

# PRACTICE OF TALAQ-E-HASAN NOT SO IMPROPER: SUPREME COURT

Relevant for: Developmental Issues | Topic: Rights & Welfare of Women - Schemes & their Performance, Mechanisms, Laws Institutions and Bodies

Concerns aplenty: Tashan-e-hasan defies principles of human rights and is not an integral part of Islam, the petition said. PTIPTI

The Supreme Court on Tuesday *prima facie* observed that the Muslim personal law practice of *talaq-e-hasan* is “not so improper”.

*Talaq-e-hasan* is a form of divorce by which a Muslim man can divorce his wife by pronouncing *talaq* once every month over a three-month period.

A Bench led by Justice Sanjay Kishan Kaul said a Muslim woman has the option to divorce by the process of *khula* by returning the dower ( *mahr*) or something else that she received from her husband or without returning anything, as agreed by the spouses or *Qadi*'s (court) decree depending on the circumstances.

“ *Prima facie* this ( *talaq-e-hasan* ) is not so improper. Women also have an option. *Khula* is there. *Prima facie* I do not agree with the petitioner. I do not want this to become an agenda for any other reason,” Justice Kaul remarked orally. The court's remarks came while hearing a petition filed by journalist Benazeer Heena, represented by senior advocate Pinky Anand and advocate Ashwani Kumar Dubey.

## Petitioner's contention

The petitioner argued that *talaq-e-hasan* and “other forms of unilateral extra judicial *talaq* is an evil plague similar to *sati*”.

“ *Talaq-e-hasan* is arbitrary, irrational and contrary to Articles 14, 15, 21 and 25 and international conventions on civil rights and human rights,” the petition submitted.

There should be a “gender neutral, religion neutral, uniform grounds of divorce and uniform procedure of divorce for all citizens”, the petition read.

The petitioner argued that the practice in question was “neither harmonious with the modern principles of human rights and gender equality nor an integral part of Islamic faith”.

Ms. Anand said the apex court, while striking down triple *talaq* in the Shayara Bano case, did not address the issue of *talaq-e-hasan* . She said the practice discriminated against Muslim women as they cannot resort to it against their husbands. Ms. Anand said the unilateral practice of divorce was “abominable”.

The Bench, however, said the court has granted couples who cannot live with each other divorce on the ground of irretrievable breakdown of marriage. It asked whether the petitioner was willing to explore this option if the issue of *mahr* was taken care of.

The court said the issue under question was not instantaneous triple *talaq* or *talaq-e-biddat* . It repeated that the petitioner could opt for divorce through the *khula* procedure.

“Would the petitioner be willing for a settlement on amounts being paid over and above *mahr* being fixed?” the court asked the petitioner side.

Ms. Anand sought time to get instructions. The court adjourned the case to August 29.

[Our code of editorial values](#)

**END**

Downloaded from **crackIAS.com**

© **Zuccess App** by crackIAS.com

CrackIAS.com