

Dar-ul-Ifta

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

نحمده و نصلی علی رسولہ الکریم

Praise is due to Allah who guided us to the righteous path, And Durood o Salaam Upon the Holy Prophet Muhammad "peace be upon him" and his Family and Companions.

SECOND NIKAH

As per Islamic Law (in the light of Quran and Hadith) the Nikah of a mature girl or woman will be valid without the permission or consent of Wali (Guadian/Responsible party), same view according to Hanafi school of thought. Imam Shaafi'ee's point of view is that the permission or approval of wali, nikah will not be counted without making difference that the girl is minor or mature.

It is stated in the Holy Quran:

حتى تنكح زوجا غيره

(Till she doesn't marry another husband)
(Al baqarah V230)

Here in this verse the word "TANKIHA" means the girl or woman, because the subject of this verb is feminine which is very clear to understand that a mature girl or a woman has the full right to perform her own Nikah without the permission of her Wali (Guardian/Responsible party).

(Usool ush Shaashi, Pg 7)

It is narrated in the authority of Sayyiduna Abu Salma that a woman came to the Holy Prophet 'peace and blessings be upon him' and said that my father has married me to a man that I don't like, then the Holy Prophet 'peace and blessings be upon him' replied to her father, "the Nikah is not valid" then he informed the woman, "go and marry to someone you like and love.

(Al Diraayah fi Takhreeji Ahaadith-il-Hidaayah V2/335)

In the above hadith the Holy Prophet 'peace and blessings be upon him' has said to the woman directly فانكحي (Go and marry to someone you like), it means that a mature girl or woman is allowed to get married without the permission of her wali (Guardian/Responsible party).

Normally, in those narrations where it has been declared that Nikah will not be counted without wali (Guardian/Responsible party), it means that as per Islamic manner, so it is better to seek permission and approval.

The question which has been asked that the girl is mature and got married without the approval of her guardian or responsible party (i.e. father or brother), and the Nikah has been perform through her Wakeel and 2 witnesses, so as per Shariah Law, the Nikah is valid and legal.

Some other important Islamic Issues:

1. The condition to have more than one wife is ADL [Justice and Fairness], means to be just and to balance the rights same between them, otherwise it will be not permissible to marry more than one wife. (Ref: Surah Al Nisaa V3)

2. If a husband has no capacity and competence to equalize the rights of his wives, and incapable to fulfill his responsibilities towards them as a real husband, so in this situation he has the rights to give talaq (divorce).

3. Basically, there are three (3) types of Talaq:

- i. Ahsan (better one)
- ii. Hasan (good one)
- iii. Bid'ee (worst one)

Ahsan means to give only one (1) talaq to the wife in the state of purity where he has not had sexual relationship, then he leave her till the Iddah (period of 3 menstruations).

Hasan means to give three (3) talaq in three (3) states of purity, one in the first, second in the second state and third in the third period.

Bid'ee means to give the wife three (3) talaq in one go (i.e. I am giving you three talaq or I am give you talaq talaq talaq) or to give the wife three (3) talaq in the same state of purity. In this condition, all the three talaq will be applicable, but the man (husband) will be considered as a sinner.

So the best manner is to give only one (1) talaq in the state of purity, then leave the wife till she overtakes the Iddah (period of 3 menstruations)

This type of talaq has been selected as better one in the views of all companions and all savants of Islam.

(Al Hidaayah Shareef V2/373)

4. Now about making justice (Adl) between the wives, the Holy Prophet 'peace and blessings be upon him' said, if someone has two (2) wives, and he has favorited and has given preference to only one of them, on the day of Ressurrection (Qiyaamah) his one side of body will be curved and will not be straight.

It is reported in the authority of Umm ul Mu'mineen Sayyidatuna Ayesha Siddiqua 'may Allah be pleased with her' said that the Holy Prophet 'peace and blessings be upon him' has always made justice between all his Holy wives.

The term of Adl (justice) applies in all matters and affairs, such as foods, drinks, clothes, sharing times (nights etc...) (Al Hidaayah Shareef V2/368)

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