151108 - Is it permissible to make her mahr that her husband should give up smoking? And a brief discussion of various types of mahr

the question

I am going to get married in the near future, in sha Allah, to a man who is religiously committed, praise be to Allah, but his problem is that he is a smoker. He promised me that he is going to give up smoking, and he started to try, but as you know this is not an easy matter. Hence I thought of encouraging him in some way, and it crossed my mind that I could say to him: My mahr will be your giving up smoking. Is this permissible in Islam? There is nothing to make me keen to get money, as he is well off and he can give me everything I want of money at any time. Is it permissible for us to keep this matter secret so that there will not be any gossip about what we have done? Because people are accustomed to the mahr being in the form of wealth and this will make them start talking about something that is none of their business, or it may embarrass my husband in one way or another. In other words, is it permissible for him to give me a small amount of money only, to be recorded in the official papers and to shut people up, but the real mahr will be what we have agreed upon between me and him, which is his giving up smoking?
I apologise if the question appears silly, but it is very important to me and I do not want anything more at present than for him to give up smoking.

Detailed answer

Praise be to Allah.

Firstly:

The question is not silly; rather it is important and is indicative of maturity and strong religious commitment – in sha Allah. The majority of scholars are of the view that the mahr should be in the form of wealth or a benefit that one usually charges money for, such as teaching the woman permissible knowledge. This is indicated by the words of Allah (interpretation of the meaning):

“All others are lawful, provided you seek (them in marriage) with Mahr (bridal-money given by the husband to his wife at the time of marriage) from your property, desiring chastity, not committing illegal sexual intercourse”

[al-Nisa’ 4:24].

It says in al-Mawsoo‘ah al-Fiqhiyyah (39/155, 156):

The majority of fuqaha’ – the Maalikis, Shaafa‘is and Hanbalis – are unanimously agreed that anything that may be given in return for something or anything that has a value or any benefit (or service) one may be paid for is permissible to give as a mahr.

The Hanafis stated clearly that the mahr is what is regarded as valued items by people. So if the couple stipulate items that have a value (as the mahr), then it is valid, and if the items have no value, it is not valid. End quote.

The majority are of the view that it is permissible for the mahr to be a benefit (or service) for which one usually charges money.

It also says (39/156):

The Maalikis, according to the well-known view, and the Shaafa‘is and Hanbalis are of the view that it is permissible for a benefit (or service) to be the mahr, based on their principle that any benefit (or service) for which one is usually paid may be named as the mahr, so it is permissible to make the benefit or use of his house or his mount or his servant for one year the mahr for his wife, or to make the mahr his serving her in agriculture or building a house or sewing a garment, or taking her for Hajj, for example. End quote.

Thus it becomes clear that the four imams do not allow the type of mahr that you are asking about, and they regarded it as not valid.

But it was narrated that Umm Sulaym (may Allah be pleased with her) stipulated to Abu Talhah that he should become Muslim, and she made his becoming Muslim her mahr.

It was narrated that Anas (may Allah be pleased with him) said: Abu Talhah proposed to Umm Sulaym, and she said: By Allah, a man like you, O Abu Talhah, is not to be rejected, but you are a kaafir man and I am a Muslim woman, and it is not permissible for me to marry you. But if you become Muslim, that will be my mahr and I will not ask you for anything else. So he became Muslim and that was her mahr.

Thaabit said: I never heard of any woman whose mahr was more noble than Umm Sulaym, as Islam was her mahr.

Narrated by al-Nasaa'i (3341); classed as saheeh by Ibn Hajar in Fath al-Baari (9/115) – and he refuted those who criticised its text – and it was classed as saheeh by al-Albaani in Saheeh al-Nasaa'i.

Al-Nasaa'i included these two reports in a chapter entitled Baab al-Tazweej 'ala al-Islam (Chapter on Accepting marriage proposal in return for (the man) becoming Muslim).

In this case it is stipulated that the husband becomes Muslim, and that is the mahr. And this is definitely not wealth or property.

But it may be understood that this applies only to a person becoming Muslim, because of the great benefit in that, or it may be understood by analogy that it can be stipulated that the husband do some act of worship or give up some sin.

Whatever the case, what should be done so that the mahr will be valid beyond any shadow of a doubt is that an agreement should be reached with the husband on a certain sum of money, which will be the mahr, even if it is small, and it should be stipulated that he should give up this sin (smoking) so that the marriage will be done.

But we advise you not to go ahead with the marriage until a period of time has passed in which it is clear that he has repented and is sincere about giving up this sin.

We ask Allah to make things easy for you and to bless you with a righteous husband and righteous offspring.

And Allah knows best.