرَمْنَاهُ، قُلْتُ لَهَا: اسْكُتِي.

[راجع: ٤٩١٢]

(9) CHAPTER. There is no divorce before marriage. And the Statement of Allāh تعالى:

“O you who believe! When you marry believing women and then divorce them before you have sexual intercourse with them, no *Idda* [divorce prescribed period (V.65:4)] have you to count in respect of them. So give them a present and set them free i.e. divorce in handsome manner.” (V.33:49)

Ibn ‘Abbās said: Allāh has mentioned the divorce after the wedding. It is reported that ‘Alī, Sa‘īd bin Al-Musaiyab, ‘Urwa bin Az-Zubair, and many others said that a woman cannot be divorced before being married.⁽¹⁾

(٩) بَابُ: لَا طَلَّاقَ قَبْلَ نِكَاحٍ، وَقَوْلِ اللَّهِ تَعَالَى: ﴿يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا نَكَحْتُمُ الْمُؤْمِنَاتِ ثُمَّ طَلَقْتُمُوهُنَّ مِنْ قَبْلِ أَنْ تَمْسُوهُنَّ فَمَا لَكُمْ عَلَيْهِنَّ مِنْ عِدَةٍ تَعُدُّوهنَّ فَمِعُوهُنَّ وَسَرَّحُوهُنَّ سَرَاحًا جَمِيلًا﴾ [الأحزاب: ٤٩]

وَقَالَ ابْنُ عَبَّاسٍ: جَعَلَ اللَّهُ الطَّلَاقَ بَعْدَ النِّكَاحِ. وَيُرْوَى فِي ذَلِكَ عَنْ عَلِيٍّ وَسَعِيدِ بْنِ الْمُسَيَّبِ وَعُرْوَةَ بْنِ الزُّبَيْرِ وَأَبِي بَكْرٍ بْنِ عَبْدِ الرَّحْمَنِ وَعُبَيْدِ اللَّهِ بْنِ عَبْدِ اللَّهِ بْنِ عُتْبَةَ وَأَبَانَ

(1) (Ch. 9) i.e., If one says: “If I marry so-and-so, she will be divorced,” his saying will not be of any effect if he marries her.

ابن عُثْمَانَ وَعَلِيَّ ابْنِ حُسَيْنٍ وَشُرَيْحَ
وَسَعِيدَ بْنِ جُبَيْرٍ وَالْقَاسِمَ وَسَلِّمَ
وَطَاوُسَ وَالْحَسَنَ وَعِكْرَمَةَ وَعَطَاءَ
وَعَامِرَ بْنِ سَعْدٍ وَجَابِرَ ابْنِ زَيْدٍ وَنَافِعَ
بْنَ جُبَيْرٍ وَمُحَمَّدَ بْنَ كَعْبٍ وَسَلِّمَانَ
ابْنَ يَسَارٍ وَمُجَاهِدَ وَالْقَاسِمَ بْنَ عَبْدِ
الرَّحْمَنِ وَعَمْرُو بْنَ هَرَمٍ وَالشَّعْبِيَّ:
أَنَّهُ لَا تَطْلُقُ.

(10) CHAPTER. If, under compulsion somebody says about his wife, "She is my sister," there is no blame on him.

The Prophet ﷺ said: "Prophet Abraham said about his wife Sārah: 'She is my sister'. He meant his sister in Allāh's religion."

(١٠) بَابُ: إِذَا قَالَ لِامْرَأَتِهِ وَهُوَ
مُكْرَهٌ: هَذِهِ أُخْتِي، فَلَا شَيْءَ عَلَيْهِ،
قَالَ النَّبِيُّ ﷺ: «قَالَ إِبْرَاهِيمُ
لِسَارَةَ: هَذِهِ أُخْتِي، وَذَلِكَ فِي ذَاتِ
اللَّهِ عَزَّ وَجَلَّ».

(11) CHAPTER. (What is said regarding) a divorce given in a state of anger, under compulsion or under the effect of intoxicants or insanity. And what is the verdict about them. And what if one ascribes partners to Allāh or divorces his wife or does other things by mistake or through forgetfulness. We may refer to the saying of the Prophet ﷺ: "The deeds are evaluated according to one's intentions, and everybody will receive the reward of what he has intended."

Ash-Sha'bī recited:

"(Our Lord)! Punish us not if we forget or fall into error." (V.2:286)

And what is not valid of the confession of a person suffering from whispers in his heart.

And the Prophet ﷺ said to the man who confessed against himself: "Are you mad?"

And 'Alī said: Ḥamza cut open the flanks of my two she-camels and then the Prophet ﷺ started admonishing Ḥamza. But behold, Ḥamza was heavily drunk and his eyes were red. Ḥamza then said: "Are not all of you

(١١) بَابُ الطَّلَاقِ فِي الْإِغْلَاقِ،
وَالْكُرْهِ، وَالسَّكْرَانِ، وَالْمَجْنُونِ،
وَأَمْرِهِمَا، وَالْغَلَطِ، وَالنَّسْيَانِ فِي
الطَّلَاقِ وَالشُّرْكِ وَغَيْرِهِ، لِقَوْلِ النَّبِيِّ
ﷺ: «الْأَعْمَالُ بِالنِّيَّةِ وَلِكُلِّ امْرِئٍ مَا
نَوَى»

وَتَلَا الشَّعْبِيُّ ﴿لَا تُؤَاخِذْنَا إِنْ
نَسِينَا أَوْ أَخْطَأْنَا﴾ [البقرة: ٢٨٦]
وَمَا لَا يَجُوزُ مِنْ إِقْرَارِ
الْمُؤَسَّسِ.

(وَقَالَ) النَّبِيُّ ﷺ لِلَّذِي أَقْرَأَ عَلَى
نَفْسِهِ: «أَبَاكَ جُنُونٌ؟» وَقَالَ عَلِيٌّ: بَقَرِ
حَمَزَةَ خَوَاصِرَ شَارِفِي فَطَفِقَ النَّبِيُّ ﷺ
يُلَوِّمُ حَمَزَةً، فَإِذَا حَمَزَةٌ قَدْ ثَمَلَتْ مُحَمَّرَةً
عَيْنَاهُ. ثُمَّ قَالَ حَمَزَةُ: وَهَلْ أَنْتُمْ إِلَّا

but the slaves of my father?" Thereupon the Prophet ﷺ realized that Ḥamza was not in his senses, so he came out and we too, came out along with him.

‘Uthmān said: A divorce given by an insane man or a drunk is not valid.

Ibn ‘Abbās said: A divorce given by a drunk or given under compulsion is not valid.

And ‘Uqba bin ‘Amir said: A divorce meditated by a man because of the whisperings of his heart is not valid.

And ‘Aṭā said: If some started with (the word of) divorce only then there is its conditions (otherwise not).

And Nāfi‘ said: A man declared that if his wife went out of her house, she would be irrevocably divorced.

Ibn ‘Umar said (regarding the above case): If she went out, her divorce would be irrevocable, but if she did not go out, nothing would happen to her.

Regarding a man saying: "If I do such-and-such a thing, then my wife is divorced thrice." Az-Zuhri said: Such a man is to be asked as to what he had said, and what he had really intended in his mind while swearing the above oath. If he had mentioned a fixed time and he had really intended what he said when he took the oath, then his statement would be taken into account and would be considered as his religion and his honesty.

And Ibrāhīm said: If someone says (to his wife), "I am not in need of you," then the verdict is to be given according to his intention. And a divorce is valid when expressed in the language of the nation to which the person belongs.

And Qatāda said: If someone says (to his wife), "If you become pregnant, then you are divorced thrice," he should have sexual intercourse with her once only every time

عَبِيدٌ لِّأَبِي؟ فَعَرَفَ النَّبِيُّ ﷺ أَنَّهُ قَدْ تَمَلَّ. فَخَرَجَ وَخَرَجْنَا مَعَهُ.

وَقَالَ عُثْمَانُ: لَيْسَ لِمَجْنُونٍ وَلَا

لِسَكْرَانَ طَلَاقٌ. وَقَالَ ابْنُ عَبَّاسٍ:

طَلَاقُ السَّكْرَانِ وَالْمُسْتَكْرِهِ لَيْسَ

بِجَائِزٍ. وَقَالَ عُقْبَةُ بْنُ عَامِرٍ: لَا

يَجُوزُ طَلَاقُ الْمُسَوِّسِ. وَقَالَ

عَطَاءٌ: إِذَا بَدَأَ بِالطَّلَاقِ فَلَهُ شَرْطُهُ.

وَقَالَ نَافِعٌ: طَلَّقَ رَجُلٌ امْرَأَتَهُ الْبَتَّةَ إِنْ

خَرَجَتْ، فَقَالَ ابْنُ عُمرَ: إِنْ خَرَجَتْ

فَقَدْ بَتَّتْ مِنْهُ، وَإِنْ لَمْ تَخْرُجْ فَلَيْسَ

بَشَيْءٍ. وَقَالَ الزُّهْرِيُّ - فِيمَنْ قَالَ:

إِنْ لَمْ أَفْعَلْ كَذَا وَكَذَا فامرأتي طالق

ثَلَاثًا -: يُسْأَلُ عَمَّا قَالَ وَعَقْدَ عَلَيْهِ

قَلْبُهُ حِينَ حَلَفَ بِتِلْكَ الْيَمِينِ، فَإِنْ

سَمَّى أَجَلًا أَرَادَهُ وَعَقْدَ عَلَيْهِ قَلْبُهُ

حِينَ حَلَفَ جُعِلَ ذَلِكَ فِي دِينِهِ

وَأَمَانَتِهِ. وَقَالَ إِبْرَاهِيمُ: إِنْ قَالَ: لَا

حَاجَةَ لِي فِيكَ، نِيَّتُهُ، وَطَلَاقٌ كُلُّ

قَوْمٍ بِلِسَانِهِمْ. وَقَالَ قَتَادَةُ: إِذَا قَالَ:

إِذَا حَمَلْتُ فَأَنْتِ طالقٌ ثَلَاثًا، يَغْشَاهَا

عِنْدَ كُلِّ طَهْرٍ مَرَّةً، فَإِنْ اسْتَبَانَ حَمَلُهَا

فَقَدْ بَاتَتْ مِنْهُ. وَقَالَ الْحَسَنُ: إِذَا

قَالَ: الْحَقِي بِأَهْلِكَ، نِيَّتُهُ. وَقَالَ ابْنُ

عَبَّاسٍ: الطَّلَاقُ عَنْ وَطَرٍ، وَالْعَتَاقُ

مَا أُرِيدَ بِهِ وَجْهُ اللَّهِ. وَقَالَ الزُّهْرِيُّ:

إِنْ قَالَ: مَا أَنْتِ بِامْرَأَتِي، نِيَّتُهُ. وَإِنْ

نَوَى طَلَاقًا فَهُوَ مَا نَوَى. قَالَ عَلِيٌّ:

she becomes clean after her menstruation, and if her pregnancy becomes apparent, she will be regarded as divorced irrevocably.

And Al-Ḥasan said: If a man says to his wife, "Go to your family," then his intention is to be taken into consideration.

And Ibn 'Abbās said: Divorce is only to be resorted to when it is very essential. But the manumission of slaves is recommended whenever it is meant for Allāh's sake.

And Az-Zuhri said: If a man says (to his wife), "You are not my wife," then the verdict is to be given according to his intention, i.e. if he has intended a divorce, then it will be according to what he has intended.

And 'Ali said: Don't you know that the pen is raised from three (are exempted from the accounts): - an insane person till he becomes sane; a child till he reaches the age of puberty; and a sleeping person till he wakes up? 'Ali also said: All divorces are legally valid except that of a person who has no intelligence (e.g., insane or drunk).

5269. Narrated Abū Hurairah رَضِيَ اللَّهُ عَنْهُ: The Prophet ﷺ said, "Allāh has forgiven my followers the evil thoughts that occur to their minds, as long as such thoughts are not put into action or uttered."

And Qatāda said: If someone divorces his wife just in his mind, such an unuttered divorce has no effect.

5270. Narrated Jābir: A man from the tribe of Banī Aslam came to the Prophet ﷺ while he was in the mosque and said, "I have committed illegal sexual intercourse." The Prophet ﷺ turned his face to the other side. The man turned towards the side towards

أَلَمْ تَعْلَمَ أَنَّ الْقَلَمَ رُفِعَ عَنْ ثَلَاثَةٍ: عَنِ الْمَجْنُونِ حَتَّى يُفِيقَ، وَعَنِ الصَّبِيِّ حَتَّى يُدْرِكَ، وَعَنِ النَّائِمِ حَتَّى يَسْتَيْقِظَ. وَقَالَ عَلِيٌّ: وَكُلُّ طَلَاقٍ جَائِزٌ، إِلَّا طَلَاقَ الْمَعْتُوهِ.

٥٢٦٩ - حَدَّثَنَا مُسْلِمٌ: حَدَّثَنَا هِشَامٌ: حَدَّثَنَا قَتَادَةُ، عَنْ زُرَّارَةَ بْنِ أَوْفَى، عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ ﷺ قَالَ: «إِنَّ اللَّهَ تَجَاوَزَ عَنْ أُمَّتِي مَا حَدَّثَتْ بِهِ أَنْفُسُهَا مَا لَمْ تَعْمَلْ أَوْ تَتَكَلَّمْ».

وَقَالَ قَتَادَةُ: إِذَا طَلَّقَ فِي نَفْسِهِ فَلَيْسَ بِشَيْءٍ. [راجع: ٢٥٢٨]

٥٢٧٠ - حَدَّثَنَا أَصْبَغُ: أَخْبَرَنِي ابْنُ وَهْبٍ، عَنْ يُونُسَ، عَنْ ابْنِ شِهَابٍ قَالَ: أَخْبَرَنِي أَبُو سَلَمَةَ بْنُ عَبْدِ الرَّحْمَنِ، عَنْ جَابِرٍ: أَنَّ رَجُلًا

which the Prophet ﷺ had turned his face, and gave four witnesses against himself. On that the Prophet ﷺ called him and said, "Are you insane?" (He added), "Are you married?" The man said, "Yes." On that the Prophet ﷺ ordered him to be stoned to the death in the *Muṣallā*. When the stones hit him with their sharp edges, he fled, but he was caught at Al-Ḥarra and then killed.

مِنْ أَسْلَمَ أَتَى النَّبِيَّ ﷺ وَهُوَ فِي الْمَسْجِدِ فَقَالَ إِنَّهُ قَدْ زَنَى، فَأَعْرَضَ عَنْهُ، فَتَنَحَّى لِشِقِّهِ الَّذِي أَعْرَضَ فَشَهِدَ عَلَى نَفْسِهِ أَرْبَعَ شَهَادَاتٍ. فَدَعَاهُ فَقَالَ: «هَلْ بِكَ جُنُونٌ؟... هَلْ أُخْصِنْتُ؟» قَالَ: نَعَمْ، فَأَمَرَ بِهِ أَنْ يُرْجَمَ بِالْمُصَلَّى. فَلَمَّا أَذْلَقَتْهُ الْحِجَارَةُ جَمَزَ حَتَّى أَدْرَكَ بِالْحَرَّةِ فَقُتِلَ. [انظر: ٥٢٧٢، ٦٨١٤، ٦٨١٦، ٦٨٢٠، ٦٨٢٦،

[٧١٦٨]

5271. Narrated Abū Hurairah رَضِيَ اللَّهُ عَنْهُ: A man from Banī Aslam came to Allāh's Messenger ﷺ while he was in the mosque and called (the Prophet ﷺ) saying, "O Allāh's Messenger! I have committed illegal sexual intercourse." On that the Prophet ﷺ turned his face from him to the other side, whereupon the man moved to the side towards which the Prophet ﷺ had turned his face, and said, "O Allāh's Messenger! I have committed illegal sexual intercourse." The Prophet ﷺ turned his face (from him) to the other side whereupon the man moved to the side towards which the Prophet ﷺ had turned his face, and repeated his statement. The Prophet ﷺ turned his face (from him) to the other side again. The man moved again (and repeated his statement) for the fourth time. So when the man had given witness four times against himself, the Prophet ﷺ called him and said, "Are you insane?" He replied, "No." The Prophet ﷺ then said (to his Companions), "Go and stone him to death." The man was a married one.

٥٢٧١ - حَدَّثَنَا أَبُو الْيَمَانِ: أَخْبَرَنَا شُعَيْبٌ، عَنِ الزُّهْرِيِّ قَالَ: أَخْبَرَنِي أَبُو سَلَمَةَ بْنُ عَبْدِ الرَّحْمَنِ وَسَعِيدُ بْنُ الْمُسَيَّبِ: أَنَّ أَبَا هُرَيْرَةَ قَالَ: أَتَى رَجُلٌ مِنْ أَسْلَمَ رَسُولَ اللَّهِ ﷺ وَهُوَ فِي الْمَسْجِدِ فَنَادَاهُ، فَقَالَ: يَا رَسُولَ اللَّهِ، إِنَّ الْآخِرَ قَدْ زَنَى، يَعْنِي نَفْسَهُ. فَأَعْرَضَ عَنْهُ، فَتَنَحَّى لِشِقِّ وَجْهِهِ الَّذِي أَعْرَضَ قِبَلَهُ. فَقَالَ: يَا رَسُولَ اللَّهِ، إِنَّ الْآخِرَ قَدْ زَنَى، فَأَعْرَضَ عَنْهُ. فَتَنَحَّى لِشِقِّ وَجْهِهِ الَّذِي أَعْرَضَ قِبَلَهُ فَقَالَ لَهُ ذَلِكَ. فَأَعْرَضَ عَنْهُ فَتَنَحَّى لَهُ الرَّابِعَةَ. فَلَمَّا شَهِدَ عَلَى نَفْسِهِ أَرْبَعَ شَهَادَاتٍ دَعَاهُ فَقَالَ: «هَلْ بِكَ جُنُونٌ؟» قَالَ: لَا، فَقَالَ النَّبِيُّ ﷺ: «ادْهَبُوا بِهِ فَارْجُمُوهُ»، وَكَانَ قَدْ أُخْصِنَ. [انظر:

[٧١٦٧، ٦٨٢٥، ٦٨١٥]

5272. Jābir bin ‘Abdullāh Al-Anṣārī added: I was one of those who stoned him. We stoned him at the *Muṣalla* in Al-Madīna. When the stones hit him with their sharp edges, he fled, but we caught him at Al-Ḥarra and stoned him till he died. (See H. 5270)

٥٢٧٢ - وَعَنِ الزُّهْرِيِّ قَالَ: فَأَخْبَرَنِي مَنْ سَمِعَ جَابِرَ بْنَ عَبْدِ اللَّهِ الْأَنْصَارِيِّ قَالَ: كُنْتُ فِيمَنْ رَجَمَهُ فَرَجَمْنَاهُ بِالْمُصَلَّى بِالْمَدِينَةِ، فَلَمَّا أَذْلَقْنَاهُ الْحِجَارَةَ جَمَرَ حَتَّى أَذْرَكْنَاهُ بِالْحَرَّةِ فَرَجَمْنَاهُ حَتَّى مَاتَ. [راجع: ٥٢٧٠]

(12) CHAPTER. *Al-Khul'*⁽¹⁾ and how a divorce is given according to it.

And the Statement of Allāh عَزَّ وَجَلَّ:

"It is not lawful for you (men) to take back (from your wives) any of your *Mahr*, which you have given them, except when both parties fear that they would be unable to keep the limits ordained by Allāh." (V.2:229)

'Umar allowed *Al-Khul'* even without taking the permission of the authorities. And 'Uthmān permitted the husband in the case of *Khul'* to take from his wife everything other than the ribbon of her hair.

Regarding the Verse:

"Except when both parties fear that they would be unable to keep the limits ordained by Allāh." (V.2:229)

Tāwūs said: That is what Allāh has ordained to be the right of each of them on the other regarding their family relationship and friendly companionship. And Tāwūs did not say as the ignorant people say: *Al-Khul'* is not permissible unless the woman says to her husband, "I will not clean myself from *Janāba* (i.e. I will not have sexual relations with you)."

5273. Narrated Ibn 'Abbās رَضِيَ اللَّهُ عَنْهُمَا: The wife of Thābit bin Qais came to the

(١٢) بَابُ الْخُلْعِ وَكَيْفَ الطَّلَاقِ فِيهِ. وَقَوْلُهُ عَزَّ وَجَلَّ: ﴿وَلَا يَحِلُّ لَكُمْ أَنْ تَأْخُذُوا مِمَّا آتَيْتُمُوهُنَّ سَفِيًا إِلَّا أَنْ يَخَافَا أَلَّا يُفِيصَا حُدُودَ اللَّهِ﴾ [البقرة: ٢٢٩]

وَأَجَازَ عُمَرُ الْخُلْعَ دُونَ السُّلْطَانِ، وَأَجَازَ عُثْمَانُ الْخُلْعَ دُونَ عِقَاصِ رَأْسِهَا. وَقَالَ طَاوُوسٌ: ﴿إِلَّا أَنْ يَخَافَا أَلَّا يُفِيصَا حُدُودَ اللَّهِ﴾ فِيمَا اقْتَرَضَ كُلُّ وَاحِدٍ مِنْهُمَا عَلَى صَاحِبِهِ فِي الْعِشْرَةِ وَالصُّحْبَةِ، وَلَمْ يَقُلْ قَوْلَ السُّفَهَاءِ: لَا يَحِلُّ حَتَّى تَقُولَ: لَا أُغْتَسِلُ لَكَ مِنْ جَنَابَةٍ.

٥٢٧٣ - حَدَّثَنَا أَزْهَرُ بْنُ جَمِيلٍ: حَدَّثَنَا عَبْدُ الْوَهَّابِ الثَّقَفِيُّ: حَدَّثَنَا

(1) (Chap. 12) '*Al-Khul'*' means the parting of a wife from her husband by giving him a certain compensation.

Prophet ﷺ and said, “O Allāh’s Messenger! I do not blame Thābit for defects in his character or his religion, but I, being a Muslim, dislike to behave in an un-Islāmic manner (if I remain with him).” On that Allāh’s Messenger ﷺ said (to her), “Will you give back the garden which your husband has given you (as *Mahr*)?” She said, “Yes.” Then the Prophet ﷺ said to Thābit, “O Thābit! Accept your garden, and divorce her once.”

