111919 - She stipulated that her husband would not smoke and he did not adhere to the condition

the question

Can a woman stipulate that the one who wants to marry her should give up smoking? What should she do if he does not adhere to this condition?.

Detailed answer

Praise be to Allah.

Firstly:

Smoking is haraam, because it is a waste of money and harmful to one's health, and it harms others. This has been explained in the answer to question no. 10922.

Secondly:

Whatever conditions the couple stipulate at the time of marriage, the basic principle is that these conditions are valid and must be fulfilled, so long as they are not contrary to sharee'ah, because 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).

If the husband does not do that which was stipulated and made binding upon him, then the woman has the right to have the marriage annulled.

Shaykh al-Islam Ibn Taymiyah (may Allaah have mercy on him) said:

If he stipulates that she should offer the five daily prayers regularly, or that she be truthful and honest after the marriage contract, and she does not do that, then you have the right to annul the marriage. End quote.

Al-Ikhtiyaaraat al-Fiqhiyyah (p. 219).

Similarly, if a woman stipulates that her husband should give up smoking, and he does not do so, then she has the right to annul the contract.

Shaykh Muhammad ibn Ibraaheem (may Allaah have mercy on him) was asked about a woman to whom a man proposed, and she stipulated that he should not smoke, and he agreed, so he married him, then she found out that he smokes. What should she do?

He replied:

If the matter is as described, then the woman mentioned has the choice of either annulling the marriage with him, or staying with him. End quote.

Fataawa al-Shaykh Muhammad ibn Ibraaheem (10/149).

But our advice to her before annulling the marriage is to try to set her husband straight and help him to give up this haraam thing. If he mends his ways, then praise be to Allaah, but if he persists in it, then she should weigh up the pros and cons, because staying with him may be better for her, for the sake of the children’s upbringing and so on.

May Allaah guide him.

And Allaah knows best.