59929 - Her father stipulated that he should divorce her when the time comes for her to leave the country

the question

I have a friend who married a woman who is living in Riyadh with her family, without any documentation of the marriage and without the presence of a Shaykh. There were only three friends of the groom, one of whom appointed himself as a Shaykh and the other two as witnesses in the presence of the bride's father. The marriage was done without even writing down any contract. This bride will leave the country after a year and a half, and will go back to her own country for good. The groom will divorce his bride at that time. The bride's father stipulated that the marriage will only last so long as they are in Riyadh, and when they leave, the groom will divorce his bride.
Question 1: What is the ruling on this marriage?
Question 2: What is your opinion on what the friends of the groom did?.

Detailed answer

Praise be to Allah.

Firstly:

If the marriage is temporary and the specific time limit is mentioned, such as a month or one year, or until the end of one's studies or residency, etc., then this is a mut'ah marriage and it is haraam and invalid according to the majority of scholars. It is narrated that there was consensus that it is haraam.

Ibn Qudaamah (may Allaah have mercy on him) said in al-Mughni (7/136):

"Mut'ah marriage is not permitted" – what is meant by mut'ah marriage is marrying a woman for a period of time, such as saying: I give my daughter in marriage for a month, or a year, or until the end of this season, or until the pilgrims come back" and so on, whether the period is known or

unknown. This is an invalid marriage. This was stated by Ahmad who said: Mut'ah marriage is haraam. This is the view of most of the Sahaabah and fuqaha'. Among those from whom it was narrated that it is haraam are 'Umar, 'Ali, Ibn 'Umar, Ibn Mas'ood and Ibn al-Zubayr. Ibn 'Abd al-Barr said: The view that mut'ah is haraam is held by Maalik, the people of Madeenah, Abu Haneefah among the people of Iraq, al-Awzaa'i among the people of Syria, al-Layth among the people of Egypt, al-Shaafa'i and all the ashaab al-athaar. End quote.

It is not permissible for anyone to undertake this haraam kind of marriage, or to bear witness to it.

The one who has done that must repent to Allaah and the man and woman must be separated.

Secondly:

There are other kinds of mut'ah marriage which is where a man marries a woman on condition that he will divorce her at a certain time.

The difference between the two forms is that in the first kind, it is agreed that the marriage will last for a certain period of time, after which the marriage will end with no need for talaaq divorce.

In the second kind, no specific time period is mentioned, but it is stipulated that talaaq divorce will be issued at a certain time.

Ibn Qudaamah (may Allaah have mercy on him) said in al-Mughni (7/137):

"If he marries her on the basis that he will divorce her at a specific time, the nikaah is not valid." This means that if he marries her on the basis that he will divorce her at a certain time, the marriage is not valid, whether that time is known or unknown, such as if he stipulates that he will divorce her when her father or brother comes.

Because this condition negates the continuation of the marriage, and makes it like a mut'ah marriage. End quote.

The Standing Committee was asked about a man who was travelling far from his homeland and wanted to marry a woman, and they agreed that he would divorce her when he went back to his

homeland. They replied:

Marriage until the husband travels is not permissible, because it is a kind of mut’ah marriage, because of specifying that the marriage will last until the husband travels. End quote.

Fataawa al-Lajnah al-Daa’imah (18/444).

Thirdly:

If the conditions and pillars of the marriage are met, with the proposal and acceptance, the consent of both parties, the presence of the bride’s wali (guardian) and two witnesses, then it is valid, even if it is without documentation. But documentation is important in order to protect the rights of both spouses and their children. It does not matter if no official or judge is present, or if one of the friends carried out the marriage procedure.

For more information on the pillars and conditions of the marriage contract, please see question no. 2127.

But the marriage contract that is done in the manner asked about here is haraam and is not valid, as stated above. The one who carried out the procedure and the witnesses have to repent to Allaah from this haraam deed.

And Allaah knows best.