

50 - THE BOOK OF AL-MUKĀTAB

٥٠ - كتاب المكاتب

(A slave who binds himself to pay a certain amount equivalent for his freedom by seeking writing of emancipation from his master).

CHAPTER. The sin of one who falsely accuses his slave of illegal sexual intercourse.

(1) CHAPTER. *Al-Mukātab* and the payment of his price by yearly installment.

And Allāh's Statement:

"...And such of your slaves as seek a writing (of emancipation), give them such writing, if you find that there is good and honesty in them. And give them something (yourselves) out of the wealth of Allāh which He has bestowed upon you..." (V.24:33)

Narrated Ibn Juraij: I asked 'Aṭā', "Will it be necessary for me to give a slave the writing of emancipation if I come to know that such a slave has money or property?" 'Aṭā' replied, "I consider it obligatory."

'Amr bin Dinār asked 'Aṭā', "Have you a proof (narration) for your verdict?" He replied in the negative and added that Mūsā bin Anas told him that Sīrīn sought from Anas a writing of emancipation, and Sīrīn was a very rich slave, but Anas refused to grant him his desire. Sīrīn went to 'Umar bin al-Khaṭṭāb who ordered Anas with his lash and recited:

'Give them such writing, if you find that there is good and honesty in them...' (V.24:33)

Anas then gave him a writing (of emancipation)."

2560. Narrated 'Ā'ishah رَضِيَ اللهُ عَنْهَا that Barīra came to seek her help in her writing of emancipation and she had to pay five *Uqīya*

بَابُ إِنَّمَنْ قَدَفَ مَمْلُوكَهُ

(١) بَابُ الْمُكَاتَبِ وَنُجُومِهِ، فِي كُلِّ سَنَةٍ نَجْمٌ

وَقَوْلُهُ: ﴿وَالَّذِينَ يَبْنِعُونَ الْكُتُبَ وَمَا مَلَكَتْ أَيْمَانُكُمْ فَكَاتِبُوهُمْ إِنْ عَلِمْتُمْ فِيهِمْ خَيْرًا وَءَاتُوهُمْ مِنْ مَالِ اللَّهِ الَّذِي آتَاكُمْ﴾ [النور: ٣٢] وَقَالَ رَوْحٌ، عَنِ ابْنِ جُرَيْجٍ: قُلْتُ لِعَطَاءٍ: أَوْاجِبُ عَلَيَّ إِذَا عَلِمْتُ لَهُ مَا لَا أَنْ أُكَاتِبُهُ؟ قَالَ: مَا أُرَاهُ إِلَّا وَاجِبًا. وَقَالَ عَمْرُو بْنُ دِينَارٍ: قُلْتُ لِعَطَاءٍ: أَتَأْتُرُهُ عَنْ أَحَدٍ؟ قَالَ: لَا. ثُمَّ أَخْبَرَنِي أَنَّ مُوسَى بْنَ أَنَسٍ أَخْبَرَهُ أَنَّ سِيرِينَ سَأَلَ أَنَسًا الْمُكَاتَبَةَ وَكَانَ كَثِيرَ الْمَالِ فَأَبَى، فَانْطَلَقَ إِلَى عَمَرَ رَضِيَ اللَّهُ عَنْهُ فَقَالَ: كَاتِبْتُهُ فَأَبَى فَضَرَبْتُهُ بِالذَّرَّةِ وَيَتْلُو عَمْرُو: ﴿فَكَاتِبُوهُمْ إِنْ عَلِمْتُمْ فِيهِمْ خَيْرًا﴾ [النور: ٣٣] فَكَاتِبُهُ.

٢٥٦٠ - وَقَالَ اللَّيْثُ: حَدَّثَنِي

يُوسُفُ بْنُ أَبِي شَيْهَابٍ: قَالَ عُرْوَةُ:

(of gold) by five yearly installments. 'Āishah said to her, "Do you think that if I pay the whole sum at once, your masters will sell you to me, and I will free you and your *Walā*⁽¹⁾ will be for me." Barīra went to her masters and told them about that offer. They said that they would not agree to it unless her *Walā* would be for them. 'Āishah further said, "I went to Allāh's Messenger ﷺ and told him about it." Allāh's Messenger ﷺ said to her, "Buy Barīra and manumit her and the *Walā*' will be for the liberator." Allāh's Messenger ﷺ then got up and said, "What about those people who stipulate conditions that are not present in Allāh's Laws? If anybody stipulates a condition which is not in Allāh's Laws, then what he stipulates is invalid. Allāh's Conditions (Laws) are the truth and are more solid."

