

DENIED BY ALLAH

CHAPTER - 1 HALALA A LAWFUL CRIME?

She was sitting curled up in a corner and had been quiet throughout. Zakia felt that she was desperate to say something. In a gathering of women it was impossible to maintain silence. All of them had something to say and wanted to say it at once. There was an audible hum of their constant chatter with sudden highs at which Zakia had to scold them like school children a couple of times.

“Please wait for your turn. Don’t just begin speaking; raise your hand and wait for me to ask you to speak. How do you expect me to understand what you are saying if all of you speak together?”

Zakia would then look pointedly at her. She would smile and look away, usually downwards. Was there some awful shame that she was hiding? Zakia thought to herself.

Flanked by women on both sides, she was being nudged and poked to speak up. “Why don’t you ask her? What was the point in coming all this way if you don’t have the guts to speak?” They cajoled and persuaded, but she remained silent.

Three hours had passed. Zakia glanced pointedly at her wristwatch and began to collect her papers, pen and diary to indicate

that the meeting to discuss the Shariat laws and the Indian Constitution was over. The women also got up and began to collect their security guards—a variety of hijabs, abayas, burqas— hanging from doors, hooks and nails, and began to wear them.

Zakia was moving towards the veranda where tea had been laid out when someone called from behind, “*Baji!*” Zakia swallowed her irritation and turned with a half-smile fixed on her face. This was a general occurrence; one or two of the audience would always maintain a silence throughout the meeting, and then when everybody began to disperse would expect a private discussion. Zakia knew that it could not be avoided since some women were reticent about speaking openly even in an all-woman gathering. It was understandable; after all, women had only just found their voices.

“*Baji*, I wanted to ask you something. You spoke for more than three hours on Shariat versus the Indian Constitution but you did not say a word about ‘Halala’.” She spoke all of this in a rush and then stuttered to a stop as if she had said something obscene that should not be mentioned amongst respectable people.

Zakia stopped and looked at her face for a full minute. How many times had she thought that this portion of the Surah-e-Nisa, the chapter on women and property in the *Quran*, should be discussed. But her work was to compare the Shariat laws and the provisions of the Indian Constitution, and try as she might, so far she had not been able to dig out an even remotely linked Act in the Constitution.

“What is your name?”

“Sakina.”

“Tell me what do you wish to know about Halala.”

She kept quiet. Zakia prodded her, “Your husband has divorced you?”

“Yes.”

“And now he regrets it and wants to marry you again?”

“For the fifth time!” she mumbled.

Someone had placed a cup of tea in Zakia’s hand. Shocked at Sakina’s revelation, she almost dropped it. Taking a grip on herself, Zakia reached for her hand and moved to a corner. But she didn’t have to ask any question to begin a dialogue. Sakina seemed to have been waiting for this privacy. Haltingly, stammering, the story of her life flowed out of her like a burst ulcer getting rid of rotting, foul smelling fluid.

“*Baji*, I was fourteen when the nikah with my husband Abdul Rashid was solemnised. My husband was eleven years older to me. He was fond of alcohol and was a frequent abuser of opium.

Everyone, including my own parents, was aware of his addiction but then beggars cannot be choosers, and my parents, with five daughters, were literally beggars. On the whole, I was happy to be married. The family was well-to-do and there was only my brother-in-law, five years younger to me, besides my husband’s parents.

Everyone also believed that he would give up his bad habits once the wife was there to take care of things.”

Sakina laughed in a strange manner, at herself and at the society that expected so much from a woman by way of correction and reformation, yet gave her practically no rights. She was expected to wage a war and win this battle without any weapons or arms.

She was quiet after her lonely laughter. Zakia tried to bring her back to the narration. “So when did the talaq happen?”

“The first time was six years after the marriage. I had two children by then. He came back one night dead drunk and demanded food. I put a small table near the place where he was sitting and put the plate of food before him. He was slouched on the chair and seeing the food tried straightening up and toppled the table. I was also tired after a full day of work and that was the last of the cooked food in the house. Irritably, I muttered, ‘why do you drink so much that you have no control over your limbs?’