خَالِدٌ، عَنْ عِكْرِمَةَ، عَنْ ابْنِ عَبَّاسٍ: أَنَّ امْرَأَةً ثَابِتِ بْنِ قَيْسٍ أَتَتْ النَّبِيَّ ﷺ فَقَالَتْ: يَا رَسُولَ اللَّهِ، ثَابِتُ بْنُ قَيْسٍ مَا أُغْتِبُ عَلَيْهِ فِي خُلُقٍ وَلَا دِينٍ، وَلَكِنِّي أَكْرَهُ الْكُفْرَ فِي الْإِسْلَامِ، فَقَالَ رَسُولُ اللَّهِ ﷺ: «أَتُرَدِّينَ عَلَيْهِ حَدِيثَهُ؟» قَالَتْ: نَعَمْ، قَالَ رَسُولُ اللَّهِ ﷺ: «اقْبَلِي الْحَدِيثَ وَطَلِّقِيهَا تَطْلِيقًا». قَالَ أَبُو عَبْدِ اللَّهِ: لَا يُتَابَعُ فِيهِ عَنْ ابْنِ عَبَّاسٍ. [انظر:

[٥٢٧٤، ٥٢٧٥، ٥٢٧٦، ٥٢٧٧]

5274. Narrated ‘Ikrima: The sister of ‘Abdullāh bin Ubayy narrated (the above narration, 5273) with the addition that the Prophet ﷺ said to Thābit’s wife, “Will you return his garden?” She said, “Yes,” and returned it, and (then) the Prophet ﷺ ordered Thābit to divorce her.

٥٢٧٤ - حَدَّثَنِي إِسْحَاقُ الْوَاسِطِيُّ: حَدَّثَنَا خَالِدٌ، عَنْ خَالِدِ الْحَدَّاءِ، عَنْ عِكْرِمَةَ: أَنَّ أُخْتَ عَبْدِ اللَّهِ بْنِ أَبِي بَهْذَا. وَقَالَ: «تُرَدِّينَ حَدِيثَهُ؟» قَالَتْ: نَعَمْ، فَردَّئَهَا وَأَمَرَهُ يُطَلِّقُهَا.

وَقَالَ إِبْرَاهِيمُ بْنُ طَهْمَانَ، عَنْ خَالِدٍ، عَنْ عِكْرِمَةَ عَنِ النَّبِيِّ ﷺ: «وَطَلِّقُهَا». [راجع: ٥٢٧٣]

5275. Narrated Ibn ‘Abbās: The wife of Thābit bin Qais came to Allāh’s Messenger ﷺ and said, “O Allāh’s Messenger! I do not blame Thābit for any defects in his character or his religion, but I cannot endure to live with him.” On that Allāh’s Messenger ﷺ said, “Will you return his garden to him?” She said, “Yes.”

٥٢٧٥ - وَعَنْ أَيُّوبَ بْنِ أَبِي تَمِيمَةَ، عَنْ عِكْرِمَةَ، عَنْ ابْنِ عَبَّاسٍ أَنَّهُ قَالَ: جَاءَتْ امْرَأَةُ ثَابِتِ بْنِ قَيْسٍ إِلَى رَسُولِ اللَّهِ ﷺ فَقَالَتْ: يَا رَسُولَ اللَّهِ، إِنِّي لَا أُغْتِبُ عَلَى ثَابِتٍ فِي دِينٍ وَلَا خُلُقٍ، وَلَكِنِّي لَا أُطِيقُهُ. فَقَالَ رَسُولُ اللَّهِ ﷺ: «فَتُرَدِّينَ عَلَيْهِ حَدِيثَهُ؟» قَالَتْ: نَعَمْ. [راجع: ٥٢٧٣]

5276. Narrated Ibn 'Abbās رَضِيَ اللَّهُ عَنْهُمَا: The wife of Thābit bin Qais bin Shammās came to the Prophet ﷺ and said, "O Allāh's Messenger! I do not blame Thābit for any defects in his character or his religion, but I am afraid that I (being a Muslim) may become unthankful for Allāh's Blessings." On that Allāh's Messenger ﷺ said (to her), "Will you return his garden to him?" She said, "Yes." So she returned his garden to him and the Prophet ﷺ told him to divorce her.

5277. Narrated 'Ikrima that Jamila... Then he related the whole *Hadīth*, (i.e. 5276).

(13) CHAPTER. *Ash-Shiqāq* (the breach between the man and his wife). Is *Khul'* to be recommended if necessary?

And the Statement of Allāh تعالى:

"If you fear breach between them twain (the man and his wife)..." (V.4:35)

5278. Narrated Al-Miswar bin Makhrama Az-Zuhri: I heard the Prophet ﷺ saying, "Banū Al-Mughīra have asked my leave to let 'Alī marry their daughter, but I give no leave to this effect."

(14) CHAPTER. Selling a female slave does not necessarily lead to her divorce.

5279. Narrated 'Aīshah رَضِيَ اللَّهُ عَنْهَا, the wife of the Prophet ﷺ: Three traditions were

٥٢٧٦ - حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ ابْنِ الْمُبَارَكِ الْمُحَرَّمِيُّ: حَدَّثَنَا قُرَادُ أَبُو نُوحٍ: حَدَّثَنَا جَرِيرُ بْنُ حَازِمٍ، عَنْ أَيُّوبَ، عَنْ عِكْرِمَةَ، عَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا قَالَ: جَاءَتْ امْرَأَةٌ ثَابِتِ ابْنِ قَيْسِ بْنِ شَمَّاسٍ إِلَى النَّبِيِّ ﷺ فَقَالَتْ: يَا رَسُولَ اللَّهِ، مَا أَنْقَمَ عَلَيَّ ثَابِتٌ فِي دِينٍ وَلَا خُلُقٍ، إِلَّا أَنِّي أَخَافُ الْكُفْرَ، فَقَالَ رَسُولُ اللَّهِ ﷺ: «فَتَرْدِينَ عَلَيْهِ حَدِيثَهُ؟» قَالَتْ: نَعَمْ، فَرَدَّتْ عَلَيْهِ وَأَمَرَهُ فَفَارَقَهَا. [راجع: ٥٢٧٣]

٥٢٧٧ - حَدَّثَنَا سُلَيْمَانُ: حَدَّثَنَا حَمَّادٌ، عَنْ أَيُّوبَ، عَنْ عِكْرِمَةَ: أَنَّ جَمِيلَةَ، فَذَكَرَ الْحَدِيثَ. [راجع: ٥٢٧٣]

(١٣) بَابُ الشَّقَاقِ، وَهَلْ يُشِيرُ بِالْخُلْعِ عِنْدَ الصَّرُورَةِ؟ وَقَوْلُهُ تَعَالَى: ﴿وَإِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا﴾ الْآيَةُ [النساء: ٣٥]

٥٢٧٨ - حَدَّثَنَا أَبُو الْوَلِيدِ: حَدَّثَنَا اللَّيْثُ، عَنِ ابْنِ أَبِي مُلَيْكَةَ، عَنِ الْمِسْوَرِ ابْنِ مَخْرَمَةَ (الرُّهْرِيِّ) قَالَ: سَمِعْتُ النَّبِيَّ ﷺ يَقُولُ: «إِنَّ بَنِي الْمُغِيرَةِ اسْتَأْذَنُوا فِي أَنْ يَنْكِحَ عَلِيٌّ ابْنَتَهُمْ، فَلَا أَذَنُ».

(١٤) بَابُ: لَا يَكُونُ بَيْعُ الْأَمَةِ طَلَاقًا

٥٢٧٩ - حَدَّثَنَا إِسْمَاعِيلُ بْنُ عَبْدِ

established concerning that in which Barīra was involved: When she was manumitted, she was given the option to keep her husband or leave him; Allāh's Messenger ﷺ said, "*Al-Walā*"⁽¹⁾ is for the one who manumits." Once Allāh's Messenger ﷺ entered the house while some meat was being cooked in a pot, but only bread and some soup of the house were placed before him. He said, "Don't I see the pot containing meat?" They said, "Yes, but that meat was given to Barīra in charity (by someone), and you do not eat what is given in charity." The Prophet ﷺ said, "That meat is a charity for her, but for us it is a present." (See H. 5430)

اللَّهُ قَالَ: حَدَّثَنِي مَالِكٌ، عَنْ رِبْعَةَ بْنِ أَبِي عَبْدِ الرَّحْمَنِ، عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ، عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا زَوْجَ النَّبِيِّ ﷺ قَالَتْ: كَانَ فِي بَرِيرَةَ ثَلَاثُ سُنَنٍ، إِحْدَى السُّنَنِ: أَنَّهَا أُعْطِيَتْ فَخُيِّرَتْ فِي زَوْجِهَا. وَقَالَ رَسُولُ اللَّهِ ﷺ: «الْوَلَاءُ لِمَنْ أُعْطِيَ». وَدَخَلَ رَسُولُ اللَّهِ ﷺ وَالْبُرْمَةُ تَقُورُ بِلَحْمٍ فَقَرَّبَ إِلَيْهِ خُبْزٌ وَأُذْمٌ مِنْ أُمِّ الْبَيْتِ فَقَالَ: «أَلَمْ أَرِ الْبُرْمَةَ فِيهَا لَحْمٌ؟» قَالُوا: بَلَى، وَلَكِنْ ذَاكَ لَحْمٌ تُصَدَّقُ بِهِ عَلَى بَرِيرَةَ، وَأَنْتَ لَا تَأْكُلُ الصَّدَقَةَ. قَالَ: «عَلَيْهَا صَدَقَةٌ وَلَنَا هَدِيَّةٌ». [راجع: ٤٥٦]

(15) CHAPTER. A female slave, whose husband is a slave, has the option to keep him or leave him (when she is manumitted).

(١٥) بَابُ خِيَارِ الْأَمَةِ تَحْتَ الْعَبْدِ

5280. Narrated Ibn 'Abbās رَضِيَ اللَّهُ عَنْهُمَا: I saw him as a slave, (namely, Barīra's husband).

٥٢٨٠ - حَدَّثَنَا أَبُو الْوَلِيدِ: حَدَّثَنَا شُعْبَةُ وَهَمَّامٌ، عَنْ قَتَادَةَ، عَنْ عِكْرَمَةَ، عَنِ ابْنِ عَبَّاسٍ قَالَ: رَأَيْتُهُ عَبْدًا، يَعْنِي زَوْجَ بَرِيرَةَ. [انظر: ٥٢٨١، ٥٢٨٢، ٥٢٨٣]

5281. Narrated Ibn 'Abbās رَضِيَ اللَّهُ عَنْهُمَا: That was Mughīth, the slave of Banī so-and-so, i.e., Barīra's husband - as if I am now looking at him following her (Barīra) along the streets of Al-Madina.

٥٢٨١ - حَدَّثَنَا عَبْدُ الْأَعْلَى بْنُ حَمَّادٍ: حَدَّثَنَا وَهَيْبٌ: حَدَّثَنَا أَيُّوبٌ، عَنْ عِكْرَمَةَ، عَنِ ابْنِ عَبَّاسٍ قَالَ: ذَاكَ مُغِيثٌ عَبْدُ بَنِي فُلَانٍ - يَعْنِي زَوْجَ بَرِيرَةَ - كَأَنِّي أَنْظُرُ إِلَيْهِ يَتْبَعُهَا فِي سِكَكِ الْمَدِينَةِ يَبْكِي عَلَيْهَا.

[راجع: ٥٢٨٠]

(1) (H. 5279) *Walā'*: See the glossary.

5282. Narrated Ibn ‘Abbās رَضِيَ اللهُ عَنْهُمَا: Barīra’s husband was a black slave called Mughīth, the slave of Banī so-and-so - as if I am seeing him now, walking behind her along the streets of Al-Madīna.

٥٢٨٢ - حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ: حَدَّثَنَا عَبْدُ الْوَهَّابِ، عَنْ أَيُّوبَ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا قَالَ: كَانَ زَوْجُ بَرِيرَةَ عَبْدًا أَسْوَدَ، يُقَالُ لَهُ: مُغِيثٌ، عَبْدًا لِيَنِي فُلَانٍ، كَأَنِّي أَنْظُرُ إِلَيْهِ يَطُوفُ وَرَاءَهَا فِي سِكَكِ الْمَدِينَةِ. [راجع: ٥٢٨٠]

(16) CHAPTER. The intercession of the Prophet ﷺ for Barīra’s husband.

(١٦) بَابُ شَفَاعَةِ النَّبِيِّ ﷺ فِي زَوْجِ بَرِيرَةَ

5283. Narrated Ibn ‘Abbās رَضِيَ اللهُ عَنْهُمَا: Barīra’s husband was a slave called Mughīth - as if I am seeing him now, going behind Barīra and weeping with his tears flowing down his beard. The Prophet ﷺ said to ‘Abbās, “O ‘Abbās! are you not astonished at the love of Mughīth for Barīra and the hatred of Barīra for Mughīth?” The Prophet ﷺ then said to Barīra, “Why don’t you return to him?” She said, “O Allāh’s Messenger! Do you order me to do so?” He said, “No, I only intercede for him.” She said, “I am not in need of him.”

٥٢٨٣ - حَدَّثَنِي مُحَمَّدٌ: حَدَّثَنَا عَبْدُ الْوَهَّابِ: حَدَّثَنَا خَالِدٌ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ: أَنَّ زَوْجَ بَرِيرَةَ كَانَ عَبْدًا يُقَالُ لَهُ: مُغِيثٌ، كَأَنِّي أَنْظُرُ إِلَيْهِ يَطُوفُ خَلْفَهَا يَبْكِي وَدُمُوعُهُ تَسِيلُ عَلَى لِحْيَتِهِ. فَقَالَ النَّبِيُّ ﷺ لِعَبَّاسٍ: «يَا عَبَّاسُ، أَلَا تَعْجَبُ مِنْ حُبِّ مُغِيثٍ بِرِيرَةَ، وَمِنْ بُغْضِ بَرِيرَةَ مُغِيثًا؟» فَقَالَ النَّبِيُّ ﷺ: «لَوْ رَاجَعْتَهُ؟» قَالَتْ: «يَا رَسُولَ اللَّهِ، تَأْمُرْنِي؟» قَالَ: «إِنَّمَا أَنَا أَشْفَعُ»، قَالَتْ: «فَلَا حَاجَةَ لِي فِيهِ».

[راجع: ٥٢٨٠]

(17) CHAPTER:

(١٧) بَابُ:

5284. Narrated Al-Aswad رَضِيَ اللهُ عَنْهُ: ‘Āishah intended to buy Barīra, but her masters stipulated that her Walā⁽¹⁾ would be for them. ‘Āishah رَضِيَ اللهُ عَنْهَا mentioned that to the Prophet ﷺ who said (to ‘Āishah), “Buy and manumit her, for Al-Walā’ is for the one

٥٢٨٤ - حَدَّثَنَا عَبْدُ اللَّهِ بْنُ رَجَاءٍ: أَخْبَرَنَا شُعْبَةُ، عَنْ الْحَكَمِ، عَنْ إِبْرَاهِيمَ، عَنِ الْأَسْوَدِ: أَنَّ عَائِشَةَ أَرَادَتْ أَنْ تَشْتَرِيَ بَرِيرَةَ، فَأَبَى مَوَالِيهَا

(1) (H. 5284) Walā’: See the glossary.

who manumits.” Once some meat was brought to the Prophet ﷺ and it was said, “This meat was given in charity to Barīra.” The Prophet ﷺ said, “It is an object of charity for Barīra and a present for us.”

Narrated Ādam : Shu'ba related the same Hādīth and added : Barīra was given the option regarding her husband . (See H. 5430)

إِلَّا أَنْ يَشْتَرِطُوا الْوَلَاءَ . فَذَكَرَتْ ذَلِكَ لِلنَّبِيِّ ﷺ ، فَقَالَ : « اشْتَرِيَهَا وَأَعْقِبْهَا فَإِنَّمَا الْوَلَاءُ لِمَنْ أَعْتَقَ » . وَأَتَى النَّبِيُّ ﷺ بِلَحْمٍ : فَقِيلَ : إِنَّ هَذَا مَا تُصَدَّقُ عَلَى بَرِيرَةَ ، فَقَالَ : « هُوَ لَهَا صَدَقَةٌ وَلَنَا هَدِيَّةٌ » . [راجع : ٤٥٦]

حَدَّثَنَا آدَمُ : حَدَّثَنَا شُعْبَةُ ، وَزَادَ : فَخُيِّرَتْ مِنْ زَوْجِهَا .

(18) CHAPTER. The Statement of Allāh تعالى : “Do not marry *Al-Mushrikāt* (idolatresses) till they believe (i.e. worship Allāh Alone). And indeed a slave woman who believes is better than a (free) *Mushrikah* (idolatress) even though she pleases you.” (V.2:221)

5285. Narrated Nāfi' : Whenever Ibn 'Umar was asked about marrying a Christian lady or a Jewess, he would say : “Allāh has made it unlawful for the believers to marry *Al-Mushrikāt* (ladies who ascribe partners in worship to Allāh), and I do not know of a greater thing, as regards to ascribing partners in worship, etc. to Allāh, than that a lady should say that Jesus is her Lord although he is just a slave from the slaves of Allāh”.

(١٨) بَابُ قَوْلِ اللَّهِ تَعَالَى : « وَلَا تَنْكِحُوا الْمُشْرِكَاتِ حَتَّى يُؤْمِنَ » وَلَأَمَّهُ مُؤْمِنَةً حَبْرٌ مِّنْ مُّشْرِكَةٍ وَلَوْ أَعْجَبَتْكُمْ ﴿البقرة : ٢٢١﴾

٥٢٨٥ - حَدَّثَنَا قُتَيْبَةُ : حَدَّثَنَا اللَّيْثُ ، عَنْ نَافِعٍ : أَنَّ ابْنَ عُمَرَ كَانَ إِذَا سُئِلَ عَنْ نِكَاحِ النَّصْرَانِيَّةِ وَالْيَهُودِيَّةِ قَالَ : إِنَّ اللَّهَ حَرَّمَ الْمُشْرِكَاتِ عَلَى الْمُؤْمِنِينَ ، وَلَا أَعْلَمُ مِنَ الْإِسْرَافِ شَيْئًا أَكْبَرَ مِنْ أَنْ تَقُولَ الْمَرْأَةُ رَبُّهَا عِيسَى ، وَهُوَ عَبْدٌ مِّنْ عِبَادِ اللَّهِ .

(19) CHAPTER. Marrying *Al-Mushrikāt* (pagan ladies) who had embraced Islām; and their *Idda* .

5286. Narrated Ibn 'Abbās رضي الله عنهما : *Al-Mushrikūn*⁽¹⁾ were of two kinds as regards their relationship to the Prophet ﷺ and the believers. Some of them were those with whom the Prophet ﷺ was at war and used to fight against, and they used to fight him ; the others were those with whom the Prophet ﷺ

(١٩) بَابُ نِكَاحِ مَنْ أَسْلَمَ مِنَ الْمُشْرِكَاتِ وَعِدَّتِهِنَّ

٥٢٨٦ - حَدَّثَنِي إِبرَاهِيمُ بْنُ مُوسَى : أَنبَأَنَا هِشَامٌ ، عَنْ ابْنِ جُرَيْجٍ . وَقَالَ عَطَاءٌ ، عَنْ ابْنِ عَبَّاسٍ : كَانَ الْمُشْرِكُونَ عَلَى مَنَزَلَتَيْنِ مِنَ النَّبِيِّ ﷺ وَالْمُؤْمِنِينَ : كَانُوا مُشْرِكِي أَهْلِ

(1) (H. 5286) *Al-Mushrikūn* : polytheists, pagans, idolaters, and disbelievers in the Oneness of Allāh and in His Messenger Muhammad ﷺ.

had a treaty, and neither did the Prophet ﷺ fight them, nor did they fight him. If a lady from the first group of *Al-Mushrikūn*⁽¹⁾ emigrated towards the Muslims, her hand would not be asked in marriage unless she got the menses and then became clean. When she became clean, it would be lawful for her to get married, and if her husband emigrated too before she got married, then she would be returned to him. If any slave or female slave emigrated from them to the Muslims, then they would be considered free persons (not slaves) and they would have the same rights as given to other emigrants. The narrator then mentioned about *Al-Mushrikūn*⁽¹⁾ involved with the Muslims in a treaty, the same as occurs in Mujāhid's narration. If a male slave or a female slave emigrated from such *Al-Mushrikūn*⁽¹⁾ as had made a treaty with the Muslims, they would not be returned, but their prices would be paid (to *Al-Mushrikūn*⁽¹⁾).

5287. Narrated Ibn 'Abbās رضي الله عنهم: Qarība, the daughter of Abī Umaiyya, was the wife of 'Umar bin Al-Khaṭṭāb. 'Umar divorced her and then Mu'āwiya bin Abī Sufyān married her. Similarly, Umm Al-Ḥakam, the daughter of Abī Sufyān was the wife of 'Iyād bin Ghanm Al-Fihri. He divorced her and then 'Abdullāh bin 'Uthmān Ath-Thaqafī married her.

(20) CHAPTER. (What) if an idolatress (*Al-Mushrikah*) or a Christian woman becomes a Muslim while she is the wife of a *Dhimmi* (i.e., a non-Muslim under the protection of a Muslim government), or a *Mushrik* at war with the Muslims?

Ibn 'Abbās رضي الله عنهم said: If a Christian

حَرْبٍ يُقَاتِلُهُمْ وَيُقَاتِلُونَهُ. وَمُشْرِكِي أَهْلِ عَهْدٍ لَا يُقَاتِلُهُمْ وَلَا يُقَاتِلُونَهُ، فَكَانَ إِذَا هَاجَرَتْ امْرَأَةٌ مِنْ أَهْلِ الْحَرْبِ لَمْ تُخْطَبْ حَتَّى تَحِيضَ وَتَظْهَرَ. فَإِذَا ظَهَرَتْ حَلَّ لَهَا النِّكَاحُ. فَإِنْ هَاجَرَ زَوْجُهَا قَبْلَ أَنْ تَنْكِحَ رُدَّتْ إِلَيْهِ. وَإِنْ هَاجَرَ عَبْدٌ مِنْهُمْ أَوْ أَمَةٌ، فَهُمَا حُرَّانِ، وَلَهُمَا مَا لِلْمُهَاجِرِينَ - ثُمَّ ذَكَرَ مِنْ أَهْلِ الْعَهْدِ مِثْلَ حَدِيثِ مُجَاهِدٍ - وَإِنْ هَاجَرَ عَبْدٌ أَوْ أَمَةٌ لِلْمُشْرِكِينَ أَهْلَ الْعَهْدِ لَمْ يُرَدُّوا، وَرُدَّتْ أَمَانَتُهُمْ.

