

90 – THE BOOK OF TRICKS

٩٠ - كتاب الحيل

(1) CHAPTER. Avoiding the use of tricks. And everybody will get (the reward) according to his intention in taking oaths and other things.

6953. Narrated 'Umar bin Al-Khattāb رضي الله عنه: The Prophet ﷺ said, "O people! The reward of deeds depends upon the intentions, and every person will get the reward according to what he has intended. So, whosoever emigrates for Allāh and His Messenger, then his emigration will be for Allāh and His Messenger, and whosoever emigrates to take worldly benefit or for a woman to marry, then his emigration will be for what he emigrated for." (See H. 1)

(2) CHAPTER. (Tricks) in *Aṣ-Ṣalāt* (the prayer).

6954. Narrated Abū Hurairah رضي الله عنه: The Prophet ﷺ said, "Allāh does not accept *Ṣalāt* (prayer) of anyone of you if he does (small) *Ḥadath* (passes wind, etc.) till he performs the ablution (anew)."

(3) CHAPTER. (Tricks) in *Zakāt* and (the order that) one should neither divide property into various portions nor collect various portions together in order to avoid *Zakāt*.

(١) بَابٌ: فِي تَرْكِ الْحَيْلِ، وَأَنَّ لِكُلِّ امْرِئٍ مَا نَوَى فِي الْإِيمَانِ وَغَيْرِهَا

٦٩٥٣ - حَدَّثَنَا أَبُو التَّعْمَانِ: حَدَّثَنَا حَمَادُ بْنُ زَيْدٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ مُحَمَّدِ بْنِ إِبْرَاهِيمَ، عَنْ عَلْقَمَةَ بْنِ وَقَاصٍ قَالَ: سَمِعْتُ عُمَرَ بْنَ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ يَخْطُبُ قَالَ سَمِعْتُ النَّبِيَّ ﷺ يَقُولُ: «يَا أَيُّهَا النَّاسُ إِنَّمَا الْأَعْمَالُ بِالنِّيَّةِ، وَإِنَّمَا لِامْرِئٍ مَا نَوَى. فَمَنْ كَانَتْ هِجْرَتُهُ إِلَى اللَّهِ وَرَسُولِهِ، فَهَاجَرْتُهُ إِلَى اللَّهِ وَرَسُولِهِ. وَمَنْ هَاجَرَ إِلَى دُنْيَا يُصِيبُهَا أَوْ امْرَأَةً يَتَزَوَّجُهَا، فَهَاجَرْتُهُ إِلَى مَا هَاجَرَ إِلَيْهِ». [راجع: ١]

(٢) بَابٌ: فِي الصَّلَاةِ

٦٩٥٤ - حَدَّثَنَا إِسْحَاقُ بْنُ نَصْرِ: حَدَّثَنَا عَبْدُ الرَّزَّاقِ، عَنْ مَعْمَرٍ، عَنْ هَمَّامٍ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «لَا يَقْبَلُ اللَّهُ صَلَاةَ أَحَدِكُمْ إِذَا أَحْدَثَ حَتَّى يَتَوَضَّأَ».

[راجع: ١٣٥]

(٣) بَابٌ: فِي الزَّكَاةِ وَأَنَّ لَا يُفْرَقَ بَيْنَ مُجْتَمِعٍ، وَلَا يُجْمَعُ بَيْنَ مُتَفَرِّقٍ خَشِيَةَ الصَّدَقَةِ

6955. Narrated Anas that Abū Bakr رَضِيَ اللهُ عَنْهُ wrote for him (regarding) *Zakāt* regulations which Allāh's Messenger ﷺ had made compulsory, and wrote that one should neither collect various portions (of the property) nor divide the property into various portions in order to avoid paying *Zakāt*.

6956. Narrated Ṭalḥa bin 'Ubaidullāh رَضِيَ اللهُ عَنْهُ: A bedouin with unkempt hair came to Allāh's Messenger ﷺ and said, "O Allāh's Messenger! Tell me what Allāh has enjoined on me as regards *Aṣ-Ṣalāt* (the prayers)." The Prophet ﷺ said, "You have to offer (perfectly) the five (compulsory) *Ṣalāt* (prayers) (in a day and a night i.e., 24 hours), (*Iqāmat-aṣ-Ṣalāt*)⁽¹⁾ except if you want to offer the *Nawāfil* (optional) prayers." The bedouin said, "Tell me what Allāh has enjoined on me as regards *Aṣ-Siyām* (the fasting)." The Prophet ﷺ said, "You have to observe, fasting during the month of Ramaḍān, except if you want to offer *Nawāfil* fast." The bedouin said, "Tell me what Allāh has enjoined on me as regards *Zakāt*." The Prophet ﷺ then told him the Islāmic Laws and regulations whereupon the bedouin said, "By Him Who has honoured you, I will not perform any optional deeds of worship and I will not leave anything of what Allāh has enjoined on me." Allāh's Messenger ﷺ said, "He will be successful if he has told the truth (or he will enter Paradise if he said the truth)." And some people said, "The *Zakāt* for one hundred and twenty camels is two *Ḥiqqa*⁽²⁾, and if the

٦٩٥٥ - حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ الْأَنْصَارِيُّ: حَدَّثَنِي أَبِي: حَدَّثَنِي ثُمَامَةُ بْنُ عَبْدِ اللَّهِ بْنِ أَنَسٍ: أَنَّ أَسْمَاءَ حَدَّثَتْهُ: أَنَّ أَبَا بَكْرٍ كَتَبَ لَهُ فَرِيضَةَ الصَّدَقَةِ الَّتِي فَرَضَ رَسُولُ اللَّهِ ﷺ، «وَلَا يُجْمَعُ بَيْنَ مُتَفَرِّقٍ، وَلَا يُفَرَّقُ بَيْنَ مُجْتَمِعٍ خَشِيَةَ الصَّدَقَةِ».

[راجع: ١٤٤٨]

٦٩٥٦ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ جَعْفَرٍ: عَنِ أَبِي سُهَيْلٍ، عَنْ أَبِيهِ، عَنْ طَلْحَةَ بْنِ عَبْدِ اللَّهِ: أَنَّ أَعْرَابِيًّا جَاءَ إِلَى رَسُولِ اللَّهِ ﷺ تَائِرَ الرَّأْسِ فَقَالَ: يَا رَسُولَ اللَّهِ أَخْبِرْنِي مَاذَا فَرَضَ اللَّهُ عَلَيَّ مِنَ الصَّلَاةِ؟ فَقَالَ: «الصَّلَوَاتِ الْخَمْسَ إِلَّا أَنْ تَطَوَّعَ شَيْئًا»، فَقَالَ: أَخْبِرْنِي بِمَا فَرَضَ اللَّهُ عَلَيَّ مِنَ الصِّيَامِ؟ قَالَ: «شَهْرَ رَمَضَانَ إِلَّا أَنْ تَطَوَّعَ شَيْئًا». قَالَ: أَخْبِرْنِي بِمَا فَرَضَ اللَّهُ عَلَيَّ مِنَ الزَّكَاةِ؟ قَالَ: فَأَخْبَرَهُ رَسُولُ اللَّهِ ﷺ بِشَرَائِعِ الْإِسْلَامِ. قَالَ: وَالَّذِي أَكْرَمَكَ لَا أَتَطَوَّعُ شَيْئًا وَلَا أَتَقْصُصُ مِمَّا فَرَضَ اللَّهُ عَلَيَّ شَيْئًا. فَقَالَ رَسُولُ اللَّهِ ﷺ: «أَفْلَحَ إِنْ صَدَقَ، أَوْ دَخَلَ الْجَنَّةَ إِنْ صَدَقَ».

وَقَالَ بَعْضُ النَّاسِ: فِي عَشْرِينَ وَمِائَةِ بَعِيرٍ: حِقَّتَانِ، فَإِنْ أَهْلَكَهَا

(1) (H.6956) *Iqāmat-aṣ-Ṣalāt*: See the glossary.

(2) (H.6956) *Al-Ḥiqqa* is a she-camel that has completed its third year in age.

