146043 - She wants to marry a man whom she loves but he previously committed zina with her mother

the question

I have a friend who wants to marry a man whom she loves dearly, but the problem is that this man once committed zina with her mother who was married and had three children at that time. It was a mistake committed in a moment of heedlessness. My question is: what should she do? Is it permissible for them to marry?.

Detailed answer

Praise be to Allah.

The fuqaha' differed concerning one who commits zina with a woman: is it permissible for him to marry her daughter or not? There are two views:

The Hanafis and Hanbalis are of the view that it is not permissible for him; they regarded haraam intercourse as being like halaal intercourse with regard to who becomes a mahram as the result of a marriage.

The Maalikis and Shaafa'is are of the view that he may marry her.

Ibn Qudaamah (may Allah have mercy on him) said: Haraam intercourse creates the same mahram relationships as halaal intercourse or intercourse as the result of a dubious marriage - meaning that those who become mahrams as a result are confirmed in all three cases. So if a man commits zina with a woman, she becomes haraam to his father and son, and her mother and daughter become haraam to him. Something similar to that was narrated from 'Imraan ibn Husayn, and this was also the view of al-Hasan, 'Ata', Tawoos, Mujaahid, al-Sha'bi, al-Nakha'i, al-Thawri, Ishaaq and ashaab al-ra'y.

Ibn 'Abbaas narrated that haraam intercourse does not make anyone a mahram. This was also the

view of Sa‘eed ibn al-Musayyab, Yahya ibn Ya‘mir, ‘Urwah, al-Zuhri, Maalik, al-Shaafa‘i, Abu Thawr and Ibn al-Mundhir. End quote from al-Mughni, 7/90.

The more correct view is that of the Maalikis and Shaafa‘is, that it does not make anyone a mahram. See also the answer to question number 78597.

But our advice is that this marriage should not go ahead for two reasons:

1.

So as to be on the safe side and avoid an area of scholarly dispute, because she is haraam to him according to many scholars, especially the Hanafi madhhab that is prevalent in your country.

2.

If he marries her, that will lead to him being close to her mother and being in touch with her, and there is the fear that this would remind him of that haraam action or tempt him to do it again, or it may be a cause of the woman (the mother) being tempted. We ask Allah to keep us all safe and sound.

If your friend is in a relationship with this man, this indicates that he is corrupt and deviant, as he did not have any religious commitment that could have deterred him from committing zina with a woman who had three children and forming a relationship with her daughter. Such a man cannot be trusted at all. Your friend has to end her relationship with him. Perhaps Allah will send her a chaste husband who is not contaminated with this evil and sin.

And Allah knows best.