192496 - She did not observe ‘iddah following her husband’s death because she thought that ‘iddah was only required for a woman whose marriage had been consummated

the question

I have a friend whose husband died, and they had done the marriage contract but he had not consummated the marriage with her, so she did not observe ‘iddah on the grounds that she thought that she was not required to observe ‘iddah, because the marriage had not been consummated. Now, two months later, she has found out that she is obliged to observe ‘iddah. What must she do with regard to the remaining period? Does she have to offer expiation or just make up the remaining months?

Detailed answer

Praise be to Allah.

Firstly:

There is a difference between ‘iddah following the husband’s death and ‘iddah following divorce. With regard to ‘iddah following the husband’s death, there is no stipulation that the marriage should have been consummated. Any woman whose husband dies, even before consummation of the marriage, is obliged to observe ‘iddah, because of the general meaning of the verse in which Allah, may He be exalted, says (interpretation of the meaning):

“And those of you who die and leave wives behind them, they (the wives) shall wait (as regards their marriage) for four months and ten days”

[al-Baqarah 2:234].

At-Tirmidhi (may Allah have mercy on him) narrated from Ibn Mas‘ood (may Allah be pleased with

him) that he was asked about a man who married a woman and did not state her dowry or consummate the marriage with her before he died. Ibn Mas‘ood (may Allah be pleased with him) said: She should be given a dowry like that of women who are similar to her, no more and no less, and she has to observe the ‘iddah, and she is entitled to the inheritance. Ma‘qool ibn Sinaan al-Ashja‘i (may Allah be pleased with him) stood up and said: The Messenger of Allah (blessings and peace of Allah be upon him) issued a ruling concerning Birwa‘ bint Waashiq, one of our womenfolk, that was like the ruling you have given. Ibn Mas‘ood was happy with this (news).

Classed as saheeh by Shaykh al-Albaani (may Allah have mercy on him) in Saheeh Sunan at-Tirmidhi.

With regard to ‘iddah following divorce, it is obligatory for the woman with whom the marriage was consummated; as for the one with whom it was not consummated, she is not obliged to observe ‘iddah, because Allah, may He be exalted, says (interpretation of the meaning):

“O you who believe! When you marry believing women, and then divorce them before you have sexual intercourse with them, no ‘Iddah (divorce prescribed period) have you to count in respect of them”

[al-Ahzaab 33:49].

Abu Bakr ibn al-‘Arabi (may Allah have mercy on him) said: This verse states that no ‘iddah is required of a woman who is divorced before the marriage is consummated. This is the consensus of the ummah, because of this verse. But if he has consummated the marriage with her, then she must observe ‘iddah, according to scholarly consensus.

End quote from Ahkaam al-Quran (6/377)

Secondly:

If a woman fails to observe ‘iddah following her husband’s death out of ignorance, she does not have to do anything if the time for the ‘iddah has ended. But if there is still any of the ‘iddah period remaining, she must observe ‘iddah for the remainder of that period.

Shaykh Ibn ‘Uthaymeen (may Allah have mercy on him) was asked about a woman who did not observe ‘iddah following her husband’s death, because she was unaware of this obligation; what is the ruling on that?

He replied: She does not have to do anything so long as she omitted to observe the mourning period out of ignorance, because Allah, may He be exalted, says (interpretation of the meaning):

“And there is no sin on you if you make a mistake therein, except in regard to what your hearts deliberately intend”

[Al-Ahzaab 33:5]

“Our Lord! Punish us not if we forget or fall into error”

[al-Baqarah 2:286].

And Allah, may He be exalted, said: I have done that.

[The questioner] asked: O shaykh, what if she has come to know of the ruling now?

He (may Allah have mercy on him) replied: If she found out after the end of the ‘iddah, she does not have to do anything, but if she found out during it, then she should observe ‘iddah for thr remainder of that period.

End quote from Fataawa Noor ‘ala ad-Darb.

Based on that, that woman does not have to do anything with regard to what has passed, because she was unaware of the ruling, but with regard to the remainder of the ‘iddah period, which is two months and ten days, she must observe ‘iddah during that time.

And Allah knows best.