“That did it. He started shouting and abusing me, which he did in any case after getting drunk, and then he ended up by divorcing me in three pronouncements of talaq.”

“But divorce given under intoxication is not valid.”

“I did not know this and the maulvi did not give us the facts. Maybe he didn’t know them either. I left for my parent’s house. Thankfully, my

children were so small and my mother-in-law so unwell that I was allowed to take my children with me. Anyway, when the intoxication wore off he wept and apologised, asked my pardon and went to maulvi sahib saying that he should solemnise the nikah again as he loved me a lot and could not live without me. Maulvi sahib told him that this was impossible—first a hundred days of iddat would have to pass, then I would have to be married to someone else, who would then divorce me; this would have to be followed by a hundred-day iddat again, and only then could I be married to Abdul Rasheed.

“How could my husband tolerate that I have sex with another man? He came to my parents’ house and said to me, ‘Wait a while Sakina. I shall find out a way.’ A year-and-a-half passed in his trying to find a way. One day he came to me very happy and said, ‘Sakina get dressed, I have found out a way. I shall have you married to my younger brother Tariq Rasheed. He has promised to divorce you after the first night and then I shall be able to marry you.’

“I was apprehensive. How was I to accept my brother-in-law, five years my junior, as my husband, even for one night? But my husband cajoled and persuaded and refuted each of my objections with one single counter argument: Who was I to object when maulvi sahib did not have any problem with this arrangement? After all, he was the caretaker of our religion. I also thought that when the maulvi had accepted then it must be admissible in the eyes of religion and Allah. I was married to my brother-in-law and late in the night he came to my room and bolted the door. I was sitting facing the wall, embarrassed even at the thought of showing my body to another man. When I

did not feel him coming any closer for quite some time, I turned and saw him standing with folded hands, looking down at the ground like a sinner unable to meet the eyes of the world.

“Haltingly, I asked him, ‘Is anything the matter?’

“He looked up and said, ‘*Bhabhi*, sleep on the bed. I’ll lie down on the mat on the floor. I agreed to this arrangement because I wanted you back in this house. You are like my elder sister. I cannot even think of touching you. It is just for a night.’

“To tell you the truth *Baji*, that was the last time I had a dreamless, secure night. Next morning I was divorced again. Somehow, the hundred days of *iddat* passed and I was married to Abdul Rasheed again.

“But does a man ever change his ways? It is said that a piece of charcoal can be washed white but a man’s character can never be changed. He had the same friend circle, the same habit of drinking and smoking opium. He would come back late, pick up a quarrel for no rhyme or reason and then begin beating me. In between, he would also keep abusing me, saying, ‘You have stayed a night with my brother. He is sixteen years younger to me. I am growing old and he is full of youth and vigour. Did you enjoy it more with him? Do you miss him when you are with me? Do you go to him when you have the opportunity in the afternoons when I am not there and Ammi and the children are asleep?’

“*Baji* I tried to keep the secret for as long as I could. At last I could bear it no longer and it burst out from me. ‘Why do you keep accusing poor me and your angel of a brother of having committed this sin? He did not even touch me that night. Even now he comes back home late because he does not wish to meet my eye.’ He embraced and kissed me then, calling me his life and his beloved. I was grateful that he believed me, and there was peace in the house for a few months. Then, one evening, while he was drinking with friends, one of them teased him about having a wife whose ex-husband also lived under the same roof. How did he know that they were not making love behind his back? Abdul Rasheed was not able to tolerate this. ‘My wife is only mine, understand? That nikah was just a sham. My brother did not even touch her,’ he boasted. A declaration like this, made on a *theka*—how could it not spread? And having spread through the small township, how could it not reach the ears of maulvi sahib? And knowing the facts how could he not, as a protector of the true faith, take steps to show the world that he did not let the grass grow under his feet?

