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Islamic Emirate of Afghanistan
Supreme Court
General Directorate of Secretariat
Correspondence Department
Circular Section

Circular No: 15

Date: 1445/4/7 AH – (22/October/2023)

To: Officials the Directorates of Cassations, Divisions, Appeal, and Primary Courts of the Islamic Emirate of Afghanistan

May peace, mercy, and blessings of Allah be upon you!

Following letter No (49) dated 1444/9/27 AH (18 April 2023) from the Supreme Court High Council Secretariat, it is noted that:

The High Council of the Supreme Court, in its sixth meeting of the year 1445 AH (2023) on 1445/3/19 AH (4 October 2023), chaired by His Excellency Sheikh Abdul Hakim al-Haqqani, Chief Justice and head of the Supreme Court, addressed the seventh agenda item as follows:

"Some appellate courts from the provinces have inquired about the following matter:

(If the primary court has issued a decree for the separation of spouses in a case involving an oath of condemnation (Le'aan)¹ for adultery, and the matter is referred to the appellate court of the relevant province, should the appellate court assume jurisdiction for review, or does the civil court have jurisdiction over such matters?)

In response to this query, the High Council of the Supreme Court, through decision No (7) of resolution no (8) dated 1445/3/19 AH (4 October 2023), provided the following direction:

(Since the oath of condemnation (Le'aan) for adultery serves as a substitute for the false accusation of fornication (Qazf)², it falls under the purview of the criminal divan.)

¹ Translator's Comment: لعان (Le'aan) in Islamic law refers to the "Oath of Condemnation" or "Cursing Oath." It is a specific procedure used in cases where one spouse accuses the other of adultery without any witnesses. This involves both parties swearing oaths invoking divine retribution if they are lying. Le'aan is often considered a last resort to resolve such accusations and can lead to the dissolution of the marriage.

² قذف (Qazf) in Islamic jurisprudence signifies the "False Accusation of Fornication" or "Accusation of Illicit Sexual Relations." It involves accusing someone of Zina (unlawful sexual intercourse) without providing the required Islamic legal evidence, which is typically four eyewitnesses.

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Thus, this directive from the High Council of the Supreme Court has been communicated to all relevant Directorates of Cassations, Divisions, Appellate, and Primary Courts via this circular to ensure that legal and Sharia proceedings are conducted in accordance with the aforementioned guidance.

Respectfully,

Mufti Abdul Rasheed Saeed
General Director of the Secretariat
Supreme Court