78597 - He committed zina with a woman; is he allowed to marry her daughter?

the question

I am a thirty year old man. The shaytaan tempted me and I committed zina with a woman, then Allaah blessed me and had mercy on me, and I repented sincerely to Allaah, may Allaah accept it from me. Until now I have not gotten married. I have decided to get married and my mother has suggested a girl, but this girl is the daughter of the woman with whom I committed zina before (please note that the zina occurred two years ago, and her daughter is now twenty years old). Hence I hope that you can advise me whether this marriage is haraam or not? I hope that you can explain fully.

Detailed answer

Praise be to Allah.

We ask Allaah to accept your repentance. Strive to make it a sincere repentance, because the crime of zina is a grave sin which results in many evils. The married man who commits zina deserves to be stoned to death, and there is no greater punishment than that among the hudood punishments, because of the abhorrent and repugnant nature of this crime.

Our advice to you is not to marry this girl, not because marrying her is haraam, but because through this marriage you will become closer to her mother with whom you committed zina, and getting close to her will remind you of that evil sin, and the shaytaan may whisper to you again, and make sin appear attractive to you, so you fall into it. Keeping away from reminders of evil and sin is part of repentance. This is indicated by the hadeeth about the one who killed one hundred people; the scholar told him to leave his village because its people were evil and immoral people. This is part of repenting fully.

With regard to whether it is permissible to marry this girl, there was a difference of opinion among

the scholars regarding such cases. Al-Shaafa'i and Maalik – according to one of the two reports narrated from him – said that it is permissible, but Abu Haneefah, Ahmad and Maalik – according to the other report – said that such a marriage is haraam. The more correct is the first view.

Ibn 'Abd al-Barr said:

They differed concerning a man who commits zina with a woman; is it permissible for him to marry her daughter or mother? Similarly, if he committed zina with a woman, can his son or father marry her? In all these cases, does zina make haraam what a valid marriage or an invalid marriage makes haraam (i.e., makes certain relatives mahrams to whom marriage is forbidden)?

Maalik said in his Muwatta': Zina with a woman does not make it haraam for the one who commits zina with her to marry her daughter or mother. If a man commits zina with the mother of his wife, his wife does not become haraam to him, rather he should be killed. Zina does not make haraam anything that a permissible marriage makes haraam.

This is the view of Ibn Shihaab al-Zuhri and Rabee'ah; it was also the view of al-Layth ibn Sa'd, al-Shaafa'i, Abu Thawr and Dawood. It was also narrated from Ibn 'Abbaas, who said concerning that: A haraam deed does not make something permissible haraam.

Ibn al-Qaasim narrated from Maalik something other than what is said in al-Muwatta'. He said: If a man commits zina with the mother of his wife, he must be separated from his wife, and in his view he comes under the ruling of one who has married his wife's mother and consummated the marriage with her. This is also the view of Abu Haneefah and his companions, and of al-Thawri and al-Awzaa'i, all of whom said that if a man commits zina with his wife's mother, then his wife becomes haraam for him.

Sahnoon said: The companions of Maalik all disagreed with Ibn al-Qaasim on this matter and they agreed with what it says in al-Muwatta'. Allaah has forbidden the Muslim to marry his wife's mother or daughter. If a man owns a slave woman and he has intercourse with her, then her mother and daughter also become haraam for him.

Similarly, if his father has intercourse with a woman whom he marries or owns as a slave, they become haraam for the son, and vice versa. This has to do with permissible types of intercourse. And Allaah is the One Whose help we seek.

These fuqaha' – the ones who were qualified to issue fatwas in the Islamic regions – were unanimously agreed that it is not haraam for a man to marry a woman with whom he committed zina, if it is established that she is not pregnant, so it is more likely that he is permitted to marry her mother or daughter. And Allaah is the source of strength.

Al-Istidhkaar (5/463, 464).

Shaykh Muhammad ibn Saalih al-'Uthaymeen (may Allaah have mercy on him) said:

The correct view is that the mother of a woman with whom a man has committed zina is not haraam for the one who did that, and the daughter of the woman with whom he committed zina is not haraam for the one who did that, because Allaah says (interpretation of the meaning):

"All others are lawful"

[al-Nisa' 4:24]

Allaah did not mention the mother or daughter of a woman with whom zina has been committed as being among those to whom marriage is forbidden, rather He said:

"your wives' mothers, your stepdaughters under your guardianship, born of your wives to whom you have gone in — but there is no sin on you if you have not gone in them (to marry their daughters),"

[al-Nisa' 4:23]

It is well known that the woman with whom a man has committed zina is not one of his wives at all. As she is not one of his wives, it is not valid to compare fornication to valid marriage. If he has repented from zina it is permissible for him to marry the mother or daughter of a woman with whom he committed zina. End quote.

Al-Sharh al-Mumti’ (7/38, 39)

Conclusion:

This is a matter concerning which the scholars differed. The correct view is that it is permissible to marry the daughter of a woman with whom one has committed zina so long as she is not one’s own daughter, but our advice to you is not to marry her for two reasons: to be on the safe side, because she is haraam for you according to many of the scholars, and so that your marriage to her will not be a cause of your getting close to her mother and getting in touch with her, which may lead to you going back to that sin from which you have repented. And Allaah knows best.