Zakāt payer slaughters the camels intentionally or gives them as a present or plays some other trick in order to avoid the *Zakāt*, then there is no harm (in it) for him.” (See H. 46)

6957. Narrated Abū Hurairah رَضِيَ اللهُ عَنْهُ: Allāh’s Messenger ﷺ said, “On the Day of Resurrection, the *Kanz* (treasure or wealth of which *Zakāt* has not been paid) of anyone of you will appear in the shape of a *Shuja’ā Aqrā’* (bald-headed poisonous male snake with two black spots over its eyes or two poisonous glands in its mouth and its owner will run away from it, but it will follow him and say, ‘I am your *Kanz*’.” The Prophet ﷺ added, “By Allāh, that snake will keep on following him until he stretches out his hand and let the snake swallow it.” (See. H. 1403)

6958. Allāh’s Messenger ﷺ added, “If the owner of camels does not pay their *Zakāt*, then, on the Day of Resurrection those camels will come to him and will strike his face with their hooves.”

Some people said: Concerning a man who has camels, and is afraid that *Zakāt* will be due so he sells those camels for similar camels or for sheep or cows or money one day before *Zakāt* becomes due, in order to avoid payment of their *Zakāt* cunningly! “He has not to pay anything.” The same scholar said, “If one pays *Zakāt* of his camels one day or one year prior to the end of the year (by the end of which *Zakāt* becomes due), his *Zakāt* will be valid.”

[See *Fath Al-Barī*].

6959. Narrated Ibn ‘Abbās رَضِيَ اللهُ عَنْهُمَا: Sa’d bin ‘Ubāda Al-Anṣārī sought the verdict of Allāh’s Messenger ﷺ regarding a vow made by his mother who had died before fulfilling it. Allāh’s Messenger ﷺ said,

مُتَعَمِّدًا، أَوْ وَهَبَهَا، أَوْ اِحْتَالَ فِيهَا فِرَارًا مِنَ الزَّكَاةِ، فَلَا شَيْءَ عَلَيْهِ. [راجع: ٤٦]

٦٩٥٧ - حَدَّثَنِي إِسْحَاقُ: أَخْبَرَنَا عَبْدُ الرَّزَّاقِ: أَخْبَرَنَا مَعْمَرٌ، عَنْ هَمَّامٍ، عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللهُ عَنْهُ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «يَكُونُ كَنْزٌ أَحَدِكُمْ يَوْمَ الْقِيَامَةِ سُجَاعًا أَفْرَعُ يَقْرُ مِنْهُ صَاحِبُهُ وَيَطْلُبُهُ وَيَقُولُ: أَنَا كَنْزُكَ، قَالَ: وَاللَّهِ لَنْ يَزَالَ يَطْلُبُهُ حَتَّى يَبْسُطَ يَدَهُ فَيُلْقِمَهَا فَاهُ». [راجع: ١٤٠٣]

٦٩٥٨ - وَقَالَ رَسُولُ اللهِ ﷺ: «إِذَا مَا رَبُّ النَّعَمِ لَمْ يُعْطِ حَقَّهَا تَسَلَّطَ عَلَيْهِ يَوْمَ الْقِيَامَةِ فَتَحْضُطُ وَجْهَهُ بِأَخْفَافِهَا». وَقَالَ بَعْضُ النَّاسِ فِي رَجُلٍ لَهُ إِبِلٌ فَخَافَ أَنْ تَجِبَ عَلَيْهِ الصَّدَقَةُ فَبَاعَهَا بِإِبِلٍ مِثْلِهَا أَوْ بَعَنَمٍ أَوْ بِبَقَرٍ أَوْ بِدَرَاهِمٍ فِرَارًا مِنَ الصَّدَقَةِ يَوْمَ احْتِيَالًا: فَلَا شَيْءَ عَلَيْهِ وَهُوَ يَقُولُ: إِنَّ زَكَاةَ إِبِلِي قَبْلَ أَنْ يَحُولَ الْحَوْلُ يَوْمٍ أَوْ بِسِتَّةِ جَارِثٍ عَنْهُ. [راجع: ١٤٠٢]

٦٩٥٩ - حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ: حَدَّثَنَا لَيْثٌ، عَنِ ابْنِ شِهَابٍ، عَنْ عُبَيْدِ اللهِ بْنِ عَبْدِ اللهِ بْنِ عُتْبَةَ بْنِ

“Fulfil it on her behalf.”

Some people said, “If the number of camels reaches twenty, then their owner has to pay four sheep as *Zakāt*; and if their owner gives them as a gift or sells them in order to escape the payment of *Zakāt* cunningly before the completion of a year, then he is not to pay anything, and if he slaughters them and then dies, then no *Zakāt* is to be taken from his property.”

(4) CHAPTER. Tricks in marriages.

6960. Narrated ‘Abdullāh رَضِيَ اللهُ عَنْهُ Nāfi‘ narrated to me that ‘Abdullāh رَضِيَ اللهُ عَنْهُ said that Allāh’s Messenger ﷺ forbade *Ash-Shighār*. I asked Nāfi‘, “What is *Ash-Shighār*?” He said, “It is to marry the daughter of a man and marry one’s daughter to that man (at the same time) without *Mahr* (in both cases); or to marry the sister of a man and marry one’s own sister to that man without *Mahr*.” Some people said, “If one, by a trick, marries on the basis of *Shighār*, the marriage is valid but its condition is illegal.”

The same scholar said regarding *Al-Mut’a*⁽¹⁾, “The marriage is invalid and its condition is illegal.”

Some others said, “The *Mut’a* and the *Shighār* are permissible but the condition is illegal.”

6961. Narrated Muḥammad bin ‘Alī: ‘Alī رَضِيَ اللهُ عَنْهُ was told that Ibn ‘Abbās did not see

مَسْعُودٍ عَنِ ابْنِ عَبَّاسٍ قَالَ: اسْتَفْتَيْ سَعْدُ بْنُ عُبَادَةَ الْأَنْصَارِيَّ رَسُولَ اللَّهِ ﷺ فِي نَذْرِ كَانَ عَلَى أُمِّهِ تُوفِّيَتْ قَبْلَ أَنْ تَقْضِيَهُ. فَقَالَ رَسُولُ اللَّهِ ﷺ: «أَقْضِيهِ عَنْهَا».

وَقَالَ بَعْضُ النَّاسِ: إِذَا بَلَغَتِ الْإِبِلُ عَشْرِينَ فَفِيهَا أَرْبَعُ شِبَاوٍ، فَإِنْ وَهَبَهَا قَبْلَ الْحَوْلِ أَوْ بَاعَهَا فِرَاراً أَوْ احْتِيَالاً لِإِسْقَاطِ الزَّكَاةِ فَلَا شَيْءَ عَلَيْهِ، وَكَذَلِكَ إِنْ أَتَلَفَهَا فَمَاتَ فَلَا شَيْءَ فِي مَالِهِ. [راجع: ٢٧٦١]

(٤) بَابُ الْحِيلَةِ فِي النِّكَاحِ

٦٩٦٠ - حَدَّثَنَا مُسَدَّدٌ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ، عَنْ عُبَيْدِ اللَّهِ: حَدَّثَنِي نَافِعٌ، عَنْ عَبْدِ اللَّهِ رَضِيَ اللهُ عَنْهُ: أَنَّ رَسُولَ اللَّهِ ﷺ نَهَى عَنِ الشُّغَارِ، قُلْتُ لِنَافِعٍ: مَا الشُّغَارُ؟ قَالَ: يَنْكِحُ ابْنَةَ الرَّجُلِ وَيَنْكِحُهُ ابْنَتَهُ بِغَيْرِ صَدَاقٍ، وَيَنْكِحُ أُخْتِ الرَّجُلِ وَيَنْكِحُهُ أُخْتَهُ بِغَيْرِ صَدَاقٍ. وَقَالَ بَعْضُ النَّاسِ: إِنْ احْتَالَ حَتَّى تَرَوَّجَ عَلَى الشُّغَارِ فَهُوَ جَائِزٌ وَالشَّرْطُ بَاطِلٌ. وَقَالَ فِي الْمُتْعَةِ: النِّكَاحُ فَاسِدٌ وَالشَّرْطُ بَاطِلٌ. وَقَالَ بَعْضُهُمْ: الْمُتْعَةُ وَالشُّغَارُ جَائِزَانِ، وَالشَّرْطُ بَاطِلٌ. [راجع: ٥١١٢]

٦٩٦١ - حَدَّثَنَا مُسَدَّدٌ: حَدَّثَنَا

(1) (H.6961) *Al-Mut’a*: See the glossary.

any harm in the *Mut'a* marriage. 'Ali said, "Allāh's Messenger ﷺ forbade the *Mut'a* marriage on the day of the battle of Khaibar and he forbade the eating of donkey's meat." Some people said, "If one, by a tricky way, marries temporarily, his marriage is illegal." Others said, "The marriage is valid but its condition is illegal."