٥٢٨٧ - وَقَالَ عَطَاءٌ عَنْ ابْنِ عَبَّاسٍ: كَانَتْ قَرِيبَةً ابْنَةُ أَبِي أُمَيَّةَ عِنْدَ عُمَرَ بْنِ الْخَطَّابِ، فَطَلَّقَهَا فَتَزَوَّجَهَا مُعَاوِيَةُ بْنُ أَبِي سُفْيَانَ، وَكَانَتْ أُمُّ الْحَكَمِ بِنْتُ أَبِي سُفْيَانَ تَحْتَ عِيَاضِ بْنِ عَنَمٍ الْفُهْرِيِّ، فَطَلَّقَهَا فَتَزَوَّجَهَا عَبْدُ اللَّهِ بْنُ عُثْمَانَ الْقُفَيْي.

(٢٠) بَابُ: إِذَا أَسْلَمَتِ الْمُشْرِكَةُ أَوْ النَّصْرَانِيَّةُ تَحْتَ الذَّمِّيِّ أَوْ الْحَرْبِيِّ،

وَقَالَ عَبْدُ الْوَارِثِ، عَنْ خَالِدٍ،

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woman embraces Islām before her husband by a short while, she will by no means remain as his wife legally.

‘Aṭā was asked about a woman from *Al-Mushrikūn* who had a treaty with the Muslims: She embraced Islām, and during her ‘*Idda*, her husband embraced Islām too? Could he retain her as his wife? ‘Aṭā said: No, unless she is willing to re-marry him with a new marriage and a new *Mahr*.

Mujāhid said: If the husband embraces Islām during the ‘*Idda* (of his wife), he can marry her.

And Allāh تعالى said:

“They are not lawful (wives) for the disbelievers, nor are the disbelievers lawful (husbands) for them.” (V.60:10)

Al-Ḥasan and Qatāda said regarding a Magian couple who embraced Islām: Their marriage remains valid, but if one of them becomes a Muslim and the other refuses to become a Muslim, the wife is regarded as divorced, and the husband has no right to keep her as a wife.

Ibn Juraij said: I asked ‘Aṭā, “If a *Mushrikah* comes to the Muslims (i.e., embraces Islām), will the husband be compensated for losing her as is indicated by the Statement of Allāh:

‘But give the disbelievers that (amount of money) which they have spent (as their *Mahr*)?’” (V.60:10)

‘Aṭā replied, “No, for this was valid only between the Prophet ﷺ and those *Al-Mushrikūn* who made a treaty with him.” And Mujāhid said: All this was valid in a treaty between the Prophet ﷺ and the Quraish.

5288. Narrated ‘Āishah رَضِيَ اللَّهُ عَنْهَا, the wife of the Prophet ﷺ: Whenever believing women came to the Prophet ﷺ as emigrants, he used to test them in accordance with the Order of Allāh تعالى:

عَنْ عِكْرَمَةَ، عَنِ ابْنِ عَبَّاسٍ: إِذَا أَسْلَمَتِ النَّصْرَانِيَّةُ قَبْلَ زَوْجِهَا بِسَاعَةٍ حَرُمْتُ عَلَيْهِ. وَقَالَ دَاوُدُ عَنْ إِبْرَاهِيمَ الصَّائِغِ: سُئِلَ عَطَاءٌ عَنْ امْرَأَةٍ مِنْ أَهْلِ الْعَهْدِ أَسْلَمَتْ ثُمَّ أَسْلَمَ زَوْجُهَا فِي الْعِدَّةِ، أَهِيَ امْرَأَتُهُ؟ قَالَ: لَا، إِلَّا أَنْ تَشَاءَ هِيَ بِنِكَاحٍ جَدِيدٍ وَصَدَاقٍ. وَقَالَ مُجَاهِدٌ: إِذَا أَسْلَمَ فِي الْعِدَّةِ يَتَزَوَّجُهَا، وَقَالَ اللَّهُ تَعَالَى: ﴿لَا مِنْ حِلٍّ لَّهُمْ وَلَا لَهُمْ بِحِلْوَنَ لَهُنَّ﴾ [الممتحنة: ١٠].

وَقَالَ الْحَسَنُ وَقَتَادَةُ فِي مَجُوسِيَّينَ أَسْلَمَا: هُمَا عَلَى نِكَاحِهِمَا، فَإِذَا سَبَقَ أَحَدُهُمَا صَاحِبُهُ وَأَبَى الْآخَرُ بَانَتْ، لَا سَبِيلَ لَهُ عَلَيْهَا. وَقَالَ ابْنُ جُرَيْجٍ: قُلْتُ لِعَطَاءٍ: امْرَأَةٌ مِنَ الْمُشْرِكِينَ جَاءَتْ إِلَى الْمُسْلِمِينَ، أَيْعَاوُضُ زَوْجُهَا مِنْهَا لِقَوْلِهِ تَعَالَى ﴿وَمَا أَوْهَمَ مَا أَنْفَقُوا﴾ [الممتحنة: ١٠]؟ قَالَ: لَا، إِنَّمَا كَانَ ذَلِكَ بَيْنَ النَّبِيِّ ﷺ وَبَيْنَ أَهْلِ الْعَهْدِ. وَقَالَ مُجَاهِدٌ: هَذَا كُلُّهُ فِي صَلَاحِ بَيْنِ النَّبِيِّ ﷺ وَبَيْنَ قُرَيْشٍ.

٥٢٨٨ - حَدَّثَنَا يَحْيَى بْنُ بُكَيْرٍ: حَدَّثَنَا اللَّيْثُ، عَنْ عُقَيْلٍ، عَنْ ابْنِ شِهَابٍ، وَقَالَ إِبْرَاهِيمُ بْنُ الْمُنْذِرِ:

“O you who believe! When believing women come to you as emigrants, examine them...” (V.60:10)

So if anyone of those believing women accepted the above mentioned conditions, she accepted the conditions of Faith. When they agreed on those conditions and confessed that with their tongues, Allāh's Messenger ﷺ would say to them, “Go, I have accepted your *Bai'a* (pledge) (for Islām).” ‘Aishah added: By Allāh, the hand of Allāh's Messenger ﷺ never touched the hand of any woman, but he only used to take their *Bai'a* (pledge) orally. By Allāh, Allāh's Messenger ﷺ did not take the *Bai'a* (pledge) of the women except in accordance with what Allāh had ordered him. When he accepted their *Bai'a* (pledge) he would say to them. “I have accepted your *Bai'a* (pledge).” (See H.2713)

(21) CHAPTER. The Statement of Allāh تعالى:

“Those who take an oath, not to have sexual relations with their wives, must wait four months.” (V.2:226)

5289. Narrated Anas bin Mālik رَضِيَ اللَّهُ عَنْهُ: Allāh's Messenger ﷺ took an oath that he would abstain from his wives, and at that time his leg had been sprained (dislocated). So he stayed in the *Mashrubah* (an attic room) of his for 29 days. Then he came down, and they (the people) said, “O Allāh's Messenger! You took an oath to abstain

حَدَّثَنِي ابْنُ وَهَبٍ: حَدَّثَنِي يُونُسُ: قَالَ ابْنُ شِهَابٍ: أَخْبَرَنِي عُرْوَةُ بْنُ الزُّبَيْرِ: أَنَّ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا زَوْجَ النَّبِيِّ ﷺ قَالَتْ: كَانَتْ الْمُؤْمِنَاتُ إِذَا هَاجَرْنَ إِلَى النَّبِيِّ ﷺ يَمْتَحِنُهُنَّ بِقَوْلِ اللَّهِ تَعَالَى: ﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِذَا جَاءَكُمْ الْمُؤْمِنَاتُ مُهَاجِرَاتٍ فَلَمْتَحِنُوهُنَّ﴾ إِلَى آخِرِ الْآيَةِ. قَالَتْ عَائِشَةُ: فَمَنْ أَقَرَّ بِهَذَا الشَّرْطِ مِنَ الْمُؤْمِنَاتِ فَقَدْ أَقَرَّ بِالْمَحْتَةِ. فَكَانَ رَسُولُ اللَّهِ ﷺ إِذَا أَقْرَزَ بِذَلِكَ مِنْ قَوْلِهِنَّ قَالَ لَهُنَّ رَسُولُ اللَّهِ ﷺ: «انْظِلْفْنَ فَقَدْ بَايَعْتُكُنَّ»، لَا وَاللَّهِ مَا مَسَّتْ يَدُ رَسُولِ اللَّهِ ﷺ يَدَ امْرَأَةٍ قَطُّ، غَيْرَ أَنَّهُ بَايَعَهُنَّ بِالْكَلَامِ، وَاللَّهُ مَا أَخَذَ رَسُولُ اللَّهِ ﷺ عَلَى النِّسَاءِ إِلَّا بِمَا أَمَرَهُ اللَّهُ، يَقُولُ لَهُنَّ إِذَا أَخَذَ عَلَيْهِنَّ: «قَدْ بَايَعْتُكُنَّ»، كَلَامًا.

[راجع: ٢٧١٣]

(٢١) بَابُ قَوْلِ اللَّهِ تَعَالَى: ﴿لِّلَّذِينَ يُؤْثِرُونَ مِنْ نِسَائِهِمْ رَبْعَ أَرْبَعَةِ أَشْهُرٍ﴾

[البقرة: ٢٢٦]

٥٢٨٩ - حَدَّثَنَا إِسْمَاعِيلُ بْنُ أَبِي أُوَيْسٍ، عَنْ أَخِيهِ، عَنْ سُلَيْمَانَ، عَنْ حُمَيْدِ الطَّوِيلِ: أَنَّهُ سَمِعَ أَنَسَ بْنَ مَالِكٍ يَقُولُ: أَلَى رَسُولِ اللَّهِ ﷺ مِنْ نِسَائِهِ وَكَانَتْ انْفَكَّت رِجْلُهُ، فَأَقَامَ فِي

from your wives for one month." He said, "The month is of twenty-nine days."

5290. Narrated Nāfi': Ibn 'Umar used to say about *Al-'Īlā'*⁽¹⁾ which Allāh تعالى defined (in the Qur'ān), "If the period of '*Īlā'* expires, then the husband has either to retain his wife in a handsome manner or to divorce her as Allāh تعالى has ordered."

5291. Ibn 'Umar added: "When the period of four months has expired, the husband should be put in prison so that he should divorce his wife, but the divorce does not occur unless the husband himself declares it. This has been mentioned by 'Uthmān, 'Alī, Abū Ad-Dardā, 'Āishah and twelve other Companions of the Prophet ﷺ."

(22) CHAPTER. What are the regulations concerning the property and the family of a lost person?

Ibn Al-Musaiyab said: If a person is lost from a file in a battle, his wife should wait for one year (before she re-marries).

Ibn Mas'ūd bought a slave-girl and searched for her owner for one year (in order to give him her price) but he could not find him for he was lost. So Ibn Mas'ūd started giving one or two Dirhams (to poor people), and said, "O Allāh! Accept this (alms) on behalf of such-and-such person; and if he returns, the reward for this giving

مَشْرُوبَةٍ لَهُ تِسْعًا وَعِشْرِينَ. ثُمَّ نَزَلَ فَقَالُوا: يَا رَسُولَ اللَّهِ، أَلَيْتَ شَهْرًا، فَقَالَ: «الشَّهْرُ تِسْعٌ وَعِشْرُونَ».

[راجع: ٣٧٨]

٥٢٩٠ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ، عَنْ نَافِعٍ: أَنَّ ابْنَ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا كَانَ يَقُولُ فِي الْإِيلَاءِ الَّذِي سَمَّى اللَّهُ تَعَالَى: لَا يَحِلُّ لِأَحَدٍ بَعْدَ الْأَجَلِ إِلَّا أَنْ يُمْسِكَ بِالْمَعْرُوفِ أَوْ يَعْزِمَ بِالطَّلَاقِ كَمَا أَمَرَ اللَّهُ عَزَّ وَجَلَّ.

٥٢٩١ - وَقَالَ لِي إِسْمَاعِيلُ: حَدَّثَنِي مَالِكٌ، عَنْ نَافِعٍ، عَنْ ابْنِ عُمَرَ: إِذَا مَضَتْ أَرْبَعَةُ أَشْهُرٍ يُوقَفُ حَتَّى يُطَلَّقَ وَلَا يَقَعُ عَلَيْهِ الطَّلَاقُ حَتَّى يُطَلَّقَ. وَيُذَكَّرُ ذَلِكَ عَنْ عُثْمَانَ وَعَلِيٍّ وَأَبِي الدَّرْدَاءِ وَعَائِشَةَ وَابْنِي عَشَرَ رَجُلًا مِنْ أَصْحَابِ النَّبِيِّ ﷺ.

(٢٢) بَابُ حُكْمِ الْمَفْقُودِ فِي أَهْلِهِ، وَمَالِهِ،

وَقَالَ ابْنُ الْمُسَيَّبِ: إِذَا فُقِدَ فِي الصَّفِّ عِنْدَ الْقِتَالِ تَرَبَّصْ أَمْرَاتُهُ سَنَةً. وَاشْتَرَى ابْنُ مَسْعُودٍ جَارِيَةً فَالْتَمَسَ صَاحِبُهَا سَنَةً فَلَمْ يَجِدْهُ وَفُقِدَ فَأَخَذَ يُعْطِي الدَّرْهَمَ وَالذَّرْهَمَيْنِ، فَقَالَ: اللَّهُمَّ عَنْ فُلَانٍ فَإِنْ أَتَى فُلَانٌ فَلِي وَعَلَيَّ، وَقَالَ: هَكَذَا فافْعَلُوا بِالْقُفْطَةِ. وَقَالَ ابْنُ عَبَّاسٍ نَحْوَهُ.

(1) (H. 5290) *Īlā'* means the oath taken by a husband that he would not approach his wife for a certain period.

will come to me, and I shall pay that person the price of the slave-girl." Ibn Mas'ūd further said: "You should do so with a *Luqaṭa* (something found)." Ibn 'Abbās narrated similarly.

Az-Zuhri said regarding a captive whose place (of stay) is known: His wife should not re-marry, nor should his property be distributed, but when news about him ceases to come, then his case is to be treated as the case of a lost person.

5292. Narrated Yazīd, the *Maulā* of Munba'ith: The Prophet ﷺ was asked regarding the case of a lost sheep. He said, "You should take it, because it is for you, or for your brother, or for the wolf." Then he was asked about a lost camel. He got angry and his face became red and he said (to the questioner), "You have nothing to do with it; it has its feet and its water container with it; it can go on drinking water and eating trees till its owner meets it." And then the Prophet ﷺ was asked about a *Luqaṭa* (money found by somebody). He said, "Remember and recognize its tying material and its container, and make public announcement about it for one year. If somebody comes and identifies it (then give it to him), otherwise add it to your property."

وَقَالَ الزُّهْرِيُّ فِي الْأَسِيرِ يُعْلَمُ مَكَانُهُ: لَا تَتَزَوَّجُ امْرَأَتُهُ وَلَا يُقْسَمُ مَالُهُ، فَإِذَا انْقَطَعَ خَبَرُهُ فَسُنَّتُهُ سُنَّةُ الْمَفْقُودِ.

٥٢٩٢ - حَدَّثَنَا عَلِيُّ بْنُ عَبْدِ اللَّهِ: حَدَّثَنَا سُفْيَانُ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ يَزِيدَ مَوْلَى الْمُتَّبِعِ: أَنَّ النَّبِيَّ ﷺ سُئِلَ عَنْ ضَالَّةِ الْعَنَمِ، فَقَالَ: «حُذَّهَا فَإِنَّمَا هِيَ لَكَ أَوْ لِأَخِيكَ أَوْ لِلذَّئِبِ». وَسُئِلَ عَنْ ضَالَّةِ الْإِبِلِ، فَغَضِبَ وَاحْمَرَّتْ وَجْنَتَاهُ، وَقَالَ: «مَا لَكَ وَلَهَا؟ مَعَهَا الْحِذَاءُ وَالسَّقَاءُ، تَشْرَبُ الْمَاءَ وَتَأْكُلُ الشَّجَرَ حَتَّى يَلْقَاهَا رِثُهَا». وَسُئِلَ عَنِ اللَّقْطَةِ، فَقَالَ: «اعْرِفْ وَكِأَهَا وَعِفَاصَهَا، وَعَرِّفْهَا سَنَةً، فَإِنْ جَاءَ مَنْ يَعْرِفُهَا، وَإِلَّا فَاخْطِطْهَا بِمَالِكَ». قَالَ سُفْيَانُ: فَلَقِيتُ رَبِيعَةَ بِنَ أَبِي عَبْدِ الرَّحْمَنِ وَلَمْ أَخْفِظْ عَنْهُ شَيْئًا غَيْرَ هَذَا فَقُلْتُ: أَرَأَيْتَ حَدِيثَ يَزِيدَ مَوْلَى الْمُتَّبِعِ فِي أَمْرِ الضَّالَّةِ هُوَ عَنْ زَيْدِ بْنِ خَالِدٍ؟ قَالَ: نَعَمْ، قَالَ يَحْيَى: وَيَقُولُ رَبِيعَةُ عَنْ يَزِيدَ مَوْلَى الْمُتَّبِعِ، عَنْ زَيْدِ بْنِ خَالِدٍ، قَالَ

سُفْيَانُ: فَلَقِيتُ رَبِيعَةَ فَقُلْتُ لَهُ.

[راجع: ٩١]

(23) CHAPTER. *Az-Zihār*.⁽¹⁾

And the Statement of Allāh تعالى:

“Indeed Allāh has heard the statement of her (Khawla bint Tha’laba) that disputes with you (O Muḥammad ﷺ) concerning her husband (Aus bin Aṣ-Ṣāmit)... (up to)... and for him who is unable to do so, he should feed sixty of the poor.” (V.58:1-4)

Narrated Mālik that he asked Ibn Shihāb about *Az-Zihār* of a slave. He said, “It is like *Az-Zihār* of a free man.” Mālik said: The fasting of a slave (in the above case) is two months.

And Al-Ḥasan bin Al-Ḥurr said: *Az-Zihār* of a free man or a slave towards a free lady or a slave lady is the same.

‘Ikrima said: If someone declares *Zihār* towards his slave girl, it has no significance, for *Zihār* is only valid in cases involving actual wives.

(24) CHAPTER. Using gestures to express the decision of divorcing and other matters.

Narrated Ibn ‘Umar: The Prophet ﷺ said, “Allāh will not punish (people) because of the tears they shed (over the dead) but He will punish (them) because of this,” pointing to his tongue.

Ka’b bin Mālik said: The Prophet ﷺ gestured to me with his hand, ordering me to take half (my due).

Asmā’ said: Once the Prophet ﷺ offered the eclipse *Ṣalāt* (prayer). I asked ‘Āishah while she was offering the *Ṣalāt* (prayer),

(٢٣) بَابُ الظَّهَارِ وَقَوْلُ اللَّهِ تَعَالَى:

﴿قَدْ سَمِعَ اللَّهُ قَوْلَ الَّتِي تُجَادِلُكَ فِي زَوْجِهَا إِلَى قَوْلِهِ: ﴿مَنْ لَرَّ بَسْطَعَ فِطْعَامُ سِتِّينَ مِسْكِيْنًا﴾ [المجادلة: ١-٤].

وَقَالَ لِي إِسْمَاعِيلُ: حَدَّثَنِي مَالِكٌ: أَنَّهُ سَأَلَ ابْنَ شِهَابٍ عَنْ ظَهَارِ الْعَبْدِ، فَقَالَ: نَحْوُ ظَهَارِ الْحُرِّ. قَالَ مَالِكٌ: وَصِيَامُ الْعَبْدِ شَهْرَانِ. وَقَالَ الْحَسَنُ بْنُ الْحُرِّ: ظَهَارُ الْحُرِّ وَالْعَبْدِ مِنَ الْحُرَّةِ وَالْأَمَةِ سَوَاءً. وَقَالَ عِكْرِمَةُ: إِنْ ظَاهَرَ مِنْ أَمَتِهِ فَلَيْسَ بِشَيْءٍ، إِنَّمَا الظَّهَارُ مِنَ النِّسَاءِ. وَفِي الْعَرَبِيَّةِ: ﴿لِمَا قَالُوا﴾ أَيِ فِيمَا قَالُوا وَفِي نَقْصِ مَا قَالُوا، وَهَذَا أَوْلَى لِأَنَّ اللَّهَ لَمْ يَدَلَّ عَلَى الْمُتَكْرَرِ وَقَوْلُ الزُّوْرِ.

(٢٤) بَابُ الْإِشَارَةِ فِي الطَّلَاقِ وَالْأُمُورِ

وَقَالَ ابْنُ عُمَرَ: قَالَ النَّبِيُّ ﷺ: «لَا يُعَذِّبُ اللَّهُ بِدَمْعِ الْعَيْنِ وَلَكِنْ يُعَذِّبُ بِهَذَا»، وَأَشَارَ إِلَى لِسَانِهِ. وَقَالَ كَعْبُ بْنُ مَالِكٍ: أَشَارَ النَّبِيُّ ﷺ إِلَيَّ أَنْ أَخُذَ النِّصْفَ، وَقَالَتْ أَسْمَاءُ: صَلَّى النَّبِيُّ ﷺ فِي الْكُسُوفِ، فَقُلْتُ لِعَائِشَةَ: مَا شَأْنُ النَّاسِ؟ فَأَوْمَأَتْ بِرَأْسِهَا إِلَى

(1) (Ch. 23) *Az-Zihār* is the saying of a husband to his wife, “You are to me like the back of my mother,” i.e., “you are unlawful for me to approach.”

"What is the matter with the people?" She pointed towards the sun with her head. I asked, "Is there a sign?" She nodded, agreeing.

Anas said: The Prophet ﷺ signalled to Bakr with his hand to lead the *Ṣalāt* (prayer).

Ibn 'Abbās said: The Prophet ﷺ waved his hand, indicating that there was no harm (in a certain matter).

Abū Qatāda said: The Prophet ﷺ said (to his Companions) regarding hunting by a *Muḥrim*, "Did anyone of you (while in the state of *Iḥrām*) order him (a non-*Muḥrim*) to attack the game, or did anyone of you point at it (to draw his attention)?" They said, "No." On that the Prophet ﷺ said: "Then eat of it."⁽¹⁾

5293. Narrated Ibn 'Abbās رَضِيَ اللَّهُ عَنْهُمَا: Allāh's Messenger ﷺ performed the *Tawāf* (around the Ka'bah) while riding his camel, and every time he reached the corner (of the Black Stone) he pointed at it with his hand and said "*Allāhu Akbar*."

(Zainab said: The Prophet ﷺ said, "An opening has been made in the wall of Gog and Magog like this and this," forming the number 90 (with his thumb and index finger).

