116439 - Her father did not allow her to marry a man, then she committed zina with him

the question

I have been facing a serious problem for approximately one year. I am a Turkish girl, twenty-one years old, and I live in Germany. Although my family are not religiously committed, I am trying – praise be to Allah – to adhere to the teachings of Islam. But despite that there are many problems between me and my family, because they object to me adhering to religious observances such as wearing hijab and so on. Now I want to get married to an Afghan man who is also religiously committed. I told my father about that, but he is a fanatic nationalist, and he rejected this marriage, and he beat me for this reason. I can no longer put up with it and my mother cannot help me, because she is very afraid of my father. We have been waiting for a year, and he has not agreed to the marriage yet. During this period we committed zina, and we do not know what to do. We feel distraught, and we want to get married, but we cannot do that without my father's agreement. Hence I do not know what to do. Is it permissible to get married without the consent of the girl's father?

Detailed answer

Praise be to Allah.

Firstly:

We are very surprised when you say that you are trying to adhere to the teachings of Islam, then we see that you have squandered the most precious thing a girl possesses after her religious commitment, which is her chastity and honour! How could you accept to sink to such a level and commit this evil action?! How could you have surrendered your honour to be violated by a stranger (non-mahram)? Does the fact that your family does not agree to marriage to a particular man make it permissible for you to fall into zina and commit this grave major sin?!

We are also surprised by a religiously committed man who tempted you to commit this evil action, or who fell into this evil action with you. To be honest, we do not know what religious commitment is in your opinion!

What you must do now is repent sincerely from what you have done. That requires you to regret what has happened, to resolve not to commit such a sin again, and to cut off ties completely with that evildoer and sinner. It is not permissible for you to talk to him or correspond with him, let alone meet him. This is what is required by sincere repentance which Allah, may He be exalted, has enjoined upon the sinners, as He says (interpretation of the meaning):

“O you who believe! Turn to Allah with sincere repentance! It may be that your Lord will remit from you your sins, and admit you into Gardens under which rivers flow (Paradise)…”

[at-Tahreem 66:8].

Secondly:

You should understand that the action that you have both committed has made it haraam for you to marry, even if your father agrees to the marriage. That is because Allah, may He be exalted, has prohibited marriage of the man and woman who commit zina, unless they both repent.

Ibn Qudaamah (may Allah have mercy on him) said:

If a woman commits zina, it is not permissible for the one who is aware of that to marry her, unless two conditions are met:

1. That her ‘iddah has ended; if she became pregnant as a result of zina, then her ‘iddah ends when she gives birth, and it is not permissible to marry her before that.

2. That she should repent from zina.

He also said:

If these two conditions are met, it is permissible for her to marry the zaani or someone else,

according to most of the scholars, including Abu Bakr, ‘Umar, Ibn ‘Umar, Ibn ‘Abbaas, Jaabir, Sa‘eed ibn al-Musayyab, Jaabir ibn Zayd, ‘Ata’, al-Hasan, ‘Ikrimah, az-Zuhri, ath-Thawri, ash-Shaafa‘i, Ibn al-Mundhir, and ashaab ar-ra’y. End quote.

Al-Mughni, 7/108, 109

We have previously discussed the ruling on this matter in the answers to the following questions: 11195, 85335, 96460, 87894 and 14381

Therefore, if Allah enables you to repent sincerely from this obvious sin and immoral action, then it will be possible for you to marry this man, if you think that he has repented sincerely too, and if you can convince your father or he (the man) can try to win him over. If that is not possible, then perhaps Allah will give you someone better than him instead.

Thirdly:

With regard to parents and guardians in general, we advise them: fear Allah with regard to the girls under your care, and do not do anything that you will regret afterwards for the rest of your lives, when regret will not benefit you. “If there comes to you one with whose religious commitment and character you are pleased, then give (your daughter or female relative under your care) to him in marriage.” This is the advice of your Prophet (blessings and peace of Allah be upon him). “For if you do not do that, there will be tribulations on earth and much corruption,” as it says in the rest of the hadeeth. So if someone comes to you, wanting to marry your daughter or sister, do not put obstacles in his path; do not give precedence to language, nationality, race or colour over religious commitment. Do not give the Shaytaan any opportunity to cause your daughters and female relatives to fall into his traps. Beware lest the Shaytaan tempt them to do two serious things, two grave sins, namely zina or marrying without a wali (guardian) one who came to propose marriage to her and was rejected by you, because that (marrying without a wali) makes the marriage contract invalid. Here you have seen the real-life story that is mentioned in this question; the girl ended up committing zina with the man who had proposed to her, and now she is asking about getting married without the permission of her wali. This is not an excuse for

her, but what will your excuse be before your Creator when He calls you to account for the trust that He commanded you to take care of? What will be your excuse before Allah when you rejected a religiously-committed man who wanted to marry your daughter or your sister in accordance with the Qur'an and Sunnah?

We are not making any excuse for that girl who has committed a grave sin; if she gets married without the permission of her wali, then her marriage will be invalid. But at the same time, we are blaming the guardians who do not fear their Lord, may He be exalted, and who neglected that which was entrusted to them.

We also say to the girl: It may be better for you if your family reject some of those who want to propose to you, if they think that this is better with regard to your religious commitment and your worldly affairs, so you should not insist on a particular person. Guardians who prevent their daughters or female relatives from getting married at all are sinning, and in that situation she may refer her case to the shar'i judge or whoever is acting in his stead, so that guardianship may be passed to someone other than that guardian who is refusing to arrange her marriage. If there is no one else who is deserving of guardianship, then the shar'i judge or whoever is acting in his stead then assumes the role of guardian (wali) and he may arrange her marriage himself. But if a woman does the marriage contract for herself without any guardian (wali) at all, then her marriage contract is invalid.

For more information on this matter, see the following questions: 7193, 10196, 36209, 2127 and 7989.

In the questions referred to there is a discussion of the evidence for the marriage contract being invalid if it is done without the consent of the guardian (wali), as well as a discussion of what the woman should do if her guardian (wali) is preventing her from getting married, and so on.

See also the answer to question no. 20162 for the stories of some women who went against their families' opinions and married the men they wanted to marry.

And Allah knows best.