(5) CHAPTER. What tricks are disliked in bargains. One should not prevent others from watering their animals with the surplus of his water in order to prevent them from benefiting by the surplus grass.

6962. Narrated Abū Hurairah رَضِيَ اللهُ عَنْهُ: Allāh's Messenger ﷺ said, "One should not prevent others from watering their animals with the surplus of his water in order to prevent them from benefiting by the surplus of grass."

(6) CHAPTER. What is hated as regards *At-Tanājush*⁽¹⁾.

6963. Narrated Ibn 'Umar رَضِيَ اللهُ عَنْهُمَا: Allāh's Messenger ﷺ forbade the practice of *An-Najsh*⁽¹⁾.

(7) CHAPTER. What is forbidden as regards cheating in bargains.

يَحْيَى، عَنْ عُبَيْدِ اللَّهِ بْنِ عُمَرَ: حَدَّثَنَا الزُّهْرِيُّ، عَنْ الْحَسَنِ وَعَبْدِ اللَّهِ ابْنَيْ مُحَمَّدِ بْنِ عَلِيٍّ، عَنْ أَبِيهِمَا: أَنَّ عَلِيًّا رَضِيَ اللَّهُ عَنْهُ قِيلَ لَهُ: إِنَّ ابْنَ عَبَّاسٍ لَا يَرَى بِمَنْعَةِ النِّسَاءِ بَأْسًا. فَقَالَ: إِنَّ رَسُولَ اللَّهِ ﷺ نَهَى عَنْهَا يَوْمَ خَيْبَرَ، وَعَنْ لُحُومِ الحُمُرِ الْإِنْسِيَّةِ. وَقَالَ بَعْضُ النَّاسِ: إِنْ أَحْتَالَ حَتَّى تَمْتَعَ فَالْتَّكَاحُ فَاسِدٌ. وَقَالَ بَعْضُهُمْ: التَّكَاحُ جَائِزٌ وَالشَّرْطُ بَاطِلٌ. [راجع: ٤٢١٦]

(٥) بَابُ مَا يُكْرَهُ مِنَ الْاِحْتِيَالِ فِي الْبُيُوعِ، وَلَا يُمْنَعُ فَضْلُ الْمَاءِ لِيُمنَعَ بِهِ فَضْلُ الْكَلَالِ

٦٩٦٢ - حَدَّثَنَا إِسْمَاعِيلُ: حَدَّثَنِي مَالِكٌ، عَنْ أَبِي الزِّنَادِ، عَنِ الْأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: «لَا يُمْنَعُ فَضْلُ الْمَاءِ لِيُمنَعَ بِهِ فَضْلُ الْكَلَالِ». [راجع: ٢٣٥٣]

(٦) بَابُ مَا يُكْرَهُ مِنَ التَّنَاجُشِ

٦٩٦٣ - حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، عَنْ مَالِكٍ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ: أَنَّ رَسُولَ اللَّهِ ﷺ نَهَى عَنِ التَّنَجِشِ. [راجع: ٢١٤٢]

(٧) بَابُ مَا يُنْهَى مِنَ الْخِدَاعِ فِي الْبُيُوعِ،

(1) (Ch.6) *At-Tanājush* or *Najsh* means the trick of offering a very high price for a thing to allure somebody else to buy it although it is not worth such a high price.

Ayyūb said, “They cheat Allāh as if they were cheating a human being. It would be less repulsive for me if such people took openly what they take deceitfully.”

6964. Narrated ‘Abdullāh bin ‘Umar رضي الله عنهما: A man mentioned to the Prophet ﷺ that he had always been cheated in bargains. The Prophet ﷺ said, “Whenever you do bargain, say, ‘No cheating’.”

(8) CHAPTER. What is forbidden as regards the playing of tricks by the guardian of an attractive orphan-girl, and he does not pay her, her full *Mahr*.

6965. Narrated ‘Urwa that he asked ‘Āishah رضي الله عنها regarding the Verse:

“If you fear that you shall not be able to deal justly with the orphan-girls, then marry (other) women of your choice...” (V.4:3)

‘Āishah رضي الله عنها said, “It is about an orphan-girl under the custody of her guardian who being attracted by her wealth and beauty wants to marry her with *Mahr* less than other women of her status. So such guardians were forbidden to marry them unless they treat them justly by giving them their full *Mahr*. Then the people sought the verdict of Allāh’s Messenger ﷺ for such cases, whereupon Allāh revealed:

“They ask your legal instruction concerning women...” (V.4:127)

(The subnarrator then mentioned the *Hadīth*.)

(9) CHAPTER. If somebody kidnaps a slave-girl and then claims that she is dead whereupon he is obliged by law to pay the price of the dead slave-girl, but then her master finds her (alive), then she is for him

وَقَالَ أَيُّوبُ: يُخَادِعُونَ اللَّهَ كَأَنَّمَا يُخَادِعُونَ آدَمِيًّا، لَوْ أَتَوْا الْأَمْرَ عِيَانًا كَانَ أَهْوَنَ عَلَيَّ.

٦٩٦٤ - حَدَّثَنَا إِسْمَاعِيلُ: حَدَّثَنَا مَالِكٌ، عَنْ عَبْدِ اللَّهِ بْنِ دِينَارٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا: أَنَّ رَجُلًا ذَكَرَ لِلنَّبِيِّ ﷺ أَنَّهُ يُخَدَعُ فِي الْبُيُوعِ فَقَالَ: «إِذَا بَايَعْتَ فَقُلْ: لَا خِلَابَةَ». [راجع: ٢١١٧]

(٨) بَابُ مَا يُنْهَى عَنِ الْاِخْتِيَالِ لِلرَّجُلِ فِي الْبَيْعَةِ الْمَرْغُوبَةِ، وَأَنْ لَا يُكْمَلَ لَهَا صَدَاقُهَا

٦٩٦٥ - حَدَّثَنَا أَبُو الْيَمَانِ: حَدَّثَنَا شُعَيْبٌ، عَنِ الزُّهْرِيِّ قَالَ: كَانَ عُرْوَةُ يُحَدِّثُ أَنَّهُ سَأَلَ عَائِشَةَ «وَأِنْ خِفْتُمْ إِلَّا تَفْسِطُوا فِي الْيَدَيْنِ فَانْكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ» [النساء: ٣] قَالَتْ: هِيَ الْبَيْتِمَةُ فِي حَجَرٍ وَلَيْهَا فَيْرَعْبُ فِي مَالِهَا وَجَمَالِهَا فَيْرِيدُ أَنْ يَتَزَوَّجَهَا بِأَدْنَى مِنْ سِنَّةٍ نِسَائِهَا، فَتُهَوَّ عَنْ يَكَاحِجِهِنَّ إِلَّا أَنْ يُفْسِطُوا لَهُنَّ فِي إِكْمَالِ الصَّدَاقِ. ثُمَّ اسْتَفْتَى النَّاسُ رَسُولَ اللَّهِ ﷺ بَعْدَ، فَأَنْزَلَ اللَّهُ «وَسْتَفْتُونَكَ فِي النِّسَاءِ» [النساء: ١٢٧] فَذَكَرَ الْحَدِيثَ. [راجع: ٢٤٩٤]

(٩) بَابُ إِذَا غَصَبَ جَارِيَةً فَرَعَمَ أَنَّهَا مَاتَتْ، فَقَضِيَ بِقِيمَةِ الْجَارِيَةِ الْمَيِّتَةِ، ثُمَّ وَجَدَهَا صَاحِبِهَا فَهِيَ لَهُ،

and the money is to be returned and should not be regarded as a price.

