



Factors Responsible for Triple Talaq Among Muslims in India: A Study

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Abstract

In Muslims community marriage is purely as a contract in civil nature, and no religious ritual required and there should be an exchange of offer and acceptance. Even though 'Holy Quran' considered marriage as sacred institution, the situation is not coping with Quranic verses. "Quran prefers that men and women marry and within the marriage there should be harmony, mutually built with love and mercy. The marriage tie is considered a protection for both the male and female. There are varying of obstacle which turn women as a second fiddle human being everywhere. Once, the marriage ceremony is solemnized, this marriage contract has no significance in any regard to any right and liability arising under it.

Keywords : Women, Muslim, Triple Talaq.

Introduction

In India, the family is a unit of society on which the social structure stands. In Muslims community marriage is purely as a contract in civil nature, and no religious ritual required and there should be an exchange of offer and acceptance. Even though 'Holy Quran' considered marriage as sacred institution, the situation is not coping with Quranic verses. "Quran prefers that men and women marry and within the marriage there should be harmony, mutually built with love and mercy. The marriage tie is considered a protection for both the male and female. They (female) are raiment for you (male) and you are raiment for them (2:187)."¹ According to Muslim Personal Law, there are varying of obstacle which turn women as a second fiddle human being everywhere. Once, the marriage ceremony is solemnized, this marriage contract has no significance in any regard to any right and liability arising under it.

¹. Amina Wadud, "Quran and Women : Rereading the Sacred Text from a Women Perspective", Oxford University Press, New York, 1999, p.78.

On the contrary, “there can be no objection to the right of divorce. But conferring this right on women, by itself, would be unmeaning and probably more productive of harm than of good”.² “One of the worst tragedies of the Muslims from the very beginning of Islam has been and remains, their failure to distinguish between ‘Arab’ and ‘Islamic’, between ‘pre-Islamic’, ‘local custom’ and the ‘Islamic reform’. This has resulted into, inter alia, the emergence of a divorce law which despite its open conflict with clear Quranic injunction, the Muslims treat as part of their religion.”³

Deletion of marriage contract in event of the breach of marital obligation towards the one party. The talaq (divorce) provision have been open for the regulation in legalized form by enactment of various personal law statutes e.g.: for Hindus, the “Hindu Marriage Act, 1955”; for Paarsis, “Paarsi Marriage and Divorce Act, 1936”; Christians and Jews and others by the “Indian Divorce Act, 1869” and Muslim women by the “Dissolution of Muslim Marriage Act, 1939”. Generally, Muslims govern by Muslim personal laws in which Nikah is only a contract. Muslim man can give divorce to his wife merely by uttering the word ‘talaq’ thrice in single go. Stable marriages do not simple mean enduring marital relationship. Stability in marital relationship cannot be forced through legal sanction. It can be “in marital matters, it is the attitude of the mind and the feelings that count and no decree of the court can force the parties to live together.”⁴ “There cannot be two view that married couple make their best effort to continue their marital relation in cordiality and happiness; likewise a progressive society needs a tension free family life, a society which aim at securing social justice to its people through implementing the concept of equality and personal liberty. Therefore, any rigid formula to keep marriage indissoluble in the name of stability would be a retrogressive step and would not at all be inconsonant with the current social change. A healthy society, thus permits divorce on certain hard and exceptional cases. Sometimes relation may go sour and couple reaches the stage where conciliation and counseling have no effect on them and the marriage relation became impossible to continue. Instead of forcing the couple to stay together in a life of hell permits them to separation in an amicable manner. The method of putting an end to the contract of marriage is called ‘talaq’. ‘Talaq’ literally means to let an animal free. It is used in Muslim law to denote the legal method whereby a marriage is brought to an end. Islam encourages reconciliation between spouses or favoured marriage rather than severance of their relationship. Whatever good relations between spouses becomes distinctively impossible, Islam does not keep them tied in a loathsome, painful and agonizing position. It then permits divorce.”⁵

“Talaq in its literal sense means ‘the taking off of any tie or restraint’. The right of divorce is conceded in Muslim law, but the law prohibits its exercise by threats of divine displeasure, ‘it was’, says Baillie, originally forbidden and is still disapproved, but has been permitted for the avoidance of greater evils.”⁶

². Soutik Biswas, “What Divorce and Separation tell us about Modern India”, BBC, 29.09.2016, retrieved from <https://www.bbc.com/news/world-asia-india-37481054>.

