83034 - Shar’i implications of husband’s zina with his wife’s mother before and after marriage

the question

There is a woman who is married, and her husband committed zina several times with her mother, but this wife does not know. What should she do with her mother and her husband? She is confused about her situation.

Detailed answer

Praise be to Allah.

Firstly:

It is not permissible for anyone to claim that someone else has committed zina unless that is proven in the way dictated by sharee’ah, such as a confession of the zaani, or the testimony of four men of good character who witnessed the act of zina. The one who claims that someone committed zina with no proof has committed slander, which is a major sin for which a person deserves eighty lashes; this is the hadd punishment for slander.

Allaah says (interpretation of the meaning):

“And those who accuse chaste women, and produce not four witnesses, flog them with eighty stripes, and reject their testimony forever. They indeed are the Faasiqoon (liars, rebellious, disobedient to Allaah).

5. Except those who repent thereafter and do righteous deeds; (for such) verily, Allaah is Oft-Forgiving, Most Merciful”

[al-Noor 24:4-5]

Secondly:

If the questioner has proof of what is mentioned in the question, that the husband committed the sin of zina with his wife's mother, then it should be noted that they both deserve the punishment and wrath of Allaah, and they deserve to be punished in this world. As the woman is married, she deserves to be stoned to death. If he was married then he deserves the same, and if he committed zina before he was married, then the punishment is one hundred lashes.

Allaah says (interpretation of the meaning):

"The fornicatress and the fornicator, flog each of them with a hundred stripes. Let not pity withhold you in their case, in a punishment prescribed by Allaah, if you believe in Allaah and the Last Day. And let a party of the believers witness their punishment."

[al-Noor 24:2]

It was narrated that Abu Hurayrah said: A Muslim man came to the Messenger of Allaah (peace and blessings of Allaah be upon him) when he was in the mosque and called out to him, saying: O Messenger of Allaah, I have committed zina. He turned away from him, so he came around to face him and said to him: O Messenger of Allaah, I have committed zina. He turned away from him, until he had repeated that four times. When he had testified against himself four times, the Messenger of Allaah (peace and blessings of Allaah be upon him) called him and said: "Are you insane?" He said: No. He said: "Are you married?" He said: Yes. The Messenger of Allaah (peace and blessings of Allaah be upon him) said: "Take him and stone him."

Narrated by al-Bukhaari (6439) and Muslim (1691).

"Married" refers to one who has previously been married and consummated the marriage, even if divorce took place after that or the husband or wife died.

Imam Ahmad said – according to one report narrated from him – concerning the one who does that: He is to be executed whatever the case, i.e., the one who commits zina with one of his mahrams is to be executed, whether he was married or not, and whether the mahram was a mahram through blood ties, marriage or breastfeeding.

Ibn Qudaamah said: This is also the view of Jaabir ibn Zayd, Ishaaq, Abu Ayyoob and Ibn Abi Khaythamah. End quote. Al-Mughni (12/341).

Ibn al-Qayyim (may Allaah have mercy on him) said: If the evil deed was done with a mahram, this is the worst of evil deeds, and the one who did that is to be executed in all cases, according to Imam Ahmad and others.

Rawdat al-Muhibbeen p. 374.

Does the fact that he committed zina with her mother mean that it is haraam for him to marry her daughter, or that the marriage should be annulled? There is a difference of opinion among the scholars concerning that. The most correct view is that it does not make the marriage haraam and the marriage should not be annulled.

The ruling on this matter has been stated and explained in detail in the answer to question no. 78597.

Thirdly:

What the wife must do now is:

1.Not act or make any decision about this matter unless she has definitive proof.

2.Advise her mother – if the accusation of zina is proven – that it is essential to repent sincerely.

3.Advise her husband to repent sincerely if he committed zina with her mother after she got married. It is essential to keep him away from her mother in living arrangements and meetings so that this deed will not be repeated. If he does not repent from this action then she should hasten to get divorced, and it is not permissible for her to stay with him, because Allaah has forbidden marriage of a zaani to a chaste believing woman.

We understand what a severe calamity has befallen this sister. How great is a woman’s grief, and difficult it is for her to bear it if her husband commits zina, and it is a thousand and one times more difficult to bear it when her mother commits zina, so how about if it is her husband who is

committing zina with her mother? This is indeed a calamity!

We ask Allaah to relieve her distress and take away her sorrow, and to bless her with patience and wisdom.

But before making any major decision, we advise her to think long and hard about the consequences.

If she decides to leave her husband, then in that case can she live in the same house as her mother, who is the one who did that and wrecked her marriage?

We think, if she has no suitable place to go and no mahram who can take care of her, that staying with her husband and advising him to repent and mend his ways is easier for her than getting divorced and living in her mother’s house.

This sister should weigh up the consequences of her decision. Some evils are easier to bear than others.

And Allaah knows best.