Some people said, "The slave-girl is for the kidnapper because the previous master has taken the price." In this there is a trick for whoever desires the slave-girl of another man who refuses to sell her, so he kidnaps her and tells her master that she is dead and when her master takes her price, the kidnapper then has a legal right to have the slave-girl of somebody else. The Prophet ﷺ said, "(O Muslims!) Your properties are sacred to each other, and for every treacherous betrayer (perfidious person) there will be a flag (to expose him) on the Day of Resurrection."

6966. Narrated 'Abdullāh bin 'Umar رضي الله عنهما: The Prophet ﷺ said, "For every treacherous betrayer (perfidious person) there will be a flag by which he will be recognized on the Day of Resurrection."

[See *Hadith* No.7111].

(10) CHAPTER.

6967. Narrated Umm Salama رضي الله عنها: The Prophet ﷺ said, "I am only a human being, and you people have disputes. May be someone amongst you can present his case in a more eloquent and convincing manner than the other, and I give my judgement in his favour according to what I hear. Beware! If ever I give (by error) somebody something of his brother's right then he should not take it as I have only given him a piece of (Hell) Fire." (See Vol.3, *Hadith* No.2458)

(11) CHAPTER. (To play tricks) in marriage.

وَتُرَدُّ الْقِيَمَةُ، وَلَا تَكُونُ الْقِيَمَةُ ثَمَنًا،
وَقَالَ بَعْضُ النَّاسِ: الْجَارِيَةُ
لِلْغَاصِبِ لِأَخْذِهِ الْقِيَمَةَ مِنْهُ. وَفِي هَذَا
اِحْتِيَالٌ لِمَنْ اشْتَهَى جَارِيَةَ رَجُلٍ لَا
يَبِيعُهَا فَغَضِبَهَا وَاعْتَلَّ بِأَنَّهَا مَاتَتْ
حَتَّى يَأْخُذَ رَبُّهَا قِيَمَتَهَا فَتَطْيِبُ
لِلْغَاصِبِ جَارِيَةَ غَيْرِهِ. قَالَ النَّبِيُّ
ﷺ: «أَمْوَالُكُمْ عَلَيْكُمْ حَرَامٌ، وَلِكُلِّ
غَادِرٍ لَوَاءٌ يَوْمَ الْقِيَامَةِ».

٦٩٦٦ - حَدَّثَنَا أَبُو نَعِيمٍ: حَدَّثَنَا
سُفْيَانُ، عَنْ عَبْدِ اللَّهِ بْنِ دِينَارٍ، عَنْ
عَبْدِ اللَّهِ بْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا عَنِ
النَّبِيِّ ﷺ قَالَ: «لِكُلِّ غَادِرٍ لَوَاءٌ يَوْمَ
الْقِيَامَةِ يُعْرَفُ بِهِ». [راجع: ٣١٨٨]

(١٠) بَابُ:

٦٩٦٧ - حَدَّثَنَا مُحَمَّدُ بْنُ كَثِيرٍ،
عَنْ سُفْيَانَ، عَنْ هِشَامِ، عَنْ عُرْوَةَ،
عَنْ زَيْنَبِ ابْنَةِ أُمِّ سَلَمَةَ عَنْ أُمِّ سَلَمَةَ
عَنِ النَّبِيِّ ﷺ قَالَ: «إِنَّمَا أَنَا بَشَرٌ
وَإِنَّكُمْ تَخْتَصِمُونَ، وَلَعَلَّ بَعْضَكُمْ أَنْ
يَكُونَ أَلْحَنَ بِحُجَّتِهِ مِنْ بَعْضٍ،
وَأُقْضَى لَهُ عَلَى نَحْوِ مِمَّا أَسْمَعُ،
فَمَنْ قَضَيْتُ لَهُ مِنْ حَقِّ أَخِيهِ شَيْئًا فَلَا
يَأْخُذُ فَإِنَّمَا أَفْطَعُ لَهُ قِطْعَةً مِنَ النَّارِ».

[راجع: ٢٤٥٨]

(١١) بَابُ: فِي النِّكَاحِ

6968. Narrated Abū Hurairah عنه الله رضي: The Prophet ﷺ said, “A virgin should not be married till she is asked for her consent ; and the matron should not be married till she is asked whether she agrees to marry or not.” It was asked, “O Allāh’s Messenger! How will she (the virgin) express her consent?” He said, “By keeping silent.”

Some people said, “If a virgin is not asked for her consent and she is not married, and then a man, by playing a trick presents two false witnesses that he has married her with her consent and the judge confirms his marriage as a true one, and the husband knows that the witnesses were false ones, then there is no harm for him to consummate his marriage with her and the marriage is regarded as valid.”

٦٩٦٨ - حَدَّثَنَا مُسْلِمٌ بْنُ إِبرَاهِيمَ: حَدَّثَنَا هِشَامٌ: حَدَّثَنَا يَحْيَى بْنُ أَبِي كَثِيرٍ، عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «لَا تُنْكَحُ الْبِكْرُ حَتَّى تُسْتَأْذَنَ، وَلَا الشَّيْبُ حَتَّى تُسْتَأْمَرَ»، فَقِيلَ: يَا رَسُولَ اللَّهِ، كَيْفَ إِذْنُهَا؟ قَالَ: «إِذَا سَكَتَتْ». وَقَالَ بَعْضُ النَّاسِ: إِنْ لَمْ تُسْتَأْذَنِ الْبِكْرُ وَلَمْ تُزَوَّجْ فَاحْتَالَ رَجُلٌ فَأَقَامَ شَاهِدِينَ زُورًا أَنَّهُ تَزَوَّجَهَا بِرِضَاهَا، فَأَثَبَتِ الْقَاضِي نِكَاحَهَا، وَالزَّوْجُ يَعْلَمُ أَنَّ الشَّهَادَةَ بَاطِلَةٌ، فَلَا بَأْسَ أَنْ يَطَّأَهَا، وَهُوَ تَزْوِيجٌ صَحِيحٌ.

[راجع: ٥١٣٦]

6969. Narrated Al-Qāsim : A woman from the offspring of Ja'far was afraid lest her guardian marry her (to somebody) against her will. So she sent for two elderly men from the *Anṣār*, 'Abdur-Raḥmān and Mujammi', the two sons of Jāriya, and they said to her, “Don't be afraid, for *Khansā*' bint *Khidām* was given by her father in marriage against her will, then the Prophet ﷺ cancelled that marriage.”

[See *Hadūth* No.6945]

٦٩٦٩ - حَدَّثَنَا عَلِيُّ بْنُ عَبْدِ اللَّهِ: حَدَّثَنَا سُفْيَانُ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ، عَنِ الْقَاسِمِ: أَنَّ امْرَأَةً مِنْ وَلَدِ جَعْفَرٍ تَخَوَّفَتْ أَنْ يُزَوَّجَهَا وَلِيُّهَا وَهِيَ كَارِهَةٌ، فَأَرْسَلَتْ إِلَى شَيْخَيْنِ مِنَ الْأَنْصَارِ: عَبْدِ الرَّحْمَنِ وَمُجَمِّعِ ابْنِي جَارِيَةَ. قَالَا: فَلَا تَخْشَيْنِ فَإِنَّ خَنْسَاءَ بِنْتَ خِدَامٍ أَنْكَحَهَا أَبُوهَا وَهِيَ كَارِهَةٌ. فَرَدَّ النَّبِيُّ ﷺ ذَلِكَ. قَالَ سُفْيَانُ: وَأَمَّا عَبْدُ الرَّحْمَنِ فَسَمِعْتُهُ يَقُولُ عَنْ أَبِيهِ، إِنَّ خَنْسَاءَ.