³. Tahir Mahmood, “No more Talaq, Talaq, Talaq - Juristic restoration of the true Islamic Law on Divorce”, XII ICLR 1 (1992).

⁴. Smt.Alopbai vs. Ramphal, AIR 1962 MP 211.

⁵. Abdur Rahman, “Women in Sharia (Islamic Law)”, TaHa Publisher, London, 1989, p.168-169.

⁶. Baillie Neil BE, “Digest of Moohummudan Law”, Bibliobazar Publisher, South Carolina, 2010, p.205.

“Talaq is an Arabic word and its literal meaning is ‘to release’. Under Muslim law, ‘talaq’ means ‘repudiation of marriage by the husband.’⁷ “The word ‘talaq’ derive from a root (tallaqa), means ‘to release (an animal) from a tether’, it means to refuse the wife or free the wife from the bondage of marriage.”⁸ As per Hedaya, “Talaq in its primitive sense means ‘dismissal’; in law, it signifies the dissolution of marriage or the annulment of its legality by certain words”⁹. “Talaq is defined as the exercise of the right of pronouncing unilateral divorce on the wife by the husband, arbitrarily without any cause, at any time during the subsistence of a valid marriage including the period of iddat, is known as talaq”¹⁰.

Kinds of Talaq

‘Talaq’ is the freedom from marital obligations it can be dissolved by these manners : (1) By Talaq, or repudiation by husband; (2) By Ila or the vow of continence by husband; (3) By Zihar or injurious assimilation of wife by husband to certain prohibited relations; (4) By Khula or redemption by wife; (5) By Mubarrat or separation by Mutual consent; and (6) By Li’an or imprecation.

Talaq without intervention of Court : (1) By husband, by Talaq-ul-Biddat, Ila or Zihar; (2) By wife, by Khula or Talaq-e-tafweez; and (3) By mutual agreement between the parties by Mubaraat.

Talaq with intervention of Court: (1) By husband, by Li’an; and (2) By wife, by claim under Dissolution of Muslim Marriage Act, 1939.

“As per Sharia, there are more ways to end a marriage and talaq is just one of them. However, such divorce has full validity in the eyes of law. The most common method of ‘talaq’ or ‘Talaq-ul-biddat’ is for the triple pronouncement of ‘Talaq-e-hasan’ to be brought together in a single sitting. No evidence is required to prove the talaq pronounced by husband, the presence of third person is also not necessary and the wife left with no option to challenge talaq.”¹¹

“Under the Hanafi School founded by Abu Hanifa (between 699-767 A.D) the ‘Talaq-ul-biddat’ or ‘triple talaq’ may be used by husband. Although it is not accepted by classical jurisprudence, husband has the advantage of simplicity and finality. Sunni law gives effect to ‘Talaq-ul-biddat’ through its traditional interpreters, even if it violates the Quranic law procedures. According to interpreters ‘Talaq-ul-biddat’ is ‘Sinful but effective’ proposition in English ‘Bad in theology but good in law’. This irregular mode of talaq was introduced by Omeyyads in order to evade the stringency of law.”¹²

“A divorce becomes necessary only when the husband cannot do his duties, i.e., when he is impotent or a eunuch. Talaq under the Muslim law is a kind of divorce. It consists of two types, i.e., talaq-ul-sunnat and talaq-ul-biddat in Hanafi Law. The talak-ul-sunnat is regarded as one of the most approved form of talak. It can again be divided into two kinds, i.e., talak-ul-ahsan and talak-ul-hasan.”¹³

