40290 - Is it correct for the husband’s father to be a witness to his marriage contract?

the question

I have been married for two years but my marriage was done in the following manner:
Two years after getting engaged, we decided to do the marriage contract. I went with my father and my fiancée and her father to the registrar’s office, but we found only one notary public. His companion was absent even though he knew that he and his companion were supposed to sign the marriage contract. The notary who was present knows my father. That notary did the marriage contract and asked my wife’s father about the dowry and whether he had received it. He said that he had received it when he had only received half of it, and we went ahead with the marriage contract. When we came out I did not feel comfortable about that so I asked my father whether this marriage contract was Islamically acceptable, since there must be two witnesses and there had only been one. My father replied that there was nothing wrong with that, so I kept quiet, but until now I am not convinced about that. Hence I am asking whether my marriage is Islamically acceptable or is there any reservation concerning it? Can my father be counted as a witness? If it is not Islamically acceptable, what is the solution?.

Detailed answer

Praise be to Allah.

The marriage contract mentioned is valid and your father can be counted as a witness to your marriage. This is the view of Imam al-Shaafa’i and was narrated in one of the reports from Imam Ahmad (may Allaah have mercy on them both).

See Nihaayat al-Muhtaaj, 6/218; al-Insaaf, 8/105

That is because he is not a wali (guardian) with regard to marriage, so he may be a witness, unlike the wife’s father.

The view that this is valid was favoured by Shaykh Ibn ‘Uthaymeen (may Allaah have mercy on him). After mentioning the first view on this matter, which is that it is not permissible for any ascendant (father, grandfather, etc) or descendant (son, grandson, etc) of either spouse to be a witness to the marriage, he said: The second view is that this is valid, and one or both witnesses may be an ascendant or descendent.

Then he said: So the correct view is that the marriage contract is valid. This was narrated from Ahmad and was the view favoured by many of our companions.

Al-Sharh al-Mumti’, 5/163

Moreover you mention that you have been married for two years, so it may be assumed that the marriage has been announced publicly, such as inviting people to a wedding party and so on, as is customary among people nowadays. This is sufficient to make the marriage valid, even if it was not witnessed by two witnesses, according to some scholars. This is the view favoured by Shaykh al-Islam Ibn Taymiyah who said: There is no doubt that a marriage that is announced publicly is valid, even if it is not witnessed by two witnesses.

Al-Ikhtiyaaraat, p. 210

The wife’s father erred by saying that he had received the dowry when in fact he had only received half of it, but that does not affect the validity of the marriage contract.

And Allaah knows best.