“My nikah to Abdul Rasheed was annulled and again for me began a period of iddat and the search for another man who would marry and divorce me, and in the process set me free to be married to my original husband. Of course, it could not be my brother-in-law this time, because he had been proved untrustworthy. How could anyone believe a man who did not force himself on his legally wedded wife and left her untouched?

“Another man was found and I was married to him. The next day this man flatly refused to divorce me. For fourteen long months I was his wife. I would happily have remained his wife forever but it was Abdul Rasheed who refused to adjust to the changed situation. He would see me in the market place buying vegetables or taking the children to school. He would recognise the burqa, come up to me and begin howling, literally. He would roll on the road, like a child throwing a tantrum. ‘Oh Sakina, how can I live without you? Oh my life, come back to me.’

“In the end it was I who prevailed upon my husband to divorce me because I was being torn to bits, pulled from each side. I was the comic relief in the mundane life of the small town. People would inform each other that the entertainment had begun and converge to the spot. There would be laughter, catcalls that shamed me and earned Abdul Rasheed the nickname of ‘Majnu’. So I was a divorcee again, counting the hundred days and waiting to be married to a man who said he loved me but could not stop himself from pronouncing talaq on the smallest pretext.

The nikah was over, a few happy weeks passed and the same life surfaced again. It was as if he had become addicted to divorcing me. At the drop of a hat, without any proper reason, sometimes drunk, at others completely in his senses he began divorcing me. Then he would find another man, make all the preparations for the wedding and himself arrange for the maulvi. Once it was the maulvi himself who married me and ravaged me for six nights before giving a

divorce. Periods of iddat would pass; I often lost count of the days, but Abdul Rasheed would be back exactly on the hundred and first day to marry me again. In this manner *Baji*, sixteen years of my life have passed spinning like a top between Nikah, Talaq, iddat and Halala.

“Oh *Baji!* Are those tears in your eyes? Strange! Or perhaps not so strange! Maybe this is how it should be. Strangers should take on the business of weeping at my plight because my own tear glands have long run dry....”

THE *QURAN* doesn't make any provision for a situation where multiple marriages and divorces can take place between the same man and woman. Did even Allah, the creator of the Universe, all living things and human beings, not realise that someone could be a repetitive sinner and use the law meant to be a 'deterrent' in his favour? Incidentally, there are different punishments prescribed for repetitive culprits of other crimes in the *Quran* but not for one who repeatedly divorces and marries the same woman.

Since the question of Halala arises only when the talaq has taken place it would be in order to discuss talaq or divorce in Islam first.

The followers of Islam take great pride in the fact that Islam is the first religion that accepts marriage to be a contract and thus negotiable, dissolvable and breakable. It introduced the idea of two people, legally married, deciding to live separately, taking other partners in a lawful manner. Other religions have borrowed the concept from Islam and introduced it in their law.

This is not entirely true. Divorce has existed in the tribal communities where the rights of the individuals are recognised and women and men enjoy a balanced position in society. Yet, it may be conceded that in an organised, monotheistic religion and a well-documented one, Islam is the first to allow individuals to dissolve a marriage.

Divorce in Islam can be initiated both by husband and the wife. When a man has initiated a divorce, the procedure is called talaq; when a woman does so, it is called khula. There are separate rules for divorce for men and women under the terms of Islamic law (Shariat). It is necessary to point out here that while talaq is easily obtained, getting khula is quite difficult.

The Muslim husband may initiate the divorce process by pronouncing the talaq, the formula of repudiation, three times. The first two times the talaq is pronounced, it may be withdrawn. But the third time it is pronounced, the divorce is irrevocable.

What does the *Quran* Say?

The Triple Talaq in one sitting is not mentioned in the *Quran*. According to the Holy Book, there is a waiting period involved between the three times a man can declare the divorce. This allows him to cool down, if he had started the talaq proceeding in anger or under duress of some kind. This gap is provided to resolve disputes, and also to be able to determine if a child is being born.

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