7. Dr.R.K. Sinha, “Muslim Law”, Central Law Agency, Allahabad, 5th edn. 2003, p.82.

8. Asaf A.A. Fyzee, “Outlines of Muhammadan Law”, Oxford University Press, New Delhi, 4th edn. 2005, p.150.

9. Hedaya, 72; cf: B.R. Verma, “Islamic Law”, Law Publishers (India) Private Limited, 6th edn. 1986, p.202.

10. Nishi Purohit, “The Principles of Mohammedan Law”, Orient Publishing Company, Allahabad, 2nd edn. 1998, p.183.

11. David Pearl & Werner Menski, “Muslim Family Law”, 3rd Edition, Sweet & Maxwell, London, 1998, p.281.

12. Pravez Kagzi, “The Mythology of Triple Talaq in India”, p.2 retrieved from [https:// www.scribd.com/ document/ 444900451/the-mythology-of-triple-talaq-in-india.docx](https://www.scribd.com/document/444900451/the-mythology-of-triple-talaq-in-india.docx).

13. Tahir Mahmood, “The Muslim Law of India”, Law Book Company, Allahabad, 3rd edn. 2002 p. 104-105.

(1) Talak- ul- Ahsan

The man has to fulfill the conditions under the talak-ul-ahsan¹⁴:

1. “He must pronounce the formula of divorce once, in a single sentence ;
2. He must do so when the woman is in a state of purity (tuhr) and there is no bar to carnal intercourse nor has there been any intercourse during that state ; and
3. He must abstain from the exercise of conjugal rights after pronouncing the formula.”

(2) Talak- ul- Hasan

Talaq-ul-Hasan means, pronouncement of ‘talaq’ thrice one after the other in three consecutive tuhrs, really a serious distortion, but they are not taking the law seriously. “A man pronounces a revocable talaq; he reconciles and resumes cohabitation. A few years later under some provocation he pronounces a revocable talaq once again. On recovering from provocation he again resumes cohabitation. Now two talaqs are over. Thereafter, whenever he pronounces a ‘talaq’ it will be counted as the third ‘talaq’ which will dissolve the marriage forthwith. The husband is required to pronounce the formula three times during three consecutive tuhrs, namely three periods of purity of the wife. When the last formula is pronounced, the divorce becomes irrevocable.”¹⁵

(3) Talak- ul- Biddat

The talak-ul-biddat consists of:

1. “Three pronouncements made during single tuhr either in one sentence, e.g., ‘I divorce thee thrice’, or in separate sentence, e.g., ‘I divorce thee, I divorce thee, I divorce thee ; or
2. A single pronouncement made during a tuhr clearly indicating an intention irrevocable to dissolve the marriage, e.g., ‘I divorce thee irrevocably’¹⁶.

“Under the talak-ul-biddat (Talak-ul-bain), when a definite and complete separation has taken place the parties so separated cannot remarry without the formality of the woman marrying another man and being divorced from him.”¹⁷ “It has always been a point of dispute amongst the jurist of law about Muslim related to talak-ul-biddat as an unapproved form of ‘talaq’. It has been observed that the son of Umar divorced his wife during her courses. The Prophet desired Umar to command his son to take her back again. In fact this kind of ‘talak’ was introduced to oblige the Omayyad Caliphs who wanted greater facility and easier rules of repudiation. The Shias and Malikis have not recognised this form of talaq. It is only recognised by Hanafis and Shafis.”¹⁸

A.S. Parveen Akhtar vs. The Union of India W.P. No.744 of 1992, in this case the court said that “The demand for dowry has never been a part of the Muslim Personal Law but its practice as a social norm has acquired oppressive proportions among Muslims.”

¹⁴. Ahmed Kasim vs. Khatoon Bibi (1932) 59 Cal. 833, 141 I.C. 869 (33) A.C. 27.