(2) CHAPTER. What conditions are permissible for a writing of emancipation and whoever stipulates conditions that are not (present) in Allāh's Book (i.e., not in accordance with Allāh's Laws).

Ibn 'Umar narrated (the above).

2561. Narrated 'Urwa that 'Āishah رضي الله عنها told him that Barīra came to seek her help in her writing of emancipation (for a certain sum) and at that time she had not paid anything of it. 'Āishah said to her, "Go back to your masters, and if they agree that I will pay the amount of your writing of emancipation and get your *Walā*', I will do

قَالَتْ عَائِشَةُ رَضِيَ اللهُ عَنْهَا: إِنَّ بَرِيرَةَ دَخَلَتْ عَلَيْهَا تَسْتَعِينُهَا فِي كِتَابَتِهَا وَعَلَيْهَا خَمْسُ أَوَاقِي نُجِمَتْ عَلَيْهَا فِي خَمْسِ سِنِينَ. فَقَالَتْ لَهَا عَائِشَةُ وَنَفِسَتْ فِيهَا: أَرَأَيْتِ إِنْ عَدَدْتُ لَهُمْ عِدَّةً وَاحِدَةً، أَيْبِعُكَ أَهْلُكَ فَأَعْتَقَكَ فَيَكُونَ وَلَاؤُكَ لِي؟ فَذَهَبَتْ بَرِيرَةُ إِلَى أَهْلِهَا فَعَرَضَتْ ذَلِكَ عَلَيْهِمْ فَقَالُوا: لَا، إِلَّا أَنْ يَكُونَ لَنَا الْوَلَاءُ. قَالَتْ عَائِشَةُ: فَدَخَلْتُ عَلَى رَسُولِ اللَّهِ ﷺ فَذَكَرْتُ ذَلِكَ لَهُ، فَقَالَ لَهَا رَسُولُ اللَّهِ ﷺ: «اشْتَرِيهَا فَأَعْتِقِهَا فَإِنَّمَا الْوَلَاءُ لِمَنْ أَعْتَقَ». ثُمَّ قَامَ رَسُولُ اللَّهِ ﷺ فَقَالَ: «مَا بَالُ رِجَالٍ يَشْتَرُونَ شُرُوطًا لَيْسَتْ فِي كِتَابِ اللَّهِ؟ مَنْ اشْتَرَطَ شَرْطًا لَيْسَ فِي كِتَابِ اللَّهِ فَهُوَ بَاطِلٌ، شَرْطُ اللَّهِ أَحَقُّ وَأَوْثَقُ». [راجع: ٤٥٦]

(٢) بَابُ مَا يَجُوزُ مِنْ شُرُوطِ الْمُكَاتِبِ، وَمَنْ اشْتَرَطَ شَرْطًا لَيْسَ فِي كِتَابِ اللَّهِ،

فِيهِ عَنِ ابْنِ عُمَرَ.

٢٥٦١ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ، عَنِ ابْنِ شِهَابٍ، عَنِ عُرْوَةَ: أَنَّ عَائِشَةَ رَضِيَ اللهُ عَنْهَا أَخْبَرَتْهُ: أَنَّ بَرِيرَةَ جَاءَتْ تَسْتَعِينُهَا فِي كِتَابَتِهَا وَلَمْ تَكُنْ قَضَتْ مِنْ كِتَابَتِهَا شَيْئًا، قَالَتْ

(1) (H. 2560) *Walā*: See glossary.

so.” Barīra informed her masters of that but they refused and said, “If she (i.e., ‘Āishah) is seeking Allāh’s Reward, then she can do so, but your *Walā’* will be for us.” ‘Āishah mentioned that to Allāh’s Messenger ﷺ who said to her, “Buy and manumit her, as the *Walā’* is for the liberator.” Allāh’s Messenger ﷺ then got up and said, “What about the people who stipulate conditions which are not present in Allāh’s Laws? Whoever imposes conditions which are not present in Allāh’s Laws, then those conditions will be invalid, even if he imposed these conditions a hundred times. Allāh’s Conditions (Laws) are the truth and are more solid.”

لَهَا عَائِشَةُ: ارْجِعِي إِلَى أَهْلِكَ فَإِنْ أَحْبَبُوا أَنْ أَفْضِي عَنْكَ كِتَابَتِكَ وَيَكُونَ وَلَاؤُكَ لِي فَعَلْتُ. فَذَكَرْتُ ذَلِكَ بِرَبِيرَةَ لِأَهْلِهَا فَأَبَوْا فَقَالُوا: إِنْ شَاءَتْ أَنْ تَحْتَسِبَ عَلَيْكَ فَلْتَفْعَلْ، وَيَكُونَ وَلَاؤُكَ لَنَا. فَذَكَرْتُ ذَلِكَ لِرَسُولِ اللَّهِ ﷺ فَقَالَ لَهَا رَسُولُ اللَّهِ ﷺ: «إِبْتَاعِي فَأَعْتِقِي فَإِنَّمَا الْوَلَاءُ لِمَنْ أَعْتَقَ». قَالَ: ثُمَّ قَامَ رَسُولُ اللَّهِ ﷺ فَقَالَ: «مَا بَالُ أَنْاسٍ يَشْتَرِطُونَ شُرُوطًا لَيْسَتْ فِي كِتَابِ اللَّهِ؟ مَنْ اشْتَرَطَ شَرْطًا لَيْسَ فِي كِتَابِ اللَّهِ فَلَيْسَ لَهُ، وَإِنْ شَرَطَ مِائَةَ مَرَّةٍ، شَرَطَ اللَّهُ أَحَقُّ وَأَوْثَقُ». [راجع: ٤٥٦]

2562. Narrated ‘Abdullāh bin ‘Umar رَضِيَ اللهُ عَنْهُمَا wanted to buy a slave-girl in order to manumit her. The girl’s masters stipulated that her *Walā’* would be for them. Allāh’s Messenger ﷺ said (to ‘Āishah), “What they stipulate should not stop you, for the *Walā’* is for the liberator.”

٢٥٦٢ - حَدَّثَنَا عَبْدُ اللَّهِ بْنُ يُوسُفَ: أَخْبَرَنَا مَالِكٌ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللَّهِ بْنِ عَمْرٍو رَضِيَ اللهُ عَنْهُمَا قَالَ: أَرَادَتْ عَائِشَةُ رَضِيَ اللهُ عَنْهَا أَنْ تَشْتَرِيَ جَارِيَةً لِتُعْتِقَهَا، فَقَالَ أَهْلُهَا: عَلَى أَنْ وِلَاءَهَا لَنَا، قَالَ رَسُولُ اللَّهِ ﷺ: «لَا يَمْنَعُكَ ذَلِكَ فَإِنَّمَا الْوَلَاءُ لِمَنْ أَعْتَقَ».

[راجع: ٢١٥٦]

(3) CHAPTER. *Al-Mukātab* is permitted to ask others to help him (get his liberation).

(٣) بَابُ اسْتِعَانَةِ الْمُكَاتِبِ وَسُؤَالِهِ النَّاسِ

2563. Narrated ‘Āishah رَضِيَ اللهُ عَنْهَا: Barīra came (to ‘Āishah) and said, “I have made a contract of emancipation with my masters for nine *Uqiya* (of gold) to be paid in yearly installments. Therefore, I seek your help.”

٢٥٦٣ - حَدَّثَنَا عُبَيْدُ بْنُ إِسْمَاعِيلَ: حَدَّثَنَا أَبُو أُسَامَةَ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ رَضِيَ اللهُ عَنْهَا

'Āishah said, "If your masters agree, I will pay them the sum at once and free you on condition that your *Walā'* will be for me." Barira went to her masters but they refused that offer. She (came back) and said, "I presented to them the offer but they refused, unless the *Walā'* will be for them." Allāh's Messenger ﷺ heard of that and asked me about it, and I told him about it. On that he said, "Buy and manumit her and stipulate that the *Walā'* should be for you, as *Walā'* is for the liberator." 'Āishah added, "Allāh's Messenger ﷺ then got up amongst the people, glorified and praised Allāh, and said, 'Then after: What about some people who impose conditions which are not present in Allāh's Laws? So, any condition which is not present in Allāh's Laws is invalid even if they were one hundred conditions. Allāh's Ordinance is the truth, and Allāh's Condition is stronger and more solid. Why do some men from you say, 'O so-and-so! Manumit the slave but the *Walā'* will be for me?' Verily, the *Walā'* is for the liberator."

اللَّهُ عَنْهَا قَالَتْ: جَاءَتْ بَرِيرَةَ، فَقَالَتْ: إِنِّي كَاتَبْتُ أَهْلِي عَلَى تِسْعِ أَوَاقٍ فِي كُلِّ عَامٍ أَوْقِيَةً فَأَعْيَيْنِي. فَقَالَتْ عَائِشَةُ: إِنَّ أَحَبَّ أَهْلِكَ أَنْ أُعَدَّهَا لَهُمْ عَدَّةً وَاحِدَةً وَأُعْتِقَكَ فَعَلْتُ فَيَكُونُ وَلَاؤُكَ لِي. فَذَهَبَتْ إِلَى أَهْلِهَا فَأَبَوْا ذَلِكَ عَلَيْهَا، فَقَالَتْ: إِنِّي قَدْ عَرَضْتُ ذَلِكَ عَلَيْهِمْ، فَأَبَوْا إِلَّا أَنْ يَكُونَ الْوَلَاءُ لَهُمْ. فَسَمِعَ بِذَلِكَ رَسُولُ اللَّهِ ﷺ فَسَأَلَنِي فَأَخْبَرْتُهُ فَقَالَ: «حُذِنُهَا فَأَعْتِقِيهَا وَاشْتَرِطِي لَهُمُ الْوَلَاءَ، فَإِنَّ الْوَلَاءَ لِمَنْ أَعْتَقَ». قَالَتْ عَائِشَةُ: فَقَامَ رَسُولُ اللَّهِ ﷺ فِي النَّاسِ فَحَمِدَ اللَّهَ وَأَثَى عَلَيْهِ، ثُمَّ قَالَ: «أَمَّا بَعْدُ، مَا بَالُ رِجَالٍ يَشْتَرِطُونَ شُرُوطًا لَيْسَتْ فِي كِتَابِ اللَّهِ؟ فَأَيُّمَا شَرِطَ كَانَ لَيْسَ فِي كِتَابِ اللَّهِ فَهُوَ بَاطِلٌ وَإِنْ كَانَ مِائَةَ شَرِطٍ. فَقَضَاءُ اللَّهِ أَحَقُّ، وَشَرِطُ اللَّهِ أَوْثَقُ، مَا بَالُ رِجَالٍ مِنْكُمْ يَقُولُ أَحَدُهُمْ: أَعْتِقْ يَا فُلَانُ وَلِي الْوَلَاءَ، إِنَّمَا الْوَلَاءُ لِمَنْ أَعْتَقَ». [راجع: ٤٥٦]

(4) CHAPTER. The selling of a *Mukātab* on his agreement.

'Āishah رضي الله عنها said, "A *Mukātab* remains a slave as long as he has not paid the whole amount." Zaid bin Thābit said, "He remains a slave even if he owed one Dirham." Ibn 'Umar said, "He remains a slave whether living or dead, or became insane, so long as he still has to pay

(٤) بَابُ بَيْعِ الْمُكَاتِبِ إِذَا رَضِيَ وَقَالَتْ عَائِشَةُ: هُوَ عَبْدٌ مَا بَقِيَ عَلَيْهِ شَيْءٌ. وَقَالَ زَيْدُ بْنُ ثَابِتٍ: مَا بَقِيَ عَلَيْهِ دِرْهَمٌ. وَقَالَ ابْنُ عُمَرَ: هُوَ عَبْدٌ إِنْ عَاشَ وَإِنْ مَاتَ وَإِنْ جَنَى مَا بَقِيَ عَلَيْهِ شَيْءٌ.

something (from the writing of emancipation).”

2564. Narrated ‘Amra bint ‘Abdur-Raḥmān: Barīra went to ‘Āishah, the Mother of the faithful believers رَضِيَ اللهُ عَنْهَا, to seek her help in her emancipation. ‘Āishah said to her, “If your masters agree, I will pay them your price in a lump sum and manumit you.” Barīra mentioned that offer to her masters but they refused to sell her unless the *Walā’* will be for them. ‘Āishah told Allāh’s Messenger ﷺ about it. He said, “Buy and manumit her as the *Walā’* is for the liberator.”

٢٥٦٤ - حَدَّثَنَا عَبْدُ اللَّهِ بْنُ يُوسُفَ: أَخْبَرَنَا مَالِكٌ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ عَمْرَةَ بِنْتِ عَبْدِ الرَّحْمَنِ: أَنَّ بَرِيرَةَ جَاءَتْ تَسْتَعِينُ عَائِشَةَ أُمَّ الْمُؤْمِنِينَ رَضِيَ اللَّهُ عَنْهَا، فَقَالَتْ لَهَا: إِنَّ أَحَبَّ أَهْلِكَ أَنْ أَصَبَّ لَهُمْ ثَمَنُكَ صَبِيَّةً وَاحِدَةً وَأُعْتَقَكَ فَعَلْتُ. فَذَكَرْتُ بَرِيرَةَ ذَلِكَ لِأَهْلِهَا فَقَالُوا: لَا، إِلَّا أَنْ يَكُونَ الْوَلَاءُ لَنَا، قَالَ مَالِكٌ: قَالَ يَحْيَى: فَزَعَمَتْ عَمْرَةُ أَنَّ عَائِشَةَ ذَكَرَتْ ذَلِكَ لِرَسُولِ اللَّهِ ﷺ فَقَالَ: «اشْتَرِيهَا وَأُعْتِقِهَا، فَإِنَّمَا الْوَلَاءُ لِمَنْ أَعْتَقَ». [راجع: ٤٥٦]

(5) CHAPTER. If a *Mukātab* slave asks somebody to buy and free him, it is permissible for that person to buy him.

2565. Narrated ‘Abdul Wāḥid bin Aiman: I went to ‘Āishah رَضِيَ اللهُ عَنْهَا and said, “I was the slave of Utba bin Abū Lahab. ‘Utba died and his scns became my masters who sold me to Ibn Abū ‘Amr who manumitted me. The sons of ‘Utba stipulated that my *Walā’* should be for them.” ‘Āishah said, “Barīra came to me and she was given the writing of emancipation by her masters and she asked me to buy and manumit her. I agreed to it, but Barīra told me that her masters would not sell her unless her *Walā’* will be for them.” ‘Āishah said, “I am not in need of that.” When the Prophet ﷺ heard that, or he was told about it, he asked ‘Āishah about it. ‘Āishah mentioned what Barīra had told her. The Prophet ﷺ said, “Buy and manumit her

(٥) بَابُ إِذَا قَالَ الْمُكَاتَبُ: اشْتَرِنِي وَأُعْتِقْنِي، فَاشْتَرَاهُ لِذَلِكَ

٢٥٦٥ - حَدَّثَنَا أَبُو نَعِيمٍ: حَدَّثَنَا عَبْدُ الْوَاحِدِ بْنُ أَيْمَنَ عَنْ أَبِيهِ قَالَ: دَخَلْتُ عَلَى عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا فَقُلْتُ: كُنْتُ غُلَامًا لِعُتْبَةَ بْنِ أَبِي لَهَبٍ وَمَاتَ وَوَرِثَنِي بَنُوهُ، وَإِنَّهُمْ بَاغُونِي مِنْ ابْنِ أَبِي عَمْرٍو فَاعْتَقْنِي ابْنَ، وَاشْتَرَطَ بَنُو عُتْبَةَ الْوَلَاءَ فَقَالَتْ: دَخَلْتُ بَرِيرَةَ وَهِيَ مُكَاتَبَةٌ فَقَالَتْ: اشْتَرِنِي فَأُعْتِقْنِي. قَالَتْ: نَعَمْ، قَالَتْ: لَا يَبِينُعُونِي حَتَّى يَشْتَرِطُوا وَلَايَ. فَقَالَتْ: لَا حَاجَةَ

and let them stipulate whatever they like.” So, ‘Āishah bought and manumitted her and her masters stipulated that her *Walā’* should be for them. The Prophet ﷺ said, “The *Walā’* will be for the liberator even if they stipulated a hundred conditions.”

لي بذلك، فَسَمِعَ بِذَلِكَ النَّبِيِّ ﷺ -
 أَوْ بَلَّغَهُ - فَذَكَرَ ذَلِكَ لِعَائِشَةَ،
 فَذَكَرَتْ عَائِشَةُ مَا قَالَتْ لَهَا، فَقَالَ:
 «اشْتَرِيهَا فَأَعْتِقِهَا وَدَعِيهِمْ يَشْتَرُطُوا مَا
 شَاءُوا» فَاشْتَرَتْهَا عَائِشَةُ فَأَعْتَقَتْهَا
 وَاشْتَرَطَ أَهْلُهَا الْوَلَاءَ. فَقَالَ النَّبِيُّ
 ﷺ: «الْوَلَاءُ لِمَنْ أَعْتَقَ وَإِنْ اشْتَرَطُوا
 مِائَةَ شَرْطٍ».