

Divorce from an Insane Man

Question: A married man aged between 18 and 19 talks like a madman. After an argument with his wife of day, he left for the graveyard. From there, he went to the local judiciary office, where he wrote out a divorce. The words were incorrect, so he handed it over to someone in the jamaa'ah, instructing him to write what he wanted written. The man then wrote accordingly. A copy of the divorce was then given to the judicial council as well as to the girl's father, who subsequently took his daughter away. He then went to his mother and asked her to call his wife back. When she explained to him what had happened, he could not recall anything that has transpired. A medical doctor has declared the man as insane and has also issued a certificate to the effect. Is the divorce effective?

Answer: If what is stated is in order, the divorce will not be effective. While such a person is not technically insane because he does not swear and behave like an insane person, he is nevertheless of inferior intelligence, lacks understanding and cannot function as normal people do. The Ahadeeth state that the divorce of such a person as well as that of an insane person is not to be taken into account. See also Bohur Raa'iq (Vol.3 Pg.249) and Shaami (Vol.2 Pg.587)

Fatawa Rahimiyyah vol.3