

Vivek Dwivedi

Judge, Family Court

Laksar, Haridwar

DIVORCE

By husband

By Wife

By Mutual Consent

By Judicial decree under Muslim dissolution of Marriage Act 1939

Talaq

Ila

Zihar

Talaq e Tafweez

Khula

Mubarat

Lian

Fask

Talaq Ul sunat

Talaq ul Biddat

Ahasan

Hasan

Written

Oral

What is Triple Talaq

Instant Talaq or "Triple *Talaq*" or "*Talaq-e-Biddat*" is an Islamic practice that allows men to divorce their wives immediately by uttering the word "*talaq*" (divorce) three times. The pronouncement can be oral or written, or as in recent times, delivered by electronic means - telephone, SMS, email or social media.

Talaq given by husband are of following types-

As per the shariat there are 3 ways in which a husband can divorce his wife/wives - Talaq-e-Ahsan, Talaq-e-Hasan and Talaq-e-Biddat. It is claimed that Talaq-e-Ahsan and Talaq-e-Hasan are recognized by the Holy Quran but Talaq-e-Biddat is a creation of the Ummayad Kings for their ill-intentions. "*Talaq-e-Sunnat*" or "*Talaq-ul-Raje*" is a revocable divorce that can be pronounced in Hasan or Ahsan forms.

"*Talaq-e-Biddat*" or "*Talaq-ul-Bain*" (Irrevocable divorce) is instant Triple *Talaq* and is effective as soon as the word "*Talaq*" has been pronounced thrice. In this form of *talaq*, three pronouncements can be made during a single *tuhr* (when the woman is not menstruating) by saying "I divorce thee" thrice at the same instant i.e. there need not be any waiting period between two successive pronouncements.

The Hon'ble Supreme Court of India, in its recent landmark judgment of Sayara bano Vs. Union of India pronounced on August 22, 2017, has set aside the practice of Talaq-e-Biddat or "Triple Talaq" with the majority Ration of 3:2. The Judgment by the minority bench further directed the Government of Union Of India to lay a proper legislation in order to regularize the proceedings of divorce as per shariat law.

Section 2 in the Dissolution of Muslim Marriages Act, 1939

2. Grounds for decree for dissolution of marriage.—A woman married under Muslim law shall be entitled to obtain a decree for the dissolution of her marriage on any one or more of the following grounds, namely:— —A woman married under Muslim law shall be entitled to obtain a decree for the dissolution of her marriage on any one or more of the following grounds, namely\;—"

(i) that the whereabouts of the husband have not been known for a period of four years

(ii) that the husband has neglected or has failed to provide for her maintenance for a period of two years;

(iii) that the husband has been sentenced to imprisonment for a period of seven years or upwards;

(iv) that the husband has failed to perform, without reasonable cause, his marital obligations for a period of three years

(v) that the husband was impotent at the time of the marriage and continues to be so;

(vi) that the husband has been insane for a period of two years or is suffering from leprosy or virulent venereal disease;

(vii) that she, having been given in marriage by her father or other guardian before she attained the age of fifteen years, repudiated the marriage before attaining the age of eighteen years.; Provided that the marriage has not been consummated;"

(viii) that the husband treats her with cruelty, that is to say,—

(a) habitually assaults her or makes her life miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment, or

(b) associates with women of evil repute or leads an infamous life, or

(c) attempts to force her to lead an immoral life, or

(d) disposes of her property or prevents her exercising her legal rights over it, or

(e) obstructs her in the observance of her religious profession or practice, or

(f) if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Quran;

(ix) on any other ground which is recognised as valid for the dissolution of marriages under Muslim law Provided that—

(a) no decree shall be passed on ground (iii) until the sentence has become final;

(b) a decree passed on ground (i) shall not take effect for a period of six months from the date of such decree, and if the husband appears either in person or through an authorised agent within that period and satisfies the Court that he is prepared to perform his conjugal duties, the Court shall set aside the said decree; and

(c) before passing a decree on ground (v) the Court shall, on application by the husband, make an order requiring the husband to satisfy the Court within a period of one year from the date of such order that he has ceased to be impotent, and if the husband so satisfies the Court within such period, no decree shall be passed on the said ground.

THANK YOU