5294. Narrated Abū Hurairah رَضِيَ اللَّهُ عَنْهُ: Abūl-Qāsim (the Prophet ﷺ) said, "There is an hour (or a moment) of particular significance on Friday. If it happens that a Muslim is offering a *Ṣalāt* (prayer) and

السَّائِسِ، فَقُلْتُ: آيَةٌ؟ فَأَوْمَأَتْ بِرَأْسِهَا وَهِيَ تَصَلِّي أَي نَعَمْ. وَقَالَ أَنَسٌ: أَوْمَأَ النَّبِيُّ ﷺ بِيَدِهِ إِلَى أَبِي بَكْرٍ أَنْ يَتَقَدَّمَ. وَقَالَ ابْنُ عَبَّاسٍ: أَوْمَأَ النَّبِيُّ ﷺ بِيَدِهِ لَا حَرَجَ. وَقَالَ أَبُو قَتَادَةَ: قَالَ النَّبِيُّ ﷺ فِي الصَّيْدِ لِلْمُحْرِمِ: «أَحَدٌ مِنْكُمْ أَمَرَهُ أَنْ يَخْمُولَ عَلَيْهَا، أَوْ أَشَارَ إِلَيْهَا؟» قَالُوا: لَا، قَالَ: «فَكُلُوا».

٥٢٩٣ - حَدَّثَنَا عَبْدُ اللَّهِ بْنُ مُحَمَّدٍ: حَدَّثَنَا أَبُو عَامِرٍ عَبْدُ الْمَلِكِ بْنُ عَمْرٍو: حَدَّثَنَا إِبْرَاهِيمُ، عَنْ خَالِدٍ، عَنْ عِكْرَمَةَ، عَنْ ابْنِ عَبَّاسٍ قَالَ: طَافَ رَسُولُ اللَّهِ ﷺ عَلَى بَعْضِهِ وَكَانَ كَلِمًا أَتَى عَلَى الرُّكْنِ، أَشَارَ إِلَيْهِ وَكَبَّرَ. وَقَالَتْ زَيْنَبُ: قَالَ النَّبِيُّ ﷺ: «فَتَحَ مِنْ رَذَمٍ يَأْجُوجُ وَمَأْجُوجَ مِثْلُ هَذِهِ وَهَذِهِ»، وَعَقَّدَ تِسْعِينَ.

[راجع: ١٦٠٧]

٥٢٩٤ - حَدَّثَنَا مُسَدَّدٌ: حَدَّثَنَا بَشَرُ بْنُ الْمُفَضَّلِ: حَدَّثَنَا سَلَمَةُ بْنُ عَلْقَمَةَ، عَنْ مُحَمَّدِ بْنِ سِيرِينَ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ أَبُو الْقَاسِمِ

(1) (Chap. 24) This is part of a story where a non-*Muḥrim* had hunted game, and those who were in the state of *Iḥrām* hesitated to eat thereof, so the Prophet ﷺ asked them whether they had participated in its hunting with a word or a gesture. When they denied that, he allowed them to eat of it.

invoking Allāh for some good at that very moment, Allāh will grant him his request.” (The subnarrator placed the top of his finger on the palm of the other hand between the middle finger and the little one). (See H.935)

5295. Narrated Anas bin Mālik رَضِيَ اللَّهُ عَنْهُ: During the lifetime of Allāh’s Messenger ﷺ, a Jew attacked a girl and took some silver ornaments she was wearing and crushed her head. Her relatives brought her to the Prophet ﷺ while she was in her last breaths, and she was unable to speak. Allāh’s Messenger ﷺ asked her, “Who has hit you? So-and-so?”, mentioning somebody other than her murderer. She moved her head, indicating denial. The Prophet ﷺ mentioned another person other than the murderer, and she again moved her head indicating denial. Then he asked, “Was it so-and-so?”, mentioning the name of her killer. She nodded, agreeing. Then Allāh’s Messenger ﷺ ordered that the head of that Jew be crushed between two stones. (See H.2413)

5296. Narrated Ibn ‘Umar رَضِيَ اللَّهُ عَنْهُمَا: I heard the Prophet ﷺ saying, “*Al-Fitnah* (trial or affliction) will emerge from here,” pointing towards the East.

5297. Narrated ‘Abdullāh bin Abī Aufā: We were with Allāh’s Messenger ﷺ on a journey, and when the sun set, he said to a

رَضِيَ اللَّهُ عَنْهُ: «فِي الْجُمُعَةِ سَاعَةً لَا يُؤَفِّقُهَا عَبْدٌ مُسْلِمٌ قَائِمٌ يُصَلِّي، يَسْأَلُ اللَّهَ خَيْرًا إِلَّا أَعْطَاهُ»، وَقَالَ بِيَدِهِ وَوَضَعَ أُنْمُلَتَهُ عَلَى بَطْنِ الْوُسْطَى وَالْخِنْصِرِ، قُلْنَا: يُزْهَدُهَا. [راجع: ٩٣٥]

٥٢٩٥ - قَالَ: وَقَالَ الْأَوْسِيُّ: حَدَّثَنَا إِبْرَاهِيمُ بْنُ سَعْدٍ، عَنْ شُعْبَةَ بْنِ الْحَجَّاجِ، عَنْ هِشَامِ بْنِ زَيْدٍ، عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ: عَدَا يَهُودِيٌّ فِي عَهْدِ رَسُولِ اللَّهِ ﷺ عَلَى جَارِيَةٍ فَأَخَذَ أَوْصَاحًا كَانَتْ عَلَيْهَا، وَرَضَخَ رَأْسَهَا، فَاتَى بِهَا أَهْلَهَا رَسُولُ اللَّهِ ﷺ وَهِيَ فِي آخِرِ رَمَقٍ وَقَدْ أَصْمَتَتْ، فَقَالَ لَهَا رَسُولُ اللَّهِ ﷺ: «مَنْ قَتَلَكَ؟ فُلَانٌ؟» لَغِيرِ الَّذِي قَتَلَهَا، فَأَشَارَتْ بِرَأْسِهَا أَنْ لَا، قَالَ: فَقَالَ لِرَجُلٍ آخَرَ غَيْرِ الَّذِي قَتَلَهَا فَأَشَارَتْ أَنْ لَا، فَقَالَ: «فَفُلَانٌ؟» لِقَاتِلِهَا، فَأَشَارَتْ أَنْ نَعَمْ. فَأَمَرَ بِهِ رَسُولُ اللَّهِ ﷺ فَرَضَخَ رَأْسَهُ بَيْنَ حَجَرَيْنِ. [راجع: ٢٤١٣]

٥٢٩٦ - حَدَّثَنَا قَبِيصَةُ: حَدَّثَنَا سُفْيَانُ، عَنْ عَبْدِ اللَّهِ بْنِ دِينَارٍ، عَنْ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَالَ: سَمِعْتُ النَّبِيَّ ﷺ يَقُولُ: «الْفِتْنَةُ مِنْ هَاهُنَا»، وَأَشَارَ إِلَى الْمَشْرِقِ.

[راجع: ٣١٠٤]

٥٢٩٧ - حَدَّثَنَا عَلِيُّ بْنُ عَبْدِ اللَّهِ: حَدَّثَنَا جَرِيرُ بْنُ عَبْدِ الْحَمِيدِ،

man, "Get down and prepare a drink of *Sawīq* for me." The man said, "O Allāh's Messenger! Will you wait till it is evening?" Allāh's Messenger ﷺ again said, "Get down and prepare a drink of *Sawīq*." The man said, "O Allāh's Messenger! Will you wait till it is evening, for it is still daytime." The Prophet ﷺ again said, "Get down and prepare a drink of *Sawīq*." So the third time the man got down and prepared a drink of *Sawīq* for him. Allāh's Messenger ﷺ drank thereof and pointed with his hand towards the East, saying, "When you see the night falling from this side, then a fasting person should break his fast." (See H. 1941)

5298. Narrated 'Abdullāh bin Mas'ūd رَضِيَ اللَّهُ عَنْهُ: The Prophet ﷺ said, "The call (or the *Ādhān*) of Bilāl should not stop you from taking the *Sahūr*-meals, for Bilāl calls (or pronounces the *Ādhān*) so that the one who is offering the night prayer should take a rest, and it does not indicate the daybreak or dawn." The narrator, Yazīd, described (how dawn breaks) by stretching out his hands and then separating them wide apart.

5299. Narrated Abū Hurairah رَضِيَ اللَّهُ عَنْهُ: Allāh's Messenger ﷺ said, "The example of a miser and a generous person is like that of two persons wearing iron cloaks from the breast up to the neck. When the generous person spends, the iron cloak enlarges and

عَنْ أَبِي إِسْحَاقَ الشَّيْبَانِيِّ، عَنْ عَبْدِ اللَّهِ بْنِ أَبِي أَوْفَى قَالَ: كُنَّا فِي سَفَرٍ مَعَ رَسُولِ اللَّهِ ﷺ فَلَمَّا عَرَبَتِ الشَّمْسُ قَالَ لِرَجُلٍ: «انْزِلْ فَاجْدَحْ لِي»، قَالَ: يَا رَسُولَ اللَّهِ، لَوْ أَمْسَيْتَ، ثُمَّ قَالَ: «انْزِلْ فَاجْدَحْ»، قَالَ: يَا رَسُولَ اللَّهِ، لَوْ أَمْسَيْتَ إِنَّ عَلَيْنِكَ نَهَارًا، ثُمَّ قَالَ: «انْزِلْ فَاجْدَحْ»، فَتَزَلَّ فَجَدَحَ لَهُ فِي الثَّالِثَةِ، فَشَرِبَ رَسُولُ اللَّهِ ﷺ ثُمَّ أَوْمَأَ بِيَدِهِ إِلَى الْمَشْرِقِ فَقَالَ: «إِذَا رَأَيْتُمْ اللَّيْلَ قَدْ أَقْبَلَ مِنْ هَاهُنَا فَقَدْ أَفْطَرَ الصَّائِمُ». [راجع: ١٩٤١]

٥٢٩٨ - حَدَّثَنَا عَبْدُ اللَّهِ بْنُ مَسْلَمَةَ: حَدَّثَنَا يَزِيدُ بْنُ زُرَيْعٍ، عَنْ سُلَيْمَانَ، عَنْ أَبِي عُثْمَانَ، عَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ قَالَ: قَالَ النَّبِيُّ ﷺ: «لَا يَمْنَعَنَّ أَحَدًا مِنْكُمْ نِدَاءُ بِلَالٍ، أَوْ قَالَ: أَذَانُهُ مِنْ سَحُورِهِ، فَإِنَّمَا يُنَادِي، أَوْ قَالَ: يُؤَدِّنُ لِيُرْجِعَ قَائِمَكُمْ، وَلَيْسَ أَنْ يَقُولَ - كَأَنَّهُ يَغْنِي - الصُّبْحُ أَوْ الْفَجْرُ»، وَأَظْهَرَ يَزِيدُ يَدَيْهِ ثُمَّ مَدَّ إِحْدَاهُمَا مِنَ الْآخَرَى. [راجع: ٦٢١]

٥٢٩٩ - وَقَالَ اللَّيْثُ: حَدَّثَنِي جَعْفَرُ ابْنُ رَبِيعَةَ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ هُرَيْرَةَ: سَمِعْتُ أَبَا هُرَيْرَةَ: قَالَ رَسُولُ اللَّهِ ﷺ: «مَثَلُ الْبَخِيلِ وَالْمُنْفِقِ

spread over his skin so much so that it covers his fingertips and obliterates his tracks. As for the miser, as soon as he thinks of spending, every ring of the iron cloak sticks to its place (against his body) and he tries to expand it, but it does not expand. The Prophet ﷺ pointed with his hand towards his throat.

(25) CHAPTER. *Al-Li'ān*.⁽¹⁾

The Statement of Allāh تعالى:

“And for those who accuse their wives.. (up to) .. if he (her husband) speaks the truth.”
(V.24:6-9)

If a dumb man accuses his wife (of an illegal sexual intercourse) by means of writing, pointing or giving a familiar nod, then he is like the one who can speak, for the Prophet ﷺ has permitted the use of gestures in performing the orders prescribed by Allāh. That is the saying of some people of Hijāz and some learned men.

And Allāh تعالى said:

“Then she (Mary) pointed to him (Jesus). They said, ‘How can we talk to one who is a child in the cradle?’ ” (V.19:29)

And Ad-Dahhāk said: ‘*Illā-Ramzā*’ means ‘only with signals’.

Some scholars said: Neither a legal prescribed punishment, nor *Li'ān* (are permissible to be carried out through gestures). Yet he said: If somebody expresses his decision to divorce his wife by means of writing, pointing or nodding, it is permissible. But there is no difference between divorcing and accusing. If that scholar says that accusation can be only through speech, he will be answered that;

كَمَثَلِ رَجُلَيْنِ عَلَيْهِمَا جُبَّتَانِ مِنْ حَدِيدٍ مِنْ لَدُنْ تَذْيِبُهُمَا إِلَى تَرَاقِيهِمَا، فَأَمَّا الْمُتَّقُ فَلَا يُتَفَقُّ شَيْئًا إِلَّا مَادَتْ عَلَى جِلْدِهِ حَتَّى تُجِنَّ بَنَانُهُ وَتَغْفُو أَثَرَهُ، وَأَمَّا الْبَخِيلُ فَلَا يُرِيدُ يُتَفَقُّ إِلَّا لَزِمَتْ كُلُّ حَلْقَةٍ مَوْضِعَهَا فَهُوَ يُوسِعُهَا وَلَا تَتَّسِعُ، وَيُسِيرُ بِإِصْبَعِهِ إِلَى حَلْقِهِ.

[راجع: ١٤٤٣]

(٢٥) بَابُ اللَّعَانِ وَقَوْلُ اللَّهِ تَعَالَى:

﴿وَالَّذِينَ يَرْمُونَ أَزْوَاجَهُمْ﴾ إِلَى قَوْلِهِ: ﴿إِنْ كَانَ مِنَ الصَّادِقِينَ﴾

فَإِذَا قَذَفَ الْأَخْرُسُ امْرَأَتَهُ بِكِتَابَةٍ أَوْ إِشَارَةٍ أَوْ إيماءٍ مَعْرُوفٍ، فَهُوَ كَالْمُتَكَلِّمِ لِأَنَّ النَّبِيَّ ﷺ قَدْ أَجَازَ الْإِشَارَةَ فِي الْفَرَائِضِ، وَهُوَ قَوْلُ بَعْضِ أَهْلِ الْحِجَازِ وَأَهْلِ الْعِلْمِ. وَقَالَ اللَّهُ تَعَالَى: ﴿فَاسْأَرْتَ إِلَيْهِ قَالُوا كَيْفَ نُكَلِّمُ مَنْ كَانَ فِي الْمَهْدِ صَبِيًّا﴾ [مريم: ٢٩].

وَقَالَ الضَّحَّاكُ ﴿إِلَّا رَمَزًا﴾ [آل عمران: ٤١]: إِشَارَةً. وَقَالَ بَعْضُ النَّاسِ: لَا حَدَّ وَلَا لِعَانَ، ثُمَّ زَعَمَ إِنْ طَلَّقَ بِكِتَابَةٍ أَوْ إِشَارَةٍ أَوْ إيماءٍ جَازٍ، وَلَيْسَ بَيْنَ الطَّلَاقِ وَالْقَذْفِ فَرْقٌ. فَإِنْ قَالَ: الْقَذْفُ لَا يَكُونُ إِلَّا بِكَلَامٍ، قِيلَ لَهُ: كَذَلِكَ الطَّلَاقُ لَا يَكُونُ إِلَّا بِكَلَامٍ، وَإِلَّا بَطَلَ الطَّلَاقُ

(1) (Ch. 25) See the glossary.

similarly, divorce cannot be given except through speech, otherwise both divorce and accusation are invalid. The same is true about the manumission of slaves. A deaf person is permitted to do *Li'an*.

Ash-Sha'bī and Qatāda said: If someone says, "You are divorced," and points with his fingers, his gesture is enough to bring about the divorce.

Ibrāhīm said: If a dumb person writes a divorce with his hand, it becomes valid.

And Ḥamād said: If a dumb or a deaf person gives a nod (to indicate something), it is sufficient.

وَالْقَذْفُ، وَكَذَلِكَ الْعِتْشُ، وَكَذَلِكَ الْأَصْمُ يُلَاعِنُ. وَقَالَ الشَّعْبِيُّ وَقَتَادَةُ: إِذَا قَالَ: أَنْتَ طَالِقٌ، فَأَشَارَ بِأَصَابِعِهِ؛ تَبَيَّنَ مِنْهُ بِإِشَارَتِهِ. وَقَالَ إِبْرَاهِيمُ: الْأَخْرَسُ إِذَا كَتَبَ الطَّلَاقَ بِيَدِهِ لَزِمَهُ. وَقَالَ حَمَّادٌ: الْأَخْرَسُ وَالْأَصْمُ إِنْ قَالَ بِرَأْسِهِ جَارَ.

5300. Narrated Anas bin Mālik رَضِيَ اللَّهُ عَنْهُ: Allāh's Messenger ﷺ said, "Shall I tell you of the best families among the *Anṣār*?" They (the people) said, "Yes, O Allāh's Messenger! The Prophet ﷺ said, "The best are Banū An-Najjār, and after them are Banū 'Abd Al-Ash-hal, and after them are Banū Al-Hārith bin Al-Khazraj, and after them are Banū Sā'ida." The Prophet ﷺ then moved his hand by closing his fingers and then opening them like one throwing something, and then said, "Anyhow, there is good in all the families of the *Anṣār*."

٥٣٠٠ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا لَيْثٌ، عَنْ يَحْيَى بْنِ سَعِيدٍ الْأَنْصَارِيِّ: أَنَّهُ سَمِعَ أَنَسَ بْنَ مَالِكٍ يَقُولُ: قَالَ رَسُولُ اللَّهِ ﷺ: «أَلَا أُخْبِرُكُمْ بِخَيْرِ دُورِ الْأَنْصَارِ؟» قَالُوا: بَلَى يَا رَسُولَ اللَّهِ، قَالَ: «بَنُو النَّجَّارِ، ثُمَّ الَّذِينَ يَلُونَهُمْ: بَنُو عَبْدِ الْأَشْهَلِ، ثُمَّ الَّذِينَ يَلُونَهُمْ: بَنُو الْحَارِثِ بْنِ الْخَزْرَجِ، ثُمَّ الَّذِينَ يَلُونَهُمْ بَنُو سَاعِدَةَ»، ثُمَّ قَالَ بِيَدِهِ، فَقَبَضَ أَصَابِعَهُ، ثُمَّ بَسَطَهُنَّ كَالرَّامِي بِيَدِهِ، ثُمَّ قَالَ: «وَفِي كُلِّ دُورٍ الْأَنْصَارِ خَيْرٌ».

5301. Narrated Sahl bin Sa'd As-Sā'idi, a Companion of Allāh's Messenger ﷺ: Allāh's Messenger ﷺ, holding out his middle and index fingers, said, "My advent and the Hour's are like this (or like these)," namely, the period between his era and the Hour is like the distance between those two fingers, i.e., very short.

٥٣٠١ - حَدَّثَنَا عَلِيُّ بْنُ عَبْدِ اللَّهِ: حَدَّثَنَا سُفْيَانُ: قَالَ أَبُو حَازِمٍ: سَمِعْتُ مِنْ سَهْلِ بْنِ سَعْدٍ السَّاعِدِيِّ صَاحِبِ رَسُولِ اللَّهِ ﷺ يَقُولُ: قَالَ رَسُولُ اللَّهِ ﷺ: «بُعِثْتُ أَنَا وَالسَّاعَةُ».

5302. Narrated Ibn 'Umar: The Prophet ﷺ (holding out his ten fingers thrice) said, "The month is thus and thus and thus," namely thirty days. Then (holding out his ten fingers twice and then nine fingers) he said, "It may be thus and thus and thus," namely twenty-nine days. He meant once thirty days and once twenty-nine days.

5303. Narrated Abū Mas'ūd: The Prophet ﷺ pointed with his hand towards Yemen and said twice, "Faith is there," and then pointed towards the East, and said, "Verily, sternness and mercilessness are the qualities of those who are busy with their camels and pay no attention to their religion, from where comes out the two sides of the head of Satan, namely, the tribes of Rabī'a and Muḍar."

5304. Narrated Sahl: Allāh's Messenger ﷺ said, "I and the one who looks after an orphan will be like this in Paradise," showing his middle and index fingers and separating them.

(26) CHAPTER. If a husband hints that he suspects his paternity to a child.

5305. Narrated Abū Hurairah رَضِيَ اللَّهُ عَنْهُ: A man came to the Prophet ﷺ and said, "O Allāh's Messenger! A black child has been

كَلَهُ مِنْ هَذِهِ، أَوْ كَهَاتَيْنِ»، وَقَرَنَ بَيْنَ السَّبَّابَةِ وَالْوُسْطَى. [راجع: ١٣٦] ٥٣٠٢ - حَدَّثَنَا آدَمُ: حَدَّثَنَا شُعْبَةُ: حَدَّثَنَا جَبَلَةُ بْنُ سُحَيْمٍ: سَمِعْتُ ابْنَ عَمَرَ يَقُولُ: قَالَ النَّبِيُّ ﷺ: «الشَّهْرُ هَكَذَا وَهَكَذَا وَهَكَذَا»، يَغْنِي ثَلَاثِينَ، ثُمَّ قَالَ: «وَهَكَذَا وَهَكَذَا وَهَكَذَا»، يَغْنِي تِسْعًا وَعَشْرِينَ. يَقُولُ: مَرَّةً ثَلَاثِينَ، وَمَرَّةً تِسْعًا وَعَشْرِينَ. [راجع: ١٩٠٨]

٥٣٠٣ - حَدَّثَنِي مُحَمَّدُ بْنُ الْمُثَنَّى: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ، عَنْ إِسْمَاعِيلَ، عَنْ قَيْسٍ، عَنْ أَبِي مَسْعُودٍ: قَالَ: وَأَشَارَ النَّبِيُّ ﷺ بِيَدِهِ نَحْوَ الْيَمَنِ: «الْإِيمَانُ هَاهُنَا - مَرَّتَيْنِ - أَلَا وَإِنَّ الْقَسْوَةَ وَغِلَظَ الْقُلُوبِ فِي الْفَدَّادِينَ حَيْثُ يَطْلُعُ قَرْنَا الشَّيْطَانِ: رَبِيعَةٌ وَمُضَرٌّ». [راجع: ٣٣٠٢]

٥٣٠٤ - حَدَّثَنَا عَمْرُو بْنُ زُرَّارَةَ: أَخْبَرَنَا عَبْدُ الْعَزِيزِ بْنُ أَبِي حَازِمٍ، عَنْ أَبِيهِ، عَنْ سَهْلٍ: قَالَ رَسُولُ اللَّهِ ﷺ: «أَنَا وَكَافُلُ الْيَتِيمِ فِي الْجَنَّةِ هَكَذَا»، وَأَشَارَ بِالسَّبَّابَةِ وَالْوُسْطَى وَفَرَجَ بَيْنَهُمَا شَيْئًا. [انظر: ٦٠٠٥]

(٢٦) بَابُ: إِذَا عَرَّضَ بَنَفِي الْوَلَدِ

٥٣٠٥ - حَدَّثَنَا يَحْيَى بْنُ قَزَعَةَ: حَدَّثَنَا مَالِكٌ، عَنْ ابْنِ شِهَابٍ، عَنْ

born for me.” The Prophet ﷺ asked him, “Have you got camels?” The man said, “Yes.” The Prophet ﷺ asked him, “What colour are they?” The man replied, “Red.” The Prophet ﷺ said, “Is there a grey one among them?” The man replied, “Yes.” The Prophet ﷺ said, “Whence comes that?” He said, “May be it is because of heredity.” The Prophet ﷺ said, “May be your (latest) son has this colour because of heredity.”

