

Wife in London complains about husband's affair in UAE



ASHISH MEHTA
LEGAL VIEW

Q My husband stays in Dubai and I stay in London with our children. I have come to know that my husband has been living with his girlfriend for over two years. I have also come to know through mutual friends that he introduces her to others as his wife. I have been told that they go for holidays together. He often visits London to see my children and I have confronted him to clear the matter. Is it legal for my husband to have the aforementioned extramarital relationship? What legal action can I take against him?

A Pursuant to your queries, it may be noted that in the UAE, having an extramarital affair or engaging in a relationship (sexual) without being married is punishable by law. This is in accordance with Article 356 of the Federal Law No. (3) of 1987 related to issuance of Penal Code (the 'Penal Law of UAE'), which states:

Article 356

"Without prejudice to the preceding two Articles, the crime of indecent assault with mutual consent shall be punished by detention for at least one year; and if the crime is committed against a male or female who is under fourteen years of age, or if the crime is committed by coercion, it shall be punished by temporary imprisonment."

Therefore, in response to the first part of your query, it may be noted that it is illegal for your husband to have an extramarital affair.

In response to the second part of your query, if you are in the possession of admissible evidence and if you are able to bring forth reliable witnesses to prove your assertion regarding your husband's extramarital affair, you may consider filing a criminal complaint with the public prosecutor or the police station having jurisdiction in Dubai.

If your husband and his girlfriend are found guilty and sentenced to a custodial penalty, the court may order the deportation of both. This is in accordance with Article 121 of the Penal Law of UAE, which states:

"In case a foreigner is sentenced to a penalty restricting freedom in a felony or a misdemeanour, the court may order his deportation out of the state and deportation becomes a must in crimes against honour ..."

Based on the aforementioned provisions of the Penal Law of UAE and the Criminal Procedure Law, the public prosecutor or the police station may register a criminal case

against your husband and his girlfriend. You may approach the Dubai Police's Child and Women Protection Department which may further assist in your case.

Know the law

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You will have to honour signed cheques

Q I was employed as a finance manager in a company between 2006 and 2018. I am not a shareholder or partner in the said company and my name is not mentioned in the trade licence of the firm. In October 2018, my company gave me a one-month notice period and terminated my employment without settling the end of service benefits due to me. Further, the firm had authorised me and the company's chief financial officer to sign on certain documents (cheque submitting/discounting, trade facility documents, etc.) in order to avoid delay in its business operations. However, certain documents such as the guarantee/bank loan etc were not signed by me and were signed by all partners and the owner of the company. Owing to the aforesaid authorisation to sign on certain documents, I had signed on the back side of cheques (indorsed) and submitted them at a bank counter in the same company account as instructed to me by my boss. However, last year, the owner of the company left the UAE and the bank thereafter discounted some of the customer/supplier cheques. The cheques on which I had signed on the back side have now been dishonoured which has resulted in the bank filing a case against me. Is there any legal recourse available to me?

A At the outset, it is presumed that you had signed on the back side of cheques based on the authorisations and instructions given to you by your company, thereby you indorsed the cheques. Pursuant to your query, it may be noted that the provisions of Federal Law No. (18) of 1993 on Commercial Transactions Law (the 'Commercial Transactions Law') shall be applicable.

As per the provisions of Commercial Transactions Law, an indorser of a cheque shall

be liable for payment of the value of the cheque. This is in accordance with Article 609 (1) of the Commercial Transactions Law, which states:

1. An indorser shall be liable for payment of the value of the cheque, save where otherwise stipulated.

2. An indorser may ban re-indorsement of a cheque, in which case he shall not be liable for payment of the cheque to such persons who acquire it by a subsequent indorsement."

Further, the dishonour of a cheque due to insufficient balance in a bank account will attract criminal proceedings against an indorser of a cheque in the UAE. This is in accordance with Article 401 of the Federal Law No. (3) of 1987 related to issuance of Penal Code (the 'Penal Law of UAE').

You have mentioned that the company's banker has discounted the cheques, which were indorsed by you. If the said cheques were dishonoured, the banker of your company may file a criminal/commercial case against you only for the value of the discounted cheques, which were indorsed by you and subsequently dishonoured.

As you have not specified the cheque amount and the emirate in which the bank is based where you had deposited the cheque, we shall presume it was deposited in a bank based in the emirate of Dubai. Based on the said presumption, it may be noted that pursuant to Law No. 1 of 2017 called 'Criminal Order Law', if the cheque amount is less than Dh200,000 the punishment may be by fine and the fine may vary between Dh2,000 and Dh10,000 depending on the cheque amount.

Based on the aforementioned provisions of the Commercial Transactions Law and the Penal Law of UAE, you may be held liable for the dishonour of cheques that had been indorsed by you. It is recommended that you consult a legal practitioner in the UAE to avail further counsel on this matter.

Know the law

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ASHISH MEHTA is the founder and Managing Partner of Ashish Mehta & Associates. He is qualified to practise law in Dubai, the United Kingdom and India. Full details of his firm on: www.amalawyers.com. Readers may e-mail their questions to: news@khaleejtimes.com or send them to Legal View, Khaleej Times, PO Box 11243, Dubai.