128160 - Does a slave woman become free if her master marries her?

the question

Does a slave woman become free if her master marries her?.

Detailed answer

Praise be to Allah.

The scholars are unanimously agreed that it is not permissible for the master to marry his slave woman, because the contract of ownership is stronger than the contract of marriage, and it contains all the same conditions as the marriage contract and more. It is permissible for him to marry the slave woman of another man if the conditions of that are fulfilled

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

The master does not have the right to marry his slave woman because ownership makes him entitled to benefit (from what he owns) and intimacy,

so it cannot be combined with a contract that is weaker than it. If he becomes his wife's owner and she is a slave woman, her marriage contract is annulled; the same applies if a woman becomes the owner of her husband, her marriage contract is annulled. We do not know of any difference of opinion among the scholars concerning this. End quote.

Al-Mughni, 7/527

In his commentary on the verse (interpretation of the meaning): "And whoever of you have not the means wherewith to wed free believing women, they may wed believing girls from among those (slaves) whom your right hands possess" [al-Nisa' 4:25], al-Qurtubi said:

the words "those (slaves) whom your right hands possess" mean: let him marry the slave woman

of another. There is no difference of opinion among the scholars that it is not permissible for him to marry his own slave woman, because of the conflict of rights. End quote.

al-Jaami' li Ahkaam al-Qur'aan, 5/139

Shaykh Saalih al-Fawzaan (may Allaah preserve him) said:

It is haraam for a slave to marry his mistress [owner] according to scholarly consensus, because there is a contradiction between her being his mistress and him being her husband, because each of them come under different rulings.

It is haraam for a master to marry his slave woman, because the contract of ownership is stronger than the contract of marriage, and a contract cannot be combined with one that is weaker than it. End quote.

Al-Mulakhkhas al-Fiqhi, 2/344

To sum up: a marriage contract cannot be done between a master and his slave woman; she remains his possession and under his ownership and she does not become free thereby.

If a man wants to marry his slave woman, then he must manumit her first so that she will become free, then he may marry her.

The Prophet (peace and blessings of Allaah be upon him) said: "There are three who will be given a double reward: a man from among the people of the Book who believed in his Prophet, then lived to see the Prophet (S) and followed him and believed in him– he will have a double reward; and a slave who fulfils his duty towards Allaah and towards his master – he will have a double reward; and a man who had a slave woman whom he fed and fed her well, and taught her and taught her well, then he set her free and married her – he will have a double reward"

narrated by al-Bukhaari (97) and Muslim (154).

And Allaah knows best.