(27) CHAPTER. Commanding those who are involved in a case of *Li'ān*⁽¹⁾ to take the oath (of *Li'ān*).

5306. Narrated 'Abdullāh رضي الله عنه: An *Anṣārī* man accused his wife (of committing illegal sexual intercourse). The Prophet ﷺ made both of them take the oath of *Li'ān*, and separated them from each other (by divorce).

(28) CHAPTER. The man should start the process of *Li'ān*.

5307. Narrated Ibn 'Abbās رضي الله عنهما: Hilāl bin Umaiyya accused his wife of illegal sexual intercourse and came to the Prophet ﷺ to bear witness (against her), (taking the oath of *Li'ān*). The Prophet ﷺ was saying, “Allāh knows that either of you is a liar. Will anyone of you repent (to Allāh)?” Then the lady got up and gave her witness.

سَعِيدُ بْنُ الْمُسَيَّبِ، عَنْ أَبِي هُرَيْرَةَ: أَنَّ رَجُلًا أَتَى النَّبِيَّ ﷺ فَقَالَ: يَا رَسُولَ اللَّهِ، وَلَدَ لِي غُلَامٌ أَسْوَدُ، فَقَالَ: «هَلْ لَكَ مِنْ إِبِلٍ؟» قَالَ: نَعَمْ، قَالَ: «مَا أَلْوَانُهَا؟» قَالَ: حُمْرٌ، قَالَ: «هَلْ فِيهَا مِنْ أَوْرَقٍ؟» قَالَ: نَعَمْ، قَالَ: «فَأَتَى ذَلِكَ؟» قَالَ: لَعَلَّ نَزَعَهُ عِرْقٌ، قَالَ: «فَلَعَلَّ ابْنَتَكَ هَذَا نَزَعَهُ». [انظر: ٦٨٤٧، ٧٣١٤]

(٢٧) بَابُ إِخْلَافِ الْمُلَاعِنِ

٥٣٠٦ - حَدَّثَنَا مُوسَى بْنُ إِسْمَاعِيلَ: حَدَّثَنَا جُوَيْرِيَةُ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللَّهِ رَضِيَ اللَّهُ عَنْهُ: أَنَّ رَجُلًا مِنَ الْأَنْصَارِ قَذَفَ امْرَأَتَهُ فَاخْلَفَهُمَا النَّبِيُّ ﷺ ثُمَّ فَرَّقَ بَيْنَهُمَا. [راجع: ٤٧٤٨]

(٢٨) بَابُ: يَبْدَأُ الرَّجُلُ بِالتَّلَاغِنِ

٥٣٠٧ - حَدَّثَنِي مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا ابْنُ أَبِي عَدِيٍّ، عَنْ هِشَامِ بْنِ حَسَّانَ: حَدَّثَنَا عِكْرَمَةُ عَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا: أَنَّ هِلَالَ بْنَ أُمَيَّةٍ قَذَفَ امْرَأَتَهُ فَجَاءَ فَشَهِدَ وَالنَّبِيُّ ﷺ يَقُولُ: «إِنَّ اللَّهَ يَعْلَمُ أَنَّ أَحَدَكُمَا كَاذِبٌ، فَهَلْ مِنْكُمَا تَائِبٌ؟» ثُمَّ قَامَتْ فَشَهِدَتْ. [راجع: ٢٦٧١]

(1) (Chap. 27) *Li'ān*: See the glossary.

(29) CHAPTER. *Al-Li'ān*, and whoever divorced (his wife) after the process of *Li'ān*.

5308. Narrated Sahl bin Sa'd As-Sā'idī: 'Uwaimir Al-'Ajlānī came to 'Āṣim bin Adī Al-Anṣārī and said to him, "O 'Āṣim! Suppose a man saw another man with his wife, would he kill him whereupon you would kill him; or what should he do? Please, O 'Āṣim, ask about this on my behalf." 'Āṣim asked Allāh's Messenger ﷺ about it. Allāh's Messenger ﷺ disliked that question and considered it disgraceful. What 'Āṣim heard from Allāh's Messenger ﷺ was hard on him. When 'Āṣim returned to his family, 'Uwaimir came to him and said, "O 'Āṣim! What did Allāh's Messenger ﷺ say to you?" 'Āṣim said to 'Uwaimir, "You never bring me any good. Allāh's Messenger ﷺ disliked the problem which I asked him about." 'Uwaimir said, "By Allāh, I will not give up this matter until I ask the Prophet ﷺ about it." So 'Uwaimir proceeded till he came to Allāh's Messenger ﷺ in the midst of people, and said, "O Allāh's Messenger! If a man sees another man with his wife, would he kill him, whereupon you would kill him, or what should he do?" Allāh's Messenger ﷺ said, "Allāh has revealed some decree as regards you and your wife's case. Go and bring her." So they carried out the process of *Li'ān* while I was present among the people with Allāh's Messenger ﷺ. When they had finished their *Li'ān*, 'Uwaimir said, "O Allāh's Messenger! If I should now keep her with me as a wife, then I have told a lie." So he divorced her thrice prior to being ordered by Allāh's Messenger ﷺ. (Ibn Shihāb said: So divorce was the tradition for all those who were involved in a case of *Li'ān*).

(٢٩) بَابُ اللَّعَانِ وَمَنْ طَلَّقَ بَعْدَ اللَّعَانِ

٥٣٠٨ - حَدَّثَنَا إِسْمَاعِيلُ قَالَ: حَدَّثَنِي مَالِكٌ، عَنِ ابْنِ شِهَابٍ: أَنَّ سَهْلَ ابْنَ سَعْدٍ السَّاعِدِيِّ أَخْبَرَهُ أَنَّ عُوَيْمِرَ الْعَجْلَانِيَّ جَاءَ إِلَى عَاصِمِ بْنِ عَدِيٍّ الْأَنْصَارِيِّ فَقَالَ لَهُ: يَا عَاصِمُ، أَرَأَيْتَ رَجُلًا وَجَدَ مَعَ امْرَأَتِهِ رَجُلًا، أَيَقْتُلُهُ فَتَقْتُلُونَهُ؟ أَمْ كَيْفَ يَفْعَلُ؟ سَلْ لِي يَا عَاصِمُ عَنْ ذَلِكَ رَسُولَ اللَّهِ، فَسَأَلَ عَاصِمٌ رَسُولَ اللَّهِ ﷺ عَنْ ذَلِكَ، فَكَرِهَ رَسُولُ اللَّهِ ﷺ الْمَسْأَلَةَ وَعَابَهَا حَتَّى كَبُرَ عَلَى عَاصِمٍ مَا سَمِعَ مِنْ رَسُولِ اللَّهِ ﷺ. فَلَمَّا رَجَعَ عَاصِمٌ إِلَى أَهْلِهِ جَاءَهُ عُوَيْمِرُ فَقَالَ: يَا عَاصِمُ، مَاذَا قَالَ لَكَ رَسُولُ اللَّهِ ﷺ؟ فَقَالَ عَاصِمٌ لِعُوَيْمِرٍ: لَمْ تَأْتِنِي بِخَيْرٍ، قَدْ كَرِهَ رَسُولُ اللَّهِ ﷺ الْمَسْأَلَةَ الَّتِي سَأَلْتَهُ عَنْهَا. فَقَالَ عُوَيْمِرُ: وَاللَّهِ لَا أَنْتَهِيَ حَتَّى أَسْأَلَهُ عَنْهَا. فَأَقْبَلَ عُوَيْمِرُ حَتَّى جَاءَ رَسُولَ اللَّهِ ﷺ وَسَطَ النَّاسِ فَقَالَ: يَا رَسُولَ اللَّهِ، أَرَأَيْتَ رَجُلًا وَجَدَ مَعَ امْرَأَتِهِ رَجُلًا، أَيَقْتُلُهُ فَتَقْتُلُونَهُ؟ أَمْ كَيْفَ يَفْعَلُ؟ فَقَالَ رَسُولُ اللَّهِ ﷺ: «قَدْ أَنْزَلَ اللَّهُ فِيكَ وَفِي صَاحِبَتِكَ، فَادْهَبْ فَأْتِ بِهَا». قَالَ سَهْلٌ: فَتَلَاعَنَّا وَأَنَا مَعَ النَّاسِ عِنْدَ رَسُولِ اللَّهِ ﷺ، فَلَمَّا فَرَعَا مِنْ

تَلَاغِيَهُمَا قَالَ عُوَيْمِرٌ: كَذَبْتُ عَلَيْهَا يَا رَسُولَ اللَّهِ إِنَّ أَمْسَكْتُهَا، فَطَلَّقَهَا ثَلَاثًا قَبْلَ أَنْ يَأْمُرَهُ رَسُولُ اللَّهِ ﷺ. قَالَ ابْنُ شِهَابٍ: فَكَانَتْ سُنَّةَ الْمُتَلَاعِنِينَ. [راجع: ٤٢٣]

(٣٠) بَابُ التَّلَاغِي فِي الْمَسْجِدِ

(30) CHAPTER. To carry out *Li'ān*⁽¹⁾ in a mosque.

5309. Narrated Ibn Juraij: Ibn Shihāb informed me about *Li'ān* and the tradition related to it, referring to the narration of Sahl bin Sa'd, the brother of Banu Sā'ida. He said, "An *Anṣārī* man came to Allāh's Messenger ﷺ and said, 'O Allāh's Messenger! If a man saw another man with his wife, should he kill him, or what should he do?' So Allāh revealed concerning his affair what is mentioned in the Qur'an about the affair of those involved in a case of *Li'ān*. The Prophet ﷺ said, 'Allāh has given His Verdict regarding you and your wife.' So they carried out *Li'ān* in the mosque while I was present there. When they had finished, the man said, 'O Allāh's Messenger! If I should now keep her with me as a wife then I have told a lie about her.' Then he divorced her thrice without being ordered by Allāh's Messenger ﷺ, when they had finished the *Li'ān* process. So he divorced her in front of the Prophet ﷺ." Ibn Shihāb added, "After their case, it became a tradition that a couple involved in a case of *Li'ān* should be separated by divorce. That lady was pregnant then, and later on her son was called by his mother's name. The tradition concerning their inheritance was that she would be his heir and he would inherit of her property, the share Allāh had prescribed for

٥٣٠٩ - حَدَّثَنَا يَحْيَى بْنُ جَعْفَرٍ: أَخْبَرَنَا عَبْدُ الرَّزَّاقِ: أَخْبَرَنَا ابْنُ جُرَيْجٍ قَالَ: أَخْبَرَنِي ابْنُ شِهَابٍ، عَنِ الْمَلَاعِنَةِ وَعَنِ السُّنَّةِ فِيهَا عَنْ حَدِيثِ سَهْلِ بْنِ سَعْدٍ أَخِي بَنِي سَاعِدَةَ: أَنَّ رَجُلًا مِنَ الْأَنْصَارِ جَاءَ إِلَى رَسُولِ اللَّهِ ﷺ فَقَالَ: يَا رَسُولَ اللَّهِ، أَرَأَيْتَ رَجُلًا وَجَدَ مَعَ امْرَأَتِهِ رَجُلًا، أَقْتُلُهُ أَمْ كَيْفَ يَفْعَلُ؟ فَأَنْزَلَ اللَّهُ فِي شَأْنِهِ مَا ذَكَرَ فِي الْقُرْآنِ مِنْ أَمْرِ الْمُتَلَاعِنِينَ. فَقَالَ النَّبِيُّ ﷺ: «قَدْ قَضَى اللَّهُ فِيكَ وَفِي امْرَأَتِكَ»، قَالَ: فَتَلَاغَنَا فِي الْمَسْجِدِ وَأَنَا شَاهِدٌ، فَلَمَّا فَرَغَا قَالَ: كَذَبْتُ عَلَيْهَا يَا رَسُولَ اللَّهِ إِنَّ أَمْسَكْتُهَا، فَطَلَّقَهَا ثَلَاثًا قَبْلَ أَنْ يَأْمُرَهُ رَسُولُ اللَّهِ ﷺ حِينَ فَرَغَا مِنَ التَّلَاغِي، فَفَارَقَهَا عِنْدَ النَّبِيِّ ﷺ فَقَالَ: كَانَ ذَلِكَ تَفْرِيقًا بَيْنَ كُلِّ مُتَلَاعِنِينَ. قَالَ ابْنُ جُرَيْجٍ: قَالَ ابْنُ شِهَابٍ: فَكَانَتْ السُّنَّةُ بَعْدَهُمَا أَنْ

(1) (Chap. 30) *Li'ān*: See the glossary.

him." Ibn Shihāb said that Sahl bin Sa'd As-Sā'idī said that the Prophet ﷺ said (in the above narration), "If that lady delivers a small red child like a lizard, then the lady has spoken the truth and the man was a liar, but if she delivers a child with black eyes and huge lips, then her husband has spoken the truth." Then she delivered it in the shape one would dislike (as it proved her guilty).

يُفَرِّقَ بَيْنَ الْمُتَلَاعِنِينَ، وَكَانَتْ حَامِلًا
وَكَانَ ابْنُهَا يُدْعَى لَأُمِّهِ، قَالَ: ثُمَّ
جَرَتْ السَّنَةُ فِي مِيرَاثِهَا أَنَّهَا تَرَتْهُ
وَوَيْرَتْ مِنْهَا مَا قَرَضَ اللَّهُ لَهُ. قَالَ ابْنُ
جُرَيْجٍ، عَنْ ابْنِ شِهَابٍ، عَنْ سَهْلِ
ابْنِ سَعْدٍ السَّاعِدِيِّ فِي هَذَا الْحَدِيثِ:
أَنَّ النَّبِيَّ ﷺ قَالَ: «إِنْ جَاءَتْ بِهٍ
أَحْمَرَ قَصِيرًا كَأَنَّهُ وَحَرَةٌ فَلَا أَرَاهَا إِلَّا
قَدْ صَدَقَتْ وَكَذَبَ عَلَيْهَا، وَإِنْ جَاءَتْ
بِهِ أَسْوَدَ أَعْيَنَ ذَا أَلْتَيْنِ فَلَا أَرَاهُ إِلَّا
قَدْ صَدَقَ عَلَيْهَا». فجاءت به على
المَكْرُوءِ مِنْ ذَلِكَ. [راجع: ٤٢٣]

(31) CHAPTER. The statement of the Prophet ﷺ: "If I were to stone any person to death without witnesses."

5310. Narrated Al-Qāsim bin Muḥammad: Ibn 'Abbās رضي الله عنهما said, "Once *Li'ān* was mentioned before the Prophet ﷺ whereupon 'Āsim bin Adī said something and went away. Then a man from his tribe came to him, complaining that he had found a man with his wife. 'Āsim said, 'I have not been put to task except for my statement (about *Li'ān*).' 'Āsim took the man to the Prophet ﷺ and the man told him of the state in which he had found his wife. The man was pale, thin, and of lank hair, while the other man whom he claimed he had seen with his wife, was brown, fat and had much flesh on his calves. The Prophet ﷺ invoked, saying, 'O Allāh! Reveal the truth.' So that lady delivered a child resembling the man whom her husband had mentioned he had found her with. The Prophet ﷺ then made them carry out *Li'ān*." Then a man from that gathering asked Ibn 'Abbās, "Was she the

(٣١) بَابُ قَوْلِ النَّبِيِّ ﷺ: «لَوْ كُنْتُ رَاجِمًا بِغَيْرِ بَيِّنَةٍ»

٥٣١٠ - حَدَّثَنَا سَعِيدُ بْنُ عُفَيْرٍ:
حَدَّثَنِي اللَّيْثُ، عَنْ يَحْيَى بْنِ سَعِيدٍ،
عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ، عَنْ
الْقَاسِمِ بْنِ مُحَمَّدٍ، عَنْ ابْنِ عَبَّاسٍ:
أَنَّهُ ذَكَرَ التَّلَاْعُنَ عِنْدَ النَّبِيِّ ﷺ فَقَالَ
عَاصِمُ بْنُ عَدِيٍّ فِي ذَلِكَ قَوْلًا ثُمَّ
انْصَرَفَ. فَأَنَاهُ رَجُلٌ مِنْ قَوْمِهِ يَشْكُو
إِلَيْهِ أَنَّهُ قَدْ وَجَدَ مَعَ امْرَأَتِهِ رَجُلًا فَقَالَ
عَاصِمٌ: مَا ابْتَلَيْتُ بِهِذَا إِلَّا لِقَوْلِي،
فَذَهَبَ بِهِ إِلَى النَّبِيِّ ﷺ فَأَخْبَرَهُ بِالَّذِي
وَجَدَ عَلَيْهِ امْرَأَتَهُ، وَكَانَ ذَلِكَ الرَّجُلُ
مُضْفَرًا قَلِيلَ اللَّحْمِ سَبَطَ الشَّعْرِ،
وَكَانَ الَّذِي ادَّعَى عَلَيْهِ أَنَّهُ وَجَدَهُ عِنْدَ
أَهْلِهِ آدَمَ خَذَلًا كَثِيرَ اللَّحْمِ، فَقَالَ

same lady regarding which the Prophet ﷺ had said, 'If I were to stone to death someone without witness, I would have stoned this lady?' Ibn 'Abbās said, "No, that was another lady who, though being a Muslim, used to arouse suspicion by her outright misbehaviour."

النَّبِيُّ ﷺ: «اللَّهُمَّ بَيِّنْ»، فَجَاءَتْ شَيْبَهَا بِالرَّجُلِ الَّذِي ذَكَرَ زَوْجَهَا أَنَّهُ وَجَدَهُ فَلَا عَنَ النَّبِيِّ ﷺ بَيْنَهُمَا، قَالَ رَجُلٌ لِابْنِ عَبَّاسٍ فِي الْمَجْلِسِ: هِيَ الَّتِي قَالَ النَّبِيُّ ﷺ: «لَوْ رَجَمْتُ أَحَدًا بغير بَيِّنَةٍ، رَجَمْتُ هَذِهِ؟» فَقَالَ: لَا، تِلْكَ امْرَأَةٌ كَانَتْ تُظْهِرُ فِي الْإِسْلَامِ السُّوءَ. قَالَ أَبُو صَالِحٍ وَعَبْدُ اللَّهِ بْنُ يُوسُفَ: آدَمَ خَذَلًا. [انظر:

[٥٣١٦، ٦٨٥٥، ٦٨٥٦، ٧٢٣٨]

(32) CHAPTER. The *Mahr* in the case of *Li'an*.

5311. Narrated Sa'īd bin Jubair: I asked Ibn 'Umar, "(What is the verdict if) a man accuses his wife of illegal sexual intercourse?" Ibn 'Umar said, "The Prophet ﷺ separated (by divorce) the couple of Banī Al-'Ajlān, and said (to them), 'Allāh knows that one of you two is a liar; so will one of you repent?' But both of them refused. He again said, 'Allāh knows that one of you two is a liar; so will one of you repent?' But both of them refused. So he separated them by divorce." [Ayyūb, a sub-narrator said: 'Amr bin Dīnār said to me, "There is something else in this *Ḥadīth* which you have not mentioned. It goes thus: The man said, 'What about my money (i.e. the *Mahr* that I have given to my wife)?' It was said, 'You have no right to restore any money, for if you have spoken the truth (as regards the accusation), you have also consummated your marriage with her; and if you have told a lie, you are less rightful to have your money back'."]].

(٣٢) بَابُ صَدَاقِ الْمَلَاعَةِ

٥٣١١ - حَدَّثَنِي عَمْرُو بْنُ زُرَّارَةَ: أَخْبَرَنَا إِسْمَاعِيلُ، عَنْ أَيُّوبَ، عَنْ سَعِيدِ بْنِ جُبَيْرٍ قَالَ: قُلْتُ لِابْنِ عَمَرَ: رَجُلٌ قَذَفَ امْرَأَتَهُ؟ فَقَالَ: فَرَّقَ النَّبِيُّ ﷺ بَيْنَ أَخَوَيْ بَنِي الْعَجْلَانِ، وَقَالَ: «اللَّهُ يَعْلَمُ أَنَّ أَحَدَكُمَا كَاذِبٌ، فَهَلْ مِنْكُمَا تَائِبٌ؟» فَأَيُّبَا. فَقَالَ: «اللَّهُ يَعْلَمُ أَنَّ أَحَدَكُمَا كَاذِبٌ، فَهَلْ مِنْكُمَا تَائِبٌ؟» فَأَيُّبَا. فَقَالَ: «اللَّهُ يَعْلَمُ أَنَّ أَحَدَكُمَا لَكَاذِبٌ، فَهَلْ مِنْكُمَا تَائِبٌ؟» فَأَيُّبَا، فَفَرَّقَ بَيْنَهُمَا. قَالَ أَيُّوبُ: فَقَالَ لِي عَمْرُو بْنُ دِينَارٍ: إِنَّ فِي الْحَدِيثِ شَيْئًا لَا أَرَاكَ تُحَدِّثُهُ، قَالَ: قَالَ الرَّجُلُ: مَالِي؟ قَالَ: قِيلَ: «لَا مَالَ لَكَ، إِنْ كُنْتَ صَادِقًا فَقَدْ دَخَلْتَ بِهَا، وَإِنْ كُنْتَ كَاذِبًا فَهُوَ أَبَعْدُ

مِنْكَ». [انظر: ٥٣١٢، ٥٣٤٩، ٥٣٥٠]

(33) CHAPTER. The saying of the *Imām* (ruler) to those who are involved in a case of *Li'an*: "Surely one of you two is a liar; so will one of you repent (to Allāh)?"

