175536 - She committed zina before her wedding and got pregnant, then had a miscarriage. Is her marriage valid?

the question

I had an affair with a guy a week to my wedding with a different person.Some months later I discovered that Im pregnant for the first guy not my husband.I had a miscarriage and later became pregant for my husband.Uptil now nobody knew about this,at times i feel like confessing but he esitat .
My question here is please how valid is my marriage and how does this affect my child islamically?.

Detailed answer

Praise be to Allah.

Firstly:

If this immoral action came after the marriage contract was done, even if it was before the wedding party, then this marriage of yours is valid but you have to repent from this sin that you fell into.

Ibn Qudaamah (may Allah have mercy on him) said:

If the wife of a man commits zina, or her husband commits zina, the marriage contract is not rendered invalid, whether that happens before or after consummation, according to the opinion of most of the scholars.

End quote from al-Mughni, 9/565

Secondly:

If this zina took place before the marriage contract was done, the marriage contract is not valid

unless it was done after establishing that there was no pregnancy by waiting for one menstrual cycle, according to the more correct opinion.

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

Marriage to a zaaniyah (a woman who has committed fornication) is haraam until she repents, whether the one who committed zina with her is the bridegroom himself or someone else. This is the correct opinion beyond a doubt, and it is the opinion of a number of the earlier and later scholars, including Ahmad ibn Hanbal and others. Many of the earlier and later scholars were of the view that it is permissible, and this is the view of the three, but Maalik stipulated that it should be established that there is no pregnancy by waiting for one menstrual cycle, and Abu Haneefah regarded it as permissible to do the marriage contract before waiting for one menstrual cycle if she is pregnant, however if she is pregnant it is not permissible to have intercourse with her until she gives birth. Ash-Shaafa'i regarded it as permissible to do the marriage contract and to have intercourse in all cases, because the water (semen) of the zaani has no value in sharee'ah and the ruling is that no child is to be attributed to him. This is his justification for his opinion. Abu Haneefah differentiated between the one who is pregnant and the one who is not, because if (the husband) has intercourse with the one who is pregnant, he will be attributing to himself a child who definitely is not his, which is different from the case of one who is not pregnant. Maalik and Ahmad stipulated that it should be established that there is no pregnancy (by waiting for one menstrual cycle), which is the correct view. But Maalik and Ahmad, according to another report, stipulated that it should be established that there is no pregnancy by waiting for one menstrual cycle. The other report from Ahmad is that which is followed by many of his companions such as al-Qaadi Abu Ya'la and his followers, which is that it is essential to wait for three menstrual cycles. However the correct view is that all that is required is to establish that there is no pregnancy (by waiting for one menstrual cycle). End quote.

Majmoo' al-Fataawa, 32/110

Shaykh Ibn 'Uthaymeen (may Allah have mercy on him) said in ash-Sharh al-Mumti' (13/382): Rather the opinion narrated from Abu Bakr and a number of the Sahaabah (may Allah be pleased

with them) is that there is no ‘iddah at all for the woman who committed zina, and there is no requirement to establish that there is no pregnancy, especially if she has a husband, because of the words of the Messenger (blessings and peace of Allah be upon him): “The infant is to be attributed to the husband of the woman (who gave birth to him).” Rather if a man knows that his wife has committed zina – Allah forbid – and has repented, he should have intercourse with her immediately, so that no doubt will remain in his heart in the future as to whether she became pregnant as a result of zina or not. If he has intercourse with her immediately, the child will be assumed to be from the husband and not from the zaani (adulterer).

But if the woman who committed zina (fornication) did not have a husband, it is essential to establish that there is no pregnancy by waiting for one menstrual cycle, according to the correct opinion. End quote.

Thirdly:

Because this issue is the subject of a considerable difference of opinion among the scholars, and because annulling the marriage and admitting zina after this length of time will lead to a great deal of trouble and disclosing that which Allah had concealed for you, and will expose you to turmoil, we think – and Allah knows best – that in this case you do not have to tell your husband about what happened in order to renew the marriage contract. In the other scholarly opinion mentioned above, according to which some of the scholars are of the opinion that it is not essential to establish that there is no pregnancy, there is some leeway.

This, as we have said, applies if the zina took place before the marriage contract was done and before it was established that there was no pregnancy.

As Allah has concealed you, you must also conceal yourself and do not breach the concealment of Allah. al-Bukhaari (6069) and Muslim (2990) narrated that Abu Hurayrah (may Allah be pleased with him) said: I heard the Messenger of Allah (blessings and peace of Allah be upon him) say: “All of my ummah will be fine except those who commit sin openly, and it is part of committing sin openly for a man to do something at night, then in the morning when his Lord has concealed him

he says: O So and so, I did such and such last night, when his Lord had concealed him all night, but in the morning he discloses that which Allaah had concealed for him."

And Muslim (2590) narrated from Abu Hurayrah (may Allah be pleased with him) that the Prophet (blessings and peace of Allah be upon him) said: "Allaah does not conceal a person in this world but Allaah will conceal him on the Day of Resurrection."

Al-Bayhaqi (18056) narrated from Ibn 'Umar that the Messenger of Allah (blessings and peace of Allah be upon him) said, after the stoning of al-Aslami: "Avoid this filth that Allah has forbidden, and whoever falls into it, let him conceal himself with the concealment of Allah, may He be glorified and exalted."

Classed as saheeh by al-Albaani in as-Saheehah (663).

Fourthly:

Your son is a legitimate son of your husband, and there is no problem concerning him, in sha Allah.

With regard to the foetus whom you aborted, if that happened before the soul was breathed into him – i.e., before four months – then there is no expiation or diyah required for him. However you are required to repent, feel regret and pray for forgiveness.

If that happened after four months, then you have to pay the diyah and offer expiation.

The diyah is to free a male or female slave; if that is not possible then you must pay the equivalent, which is five camels.

With regard to the expiation, it is to free a slave. If that is not possible, then you must fast for two consecutive months.

See also the answer to question no. 106448

And Allah knows best.