¹⁵. Tahir Mahmood, “The Muslim Law of India”, Law Book Company, Allahabad 3rd edn. 2002 p. 105.

¹⁶. Mulla, “Principles of Mahomedan Law” LexisNexis, New Delhi, 19th edn. 2003 p.261.

¹⁷. Salman Khurshid, “Triple Talaq : Examining Faith”, Oxford University Press, New Delhi, 2018, p.14-15.

¹⁸. Shayara Bano vs. Union of India & Others, WP (C) 43/2017.

In Ahamed Hussain vs. Shahin Parveen, Crl.O.P.(MD)No.8387 of 2019, “court said that as per the provisions of the Muslim Women (Protection of Rights of Divorce) Act 1986, option has been given to the parties to exercise their willingness. But here, it was not proved before enquiry officer that the triple talaq that was pronounced by the petitioner was a valid one. Hon'ble Supreme Court in the case of Shamim Ara vs. State of U.P 2003(1) LW 363 in support of his contention. When we go through the order passed by both the trial court as well as the revisional court, it is seen that it completely agreed with the findings of the trial court. The revisional court has also found that tripe talaq would not have been pronounced as stated by the petitioner on 25/11/2010. But in the plaint, he has stated that the wife left the matrimonial house in December 2011. So on that ground also, pronouncement of triple talaq was disbelieved.”

Factors responsible for Triple Talaq

“There are many reasons why people seek a divorce. It could be easy to put a reason for the sake of supporting a divorce petition. In reality though, there may be hundreds of unique reasons why certain couples just want out. Sometimes, there is more than just one reason. Following are some of the possible causes of divorce.”¹⁹

(1) **Financial Issues :** “Financial dissatisfaction is a common cause of disagreement between couples. Married couples are usually quarreling on the issue of financial responsibility and unequal financial status, undisclosed financial state, over spending and lack of financial support etc. Evidence suggests though that money is not always the sole or primary cause of divorce. Nonetheless, it is still a significant factor.”²⁰

(2) **Ill-treatment or Abuse:** “There are many forms of abuse, all of which are possible causes of divorce including intentional and habitual physical assault, sexual abuse, emotional abuse, degrading through harsh language, drug and alcohol abuse as well as excessive gambling that is becoming detrimental to the marriage may also be used as a form of abuse. There may be no physical or verbal abuse but the other partner would understandably have a difficult time managing finances and daily life with an addicted spouse.”²¹

(3) **Sexual Problems :** Sexual role of spouses plays vital role in the marital life. Sexual dissatisfaction or disinterest may be a serious reason for divorce. Likewise, suspicion of character, adultery and other sexual misbehavior may lead to divorce. Likewise summarily, many of the following factors directly or indirectly responsible for talaq, viz. (i) Lack of commitment; (ii) Communication breakdown between spouses; (iii) Infidelity and deceit and lies; (iv) Neglect of spouse feeling; (v) Resolve the conflicts; (vi) Personality or irreconcilable differences; (vii) Differences in career life; (viii) Problems of children upbringing; (ix) Interference from relatives; (x) Lack of maturity; (xi) Incompatibility; (xii) Change in Religious beliefs; (xiii) Cultural and lifestyle differences; (xiv) Mental Illness; (xv) Incarceration for

¹⁹. Alisha Rowd, “Common Causes of Divorce”, retrieved from www.ezinearticles.com/?Common-Causes-of-Divorce&id=908257 .

²⁰. Ibid.

²¹. Ibid.

crime; (xvi) Immaturity of understanding; (xvii) Negative role of In-laws; and (xviii) Demand of dowry etc.