(٣٣) بَابُ قَوْلِ الْإِمَامِ لِلْمُتَلَاعِنَيْنِ: إِنَّ أَحَدَكُمَا كَاذِبٌ، فَهَلْ مِنْكُمَا مَنْ تَائِبٌ؟

5312. Narrated Sa'id bin Jubair: I asked Ibn 'Umar about those who were involved in a case of *Li'an*. He said, "The Prophet ﷺ said to those who were involved in a case of *Li'an*, 'Your accounts are with Allāh. One of you two is a liar, and you (the husband) have no right over her (she is divorced)'. The man said, 'What about my property (*Mahr*)?' The Prophet ﷺ said, 'You have no right to get back your property. If you have told the truth about her then your property was for the consummation of your marriage with her; and if you told a lie about her, then you are less rightful to get your property back'." Sufyān, a subnarrator said: I learned the *Hadīth* from 'Amr.

٥٣١٢ - حَدَّثَنَا عَلِيُّ بْنُ عَبْدِ اللَّهِ: حَدَّثَنَا سُفْيَانُ: قَالَ عَمْرُو: سَمِعْتُ سَعِيدَ ابْنِ جُبَيْرٍ قَالَ: سَأَلْتُ ابْنَ عُمَرَ عَنِ الْمُتَلَاعِنَيْنِ فَقَالَ: قَالَ النَّبِيُّ ﷺ لِلْمُتَلَاعِنَيْنِ: «حِسَابُكُمَا عَلَى اللَّهِ، أَحَدُكُمَا كَاذِبٌ، لَا سَبِيلَ لَكَ عَلَيْهَا». قَالَ: مَالِي؟ قَالَ: «لَا مَالَ لَكَ، إِنْ كُنْتَ صَدَقْتَ عَلَيْهَا فَهُوَ بِمَا اسْتَحْلَلْتَ مِنْ فَرْجِهَا، وَإِنْ كُنْتَ كَذَبْتَ عَلَيْهَا فَذَاكَ أَبْعَدُ لَكَ». قَالَ سُفْيَانُ: حَفِظْتُهُ مِنْ عَمْرُو. وَقَالَ أَيُّوبُ: سَمِعْتُ سَعِيدَ بْنَ جُبَيْرٍ قَالَ: قُلْتُ لِابْنِ عُمَرَ: رَجُلٌ لَاعَنَ امْرَأَتَهُ؟ فَقَالَ بِإِضْبَاعِهِ - وَفَرَّقَ سُفْيَانُ بَيْنَ إِضْبَاعِهِ السَّبَّابَةِ وَالْوُسْطَى -: فَرَّقَ النَّبِيُّ ﷺ بَيْنَ أَخَوَيْ بَنِي الْعَجْلَانِ. وَقَالَ: «اللَّهُ يَعْلَمُ إِنَّ أَحَدَكُمَا كَاذِبٌ فَهَلْ مِنْكُمَا تَائِبٌ؟» ثَلَاثَ مَرَّاتٍ. قَالَ سُفْيَانُ: حَفِظْتُهُ مِنْ عَمْرُو وَأَيُّوبَ كَمَا أَخْبَرْتُكَ. [راجع: ٥٣١١]

(34) CHAPTER. The separation (divorce) between those who are involved in a case of *Li'an*.

(٣٤) بَابُ التَّفْرِيقِ بَيْنَ الْمُتَلَاعِنَيْنِ

5313. Narrated Ibn 'Umar رَضِيَ اللَّهُ عَنْهُمَا: Allāh's Messenger ﷺ separated (divorced) the wife from her husband who accused her

٥٣١٣ - حَدَّثَنِي إِبْرَاهِيمُ بْنُ الْمُنْذِرِ: حَدَّثَنَا أَنَسُ بْنُ عِيَاضٍ، عَنْ

for an illegal sexual intercourse, and made them take the oath of *Li'an*.

5314. Narrated Ibn 'Umar : The Prophet ﷺ made an *Anṣārī* man and his wife carry out *Li'an*, and then separated them by divorce.

(35) CHAPTER. The child is to be given to the lady (accused by her husband for an illegal sexual intercourse).

5315. Narrated Ibn 'Umar : The Prophet ﷺ made a man and his wife carry out *Li'an*, and the husband repudiated her child. So the Prophet ﷺ got them separated (by divorce) and decided that the child belonged to the mother only.

(36) CHAPTER. The statement of the *Imām* : "O Allāh! Reveal the truth."

5316. Narrated Ibn 'Abbās رضي الله عنهما : Those involved in a case of *Li'an* were mentioned before Allāh's Messenger ﷺ. 'Āṣim bin Adī said something about that and then left. Later on a man from his tribe came to him and told him that he had found another man with his wife. On that 'Āṣim said, "I have not been put to task except for what I have said (about *Li'an*)." 'Āṣim took the man to Allāh's Messenger ﷺ and he told him of the state in which he found his wife. The man was pale, thin and lank-haired, while the other man whom he had found with his wife was brown, fat with thick calves and

عُبَيْدُ اللَّهِ، عَنْ نَافِعٍ: أَنَّ ابْنَ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا أَخْبَرَهُ: أَنَّ رَسُولَ اللَّهِ ﷺ فَارَّقَ بَيْنَ رَجُلٍ وَامْرَأَةٍ قَذَفَهَا وَأَحْلَفَهُمَا. [راجع: ٤٧٤٨]

٥٣١٤ - حَدَّثَنِي مُسَدَّدٌ: حَدَّثَنَا يَحْيَى، عَنْ عُبَيْدِ اللَّهِ: أَخْبَرَنِي نَافِعٌ، عَنْ ابْنِ عُمَرَ قَالَ: لَاعَنَ النَّبِيُّ ﷺ بَيْنَ رَجُلٍ وَامْرَأَةٍ مِنَ الْأَنْصَارِ وَفَرَّقَ بَيْنَهُمَا. [راجع: ٤٧٤٨]

(٣٥) بَابٌ: يُلْحَقُ الْوَلَدُ بِالْمَلَاعَةِ

٥٣١٥ - حَدَّثَنَا يَحْيَى بْنُ بُكَيْرٍ: حَدَّثَنَا مَالِكٌ قَالَ: حَدَّثَنِي نَافِعٌ، عَنْ ابْنِ عُمَرَ: أَنَّ النَّبِيَّ ﷺ لَاعَنَ بَيْنَ رَجُلٍ وَامْرَأَتِهِ فَانْتَفَى مِنْ وَلَدِهَا، فَفَرَّقَ بَيْنَهُمَا وَالْحَقَّ الْوَلَدَ بِالْمَرْأَةِ. [راجع: ٤٧٤٨]

(٣٦) بَابٌ قَوْلِ الْإِمَامِ: اللَّهُمَّ بَيِّنْ

٥٣١٦ - حَدَّثَنَا إِسْمَاعِيلُ، قَالَ: حَدَّثَنِي سُلَيْمَانُ بْنُ بِلَالٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ قَالَ: أَخْبَرَنِي عَبْدُ الرَّحْمَنِ بْنُ الْقَاسِمِ، عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ، عَنْ ابْنِ عَبَّاسٍ أَنَّهُ قَالَ: ذَكَرَ الْمُتَلَاعِنَانِ عِنْدَ رَسُولِ اللَّهِ ﷺ فَقَالَ عَاصِمُ بْنُ عَدِيٍّ فِي ذَلِكَ قَوْلًا، ثُمَّ انْصَرَفَ فَأَتَاهُ رَجُلٌ مِنْ قَوْمِهِ فَذَكَرَ لَهُ أَنَّهُ وَجَدَ مَعَ امْرَأَتِهِ رَجُلًا. فَقَالَ

curly hair. Allāh's Messenger ﷺ said, "O Allāh! Reveal the truth." Then the lady delivered a child resembling the man whom her husband had mentioned he had found with her. So Allāh's Messenger ﷺ ordered them to carry out *Li'an*. A man from that gathering said to Ibn 'Abbās, "Was she the same lady regarding whom Allāh's Messenger ﷺ said, 'If I were to stone to death someone without witnesses, I would have stoned this lady?'" Ibn 'Abbās said, "No, that was another lady who, though being a Muslim, used to arouse suspicion because of her outright misbehaviour."

عاصِمٌ: مَا ابْتُلِيتُ بِهَذَا الْأَمْرِ إِلَّا لِقَوْلِي. فَذَهَبَ بِهِ إِلَى رَسُولِ اللَّهِ ﷺ فَأَخْبَرَهُ بِالَّذِي وَجَدَ عَلَيْهِ أَمْرَهُ، وَكَانَ ذَلِكَ الرَّجُلُ مُضْفَرًا قَلِيلَ اللَّحْمِ سَبَطَ الشَّعْرَ، وَكَانَ الَّذِي وَجَدَهُ عِنْدَ أَهْلِهِ آدَمَ خَذَلًا كَثِيرَ اللَّحْمِ جَعْدًا قَطِطًا. فَقَالَ رَسُولُ اللَّهِ ﷺ: «اللَّهُمَّ بَيِّنْ». فَوَضَعَتْ شَبِيهَا بِالرَّجُلِ الَّذِي ذَكَرَ زَوْجَهَا أَنَّهُ وَجَدَ عِنْدَهَا. فَلَا عَن رَسُولِ اللَّهِ ﷺ بَيْنَهُمَا، فَقَالَ رَجُلٌ لِابْنِ عَبَّاسٍ فِي الْمَجْلِسِ: هِيَ الَّتِي قَالَ رَسُولُ اللَّهِ ﷺ: «لَوْ رَجَمْتُ أَحَدًا بغيرِ بَيِّنَةٍ لَرَجَمْتُ هَذِهِ؟» فَقَالَ ابْنُ عَبَّاسٍ: لَا، تِلْكَ امْرَأَةٌ كَانَتْ تُظْهَرُ السُّوءُ فِي الْإِسْلَامِ. [راجع: ٥٣١٠]

(37) CHAPTER. If a person divorces his wife thrice and she marries another man after the completion of her 'Idda but the second husband does not consummate his marriage with her.

(٣٧) بَابُ: إِذَا طَلَّقَهَا ثَلَاثًا ثُمَّ تَزَوَّجَتْ بَعْدَ الْعِدَّةِ زَوْجًا غَيْرَهُ فَلَمْ يَمْسَسَهَا

5317. Narrated 'Āishah رَضِيَ اللَّهُ عَنْهَا: Rifā'a Al-Qurazī married a lady and then divorced her whereupon she married another man. She came to the Prophet ﷺ and said that her new husband did not approach her, and that he was completely impotent. The Prophet ﷺ said (to her), "No (you cannot re-marry your first husband) till you taste the second husband and he tastes you (i.e. till he consummates his marriage with you.)"

٥٣١٧ - حَدَّثَنِي عُمَرُو بْنُ عَلِيٍّ: حَدَّثَنَا يَحْيَى: حَدَّثَنَا هِشَامٌ قَالَ: حَدَّثَنِي أَبِي، عَنْ عَائِشَةَ عَنِ النَّبِيِّ ﷺ. حَدَّثَنَا عُثْمَانُ بْنُ أَبِي شَيْبَةَ: حَدَّثَنَا عَبْدُ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا: أَنَّ رِفَاعَةَ الْقُرَظِيَّ تَزَوَّجَ امْرَأَةً ثُمَّ طَلَّقَهَا فَتَزَوَّجَتْ آخَرَ. فَأَتَتْ النَّبِيَّ ﷺ فَذَكَرَتْ لَهُ أَنَّهُ لَا يَأْتِيهَا، وَأَنَّهُ لَيْسَ

مَعَهُ إِلَّا مِثْلَ هَذِيَّةٍ، فَقَالَ: «لَا، حَتَّى تَذُوقِي عُسَيْلَتَهُ، وَيَذُوقَ عُسَيْلَتِكَ».

[راجع: ٢٦٣٩]

(38) CHAPTER. "And those of your women as have passed the age of monthly courses, for them the *Iddah* (prescribed period), if you have doubt, (about their periods)..."

(V.65:4)

Mujāhid said: If you have any doubt whether they still have monthly courses or not. The period of *Idda* for those ladies who have reached the menopause, or have never menstruated, is three months.

(39) CHAPTER. "For those who are pregnant (whether they are divorced or their husbands are dead) their *Idda* (period) is until they laydown their burdens." (V.65:4)

(٣٨) بَابُ: «وَالَّتِي يَسْنَ مِنْ الْمَحِيضِ مِنْ نَسَائِكُمْ إِنْ أَزْنَيْتُمْ».

قَالَ مُجَاهِدٌ: إِنْ لَمْ تَعْلَمُوا يَحِضْنَ أَوْ لَا يَحِضْنَ، وَاللَّائِي قَعْدَنَ عَنِ الْحَيْضِ وَاللَّائِي لَمْ يَحِضْنَ فَعَدَّتُهُنَّ ثَلَاثَةُ أَشْهُرٍ.

(٣٩) بَابُ: «وَأُولَئِكَ الْأَحْمَالُ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ».

5318. Narrated Umm Salama, the wife of the Prophet ﷺ: A lady from Banī Aslam, called Subai'a, became a widow while she was pregnant. Abū As-Sanābil bin Ba'kak demanded her hand in marriage, but she refused to marry him and said, "By Allah, I cannot marry him unless I have completed one of the two prescribed periods." About ten days later (after giving birth to her child), she went to the Prophet ﷺ and he said (to her), "You can marry now."

٥٣١٨ - حَدَّثَنَا يَحْيَى بْنُ بُكَيْرٍ: حَدَّثَنَا اللَّيْثُ، عَنْ جَعْفَرِ بْنِ رَبِيعَةَ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ هُرْمَزٍ الْأَعْرَجِ قَالَ: أَخْبَرَنِي أَبُو سَلَمَةَ بْنُ عَبْدِ الرَّحْمَنِ أَنَّ زَيْنَبَ بِنْتَ أَبِي سَلَمَةَ أَخْبَرَتْهُ عَنْ أُمِّهَا أُمِّ سَلَمَةَ زَوْجَ النَّبِيِّ ﷺ: أَنَّ امْرَأَةً مِنْ أَسْلَمَ يُقَالُ لَهَا: سُبَيْعَةُ، كَانَتْ تَحْتَ زَوْجِهَا، تُوفِّي عَنْهَا وَهِيَ حُبْلَى، فَخَطَبَهَا أَبُو السَّنَابِلِ بْنُ بَعْكَاكٍ، فَأَبَتْ أَنْ تَنْكِحَهُ، فَقَالَتْ: وَاللَّهِ مَا يَضْلُحُ أَنْ تَنْكِحِيهِ حَتَّى تَعْتَدِي آخِرَ الْأَجَلَيْنِ. فَمَكَثَتْ قَرِيبًا مِنْ عَشْرِ لَيَالٍ ثُمَّ جَاءَتِ النَّبِيَّ ﷺ فَقَالَ: «انكِحي». [راجع: ٤٩٠٩]

5319. Narrated 'Ubaidullāh bin 'Abdullāh that his father had written to Ibn Al-Arqam a letter asking him to ask Subai'a Al-Aslamiya how the Prophet ﷺ had given her the verdict. She said, "The Prophet ﷺ gave me his verdict that after I gave birth, I could marry."

٥٣١٩ - حَدَّثَنَا يَحْيَى بْنُ بُكَيْرٍ، عَنِ اللَّيْثِ، عَنْ يَزِيدَ: أَنَّ ابْنَ شِهَابٍ كَتَبَ إِلَيْهِ أَنَّ عُيَيْدَ اللَّهِ بْنَ عَبْدِ اللَّهِ أَخْبَرَهُ عَنْ أَبِيهِ: أَنَّهُ كَتَبَ إِلَى ابْنِ الْأَرْقَمِ أَنَّ يَسْأَلُ سُبَيْعَةَ الْأَسْلَمِيَّةَ: كَيْفَ أَفْتَاهَا النَّبِيُّ ﷺ؟ فَقَالَتْ: أَفْتَانِي إِذَا وَضَعْتُ أَنْ أَنْكِحَ. [راجع:

[٣٩٩١]

5320. Narrated Al-Miswar bin Makhrama: Subai'a Al-Aslamiya gave birth to a child a few days after the death of her husband. She came to the Prophet ﷺ and asked permission to re-marry, and the Prophet ﷺ gave her permission, and she got married.

٥٣٢٠ - حَدَّثَنَا يَحْيَى بْنُ قَزَعَةَ: حَدَّثَنَا مَالِكٌ، عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنِ الْمِسْوَرِ بْنِ مَخْرَمَةَ: أَنَّ سُبَيْعَةَ الْأَسْلَمِيَّةَ نَفَسَتْ بَعْدَ وَفَاةِ زَوْجِهَا بَلِيَالٍ، فَجَاءَتِ النَّبِيَّ ﷺ فَاسْتَأْذَنَتْهُ أَنْ تَنْكِحَ، فَأَذِنَ لَهَا فَتَنَكَحَتْ.

(40) CHAPTER. The Statement of Allāh تعالى:
"And divorced women shall wait (as regards their marriage) for three menstrual periods." (V.2:228)

Ibrāhīm said regarding such a woman as married during the period of *Idda* and had three monthly courses while with him (her second husband). She is regarded as divorced from her first husband.

(٤٠) بَابُ قَوْلِ اللَّهِ تَعَالَى:
﴿وَالْمُطَلَّقَاتُ يَرْجِعْنَ بِأَنْفُسِهِنَّ ثَلَاثَ قُرُوءٍ﴾ [البقرة: ٢٢٨]

وَقَالَ إِبْرَاهِيمُ فِيمَنْ تَزَوَّجَ فِي الْعِدَّةِ فَحَاضَتْ عِنْدَهُ ثَلَاثَ حِيضٍ: بَانَتْ مِنَ الْأَوَّلِ وَلَا تَحْتَسِبُ بِهِ لِمَنْ بَعْدَهُ. وَقَالَ الزُّهْرِيُّ: تَحْتَسِبُ، وَهَذَا أَحَبُّ إِلَيَّ سُفْيَانَ، يَعْنِي قَوْلَ الزُّهْرِيِّ. وَقَالَ مَعْمَرٌ: يُقَالُ: أَقْرَأَتِ الْمَرْأَةَ، إِذَا دَنَا حَيْضُهَا، وَأَقْرَأَتْ إِذَا دَنَا طَهْرُهَا، وَيُقَالُ: مَا قَرَأْتُ بِسَلَى قَطُّ، إِذَا لَمْ تَجْمَعْ وَلَدًا فِي بَطْنِهَا.

(41) CHAPTER. The story of Fāṭima bint Qais.

(٤١) قِصَّةُ فَاطِمَةَ بِنْتِ قَيْسٍ وَقَوْلِ اللَّهِ

عَرَّ وَجَلَّ اللَّهُ رَبَّكُمْ لَا

“And fear Allāh your Lord (O Muslims), and turn them not out of their (husband’s) homes...”. (V.65:1)

5321, 5322. Narrated Qāsim bin Muḥammad and Sulaimān bin Yaṣār that Yaḥya bin Sa’id bin Al-‘Āṣ divorced the daughter of ‘Abdur-Raḥmān bin Al-Ḥakam. ‘Abdur-Raḥmān took her to his house. On that ‘Āishah sent a message to Marwān bin Al-Ḥakam who was the ruler of Al-Madina, saying, “Fear Allāh, and urge (your brother) to return her to her house.” Marwān (in Sulaimān’s version) said, “Abdur-Raḥmān bin Al-Ḥakam did not obey me (or had a convincing argument).” (In Al-Qāsim’s version) Marwān said, “Have you not heard of the case of Fāṭima bint Qais?” ‘Āishah said, “The case of Fāṭima bint Qais is not in your favour.” Marwān bin Al-Ḥakam said to ‘Āishah, “The reason that made Fāṭima bint Qais go to her father’s house is just applicable to the daughter of ‘Abdur-Raḥmān.”

5323, 5324. Narrated Al-Qāsim: ‘Āishah said, “What is wrong with Fāṭima? Why doesn’t she fear Allāh?” by saying that a divorced lady is not entitled to be provided with residence and sustenance (by her husband).

عَرَّ وَجَلَّ اللَّهُ رَبَّكُمْ لَا تُخْرِجُوهُنَّ مِنْ بُيُوتِهِنَّ [الطلاق: ١]

٥٣٢١، ٥٣٢٢ - حَدَّثَنَا

إِسْمَاعِيلُ: حَدَّثَنِي مَالِكٌ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ وَسُلَيْمَانَ بْنِ يَسَارٍ: أَنَّهُ سَمِعَهُمَا يَذْكُرَانِ أَنَّ يَحْيَى بْنَ سَعِيدٍ ابْنَ الْعَاصِ طَلَّقَ بِنْتَ عَبْدِ الرَّحْمَنِ بْنِ الْحَكَمِ، فَاتَّقَلَّهَا عَبْدُ الرَّحْمَنِ فَأَرْسَلَتْ عَائِشَةَ أُمُّ الْمُؤْمِنِينَ إِلَى مَرْوَانَ بْنِ الْحَكَمِ وَهُوَ أَمِيرُ الْمَدِينَةِ: اتَّقِ اللَّهَ وَارْزُدْهَا إِلَى بَيْتِهَا. قَالَ مَرْوَانُ فِي حَدِيثِ سُلَيْمَانَ: إِنَّ عَبْدَ الرَّحْمَنِ بْنَ الْحَكَمِ غَلَبَنِي. وَقَالَ الْقَاسِمُ بْنُ مُحَمَّدٍ: أَوْ مَا بَلَغَكَ شَأْنُ فَاطِمَةَ بِنْتِ قَيْسٍ؟ قَالَتْ: لَا يَضُرُّكَ أَنْ لَا تَذْكُرَ حَدِيثَ فَاطِمَةَ. فَقَالَ مَرْوَانُ بْنُ الْحَكَمِ: إِنْ كَانَ بِكَ شَرٌّ فَحَسْبُكَ مَا بَيْنَ هَذَيْنِ مِنَ الشَّرِّ. [انظر: ٥٣٢٣، ٥٣٢٤،

٥٣٢٥، ٥٣٢٦، ٥٣٢٧، ٥٣٢٨]

٥٣٢٣، ٥٣٢٤ - حَدَّثَنَا مُحَمَّدٌ

بْنُ بَشَّارٍ: حَدَّثَنَا عُثْمَرُ: حَدَّثَنَا شُعْبَةُ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ: أَنَّهَا قَالَتْ: مَا لِفَاطِمَةَ؟ أَلَا تَتَّقِي اللَّهَ؟ يَعْنِي فِي قَوْلِهَا: لَا سَكُنِي وَلَا نَفَقَةَ. [راجع:

٥٣٢١، ٥٣٢٢]

5325, 5326. Narrated Qāsim: ‘Urwa said to ‘Āishah رَضِيَ اللَّهُ عَنْهَا “Do you know so-and-so, the daughter of Al-Ḥakam? Her husband divorced her irrevocably and she left (her husband’s house).” ‘Āishah said, “What a bad thing she has done!” ‘Urwa said (to ‘Āishah), “Haven’t you heard the statement of Fāṭima?” ‘Āishah replied, “It is not in her favour to mention.” ‘Urwa added, ‘Āishah reproached (Fāṭima) severely and said, “Fāṭima was in a lonely place, and she was prone to danger, so the Prophet ﷺ allowed her (to go out of her husband’s house).”⁽¹⁾

(42) CHAPTER. If a divorced lady is afraid that she may be attacked in her husband’s house or that she may abuse her husband’s family (she has the right to leave her husband’s house).

