20213 - She got married without her father’s approval

the question

My sister married a man who is muslim but she married him against my Father's will. My Father is religios. He rejected that man because he has bad manners so my sister ran away and married without a Wali.
My question is : Is this Marraige Valid?

Detailed answer

Praise be to Allah.

You father did well by not agreeing to (your sister’s) marriage to that man who has bad manners. Allaah has put him in a position of trust with regard to his daughters and anyone who is under his care, so he has to make a good choice and find a husband who is suitable from the point of view of sharee’ah.

Your sister has done a number of wrong things, such as making a bad choice in choosing this man who has bad manners; running away from her father’s house; and – worst of all – getting married without a wali (guardian).

One of these bad deeds would be enough to understand the extent of the wrongs that she has done towards her Lord, herself and her family, so how about if they are combined?

With regard to the marriage, it is invalid, because the wali’s consent is one of the essential pillars of a valid marriage. This is what is indicated by the texts of the Qur’aan and Sunnah:

1 – Allaah says (interpretation of the meaning):

“do not prevent them from marrying their (former) husbands”

[al-Baqarah 2:232]

2 – Allaah says (interpretation of the meaning):

“And give not (your daughters) in marriage to al-Mushrikoon (idolaters) till they believe (in Allaah Alone)”

[al-Baqarah 2:221]

3 – Allaah says (interpretation of the meaning):

“And marry those among you who are single (i.e. a man who has no wife and the woman who has no husband)”

[al-Noor 24:32]

From these verses we may understand that the consent of the wali is an essential condition for marriage, because these verses are addressed to the wali concerning the marriage of the women under his care. If the matter was up to the woman, there would be no need to address the wali, especially in the case of the first verse quoted, as we shall explain below.

Part of the fiqh of Imam al-Bukhaari is that he quoted these verses in a chapter which he called Baab man qaala Laa nikaah illa bi wali (Chapter: the view of those who say that there is no (valid) marriage without a wali)’.

With regard to the Sunnah:

1 – It was narrated that Abu Moosa said: The Prophet (peace and blessings of Allaah be upon him) said: “There is no (valid) marriage without a wali.” (Narrated by al-Tirmidhi, 1101; Abu Dawood, 2085; Ibn Maajah, 1881. Classed as saheeh by al-Albaani in Saheeh al-Tirmidhi, 1/318).

2 – It was narrated that ‘Aa’ishah said: the Messenger of Allaah (peace and blessings of Allaah be upon him) said: “Any woman who gets married without the permission of her wali, her marriage is invalid, her marriage is invalid, her marriage is invalid. If the marriage has been consummated then she is entitled to the mahr because she allowed the man to be intimate with her. If she does not have a wali then the ruler is the wali of one who does not have a wali.”

(Narrated by al-Tirmidhi, 1102; Abu Dawood, 2083; Ibn Maajah, 1879. This hadeeth was classed as hasan by al-Tirmidhi and as saheeh by Ibn Hibbaan (9/384) and al-Haakim (2/183)).

So your sister has to repent and pray for forgiveness, and she has to go back to her father and ask him to forgive her. She should realize that her marriage is null and void, and so it is not permissible for her to stay with this man because he is not a legitimate husband for her. A new contract should be done in the presence of her wali, if he agrees to her staying with this man, after weighing up the evil of his bad manners versus the evil of her leaving him; or if he does not approve of her staying with him, then the marriage contract is automatically annulled, and this man should be obliged to divorce her so as to avoid any doubts and so that the matter will be final.

She should agree to the person whom her father chooses for her, and he has to look for someone person of religious commitment and good manners who fears Allaah who will take good care of his daughter.

And Allaah knows best.