[راجع: ٥١٣٨]

6970. Narrated Abū Hurairah عنه الله رضي: Allāh’s Messenger ﷺ said, “A lady-slave should not be given in marriage until she is

٦٩٧٠ - حَدَّثَنَا أَبُو نُعَيْمٍ: حَدَّثَنَا شَيْبَانُ، عَنْ يَحْيَى، عَنْ أَبِي سَلَمَةَ،

consulted, and a virgin should not be given in marriage until her permission is taken." The people said, "How will she express her permission?" The Prophet ﷺ said, "By keeping silent (when asked her consent)."

Some people said, "If a man, by playing a trick, presents two false witnesses before the judge to testify that he has married a matron with her consent and the judge confirms his marriage, and the husband is sure that he has never married her (before), then such a marriage will be considered as a legal one and he may live with her as a husband."

عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «لَا تُنْكِحُ الْاَيِّمُ حَتَّى تُسْتَأْمَرَ، وَلَا تُنْكِحُ الْبِكْرُ حَتَّى تُسْتَأْذَنَ»، قَالُوا: كَيْفَ إِذْنُهَا؟ قَالَ: «أَنْ تَسْكُتَ». وَقَالَ بَعْضُ النَّاسِ: إِنْ اِحْتَالَ إِنْسَانٌ بِشَاهِدِي زُورٍ عَلَى تَزْوِيجِ امْرَأَةٍ تَيْبٍ بِأَمْرِهَا، فَأُثِّبَتِ الْقَاضِي نِكَاحَهَا إِيَّاهُ، وَالزَّوْجُ يَعْلَمُ أَنَّهُ لَمْ يَتَزَوَّجَهَا قَطُّ، فَإِنَّهُ يَسَعُهُ هَذَا النِّكَاحُ، وَلَا بَأْسَ بِالْمُقَامِ لَهُ مَعَهَا. [راجع: ٥١٣٦]

6971. Narrated 'Aishah رضي الله عنها: Allāh's Messenger ﷺ said, "It is essential to have the consent of a virgin (for the marriage). I said, "A virgin feels shy (how will she give her consent)." The Prophet ﷺ said, "Her silence means her consent."

Some people said, "If a man falls in love with an orphan slave-girl or a virgin and she refuses (to marry him) and then he plays a trick by bringing two false witnesses to testify that he has married her, and then she attains the age of puberty and agrees to marry him and the judge accepts the false witness and the husband knows that the witnesses were false ones, he may consummate his marriage."

٦٩٧١ - حَدَّثَنَا أَبُو عَاصِمٍ، عَنِ ابْنِ جُرَيْجٍ، عَنِ ابْنِ أَبِي مُلَيْكَةَ، عَنِ ذَكْوَانَ، عَنِ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا قَالَتْ: قَالَ رَسُولُ اللَّهِ ﷺ: «الْبِكْرُ سُتْأَذَنُ»، قُلْتُ: إِنَّ الْبِكْرَ تَسْتَجِي؟ قَالَ: «إِذْنُهَا صُمَاتُهَا». وَقَالَ بَعْضُ النَّاسِ: إِنْ هَوِيَ إِنْسَانٌ جَارِيَةَ يَتِيمَةٍ أَوْ بَكْرًا فَأُثِّبَتِ فَاحْتَالَ فَجَاءَ بِشَاهِدِي زُورٍ عَلَى أَنَّهُ تَزَوَّجَهَا فَأُذِرَكَتِ فَرَضِيَتِ الْيَتِيمَةَ. فَقَبِلَ الْقَاضِي بِشَهَادَةِ الزُّورِ، وَالزَّوْجُ يَعْلَمُ بِبُطْلَانِ ذَلِكَ: حَلَّ لَهُ الْوَطْءُ. [راجع: ٥١٣٧]

(12) CHAPTER. What is hated regarding the trick played by a woman with her husband and the other wives of her husband and what was revealed to the Prophet ﷺ in this respect.

(١٢) بَابُ مَا يُكْرَهُ مِنَ اِحْتِيَالِ الْمَرْأَةِ مَعَ الزَّوْجِ وَالضَّرَائِرِ، وَمَا نَزَلَ عَلَى النَّبِيِّ ﷺ فِي ذَلِكَ

6972. Narrated 'Aishah رضي الله عنها: Allāh's Messenger ﷺ used to like sweet

٦٩٧٢ - حَدَّثَنَا عُبَيْدُ اللَّهِ بْنُ

edible things and also used to like honey, and whenever he finished the 'Asr prayer, he used to visit his wives and stay with them. Once, he visited Ḥaḥḥa and remained with her longer than the period he used to stay, so I enquired about it. It was said to me, "A woman from her tribe gave her a leather-skin containing honey as a present, and she gave some of it to Allāh's Messenger ﷺ to drink." I said, "By Allāh, we will play a trick on him." So I mentioned the story to Sauda (the wife of the Prophet ﷺ) and said to her, "When he enters upon you, he will come near to you whereupon you should say to him, 'O Allāh's Messenger! Have you eaten *Maghāfir*?⁽¹⁾ He will say, 'No.' Then you say to him, 'What is this bad smell?' And it would be very hard on Allāh's Messenger ﷺ that a bad smell should be found on his body. He will say, 'Ḥaḥḥa has given me a drink of honey.' Then you should say to him, 'Its bees must have sucked from the *Al-Urfuḥ* (a foul smelling flower).' I too, will tell him the same. And you, O Ṣaḥīyya, say the same."

So when the Prophet ﷺ entered upon Sauda. Sauda said, "By Him except Whom none has the right to be worshipped, I was about to say to him what you had told me to say while he was still at the gate, because of fear from you. But when Allāh's Messenger ﷺ came near to me, I said to him, 'O Allāh's Messenger! Have you eaten *Maghāfir*?' He replied, 'No.' I said, 'What about this smell?' He said, 'Ḥaḥḥa has given me a drink of honey.' I said, 'Its bees must have sucked *Al-Urfuḥ* from'." When he entered upon me, I told him the same and when he entered upon Ṣaḥīyya, she, too, told him the same. So when he visited Ḥaḥḥa again, she said to him, "O Allāh's Messenger! Shall I give you a

إسماعيل: حَدَّثَنَا أَبُو أُسَامَةَ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ قَالَتْ: كَانَ رَسُولُ اللَّهِ ﷺ يُحِبُّ الْحَلْوَاءَ، وَيُحِبُّ الْعَسَلَ، وَكَانَ إِذَا صَلَّى الْعَصْرَ أَجَارَ عَلَى نِسَائِهِ فَيَدْنُو مِنْهُنَّ، فَدَخَلَ عَلَى حَفْصَةَ، فَاحْتَبَسَ عِنْدَهَا أَكْثَرَ مِمَّا كَانَ يَحْتَبِسُ، فَسَأَلْتُ عَنْ ذَلِكَ، فَقِيلَ لِي: أَهَدَّتْ لَهَا امْرَأَةٌ مِنْ قَوْمِهَا عُكَّةَ عَسَلٍ فَسَقَّتْ رَسُولَ اللَّهِ ﷺ مِنْهُ شَرْبَةً، فَقُلْتُ: أَمَا وَاللَّهِ لَنَحْتَالَنَّ لَهُ، فَذَكَرْتُ ذَلِكَ لِسُودَةَ. وَقُلْتُ لَهَا: إِذَا دَخَلَ عَلَيْكَ فَإِنَّهُ سَيَدْنُو مِنْكَ، فَقُولِي لَهُ: يَا رَسُولَ اللَّهِ، أَكَلْتُ مَغَافِيرَ؟ فَإِنَّهُ سَيَقُولُ: لَا، فَقُولِي لَهُ: مَا هَذِهِ الرَّيْحُ؟ وَكَانَ رَسُولُ اللَّهِ ﷺ يَشْتَدُّ عَلَيْهِ أَنْ يُوجَدَ مِنْهُ الرَّيْحُ، فَإِنَّهُ سَيَقُولُ: سَقَّتْنِي حَفْصَةُ شَرْبَةَ عَسَلٍ، فَقُولِي لَهُ: جَرَسَتْ نَحْلُهُ الْعَرْفُطُ، وَسَاقُولُ ذَلِكَ، وَقُولِي أَنْتِ يَا صَفِيَّةُ. فَلَمَّا دَخَلَ عَلَى سُودَةَ قُلْتُ: تَقُولُ سُودَةُ: وَالَّذِي لَا إِلَهَ إِلَّا هُوَ لَقَدْ كِدْتُ أَنْ أَبَادِيَهُ بِالَّذِي قُلْتَ لِي وَإِنَّ لَعَلِي الْبَابَ قَرَفًا مِنْكَ، فَلَمَّا دَنَا رَسُولُ اللَّهِ ﷺ قُلْتُ لَهُ: يَا رَسُولَ اللَّهِ، أَكَلْتُ مَغَافِيرَ؟ قَالَ: «لَا». قُلْتُ: فَمَا هَذِهِ الرَّيْحُ؟ قَالَ: «سَقَّتْنِي حَفْصَةُ شَرْبَةَ

(1) (H.6972) *Maghāfir* is a bad smelling resin of a tree.

drink of it (honey)?" He said, "I have no desire for it." Sauda said, "*Subhān Allāh!* We have deprived him of it (honey)." I said to her, "Be quiet!"