5327, 5328. Narrated ‘Urwa: ‘Āishah disapproved of what Fāṭima used to say.⁽²⁾

(43) CHAPTER. The Statement of Allāh تعالى:

٥٣٢٥، ٥٣٢٦ - حَدَّثَنَا عَمْرُو بْنُ عَبَّاسٍ: حَدَّثَنَا ابْنُ مَهْدِيٍّ: حَدَّثَنَا سُفْيَانُ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ، عَنْ أَبِيهِ قَالَ: قَالَ عُرْوَةُ لِعَائِشَةَ: أَلَمْ تَرَيِ إِلَى فُلَانَةٍ بِنْتِ الْحَكَمِ؟ طَلَّقَهَا زَوْجَهَا الْبَتَّةَ. فَخَرَجَتْ، فَقَالَتْ: بِئْسَ مَا صَنَعْتُ. قَالَ: أَلَمْ تَسْمَعِي قَوْلَ فَاطِمَةَ؟ قَالَتْ: أَمَا إِنَّهُ لَيْسَ لَهَا خَيْرٌ فِي ذِكْرِ هَذَا الْحَدِيثِ. وَزَادَ ابْنُ أَبِي الزِّنَادِ، عَنْ هِشَامٍ، عَنْ أَبِيهِ: عَابَتْ عَائِشَةُ أَشَدَّ الْعَيْبِ وَقَالَتْ: إِنَّ فَاطِمَةَ كَانَتْ فِي مَكَانٍ وَحِشٍ فَخِيفَ عَلَى نَاحِيَّتِهَا، فَلِذَلِكَ أَرْخَصَ لَهَا النَّبِيُّ ﷺ. [راجع: ٥٣٢١، ٥٣٢٢]

(٤٢) بَابُ الْمُطَلَّقةِ إِذَا خَشِيَ عَلَيْهَا فِي مَسْكَنِ زَوْجِهَا أَنْ يُقْتَحَمَ عَلَيْهَا أَوْ تَبْدُو عَلَى أَهْلِهَا بِفَاحِشَةٍ

٥٣٢٧، ٥٣٢٨ - حَدَّثَنِي حَبَّانُ: أَخْبَرَنَا عَبْدُ اللَّهِ: أَخْبَرَنَا ابْنُ جُرَيْجٍ، عَنْ ابْنِ شِهَابٍ، عَنْ عُرْوَةَ: أَنَّ عَائِشَةَ أَنْكَرَتْ ذَلِكَ عَلَى فَاطِمَةَ. [راجع: ٥٣٢١، ٥٣٢٢]

(٤٣) بَابُ قَوْلِ اللَّهِ تَعَالَى: ﴿وَلَا يَحِلُّ لهنَّ أَنْ يَكُنَّ مَا خَلَقَ اللَّهُ فِي

(1) (H. 5325) Fāṭima was divorced and came to the Prophet ﷺ and said, “My husband has divorced me twice, and I am afraid that somebody may attack me in my house.” The Prophet ﷺ allowed her to move to her parent’s house.

(2) (H. 5327) See *Ḥadīth* 5323.

“And it is not lawful for them to conceal what Allāh has created in their wombs.”
(V.2:228)

(It means) the menses or pregnancy.

5329. Narrated ‘Āishah رضي الله عنها: When Allāh’s Messenger ﷺ decided to leave Makkah after the *Hajj*, he saw Šafiyya, sad and standing at the entrance of her tent. He said to her, “*Aqra* (or) *Halqa*! You will detain us. Did you perform *Tawāf-al-Ifāda* on the day of *Nahr*? She said, “Yes.” He said, “Then you can depart.”

(44) CHAPTER. “And their husbands have the better right to take them (divorced ladies) back,” (V.2:228) during the period of the *‘Idda*. And how will a person retain his wife he has divorced once or twice?

And His Statement :

“...do not prevent them...” (V.2:232)

5330. Narrated Al-Ḥasan: Ma’quīl gave his sister in marriage and later her husband divorced her once.

5331. Narrated Al-Ḥasan: The sister of Ma’quīl bin Yaṣār was married to a man and then that man divorced her and remained away from her till her period of the *‘Idda* expired. Then he demanded for her hand in marriage, but Ma’quīl got angry out of pride and haughtiness and said, “He kept away from her when he could still retain her, and now he demands her hand again?” So Ma’quīl disagreed to re-marry her to him. Then Allāh revealed :

أَزْجَاهِمَنْ ﴿البقرة: ٢٢٨﴾ مِنَ الْحَيْضِ
وَالْحَمْلِ

٥٣٢٩ - حَدَّثَنَا سُلَيْمَانُ بْنُ حَرْبٍ: حَدَّثَنَا شُعْبَةُ، عَنِ الْحَكَمِ، عَنْ إِبْرَاهِيمَ، عَنِ الْأَسْوَدِ، عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا قَالَتْ: لَمَّا أَرَادَ رَسُولُ اللَّهِ ﷺ أَنْ يَنْفِرَ إِذَا صَفِيَّةُ عَلَى بَابِ خِبَائِهَا كَتِيبَةً، فَقَالَ لَهَا: «عَقْرَى أَوْ حَلْقَى، إِنَّكَ لَحَابِسْتُنَا، أَكُنْتَ أَفْضَتْ يَوْمَ النَّحْرِ؟» قَالَتْ: نَعَمْ، قَالَ: «فَانْفِرِي إِذَا». [راجع: ٢٩٤]

(٤٤) بَابُ: ﴿وَمَوْلَاهُنَّ أَحَقُّ بِرَدِّهِنَّ﴾ [البقرة: ٢٢٨] فِي الْعِدَّةِ، وَكَيْفَ يُرَاجِعُ الْمَرْأَةَ إِذَا طَلَّقَهَا وَاحِدَةً أَوْ ثِنْتَيْنِ؟ وَقَوْلُهُ: ﴿فَلَا تَعْضُلُوهُنَّ﴾

٥٣٣٠ - حَدَّثَنِي مُحَمَّدٌ: أَخْبَرَنَا عَبْدُ الْوَهَّابِ: حَدَّثَنَا يُوسُفُ، عَنِ الْحَسَنِ قَالَ: زَوَّجَ مَعْقِلٌ أُخْتَهُ فَطَلَّقَهَا تَطْلِيقَةً. [راجع: ٤٥٢٩]

٥٣٣١ - وَحَدَّثَنِي مُحَمَّدٌ بْنُ الْمُثَنَّى: حَدَّثَنَا عَبْدُ الْأَعْلَى: حَدَّثَنَا سَعِيدٌ، عَنْ قَتَادَةَ: حَدَّثَنَا الْحَسَنُ: أَنَّ مَعْقِلَ بْنَ يَسَارٍ كَانَتْ أُخْتُهُ تَحْتَ رَجُلٍ فَطَلَّقَهَا ثُمَّ خَلَى عَنْهَا حَتَّى انْقَضَتْ عِدَّتُهَا ثُمَّ خَطَبَهَا، فَحَمِيَ مَعْقِلٌ مِنْ ذَلِكَ أَنْفًا فَقَالَ: خَلَى عَنْهَا

"When you have divorced women and they have fulfilled the term of their prescribed period, do not prevent them from marrying their (former) husbands...." (V.2:232)

So the Prophet ﷺ sent for Ma'qu'il and recited to him (Allāh's Order) and consequently Ma'qu'il gave up his pride and haughtiness and yielded to Allāh's Order.

5332. Narrated Nāfi': Ibn 'Umar bin Al-Khattāb رَضِيَ اللهُ عَنْهُ divorced his wife during her menses. Allāh's Messenger ﷺ ordered him to take her back till she became clean, and when she got another period while she was with him, she should wait till she became clean again and only then, if he wanted to divorce her, he could do so before having sexual relations with her. And that is the period Allāh has fixed for divorcing women. Whenever 'Abdullāh (bin 'Umar) was asked about that, he would say to the questioner, "If you divorced her thrice, she is no longer lawful for you unless she marries another man (and the other man divorces her in his turn)." Ibn 'Umar further said, "Would that you (people) only give one or two divorces, because the Prophet ﷺ has ordered me so."

(45) CHAPTER. To take back one's wife (if she is divorced) while in her menses.

5333. Narrated Yūnus bin Jubair: Ibn 'Umar divorced his wife while she was having her menses. 'Umar asked the Prophet ﷺ who said, "Order him (your son) to take her back, and then divorced her before her period of

وَهُوَ يَقْدِرُ عَلَيْهَا، ثُمَّ يَخْطُبُهَا، فَحَالَ بَيْنَهُ وَبَيْنَهَا، فَأَنْزَلَ اللَّهُ تَعَالَى ﴿وَإِذَا طَلَقْتُمُ النِّسَاءَ فَلَنْتَنَ أَجَلَهُنَّ فَلَا تَعْضُلُوهُنَّ﴾ [البقرة: ٢٣٢] إِلَى آخِرِ الْآيَةِ، فَدَعَاهُ رَسُولُ اللَّهِ ﷺ فَقَرَأَ عَلَيْهِ فَتَرَكَ الْحِمِيَّةَ وَاسْتَقَادَ لِأَمْرِ اللَّهِ. [راجع: ٤٥٢٩]

٥٣٣٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ، عَنْ نَافِعٍ: أَنَّ ابْنَ عُمَرَ بْنِ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُمَا طَلَّقَ امْرَأَةً لَهُ وَهِيَ حَائِضٌ تَطْلِيْقَةً وَاحِدَةً، فَأَمَرَهُ رَسُولُ اللَّهِ ﷺ أَنْ يُرَاجِعَهَا ثُمَّ يُمَسِّكُهَا حَتَّى تَظْهَرَ ثُمَّ تَحِيضَ عِنْدَهُ حَيْضَةً أُخْرَى، ثُمَّ يُنْهَلِهَا حَتَّى تَظْهَرَ مِنْ حَيْضِهَا. فَإِنْ أَرَادَ أَنْ يُطَلِّقَهَا فَلْيُطَلِّقْهَا حِينَ تَظْهَرُ مِنْ قَبْلِ أَنْ يُجَامِعَهَا. فَبَلَكَ الْعِدَّةَ الَّتِي أَمَرَ اللَّهُ أَنْ يُطَلَّقَ لَهَا النِّسَاءُ. وَكَانَ عَبْدُ اللَّهِ إِذَا سُئِلَ عَنْ ذَلِكَ قَالَ لِأَحَدِهِمْ: إِنْ كُنْتَ طَلَّقْتَهَا ثَلَاثًا فَقَدْ حَرَمْتَ عَلَيْكَ حَتَّى تَنْكِحَ زَوْجًا غَيْرَكَ. وَزَادَ فِيهِ غَيْرُهُ عَنْ اللَّيْثِ: حَدَّثَنِي نَافِعٌ: قَالَ ابْنُ عُمَرَ: لَوْ طَلَّقْتَ مَرَّةً أَوْ مَرَّتَيْنِ، فَإِنَّ النَّبِيَّ ﷺ أَمَرَنِي بِهَذَا. [راجع: ٤٩٠٨]

(٤٥) بَابُ مُرَاجَعَةِ الْحَائِضِ

٥٣٣٣ - حَدَّثَنَا حَجَّاجٌ: حَدَّثَنَا زَيْدُ ابْنِ إِبْرَاهِيمَ: حَدَّثَنَا مُحَمَّدُ بْنُ سِيرِينَ: حَدَّثَنِي يُونُسُ بْنُ جَبْرِ:

the 'Idda has elapsed." I asked Ibn 'Umar, "Will that divorce (during the menses) be counted?" He replied, "If somebody become helpless and behaves foolishly (will his foolishness be an excuse for his misbehaviour)?" [See *Hādīth* No.5252].

(46) CHAPTER. A widow should mourn for four months and ten days.

And Az-Zuhri said: I think that a widowed girl should not put perfume, for she has to observe the period of the 'Idda.

Narrated Humaid bin Nāfi': Zainab bint Abū Salama told me these (following) three narrations:

5334. Zainab said: I went to Umm Ḥabība, the wife of the Prophet ﷺ when her father, Abū Sufyān bin Ḥarb had died. Umm Ḥabība asked for a perfume which contained yellow scent (*Khalūq*) or some other scent, and she first perfumed one of the girls with it and then rubbed her cheeks with it and said, "By Allāh, I am not in need of perfume, but I have heard Allāh's Messenger ﷺ saying, 'It is not lawful for a lady who believes in Allāh and the Last Day to mourn for a dead person for more than three days unless he is her husband for whom she should mourn for four months and ten days'."

سَأَلْتُ ابْنَ عُمَرَ فَقَالَ: طَلَّقَ ابْنُ عُمَرَ
امْرَأَتَهُ وَهِيَ حَائِضٌ، فَسَأَلَ عُمَرَ النَّبِيَّ
ﷺ، قَالَ: مُرُهُ أَنْ يُرَاجِعَهَا ثُمَّ يُطَلِّقَ
مِنْ قَبْلِ عِدَّتِهَا. قُلْتُ: أَفْتَعْتَدُ بِتِلْكَ
التَّطْلِيقَةِ؟ قَالَ: أَرَأَيْتَ إِنْ عَجَزَ
وَاسْتَحْمَقَ؟ [راجع: ٤٩٠٨]

**(٤٦) بَابُ: تُحَدُّ الْمُتَوَفَّى عَنْهَا أَرْبَعَةٌ
أَشْهُرٍ وَعَشْرًا،**

وَقَالَ الزُّهْرِيُّ: لَا أَرَى أَنْ تَقْرَبَ
الصَّبِيَّةَ الطَّيِّبَةَ لِأَنَّ عَلَيْهَا الْعِدَّةَ.
حَدَّثَنَا عَبْدُ اللَّهِ بْنُ يُوسُفَ: أَخْبَرَنَا
مَالِكٌ: عَنْ عَبْدِ اللَّهِ بْنِ أَبِي بَكْرٍ بْنِ
مُحَمَّدٍ بْنِ عَمْرٍو بْنِ حَزْمٍ، عَنْ
حُمَيْدِ بْنِ نَافِعٍ، عَنْ زَيْنَبِ ابْنَةِ أَبِي
سَلَمَةَ: أَنَّهَا أَخْبَرَتْهُ هَذِهِ الْأَحَادِيثَ
الثَّلَاثَةَ.

٥٣٣٤ - قَالَتْ زَيْنَبُ: دَخَلْتُ
عَلَى أُمِّ حَبِيبَةَ زَوْجِ النَّبِيِّ ﷺ حِينَ
تُؤَفِّي أَبُوهَا أَبُو سُفْيَانَ بْنُ حَرْبٍ.
فَدَعَتْ أُمَّ حَبِيبَةَ بِطَيِّبٍ فِيهِ صُفْرَةٌ
خُلُوقٌ أَوْ غَيْرُهُ فَدَهَنَتْ مِنْهُ جَارِيَةً ثُمَّ
مَسَّتْ بِعَارِضِيهَا ثُمَّ قَالَتْ: وَاللَّهِ مَا
لِي بِالطَّيِّبِ مِنْ حَاجَةٍ غَيْرَ أَنِّي
سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ: «لَا
يَجِلُّ لِمَرْأَةٍ تُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ
أَنْ تُحَدَّ عَلَى مَيِّتٍ فَوْقَ ثَلَاثِ لَيَالٍ
إِلَّا عَلَى زَوْجٍ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا».

[راجع: ١٢٨٠]

5335. Zainab further said: I went to Zainab bint Jahsh when her brother died. She asked for perfume, and used some of it and said, "By Allāh, I am not in need of perfume. but I have heard Allāh's Messenger ﷺ saying on the pulpit, 'It is not lawful for a lady who believes in Allāh and the Last Day to mourn for more than three days except for her husband for whom she should mourn for four months and ten days.'"

5336. Zainab further said: I heard my mother, Umm Salama saying that a woman came to Allāh's Messenger ﷺ and said, "O Allāh's Messenger! The husband of my daughter has died and she is suffering from an eye disease, can she apply kohl to her eyes?" Allāh's Messenger ﷺ replied, "No," twice or thrice. (Every time she repeated her question) he said, "No." Then Allāh's Messenger ﷺ added, "It is just a matter of four months and ten days. In the Pre-Islāmic Period of Ignorance a widow among you should throw a globe of dung when one year has elapsed."

5337. Humaid said: I said to Zainab, "What does throwing a globe of dung when one year had elapsed mean?" Zainab said, "When a lady was bereaved of her husband, she would live in a wretched small room and put on the worst clothes she had and would not touch any scent till one year had elapsed. Then she would bring an animal, e.g. a donkey, a sheep or a bird and rub her skin (body) against it. The animal against which she would rub her skin (body) would scarcely survive. Only then she would come out of her

٥٣٣٥ - قَالَتْ زَيْنَبُ: فَدَخَلْتُ عَلَى زَيْنَبِ ابْنَةِ جَحْشٍ حِينَ تُؤْفِي أَخُوهَا، فَدَعَتْ بِطِيبٍ، فَمَسَّتْ مِنْهُ ثُمَّ قَالَتْ: أَمَا وَاللَّهِ مَا لِي بِالطِّيبِ مِنْ حَاجَةٍ غَيْرَ أَنِّي سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ عَلَى الْمِنْبَرِ: «لَا يَجِلُّ لِمَرْأَةٍ تَوُفُّ بِاللهِ وَالْيَوْمِ الْآخِرِ أَنْ تَجِدَ فَوْقَ ثَلَاثِ لَيَالٍ، إِلَّا عَلَى زَوْجٍ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا». [راجع: ١٢٨٢]

٥٣٣٦ - قَالَتْ زَيْنَبُ: وَسَمِعْتُ أُمَّ سَلَمَةَ تَقُولُ: جَاءَتْ امْرَأَةٌ إِلَى رَسُولِ اللَّهِ ﷺ فَقَالَتْ: يَا رَسُولَ اللَّهِ، إِنَّ ابْنَتِي تُؤْفِي عَنْهَا زَوْجَهَا وَقَدْ اشْتَكَتْ عَيْنَهَا أَفَنُكْحِلُهَا؟ فَقَالَ رَسُولُ اللَّهِ ﷺ: «لَا»، مَرَّتَيْنِ أَوْ ثَلَاثًا، كُلُّ ذَلِكَ يَقُولُ: «لَا». ثُمَّ قَالَ رَسُولُ اللَّهِ ﷺ: «إِنَّمَا هِيَ أَرْبَعَةُ أَشْهُرٍ وَعَشْرًا وَقَدْ كَانَتْ إِحْدَاكُنَّ فِي الْجَاهِلِيَّةِ تَرْمِي بِالْبَعْرَةِ عَلَى رَأْسِ الْحَوْلِ». [انظر:

٥٣٣٨، ٥٧٠٦]

٥٣٣٧ - قَالَ حُمَيْدٌ: فَقُلْتُ لَزَيْنَبَ: وَمَا تَرْمِي بِالْبَعْرَةِ عَلَى رَأْسِ الْحَوْلِ؟ فَقَالَتْ زَيْنَبُ: كَانَتْ الْمَرْأَةُ إِذَا تُؤْفِي عَنْهَا زَوْجَهَا دَخَلَتْ جِفْشًا وَلَبِسَتْ شَرَّ ثِيَابِهَا وَلَمْ تَمَسَّ طِيبًا حَتَّى تَمُرَّ بِهَا سَنَةٌ، ثُمَّ تُؤْتِي بِدَابَّةٍ حِمَارٍ أَوْ شَاةٍ أَوْ طَائِرٍ فَتَمُصُّ بِهِ، فَقَلَمًا تَمُصُّ بِشَيْءٍ إِلَّا مَاتَ. ثُمَّ

room, whereupon she would be given a globe of dung which she would throw away and then she would use whatsoever the scent she liked or the other.”

(47) CHAPTER. Can a mourning lady use Kohl?

5338. Narrated Umm Salama رَضِيَ اللَّهُ عَنْهَا: A woman was bereaved of her husband and her relatives worried about her eyes (which were inflamed from a disease). They came to Allāh's Messenger ﷺ and asked him to allow them to treat her eyes with kohl, but he said, “She should not apply kohl to her eyes. (In the Pre-Islāmic Period of Ignorance) a widowed woman among you would stay in the worst of her clothes (or the worst part of her house) and when a year had elapsed, if a dog passed by her, she would throw a globe of dung. Nay, (she cannot use kohl) till four months and ten days have passed.”

5339. Narrated Umm Ḥabība: The Prophet ﷺ said, “It is not lawful for a Muslim woman who believes in Allāh and the Last Day to mourn for more than three days, except for her husband, for whom she should mourn for four months and ten days.”

5340. Narrated Umm ‘Atiyya: We were forbidden to mourn for more than three days except for a husband.

تَخْرُجُ فْتُعْطَى بَعْرَةً فَتَرْمِي بِهَا ثُمَّ تَرَاجِعُ بَعْدَ مَا شَاءَتْ مِنْ طِيبٍ أَوْ غَيْرِهِ. سُئِلَ مَالِكٌ رَحِمَهُ اللَّهُ: مَا تَقْتَضِي بِهِ؟ قَالَ: تَمَسُّحُ بِهِ جِلْدَهَا.

(٤٧) بَابُ الْكُحْلِ لِلْحَادَّةِ

٥٣٣٨ - حَدَّثَنَا آدَمُ بْنُ أَبِي إِيَاسٍ: حَدَّثَنَا شُعْبَةُ: حَدَّثَنَا حُمَيْدُ بْنُ نَافِعٍ، عَنْ زَيْنَبِ ابْنَةِ أُمِّ سَلَمَةَ، عَنْ أُمِّهَا: أَنَّ امْرَأَةً تُوقِي زَوْجَهَا، فَخَشُوا عَلَى عَيْنَيْهَا، فَأَتَوْا عَلَى رَسُولِ اللَّهِ ﷺ فَاسْتَأْذَنُوهُ فِي الْكُحْلِ، فَقَالَ: «لَا تَكْتَحِلْ، قَدْ كَانَتْ إِحْدَاكُنَّ تَمَكُّتُ فِي شَرِّ أَحْلَاسِهَا أَوْ شَرِّ بَيْتِهَا، فَإِذَا كَانَ حَوْلُ فَمَرٍّ كَلَبٌ رَمَتْ بِبَعْرَةٍ. فَلَا حَتَّى تَمُضِيَ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا».

