71206 - She covered her child with a thick blanket and he died

the question

A young child of my mother who was just four months old died. She had covered him with a thick blanket because she was scared that he would be cold, and he was close to her. She does not know whether she is the one who caused him to die or if it was because of the blanket. Does she have to do anything?.

Detailed answer

Praise be to Allah.

If she had covered his face with the thick blanket, then she has to offer expiation for accidental killing, and the diyah must be paid by her ‘aaqilah (male relatives on the father’s side), because it seems that he died because of that. If she did not cover his face, then she does not have to do anything and no one has to pay the diyah.

In the answer to question no. (52809), we have explained that in the case of accidental killing, the diyah is to be paid by the ‘aaqilah of the killer, and not by the killer himself. In that question we have also explained who the ‘aaqilah are.

Ibn Hazm (may Allaah have mercy on him) said in al-Muhalla (11/15): Concerning a woman who slept beside her son etc and he was found dead. Then he narrated that Ibraaheem al-Nakha’i said concerning a woman who covered her son’s face and he died in his sleep: She has to free a slave.

Ibn Hazm said: If he died because of her action, such as if she put the blanket over his face then he fell asleep and suffocated and died, or her arm fell over his mouth, or her breast fell over his mouth, or she rolled on top of him without realizing, then undoubtedly she has killed him by mistake and she has to offer expiation, and the diyah must be paid by her ‘aaqilah or by the bayt al-maal. If he did not die because of her actions, then she does not have to do anything and no diyah has to be paid at all.

If she is uncertain as to whether he died because of her action or not, then no diyah or expiation is required in that case, because we are certain that she is innocent of killing him but we are uncertain as to whether he died because of her actions or not. Wealth (of others) is haraam unless there is certainty, and expiation is an obligation of sharee'ah, and nothing is obligatory in sharee'ah unless there is a text or scholarly consensus. It is not permissible to impose a penalty or fasting, or to oblige her 'aaqilah to pay the diyah, on the basis of false speculation. And Allaah is the Source of strength. End quote.

It says in Fataawa al-Lajnah al-Daa'imah (21/373) concerning a woman who covered her nursing infant with a heavy blanket when he was sick, and he died: If the blanket which with his mother covered him was covering his face, then she has to offer expiation for accidental killing, because it seems that he died because of that. This expiation is to free a believing slave; if she cannot do that then she has to fast for two consecutive months or sixty days. If she is sick then she may fast after she recovers from that sickness. End quote.

It also says (21/387): If your wife placed the blanket over the child's face and that resulted in his death by suffocation, then she has to offer expiation… but if she did not place the blanket over his face, then she does not have to do anything, because she did not cause his death. End quote.

It also says (21/388): If you did not put the bedsheet and quilt, or one of them, over her face, and they fell over her face because of her movements, then there is no sin on you because you were not careless. But if you put the bedsheet or the quilt over her face, then both of you must offer expiation for accidental killing, because by doing that you caused her death. End quote.

And Allaah knows best.