عَسَلٌ»، قُلْتُ: جَرَسَتْ نَحْلُهُ
الْعُرْفُطُ. فَلَمَّا دَخَلَ عَلَيَّ قُلْتُ لَهُ مِثْلَ
ذَلِكَ، وَدَخَلَ عَلَيَّ صَفِيَّةٌ فَقَالَتْ لَهُ
مِثْلَ ذَلِكَ. فَلَمَّا دَخَلَ عَلَيَّ حَفْصَةُ
قَالَتْ لَهُ: يَا رَسُولَ اللَّهِ، أَلَا أَسْمِيكَ
مِنْهُ؟ قَالَ: «لَا حَاجَةَ لِي بِهِ»، قَالَتْ:
تَقُولُ سَوْدَةٌ: سُبْحَانَ اللَّهِ لَقَدْ حَرَمْنَا،
قَالَتْ: قُلْتُ لَهَا: اسْكُتِي.

[راجع: ٤٩١٢]

(13) CHAPTER. What is hated as regards playing tricks in order to run away from the disease of plague.

6973. Narrated 'Abdullāh bin 'Āmir bin Rabī'a: 'Umar bin Al-Khattāb left for Shām, and when he reached a place called Sargh, he came to know that there was an outbreak of an epidemic (of plague) in Shām. Then 'Abdur-Rahmān bin 'Auf told him that Allāh's Messenger ﷺ said, "If you hear the news of an outbreak of an epidemic (plague) in a certain place, do not enter that place; and if the epidemic (plague) breaks out in a place while you are present in it, do not leave that place to escape from the epidemic." So 'Umar returned from Sargh.

(١٣) بَابُ مَا يُكْرَهُ مِنَ الْاِحْتِيَالِ فِي
الْفِرَارِ مِنَ الطَّاعُونِ

٦٩٧٣ - حَدَّثَنَا عَبْدُ اللَّهِ بْنُ
مَسْلَمَةَ، عَنِ مَالِكٍ، عَنِ ابْنِ شِهَابٍ،
عَنْ عَبْدِ اللَّهِ بْنِ عَامِرِ بْنِ رَبِيعَةَ: أَنَّ
عُمَرَ بْنَ الْخَطَّابِ خَرَجَ إِلَى الشَّامِ،
فَلَمَّا جَاءَ بِسَرِغٍ بَلَغَهُ أَنَّ الْوَبَاءَ وَقَعَ
بِالشَّامِ، فَأَخْبَرَهُ عَبْدُ الرَّحْمَنِ بْنُ
عَوْفٍ أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: «إِذَا
سَمِعْتُمْ بِهِ بِأَرْضٍ فَلَا تَقْدُمُوا عَلَيْهَا،
وَإِذَا وَقَعَ بِأَرْضٍ وَأَنْتُمْ بِهَا فَلَا
تَخْرُجُوا فِرَارًا مِنْهُ». فَرَجَعَ عُمَرُ مِنْ
سَرِغٍ. [راجع: ٥٧٢٩]

وَعَنِ ابْنِ شِهَابٍ، عَنِ سَالِمِ بْنِ
عَبْدِ اللَّهِ أَنَّ عُمَرَ إِذَا انْصَرَفَ مِنْ
حَدِيثِ عَبْدِ الرَّحْمَنِ.

6974. Narrated 'Āmir bin Sa'd bin Abī Waqqāsh that he heard Usāma bin Zaid speaking to Sa'd, saying, "Allāh's Messenger ﷺ mentioned the plague and said, 'It is a means of punishment with which

٦٩٧٤ - حَدَّثَنَا أَبُو الْيَمَانِ:
حَدَّثَنَا شُعَيْبٌ، عَنِ الزُّهْرِيِّ: حَدَّثَنَا
عَامِرُ بْنُ سَعْدِ بْنِ أَبِي وَقَّاصٍ أَنَّهُ

some nations were punished and some of it has remained, and it appears now and then. So whoever hears that there is an outbreak of plague in some land, he should not go to that land, and if the plague breaks out in the land where one is already present, one should not leave that land, to escape from it (plague).

سَمِعَ أَسَامَةَ بْنَ زَيْدٍ يُحَدِّثُ سَعْدًا: أَنَّ رَسُولَ اللَّهِ ﷺ ذَكَرَ الْوَجَعَ فَقَالَ: «رَجِزٌ أَوْ عَذَابٌ عُذِّبَ بِهِ بَعْضُ الْأُمَمِ ثُمَّ بَقِيَ مِنْهُ بَقِيَّةٌ فَيَذْهَبُ الْمَرَّةَ وَيَأْتِي الْأُخْرَى. فَمَنْ سَمِعَ بِهِ بِأَرْضٍ فَلَا يُقْدِمَنَّ عَلَيْهِ، وَمَنْ كَانَ بِأَرْضٍ وَقَعَ بِهَا فَلَا يَخْرُجُ فِرَارًا مِنْهُ».

[راجع: ٣٤٧٣]

(14) CHAPTER. (Tricks played in cases of gift-giving and pre-emption.

(١٤) بَابُ: فِي الْهَبَةِ وَالشُّفْعَةِ،

And some people said, "If some person gave to another person one hundred Dirham or more as a gift and then that amount remained with the latter for years, and then the former took it back from the latter by means of a trick, then neither of the two persons would have to pay *Zakāt* (of that amount). In this case the giver has gone against the orders of Allāh's Messenger ﷺ as regards (the taking back of) the gift, but he has rendered the payment of *Zakāt* unnecessary.

وَقَالَ بَعْضُ النَّاسِ: إِنْ وَهَبَ هِبَةً أَلْفَ دِرْهَمٍ أَوْ أَكْثَرَ حَتَّى مَكَثَ عِنْدَهُ سِنِينَ وَأَحْتَالَ فِي ذَلِكَ ثُمَّ رَجَعَ الْوَاهِبُ فِيهَا، فَلَا زَكَاةَ عَلَى وَاحِدٍ مِنْهُمَا. فَخَالَفَ الرَّسُولَ ﷺ فِي الْهَبَةِ وَأَسَقَطَ الزَّكَاةَ.

6975. Narrated Ibn 'Abbās رضي الله عنهما: The Prophet ﷺ said, "The one who takes back his gift is like a dog swallowing its own vomit, and we (believers) should not act according to this bad example."

٦٩٧٥ - حَدَّثَنَا أَبُو نَعِيمٍ: حَدَّثَنَا سُفْيَانُ، عَنْ أَيُّوبَ، عَنْ عِكْرِمَةَ، عَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا قَالَ: قَالَ النَّبِيُّ ﷺ: «الْعَائِدُ فِي هِبَتِهِ كَالْكَلْبِ يَعُودُ فِي قَيْئِهِ، لَيْسَ لَنَا مَثَلُ السَّوِّءِ».