[راجع: ٥٣٣٦]

٥٣٣٩ - وَسَمِعْتُ زَيْنَبَ ابْنَةَ أُمِّ سَلَمَةَ تُحَدِّثُ عَنْ أُمِّ حَبِيبَةَ: أَنَّ النَّبِيَّ ﷺ قَالَ: «لَا يَحِلُّ لِمَرْأَةٍ مُسْلِمَةٍ تُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ أَنْ تُحِدَّ فَوْقَ ثَلَاثَةِ أَيَّامٍ إِلَّا عَلَى زَوْجِهَا أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا». [راجع: ١٢٨٠]

٥٣٤٠ - حَدَّثَنَا مُسَدَّدٌ: حَدَّثَنَا بِشْرٌ: حَدَّثَنَا سَلَمَةُ بْنُ عَلْقَمَةَ، عَنْ مُحَمَّدِ بْنِ سِيرِينَ: قَالَتْ أُمُّ عَطِيَّةَ: نَهَيْنَا أَنْ نُحِدَّ أَكْثَرَ مِنْ ثَلَاثٍ إِلَّا بِزَوْجٍ. [راجع: ٣٠٣]

(48) CHAPTER. *Qusṭ* (incense) may be used by a mourning lady after being cleaned from her menses.

5341. Narrated Umm 'Aṭiyya: We were forbidden to mourn for more than three days for a dead person, except for a husband, for whom a wife should mourn for four months and ten days (while in the mourning period) we were not allowed to put kohl in our eyes, nor perfume ourselves, nor wear dyed clothes, except a garment of *'Aṣb* (special clothes made in Yemen). But it was permissible for us that when one of us became clean from her menses and took a bath, she could use a piece of a certain kind of incense. And it was forbidden for us to follow funeral processions.

(٤٨) بَابُ الْقُسْطِ لِلْحَادَّةِ عِنْدَ الطَّهْرِ

٥٣٤١ - حَدَّثَنِي عَبْدُ اللَّهِ بْنُ عَبْدِ
الْوَهَّابِ: حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ، عَنْ
أَيُّوبَ، عَنْ حَفْصَةَ، عَنْ أُمِّ عَطِيَّةَ
قَالَتْ: كُنَّا نُنْهَى أَنْ نُجِدَّ عَلَى مَيِّتٍ
فَوْقَ ثَلَاثٍ إِلَّا عَلَى زَوْجِ أَرْبَعَةِ أَشْهُرٍ
وَعَشْرًا، وَلَا نَكْتَحِلَ، وَلَا نَطَيِّبَ،
وَلَا نَلْبَسَ ثَوْبًا مَضْبُوعًا إِلَّا ثَوْبَ
عَصَبٍ. وَقَدْ رُخِّصَ لَنَا عِنْدَ الطَّهْرِ
إِذَا اغْتَسَلَتْ إِحْدَانَا مِنْ مَحِيضِهَا فِي
ثُبَّةٍ مِنْ كُسْتِ أَطْفَارٍ، وَكُنَّا نُنْهَى عَنِ
اتِّبَاعِ الْجَنَائِزِ. [راجع: ٣١٣]

قَالَ أَبُو عَبْدِ اللَّهِ: الْقُسْطُ
وَالْكُسْتُ مِثْلُ الْكَافُورِ وَالْقَافُورِ.
ثُبَّةٌ: قِطْعَةٌ.

(49) CHAPTER. A mourning lady can wear clothes of *'Aṣb* (a kind of Yemenese cloth that is very coarse).

5342. Narrated Umm 'Aṭiyya: The Prophet ﷺ said, "It is not lawful for a lady who believes in Allāh and the Last Day, to mourn for more than three days for a dead person, except for her husband, in which case she should neither put kohl in her eyes, nor perfume herself, nor wear dyed clothes, except a garment of *'Aṣb*."

(٤٩) بَابُ: تَلْبَسُ الْحَادَّةُ ثِيَابَ
العَصَبِ

٥٣٤٢ - حَدَّثَنَا الْفَضْلُ بْنُ
دُكَيْنٍ: حَدَّثَنَا عَبْدُ السَّلَامِ بْنُ حَرْبٍ،
عَنْ هِشَامٍ، عَنْ حَفْصَةَ، عَنْ أُمِّ
عَطِيَّةَ قَالَتْ: قَالَ النَّبِيُّ ﷺ: «لَا
يَحِلُّ لِامْرَأَةٍ تُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ
أَنْ تُجِدَّ فَوْقَ ثَلَاثٍ إِلَّا عَلَى زَوْجٍ
فَإِنَّهَا لَا تَكْتَحِلُ وَلَا تَلْبَسُ ثَوْبًا
مَضْبُوعًا إِلَّا ثَوْبَ عَصَبٍ». [راجع:

[٣١٣]

5343. Umm 'Aṭiyya added: The Prophet ﷺ said, "She should not use perfume except

٥٣٤٣ - وَقَالَ الْأَنْصَارِيُّ:

when she becomes clean from her menses whereupon she can use *Qust* and *Azfar* (two kinds of incense)."

حَدَّثَنَا هِشَامٌ: حَدَّثَنَا حَفْصَةُ: حَدَّثَنِي
أُمُّ عَطِيَّةٍ: نَهَى النَّبِيُّ ﷺ، وَلَا تَمَسَّ
طَبِيبًا إِلَّا أَذْنَى طَهْرَهَا إِذَا طَهَّرَتْ بُدَّةً
مِنْ قُسْطٍ وَأَظْفَارٍ.

قَالَ أَبُو عَبْدِ اللَّهِ: الْقُسْطُ وَالْكُسْتُ
مِثْلُ الْكَافُورِ وَالْقَافُورِ. [راجع: ٣١٣]

(50) CHAPTER. "And those of you who die, and leave behind wives.. (up to).. and Allāh is Well-Acquainted with what you do." (V.2:234)

(٥٠) بَابُ: ﴿وَالَّذِينَ يُتَوَفَّوْنَ مِنْكُمْ وَيَذَرُونَ أَزْوَاجًا﴾ إِلَى قَوْلِهِ: ﴿خَيْرٌ﴾ [البقرة: ٢٣٤].

5344. Narrated Mujāhid: (regarding the Verse).

"And those of you who die and leave wives behind..."⁽¹⁾

That was the period of the 'Idda which the widow was obliged to spend in the house of the late husband.

Then Allāh revealed:

"And those of you who die and leave behind wives should bequeath for their wives a year's maintenance and residence without turning them out, but if they leave, there is no sin on you for what they do of themselves, provided it is honourable (e.g. lawful marriage)." (V.2:240)

Mujāhid said: Allāh has ordered that a widow has the right to stay for seven months and twenty days with her husband's relatives through her husband's will and testament so that she will complete the period of one year (of 'Idda). But the widow has the right to stay that extra period or go out of her husband's house as is indicated by the Statement of Allāh:

"...without turning them out, but if they (wives) leave, there is no sin on you,..." (V.2:240)

٥٣٤٤ - حَدَّثَنِي إِسْحَاقُ بْنُ مَنْصُورٍ: أَخْبَرَنَا رَوْحُ بْنُ عُبَادَةَ: حَدَّثَنَا شَيْبُلٌ، عَنِ ابْنِ أَبِي نَجِيحٍ، عَنْ مُجَاهِدٍ ﴿وَالَّذِينَ يُتَوَفَّوْنَ مِنْكُمْ وَيَذَرُونَ أَزْوَاجًا﴾ قَالَ: كَانَتْ هَذِهِ الْعِدَّةُ تَعْتَدُ عِنْدَ أَهْلِ زَوْجِهَا وَاجِبًا، فَأَنْزَلَ اللَّهُ ﴿وَالَّذِينَ يُتَوَفَّوْنَ مِنْكُمْ وَيَذَرُونَ أَزْوَاجًا وَصِيَّةً لِأَزْوَاجِهِمْ مَتْنَعًا إِلَى الْحَوْلِ غَيْرَ إِخْرَاجٍ فَإِنْ خَرَجْنَ فَلَا جُنَاحَ عَلَيْكُمْ فِي مَا فَعَلْنَ فِي أَنْفُسِهِنَّ مِنْ مَّعْرُوفٍ﴾ قَالَ: جَعَلَ اللَّهُ لَهَا تَمَامَ السَّنَةِ سَبْعَةَ أَشْهُرٍ وَعِشْرِينَ لَيْلَةً وَصِيَّتَهَا، وَإِنْ شَاءَتْ سَكَنَتْ فِي قَوْلِ اللَّهِ تَعَالَى: ﴿غَيْرَ إِخْرَاجٍ﴾، فَإِنْ خَرَجْنَ فَلَا جُنَاحَ عَلَيْكُمْ، فَالْعِدَّةُ كَمَا هِيَ وَاجِبٌ عَلَيْهَا، زَعَمَ ذَلِكَ عَنْ مُجَاهِدٍ.

(1) (H. 5344) They shall wait concerning themselves, four months and ten days. (V.2:234)

Ibn 'Abbās said: The above Verse has abrogated (cancelled) the order of spending the period of the 'Idda at her late husband's house, and so she could spend her period of the 'Idda wherever she likes. And Allāh says: "Without turning them out..."

'Aṭa said: If she would, she could spend her period of the 'Idda at her husband's house, and live there according to her (husband's) will and testament, and if she would, she could go out (of her husband's house) as Allāh says:

"There is no sin on you for what they do of themselves." (V.2:240)

'Aṭa added: Then the Verses of inheritance were revealed and the order of residence (for the widow) was abrogated (cancelled), and she could spend her period of the 'Idda wherever she would like, and she was no longer entitled to be provided with residence by her husband's family.

5345. Narrated Zainab bint Umm Salama: When Umm Ḥabība bint Abī Sufyān was informed of her father's death, she asked for perfume and rubbed it over her arms and said, "I am not in need of perfume, but I have heard the Prophet ﷺ saying, 'It is not lawful for a lady who believes in Allāh and the Last Day to mourn for more than three days except for her husband for whom the (mourning) period is four months and ten days'."

وَقَالَ عَطَاءٌ، عَنْ ابْنِ عَبَّاسٍ:
نَسَخَتْ هَذِهِ الْآيَةُ عِدَّتَهَا عِنْدَ أَهْلِهَا
فَتَعَتَّدُ حَيْثُ شَاءَتْ، وَقَوْلُ اللَّهِ
تَعَالَى: ﴿غَيْرَ إِخْرَاجٍ﴾. وَقَالَ
عَطَاءٌ: إِنْ شَاءَتْ اغْتَدَّتْ عِنْدَ أَهْلِهَا
وَسَكَنَتْ فِي وَصِيَّتِهَا، وَإِنْ شَاءَتْ
خَرَجَتْ لِقَوْلِ اللَّهِ: ﴿فَلَا جُنَاحَ عَلَيْكَ
فِيمَا فَعَلْتَ فِي أَنْفُسِهِنَّ﴾ قَالَ عَطَاءٌ:
ثُمَّ جَاءَ الْمِيرَاثُ فَنَسَخَ السُّكْنَى فَتَعَتَّدُ
حَيْثُ شَاءَتْ وَلَا سُكْنَى لَهَا.

[راجع: ٤٥٣١]

٥٣٤٥ - حَدَّثَنَا مُحَمَّدُ بْنُ كَثِيرٍ،
عَنْ سُفْيَانَ، عَنْ عَبْدِ اللَّهِ بْنِ أَبِي بَكْرٍ
بْنِ عَمْرٍو بْنِ حَزْمٍ: حَدَّثَنِي حُمَيْدُ بْنُ
نَافِعٍ، عَنْ زَيْنَبِ ابْنَةِ أُمِّ سَلَمَةَ، عَنْ
أُمِّ حَبِيبَةَ ابْنَةِ أَبِي سُفْيَانَ: لَمَّا جَاءَهَا
نَعْيُ أَبِيهَا دَعَتْ بِطِيبٍ فَمَسَحَتْ
ذِرَاعَيْهَا وَقَالَتْ: مَا لِي بِالطِّيبِ مِنْ
حَاجَةٍ لَوْلَا أَنِّي سَمِعْتُ النَّبِيَّ ﷺ
يَقُولُ: «لَا يَجِلُّ لِامْرَأَةٍ تُؤْمِنُ بِاللَّهِ
وَالْيَوْمِ الْآخِرِ تُجَدُّ عَلَى مَيِّتٍ فَوْقَ
ثَلَاثٍ إِلَّا عَلَى زَوْجٍ أَرْبَعَةَ أَشْهُرٍ
وَعَشْرًا». [راجع: ١٢٨٠]

(51) CHAPTER. What is said regarding the earnings of a prostitute and the illegal wedding.

(٥١) بَابُ مَهْرِ الْبَغِيِّ وَالنِّكَاحِ
الْفَاسِدِ،

Al-Hasan (Al-Baṣrī) said: If a person mistakenly marries a lady from the forbidden degrees of consanguinity (i.e. *Mahram*) they should be separated with divorce, and she would keep what she has taken of the *Mahr*. And she would not be entitled to take anything else. Later on Al-Hasan said: She would be entitled to take her full *Mahr*. (See H. 2237)

5346. Narrated Abū Maṣ'ūd عنه رضي الله عنه: The Prophet ﷺ prohibited taking the price of a dog, the earnings of a soothsayer and the money earned by prostitution. (See H.2237)

5347. Narrated Abū Juḥaifa: The Prophet ﷺ cursed the lady who practises tattooing and the one who gets herself tattooed, and one who eats (takes) *Ribā*⁽¹⁾ (usury) and the one who gives it. And he prohibited taking the price of a dog, and the money earned by prostitution, and cursed the makers of pictures. (See H. 2086 and 2238)

5348. Narrated Abū Hurairah عنه رضي الله عنه: The Prophet ﷺ forbade taking the earnings of a slave-girl by prostitution.

(52) CHAPTER. (What is said regarding) the *Mahr* of the lady whose husband entered upon her to consummate his marriage. And does, just entering upon one's bride, and staying with her in seclusion mean the same as the consummation of marriage. And

وَقَالَ الْحَسَنُ: إِذَا تَزَوَّجَ مُحَرَّمَةً وَهُوَ لَا يَشْعُرُ، فُرِّقَ بَيْنَهُمَا وَلَهَا مَا أَخَذَتْ، وَلَيْسَ لَهَا غَيْرُهُ، ثُمَّ قَالَ بَعْدُ: لَهَا صَدَاقُهَا.

٥٣٤٦ - حَدَّثَنَا عَلِيُّ بْنُ عَبْدِ اللَّهِ: حَدَّثَنَا سُفْيَانُ، عَنِ الزُّهْرِيِّ، عَنْ أَبِي بَكْرِ بْنِ عَبْدِ الرَّحْمَنِ، عَنْ أَبِي مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ قَالَ: نَهَى النَّبِيُّ ﷺ عَنْ ثَمَنِ الْكَلْبِ، وَحُلْوَانِ الْكَاهِنِ، وَمَهْرِ الْبَغِيِّ. [راجع: ٢٢٣٧]

٥٣٤٧ - حَدَّثَنَا آدَمُ: حَدَّثَنَا عَوْنُ بْنُ أَبِي جُحَيْفَةَ، عَنْ أَبِيهِ قَالَ: لَعَنَ النَّبِيُّ ﷺ الْوَاشِمَةَ وَالْمُسْتَوْشِمَةَ، وَآكِلَ الرِّبَا وَمُؤْكَلَهُ. وَنَهَى عَنْ ثَمَنِ الْكَلْبِ، وَكَسْبِ الْبَغِيِّ، وَلَعَنَ الْمُصَوِّرِينَ. [راجع: ٢٠٨٦]

٥٣٤٨ - حَدَّثَنَا عَلِيُّ بْنُ الْجَعْدِ: أَخْبَرَنَا شُعْبَةُ، عَنْ مُحَمَّدِ بْنِ جُحَادَةَ، عَنْ أَبِي حَازِمٍ، عَنْ أَبِي هُرَيْرَةَ: نَهَى النَّبِيُّ ﷺ عَنْ كَسْبِ الْإِمَاءِ. [راجع: ٢٢٨٣]

(٥٢) بَابُ الْمَهْرِ لِلْمَدْخُولِ عَلَيْهَا، وَكَيْفَ الدُّخُولُ؟ أَوْ طَلَّقَهَا قَبْلَ الدُّخُولِ وَالْمَسِيِسِ

(1) (H. 5347) *Ribā*: See the glossary.

(what) if a man divorced his wife before entering upon her and before consummating his marriage with her.

5349. Narrated Sa'īd bin Jubair : I said to Ibn 'Umar, "If a man accuses his wife of illegal sexual intercourse (what is the judgement?)" He said, "Allāh's Prophet ﷺ separated the couple of Banī 'Ajlān (when the husband accused his wife for an illegal sexual intercourse). The Prophet ﷺ said, 'Allāh knows that one of you two is a liar; so will one of you repent?' But they refused. He then again said, 'Allāh knows that one of you two is a liar; so will one of you repent?' But they refused, whereupon he separated them by divorce." Ayyūb (a subnarrator) said: 'Amr bin Dīnār said to me, "In the narration there is something which I do not see you mentioning, i.e. the husband said, "What about my money (*Mahr*)?" The Prophet ﷺ said, "You are not entitled to take back your money, for if you told the truth you have already entered upon her (and consummated your marriage with her) and if you are a liar then you are less entitled to take it back."

٥٣٤٩ - حَدَّثَنَا عُمَرُو بْنُ زُرَّارَةَ :

أَخْبَرَنَا إِسْمَاعِيلُ، عَنْ أَيُّوبَ، عَنْ سَعِيدِ بْنِ جُبَيْرٍ قَالَ: قُلْتُ لِابْنِ عُمَرَ: رَجُلٌ قَذَفَ امْرَأَتَهُ، فَقَالَ: فَرَّقَ نَبِيُّ اللَّهِ ﷺ بَيْنَ أَخَوَيْ بَنِي الْعَجْلَانِ، وَقَالَ: «اللَّهُ يَعْلَمُ أَنَّ أَحَدَكُمَا كَاذِبٌ، فَهَلْ مِنْكُمَا تَائِبٌ؟» فَأَيُّبَا، فَقَالَ: «اللَّهُ يَعْلَمُ أَنَّ أَحَدَكُمَا كَاذِبٌ، فَهَلْ مِنْكُمَا تَائِبٌ؟» فَأَيُّبَا، فَفَرَّقَ بَيْنَهُمَا. قَالَ أَيُّوبُ: فَقَالَ لِي عُمَرُو بْنُ دِينَارٍ: فِي الْحَدِيثِ شَيْءٌ لَا أَرَاكَ تُحَدِّثُهُ، قَالَ: قَالَ الرَّجُلُ: مَالِي؟ قَالَ: «لَا مَالَ لَكَ، إِنْ كُنْتَ صَادِقًا فَقَدْ دَخَلْتَ بِهَا، وَإِنْ كُنْتَ كَاذِبًا فَهُوَ أَبْعَدُ مِنْكَ». [راجع: ٥٣١١]

(53) CHAPTER. The gift given by a husband to a divorced lady for whom *Mahr* has not been fixed, by virtue of the Statement of Allāh تعالى:

"There is no sin on you if you divorce women while yet you have not touched (had sexual relation with) them nor appointed unto them their *Mahr* (bridal money given by the husband to his wife at the time of marriage) (up to) All-Seer of what you do."

(V.2:236,237)

And Allāh also said :

"And for divorced women, maintenance (should be provided) on a reasonable (scale). This is a duty on *Al-Muttaqūn*⁽¹⁾

(٥٣) بَابُ الْمُنْعَةِ لِلَّتِي لَمْ يُفْرَضْ لَهَا لِقَوْلِهِ تَعَالَى: ﴿لَا جُنَاحَ عَلَيْكُمْ إِنْ طَلَقْتُمُ النِّسَاءَ مَا لَمْ تَمْسُوهُنَّ أَوْ تَقْرُسُوا لَهُنَّ فَرِيضَةً﴾ إِلَى قَوْلِهِ: ﴿بَصِيرَةً﴾ [البقرة: ٢٣٦-٢٣٧] وَقَوْلِهِ: ﴿وَلِلْمُطَلَّقَاتِ مَتَاعٌ بِالْمَعْرُوفِ حَقًّا عَلَى الْمُتَّقِينَ﴾ (٢٤١) كَذَلِكَ يُبَيِّنُ اللَّهُ لَكُمْ آيَاتِهِ لَعَلَّكُمْ تَعْقِلُونَ ﴿٢٤٢﴾ [البقرة: ٢٤١-٢٤٢] وَلَمْ يَذْكُرِ النَّبِيُّ ﷺ فِي الْمُلَاعَنَةِ مُنْعَةً حِينَ طَلَّقَهَا زَوْجَهَا.

(1) (Chap. 53) *Al-Muttaqūn* means pious and righteous persons who fear Allāh much=

(the pious). Thus Allāh makes clear His *Ayāt* (laws) to you in order that you may understand". (V.2:241,242)

The Prophet ﷺ did not mention that the gift should be given to the lady whom her husband divorced after they had been involved in a case of *Li'ān*.

5350. Narrated Ibn 'Umar رَضِيَ اللَّهُ عَنْهُمَا: The Prophet ﷺ said to those who were involved in a case of *Li'ān*, "Your accounts are with Allāh. One of you two is a liar. You (husband) have right on her (wife)." The husband said, "My money, O Allāh's Messenger!" The Prophet ﷺ said, "You are not entitled to take back any money. If you have told the truth, the *Mahr* that you paid, was for having sexual relations with her lawfully; and if you are a liar, then you are less entitled to get it back."

٥٣٥٠ - حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ: حَدَّثَنَا سُفْيَانُ، عَنْ عَمْرِو، عَنْ سَعِيدِ بْنِ جُبَيْرٍ، عَنْ ابْنِ عُمَرَ: أَنَّ النَّبِيَّ ﷺ قَالَ لِلْمُتَلَاعِنِينَ: «حِسَابُكُمَا عَلَى اللَّهِ، أَحَدُكُمَا كَاذِبٌ، لَا سَبِيلَ لَكَ عَلَيْهَا». قَالَ: يَا رَسُولَ اللَّهِ، مَا لِي؟ قَالَ: «لَا مَالَ لَكَ، إِنْ كُنْتَ صَدَقْتَ عَلَيْهَا فَهُوَ بِمَا اسْتَحْلَلْتَ مِنْ فَرْجِهَا، وَإِنْ كُنْتَ كَاذِبًا فَذَاكَ أَبْعَدُ، وَأَبْعَدُ لَكَ مِنْهَا». [راجع: ٥٣١١]