Effects of Triple Talaq

Talaq is somehow act as the complete dissolution of marital relation of Muslim wife with husband. The marital relationship is dissolved on the maturity of talaq and husband and wife now not to be the husband and wife. Legal effects of talaq are given as under:

- **Illegal Cohabitation:** Cohabitation will be illegal between divorced husband and wife after the maturity of talaq. “If the marriage was consummated, the wife is entitled to immediate payment of the whole of the unpaid, both prompt and deferred amount of dower.”²²

In “Musharraf Husain @ Musharraf Ali vs. State Of U.P. and Another²³ the High Court of Allahabad said There is allegation that the case under Sections 498-A, 323, 324, 328, 376-D and 377 IPC and 3/4 D.P. Act is already pending between the parties. During the pendency of the aforesaid case, the present FIR has been lodged. The application has been submitted by the applicant Counsel, falsely implicated in this case on the allegation that he is involved with another girl, that he has mistreated the informant and does not wants to keep her in his house and that he has given ‘Triple Talaq’ to the informant. The applicant has no criminal history to his credit. Learned AGA and learned counsel for the informant have opposed the prayer for anticipatory bail of the applicant, but could not dispute the aforesaid fact.”

- **Iddat:** “The wife is required to observe an Iddat of three lunar months after the divorce or, if pregnant, till delivery of the child. However, if the divorce takes place before consummation, the wife need not observe Iddat.”²⁴

After the Shah Bano case decision, the Parliament enacted the “Muslim Women (Protection of Rights on Divorce) Act,1986” (hereinafter referred as Act) to protect the rights of Muslim women. A ‘divorced woman’ is defined u/s 2(a) of this Act to mean “a divorced woman who was married according to Muslim Law, and has been divorced by, or has obtained divorce from her husband in accordance with Muslim Law;”²⁵ ‘Iddat period’ is defined u/s 2(b) of this Act to mean, “in the case of a divorced woman- (i) three menstrual courses after the date of divorce, if she is subject to menstruation; (ii) three lunar months after her divorce, if she is not subject to menstruation; and (iii) if she is enceinte at the time of her divorce, the period between the divorce and the delivery of her child or the termination of her pregnancy whichever is earlier.”²⁶

- **Maintenance:** “During Iddat period, divorced women has a right to get maintenance by her former husband. The previous husband is liable to give maintenance to divorced wife up to the period of Iddat only.”²⁷

²². Hedaya, 44-45, Baillie, 96-97.

²³. Criminal Misc Anticipatory Bail Application u/s. 438 CrPC. no. 8709 of 2020.

²⁴. Shayara Bano vs. Union of India & Others, WP (C) 43/2017.

²⁵. Section 2(a), the Muslim Women (Protection of Rights on Divorce) Act,1986.

²⁶. Section 2(b), the Muslim Women (Protection of Rights on Divorce) Act,1986.

²⁷. Muslim Women (Protection of Rights on Divorce) Act, 1986.

In Jubair Ahmad vs. Ishrat Bano case, Cr. revision no. 2509 of 2014 the Allahabad High Court interpreted that “u/s 125 Cr.P.C. by which opposite party Ishrat Bano (divorced wife) has been awarded per month Rs. 3000/- from the date of judgment as maintenance. The legal issue as argued by the counsel to the revisionist is when an earlier application for maintenance has been decided between the parties after full contest and the maintenance awarded in that case has been fully paid by the husband, a second application in view of a subsequent Supreme Court judgment is not maintainable and no maintenance can be awarded on the basis of the second application.” In support of this submission, the learned counsel to the revisionist has taken reference of the judgment in Pradeep Kumar Maskara vs. State of WB, (2015) 2 SCC 653, and Kalinga Mining Corpn vs. Union of India, (2013) 5 SCC 252.