[راجع: ٢٥٨٩]

6976. Narrated Jābir bin 'Abdullāh: The Prophet ﷺ has decreed that pre-emption is valid in all cases where the real estate concerned has not been divided, but if the boundaries are established and the ways are made, then there is no pre-emption. A man

٦٩٧٦ - حَدَّثَنَا عَبْدُ اللَّهِ بْنُ مُحَمَّدٍ: حَدَّثَنَا هِشَامُ بْنُ يُوسُفَ: أَخْبَرَنَا مَعْمَرٌ، عَنِ الزُّهْرِيِّ، عَنْ أَبِي سَلَمَةَ، عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ قَالَ:

said, "Pre-emption is only for the neighbour," and then he makes invalid what he has confirmed. He said, "If someone wants to buy a house and being afraid that the neighbour (of the house) may buy it through preemption, he buys one share out of one hundred shares of the house and then buys the rest of the house, then the neighbour can only have the right of pre-emption for the first share but not for the rest of the house; and the buyer may play such a trick in this case."

إِنَّمَا جَعَلَ النَّبِيُّ ﷺ الشُّفْعَةَ فِي كُلِّ مَا لَمْ يُقَسِّمْ، فَإِذَا وَقَعَتِ الْحُدُودُ وَصُرِّفَتِ الطَّرُقُ فَلَا شُفْعَةَ.

وقال بعض الناس: الشُّفْعَةُ لِلجَّوَارِ، ثُمَّ عَمَدَ إِلَى مَا شَدَّدَهُ فَأَبْطَلَهُ. وَقَالَ: إِنْ اشْتَرَى دَارًا فَخَافَ أَنْ يَأْخُذَهَا الْجَارُ بِالشُّفْعَةِ فَاشْتَرَى سَهْمًا مِنْ مِائَةِ سَهْمٍ، ثُمَّ اشْتَرَى الْبَاقِي، وَكَانَ لِلجَّارِ الشُّفْعَةُ فِي السَّهْمِ الْأَوَّلِ وَلَا شُفْعَةَ لَهُ فِي بَاقِي الدَّارِ، وَلَهُ أَنْ يَحْتَالَ فِي ذَلِكَ.

[راجع: ٢٢١٣]

6977. Narrated 'Amr bin Ash-Sharīd: Al-Miswar bin Makhrama came and put his hand on my shoulder and I accompanied him to Sa'd. Abū Rāfi' said to Al-Miswar, "Won't you order this (i.e., Sa'd) to buy my house which is in my yard?" Sa'd said, "I will not offer more than four hundred in instalments over a fixed period." Abū Rāfi' said, "I was offered five hundred cash but I refused. Had I not heard the Prophet ﷺ saying, 'A neighbour is more entitled to receive the care of his neighbour,' I would not have sold it to you." The narrator said to Sufyān: Ma'mar did not say so. Sufyān said, "But he did say so to me."

٦٩٧٧ - حَدَّثَنَا عَلِيُّ بْنُ عَبْدِ اللَّهِ: حَدَّثَنَا سُفْيَانُ، عَنْ إِبْرَاهِيمَ بْنِ مَيْسَرَةَ قَالَ: سَمِعْتُ عَمْرُو بْنَ الشَّرِيدِ قَالَ: جَاءَ الْمَسُورُ بْنُ مَخْرَمَةَ فَوَضَعَ يَدَهُ عَلَى مَنْكِبِي فَاَنْطَلَقْتُ مَعَهُ إِلَى سَعْدٍ، فَقَالَ أَبُو رَافِعٍ لِلْمَسُورِ: أَلَا تَأْمُرُ هَذَا أَنْ يَشْتَرِيَ مِنِّي بَيْتِي الَّذِي فِي دَارِي؟ فَقَالَ: لَا أَزِيدُهُ عَلَى أَرْبَعِمِائَةٍ، إِمَّا مُقَطَّعَةً وَإِمَّا مُنَجَّمَةً. قَالَ: أُعْطِيتُ خَمْسِمِائَةَ نَقْدًا فَمَنَعْتُهُ، وَلَوْلَا أَنِّي سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ: «الْجَارُ أَحَقُّ بِسَقْبِهِ» مَا بَعَثْتُهُ أَوْ قَالَ: مَا أُعْطِيتُكَهُ. قُلْتُ لِسُفْيَانَ: إِنَّ مَعْمَرًا لَمْ يَقُلْ هَكَذَا، قَالَ: لِكَيْتَهُ قَالَهُ لِي هَكَذَا. وَقَالَ بَعْضُ النَّاسِ: إِذَا أَرَادَ أَنْ يَبِيعَ الشُّفْعَةَ فَلَهُ أَنْ يَحْتَالَ

Some people said, "If someone wants to sell a house and deprived somebody of the right of pre-emption, he has the right to play a trick to render the pre-emption invalid. And that is by giving the house to the buyer as a present and marking its boundaries and giving it to him. The buyer then gives the seller one-thousand Dirham as compensation in which case the pre-emptor

loses his right of pre-emption.”

حَتَّى يُبْطَلَ الشُّفْعَةَ. فَيَهَبُ الْبَائِعُ
لِلْمُشْتَرِي الدَّارَ وَيَحْدُثُهَا وَيَذْفَعُهَا
إِلَيْهِ. وَيُعَوِّضُهُ الْمُشْتَرِي أَلْفَ دِرْهَمٍ،
فَلَا يَكُونُ لِلشَّفِيعِ فِيهَا شُفْعَةٌ.

[راجع: ٢٢٥٨]

6978. Narrated ‘Amr bin Ash-Sharid: Abū Rāfi‘ said that Sa’d offered him four hundred *Mithqāl* of gold for a house. Abū Rāfi‘ said, “If I had not heard Allāh’s Messenger ﷺ saying, ‘A neighbour has more right to be taken care of by his neighbour,’ then I would not have given it to you.” Some people said, “If one has bought a portion of a house and wants to cancel the right of preemption, he may give it as a present to his little son and he will not be obliged to take an oath.”

٦٩٧٨ - حَدَّثَنَا مُحَمَّدُ بْنُ
يُوسُفَ: حَدَّثَنَا سُفْيَانُ، عَنْ إِبْرَاهِيمَ
بْنِ مَيْسَرَةَ، عَنْ عَمْرِو بْنِ الشَّرِيدِ،
عَنْ أَبِي رَافِعٍ: أَنَّ سَعْدًا سَاوَمَهُ بَيْتًا
بِأَرْبَعِمِائَةٍ مِثْقَالٍ، فَقَالَ: لَوْلَا أَنِّي
سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ: «الْجَارُ
أَحَقُّ بِسَقَمِهِ لَمَّا أُعْطِيَتْكَهُ.

وَقَالَ بَعْضُ النَّاسِ: إِنْ اشْتَرَى
نَصِيبَ دَارٍ فَأَرَادَ أَنْ يُبْطَلَ الشُّفْعَةَ
وَهَبَ مَا اشْتَرَاهُ لِابْنِهِ الصَّغِيرِ، وَلَا
يَكُونُ عَلَيْهِ يَمِينٌ. [راجع: ٢٢٥٨]

(15) CHAPTER. The playing of tricks by an official person in order to obtain presents.

