70242 - He divorced her before consummation of the marriage and she is thinking of going back to him

the question

I was engaged for over a year and did the Islamic marriage contract. It was agreed upon by all parties at the signing, that it was going to be like an engagement and we would have the wedding at the end of the year after I was done with school. However, during this engagement period some misunderstandings arose between my fiance and my parents. My parents did not want me to see my fiance anymore and felt that he was not a healthy match for me. I agree that he was disrespectful and immature sometimes, but I also loved him and made excuses for his behavior. He lived in another town so we basically had a long distance relationship, and misunderstandings began to pile up. He started to demand that I move in with him immediately or he would divorce me. I told him that we agreed to have a wedding first, and he said we could do that later, but for the time being I was his wife and I had to live with him. It was so hard for me to have to choose between my parents and my fiance. I didn't see him as a "husband" yet and it was very confusing and frustrating and I told him I could not choose over my parents. So my fiance ended the relationship and sent a letter to our imam saying that he divorced me. It has been about five months since the relationship ended, but I recently saw my ex-fiance and have been in depression for over a week. I feel so guilty for not listening to him and want to know if Islamically we should reconcile and if I should go back to him. I'm afraid I will never be able to love someone again, and that he will always be on my mind. I know we may not be a good match, but at the same time we know each other so well, and had started to become intimate. I really don't know what to do. My parents are totally against him and I know they have good reasons, but I still have feelings for him and want to get back together with him. If it's not good to re-start this relationship, is there anyting I can do to move on?.

Detailed answer

Praise be to Allah.

Firstly:

If the marriage contract has been done, then the fiancée becomes the wife of her fiancé, but she does not have to move in with him if she stipulated that the consummation was to be delayed until a certain time and he agreed to that condition, because the Prophet (peace and blessings of Allaah be upon him) said: “The Muslims are bound by their conditions.” Narrated by al-Tirmidhi (1352) and Abu Dawood (3594); classed as saheeh by al-Albaani in Saheeh al-Tirmidhi. And the Prophet (peace and blessings of Allaah be upon him) said: “The condition which most deserves to be fulfilled is that by means of which intimacy becomes permissible for you.” Narrated by al-Bukhaari (2721) and Muslim (1418) from the hadeeth of ‘Uqbah ibn ‘Aamir (may Allaah be pleased with him).

Based on this, there is no sin on you for not going to him, and he erred by asking you to do so before the end of the year which you had agreed upon. He also erred by trying to influence you to go against your parents and by hastening to divorce. This indicates that he is not mature. If he was really keen to marry you, he would have waited until the end of the year and the time would have passed quickly.

Secondly:

If a man divorces his wife before consummating the marriage, then she is completely divorced as a result, therefore he cannot take her back, and she does not have to observe any ‘iddah. But there is nothing wrong with him proposing to her a second time and marrying her, if she and her guardian agree to that, with a new contract and a new mahr.

Thirdly:

If your family do not think that this person is suitable for you, then you should obey your family, especially since you agree that they have reasons for adopting this stance. As for the fact that you feel some attachment to him, this is something natural that happens between a woman and her husband, but if Allaah gives you another husband you will love him in sha Allaah. Marriage is for life, and cannot be based only on emotions. Hence the wisdom of sharee’ah dictates that the

approval of the woman’s guardian (wali) is essential, because women are weak and easily swayed by emotions, and may yield their rights or be impressed by someone who impresses them even if he is not suitable. So follow your parent’s wishes, for they are more far-sighted than you, and do not put pressure on them to accept this man, if he proposes to you again.

Fourthly:

It is clear to you that the approval of the woman’s wali is essential for the marriage to be valid, so marrying this man again will never be valid without your father’s consent. Right now you are a non-mahram to this man, so there is no way you can form a relationship with him, because you are no longer his wife at present.

You should occupy yourself with that which will benefit you, and do not think about the past, until Allaah grants you a righteous husband. Do not go ahead and marry anyone until after you have asked about him and are confident about his religious commitment and good character. Let the past be a lesson to you, and praise Allaah that you found out about this husband’s faults before you consummated the marriage and moved in with him.

We ask Allaah to help and guide you.

And Allaah knows best.