In “Shamim Bano vs. Asraf Khan, (2014) 12 SCC 636 again the issue was whether the appellant's application for grant of maintenance under Section 125 of the Code is to be restricted to the date of divorce and because of filing of an application under Section 3 of the Act after the divorce for grant of mahr and return of gifts would disentitle the wife to sustain the application under Section 125 of the Code. Referring to Shabana Bano in which, following Danial Latifi it has been ruled that 'The appellant's petition under Section 125, CrPC would be maintainable before the Family Court as long as the appellant does not remarry. The amount of maintenance to be awarded under Section 125, CrPC cannot be restricted for the iddat period only,' the Supreme Court held, the aforesaid principle clearly lays down that even an application has been filed under the provisions of the Act, the Magistrate under the Act has the power to grant maintenance in favour of a divorced Muslim woman and the parameters and the considerations are the same as stipulated in Section 125 of the Code.”

In “Mohd. Ahmed Khan vs. Shah Bano Begum, AIR 1985 SC 945 the issue before the court was that where a Muslim woman had been divorced by her husband and paid her mahr, would it indemnify the husband from his obligation to pay maintenance under the provisions of Section 125 CrPC. A Five-judge Bench of the Supreme Court held that the Code of Criminal Procedure controls the proceedings in such matters and overrides the personal law of the parties and in case of conflict between the terms of the Code and the rights and obligations of the individuals under personal law, the Code would prevail.”

- **Marriage with another person:** The husband and wife are free to marry another person, if the wife is divorced after the end of iddat. The wife is free to marry with another person immediately after the talaq is irrevocable; if the marriage was not consummated.

In Tarif Rashidbhai Qureshi vs. Asmabanu d/o Alimohmmad Idarbhai, Civil Appeal no. 2012 of 2019 the Gujrat High Court held that “While the suit was filed under the Dissolution of Muslim Marriage Act, 1939 and interim prayer for alimony was made in the said suit, it could be noticed from the provisions of the Act of 1939 that the said law does not contain any provision regarding interim alimony. It goes without saying that the exercise of taking decision shall be under the provisions of

the Dissolution of Muslim Marriage Act, 1939 in respect of which parties through their learned advocates have no dispute.”

- **Dower:** “If the marriage was consummated, the wife is entitled to immediate payment of the whole of the unpaid, both prompt and deferred amount of dower.”²⁸ “If the marriage was not consummated, and the amount of dower was specified in the contract, she is entitled to half that amount.”²⁹ If no amount were fixed, then she is entitled to get three dress and articles. “Where a marriage is dissolved upon the apostasy of the wife; she is entitled to the whole of the dower if the consummation of the marriage has been taken place.”³⁰ “Nothing contained in the Dissolution of Muslim Marriage Act, 1939 affects any right which a married woman may have under Muslim law to her dower or any part thereof on the dissolution of her marriage.”³¹
- **Remarriage of divorced husband and wife:** There is certain provision in the remarriage of the divorced couple, which are as follows:
 - a) The marriage between husband and wife obtained talaq should be a new marriage contract with all essential requirements including dowery. Without this it is unlawful.
 - b) The divorced husband and wife can't marry again even with a new contract, unless they follow the procedure:
 - After maturity of divorce, woman has the requirement of Iddat. When this Iddat is over, the divorced woman can marry with other person. This marriage must be consummated.
 - This Marriage dissolves; either the husband voluntarily divorced his wife or become himself dead, in this case wife will go for Iddat.
 - Then, after expiry of the Iddat, the wife can marry again with her former husband.

In *Mohsin Salam vs. State of Karnataka*, CrI. Petition no. 5685 of 2020, one of the issues that “would arise for consideration of this Court is whether the talaq stated to have been pronounced is in compliance with or would it fall within the mischief of ‘Muslim Women (Protection of Rights on Marriage) Act, 2019’ (for short, the ‘Act’). Section 2 (c) of the said Act defines ‘Talaq’ as ‘talaq’ means ‘talaq-e-biddat’ (talaq-ul-biddat) or any other similar form of talaq having the effect of instantaneous and CrLP. no.5685 of 2020 irrevocable divorce pronounced by a Muslim husband.” In terms of Section 3, the ‘Talaq’ as defined under Section 2(c) is void and illegal the words ‘Talaq’ in both the provisions is used in italics. Section 3 is reproduced hereunder for easy reference; “Talaq to be void and illegal- Any pronouncement of ‘talaq’ by a Muslim husband upon his wife, by words, either spoken or written or in electronic form or in any other manner whatsoever, shall be void and illegal. Reading of the above extract would indicate that only a ‘triple talaq’ pronounced instantaneously is void under the said Act. In the present case, first, second and third talaq has been pronounced on 20.01.2020, 21.02.2020 and 24.06.2020 respectively that is in three different thurs. Therefore, the talaqs not being CrLP no.5685 of 2020 instantaneous would not come within the

²⁸. Hedaya, 44-45, Baillie, 96-97.

²⁹. Tajbi vs. Nattar Sherif, (1940) 2 MLJ 345.

³⁰. A.M. Md. Ebrahim vs. Ma ‘Ma and another (1939) Rang, 383.

³¹. Section 5 of the Dissolution of Muslim Marriage Act, 1939.

mischief of Section 3 or 2(c) of the said Act. As such, I am of the considered opinion that the arrangement and settlement of parties is not violative of the aforesaid Act. As such, the settlement is accepted. As such, the proceedings in FIR No.0033/2020 dated 29.02.2020 registered by Pulakeshi Nagar PS for the crime punishable u/s 323, 420, 354, 498A read with Section 34 of IPC, Sections 3 and 4 of the Dowry CrLP.no.5685 of 2020 Prohibition Act and Sections 3 and 4 of the 'Muslim Women (Protection of Rights on Marriage) Act, 2019' are quashed."

In *Rahna Jalal vs The State Of Kerala*, Criminal Appeal No 883 of 2020, the court held "that this appeal arises from a judgment of a learned Single Judge of the High Court of Kerala, rejecting the application for anticipatory bail under Section 438 of the Code of Criminal Procedure 1973. By the order of this Court, interim protection from arrest has been granted to the appellant. The primary allegation which is pressed in aid to deny anticipatory bail is the pronouncement of triple talaq by the spouse of the second respondent. In the preceding paragraphs we have observed that an offence under the Act is by the Muslim man who has pronounced talaq upon his spouse, and not the appellant, who is the mother-in-law of the second respondent. Though, Mr. G. Prakash, learned counsel appearing on behalf of the State of Kerala has adverted to the allegations under Section 498A of the CrPC to oppose the grant of bail, we are of the view that having regard to the vague and general nature of those allegations in the FIR, bereft of details, the appellant (whose son is in a marital relationship with the second respondent) should not be denied the benefit of the grant of anticipatory bail. While deciding the second respondent's application under Section 23 of the Protection of Women from Domestic Violence Act, 2005 did not find any substance in the allegations against the appellant".

Conclusion

Divorce is not completed in Islam unless the husband has pronounced it in three separate sentences as "I divorce thee, I divorce thee, I divorce thee". When breakup of marriage thread, tie proceeds from the husband, known as 'Talaq', when it proceed from the wife it is known as 'Khula' and when it proceeds by mutual consent is called 'Mubarat'. But under the Muslim law of India Khula and Mubarat has lost its validity and are of no use, meaning by, become redundant from husband point of view. It is a real fact that there is no basis of Quranic versus to establish the thing that instant triple talaq should equate that to an irrevocable divorce. As far as separation of one point from another is concerned, treat 'triple talaq' as one is close to the purpose of the Holy Quran. This bad practice of 'triple talaq' is not in the accordance with sprite of the Quran and Sunnat. It is clearly condemned by the Holy Prophet, hence this practice is a sinful act. There should also be a notion of equality and it be informed by the difference in women's experiences. It is important to understand that identity subversion is a very complex phenomenon; it is not a transcendent difference but is rather shaped by the many differences. It is high time as well as the need of the hour to take some major steps bring about some necessary changes in personal laws in India.

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