6979. Narrated Abū Ḥumaid As-Sā’idī: Allāh’s Messenger ﷺ appointed a man called Ibn Al-Lutabiya to collect the *Zakāt* from Banī Sulaim’s tribe. When he returned, the Prophet ﷺ called him to account. He said (to the Prophet ﷺ), “This is your money (collected from *Zakāt*), and this has been given to me as a gift.” On that, Allāh’s Messenger ﷺ said, “Why didn’t you stay in your father’s and mother’s house to see whether you will be given gifts or not if you are telling the truth?” Then the Prophet ﷺ addressed us, and after praising and glorifying Allāh, he said, “ ‘*Ammā Ba’dū*, I employ a man from among you to manage

٦٩٧٩ - حَدَّثَنَا عُبَيْدُ بْنُ
إِسْمَاعِيلَ: حَدَّثَنَا أَبُو أُسَامَةَ، عَنْ
هِشَامِ، عَنْ أَبِيهِ، عَنْ أَبِي حُمَيْدِ
السَّاعِدِيِّ قَالَ: اسْتَعْمَلَ رَسُولُ اللَّهِ
ﷺ رَجُلًا عَلَى صَدَقَاتِ بَنِي سُلَيْمٍ.
يُدْعَى ابْنُ اللَّتْبِيَّةِ. فَلَمَّا جَاءَ حَاسِبُهُ
قَالَ: هَذَا مَا لَكُمْ وَهَذَا هَدِيَّةٌ. فَقَالَ
رَسُولُ اللَّهِ ﷺ: «فَهَلَّا جَلَسْتَ فِي
بَيْتِ أَبِيكَ وَأُمِّكَ حَتَّى تَأْتِيَكَ هَدِيَّتُكَ
إِنْ كُنْتَ صَادِقًا؟» ثُمَّ حَظَبْنَا فَحَمِدَ

some affair of what Allāh has put under my custody, and then he comes to me and says, 'This is your money, and this has been given to me as a gift.' Why didn't he stay in his father's and mother's home to see whether he will be given gifts or not? By Allāh, not anyone of you takes a thing unlawfully but he will meet Allāh on the Day of Resurrection, carrying that thing. I do not want to see any of you carrying a grunting camel or a mooring cow or a bleating sheep on meeting Allāh." Then the Prophet ﷺ raised both his hands till the whiteness of his armpits became visible, and he said, "O Allāh! Haven't I conveyed (Your Message)?"

The narrator added: My eyes witnessed and my ears heard (that *Hadīth*).

اللَّهِ وَأَتْنَى عَلَيْهِ ثُمَّ قَالَ: «أَمَا بَعْدُ فَإِنِّي أَسْتَعْمِلُ الرَّجُلَ مِنْكُمْ عَلَى الْعَمَلِ مِمَّا وَلَا يَنِي اللَّهُ فَإِنِّي يَقُولُ: هَذَا مَالِكُمْ وَهَذَا هَدِيَّةٌ أُهْدِيَتْ لِي. أَفَلَا جَلَسَ فِي بَيْتِ أَبِيهِ وَأَمَرَ حَتَّى تَأْتِيَهُ هَدِيَّتُهُ؟ وَاللَّهِ لَا يَأْخُذُ أَحَدٌ مِنْكُمْ شَيْئًا بِغَيْرِ حَقِّهِ إِلَّا لَقِيَ اللَّهَ يَحْمِلُهُ يَوْمَ الْقِيَامَةِ، فَلَا عُرْفَانَ أَحَدًا مِنْكُمْ لَقِيَ اللَّهَ يَحْمِلُ بَعِيرًا لَهُ رُغَاءٌ، أَوْ بَقْرَةً لَهَا خُوَارٌ، أَوْ شَاةً تَيْعُرُ». ثُمَّ رَفَعَ يَدَيْهِ حَتَّى رَأَى بَيَاضَ إِبْطِهِ، يَقُولُ: «اللَّهُمَّ هَلْ بَلَغْتُ؟» بَصُرَ عَيْنِي وَسَمِعَ أُذُنِي.

[راجع: ٩٢٥]

6980. Narrated Abū Rāfi‘: The Prophet ﷺ said, "The neighbour has more right to be taken care of by his neighbour (than anyone else)." Some men said, "If one wants to buy a house for 20,000 Dirham then there is no harm to play a trick to deprive somebody of pre-emption by buying it (just on paper) with 20,000 Dirham but paying to the seller only 9,999 Dirham in cash and then agree with the seller to pay only one Dīnār in cash for the rest of the price (i.e., 10,001 Dirham). If the pre-emptor offers 20,000 Dirham for the house, he can buy it otherwise he has no right to buy it (by this trick he got out of pre-emption). If the house proves to belong to somebody else other than the seller, the buyer should take back from the seller what he has paid, i.e., 9,999 Dirham and one Dīnār, because if the house proves to belong to somebody else, so the whole bargain (deal) is unlawful. If the buyer finds a defect in the house and it does not belong to somebody other than the seller, the buyer

٦٩٨٠ - حَدَّثَنَا أَبُو نَعِيمٍ: حَدَّثَنَا سُفْيَانُ، عَنْ إِبْرَاهِيمَ بْنِ مَيْسَرَةَ، عَنْ عَمْرِو بْنِ الشَّرِيدِ، عَنْ أَبِي رَافِعٍ قَالَ: قَالَ لَنَا النَّبِيُّ ﷺ: «الْجَارُ أَحَقُّ بِسَقْبِهِ». وَقَالَ بَعْضُ النَّاسِ: إِنْ اشْتَرَى دَارًا بِعِشْرِينَ أَلْفَ دِرْهَمٍ فَلَا بَأْسَ أَنْ يَحْتَالَ حَتَّى يَشْتَرِيَ الدَّارَ بِعِشْرِينَ أَلْفَ دِرْهَمٍ وَيَتَّقُدَّهُ تِسْعَةَ أَلْفِ دِرْهَمٍ وَيَسْعَمَائَةَ دِرْهَمٍ وَتِسْعَةَ وَتِسْعِينَ، وَيَتَّقُدَّهُ دِينَارًا بِمَا بَقِيَ مِنَ الْعِشْرِينَ أَلْفَ. فَإِنْ طَلَبَ الشَّفِيعُ أَحَدَهَا بِعِشْرِينَ أَلْفَ دِرْهَمٍ وَإِلَّا فَلَا سَبِيلَ لَهُ عَلَى الدَّارِ، فَإِنْ اسْتُحْتَبَتِ الدَّارُ رَجَعَ الْمُشْتَرِي عَلَى الْبَائِعِ بِمَا دَفَعَ إِلَيْهِ وَهُوَ تِسْعَةُ أَلْفِ دِرْهَمٍ.

may return it and receive 20,000 Dirham (instead of 9,999 Dirham plus one Dīnār) which he actually paid.” Abū ‘Abdullāh said, “So that man allows (some people) the playing of tricks amongst the Muslims (although) the Prophet ﷺ said, ‘In dealing with Muslims one should not sell them sick (animals) or bad things or stolen things’.”

وَسُعْمَانِيَّةٍ وَتِسْعَةَ وَتِسْعُونَ دِرْهَمًا
وَدِينَارًا، لِأَنَّ الْبَيْعَ حِينَ اسْتُحِقَّ
انْتَقَضَ الصَّرْفُ فِي الدَّارِ، فَإِنْ وَجَدَ
بِهَذِهِ الدَّارِ عَيْبًا وَلَمْ تُسْتَحَقَّ فَإِنَّهُ
يُرُدُّهَا عَلَيْهِ بَعِشْرِينَ أَلْفًا. قَالَ: فَاجَارَ
هَذَا الْخِدَاعَ بَيْنَ الْمُسْلِمِينَ، قَالَ:
قَالَ النَّبِيُّ ﷺ: «بَيْعُ الْمُسْلِمِ لَا دَاءَ
وَلَا خِيئَةَ وَلَا غَائِلَةَ». [راجع: ٢٢٥٨]

6981. Narrated ‘Amr bin Ash-Sharīd: Abū Rāfi‘ sold a house to Sa’d bin Mālik for four hundred *Mithqāl* of gold, and said, “If I had not heard the Prophet ﷺ saying, ‘The neighbour has more right to be taken care of by his neighbour (than anyone else),’ then I would not have sold it to you.”

٦٩٨١ - حَدَّثَنَا مُسَدَّدٌ: حَدَّثَنَا
يَحْيَى، عَنْ سُفْيَانَ: حَدَّثَنِي إِبْرَاهِيمُ
بْنُ مَيْسَرَةَ، عَنْ عَمْرِو بْنِ الشَّرِيدِ: أَنَّ
أَبَا رَافِعٍ سَاوَمَ سَعْدَ بْنَ مَالِكٍ بَيْتًا
بِأَرْبَعِمِائَةِ مِثْقَالٍ، قَالَ: وَقَالَ: لَوْلَا
أَنِّي سَمِعْتُ النَّبِيَّ ﷺ يَقُولُ: «الْجَارُ
أَحَقُّ بِسَقْبِهِ» مَا أُعْطَيْتُكَ. [راجع: