

In the Name of Allāh,  
the Merciful, the Beneficent

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

## 12. The Chapters On Business From The Messenger of Allāh ﷺ

(المعجم ١٢) - أَبْوَابُ النُّبُوعِ  
عَنْ رَسُولِ اللَّهِ ﷺ (التحفة ١٠)

### Chapter 1. What Has Been Related About Matters That Are Not Clear

(المعجم ١) - بَابُ مَا جَاءَ فِي تَرْكِ الشُّبُهَاتِ (التحفة ١)

1205. An-Nu'mān bin Bashīr narrated that the Messenger of Allāh ﷺ said: "The lawful is clear and the unlawful is clear, and between that are matters that are doubtful (not clear); many of the people do not know whether it is lawful or unlawful. So whoever leaves it to protect his religion and his honor, then he will be safe, and whoever falls into something from them, then he soon will have fallen into the unlawful. Just like if someone grazes (his animals) around a sanctuary, he would soon wind up in it. Indeed for every king is a sanctuary (pasture), and indeed Allāh's sanctuary is what He made unlawful." (*Sahīh*)

١٢٠٥ - حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ: حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ عَنْ مُجَالِدٍ، عَنِ الشَّعْبِيِّ، عَنِ الثُّعْمَانَ بْنِ بَشِيرٍ قَالَ: سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ: «الْحَلَالُ بَيِّنٌ وَالْحَرَامُ بَيِّنٌ، وَبَيْنَ ذَلِكَ أُمُورٌ مُشْتَبِهَاتٌ، لَا يَدْرِي كَثِيرٌ مِنَ النَّاسِ أَمِنَ الْحَلَالِ هِيَ أَمْ مِنَ الْحَرَامِ، فَمَنْ تَرَكَهَا، اسْتَبْرَأَ لِدِينِهِ وَعِزُّهُ فَقَدْ سَلِمَ، وَمَنْ وَقَعَ شَيْئًا مِنْهَا، يُوشِكُ أَنْ يُوَاقِعَ الْحَرَامَ، كَمَا أَنَّهُ مَنْ يَرْعَى حَوْلَ الْحِمَى، يُوشِكُ أَنْ يُوَاقِعَهُ، أَلَا وَإِنَّ لِكُلِّ مَلِكٍ حِمَى، أَلَا وَإِنَّ حِمَى اللَّهِ مَحَارِمُهُ».

(Another chain of narration) from the Prophet ﷺ, and its meaning is similar.

حَدَّثَنَا هَنَادٌ: حَدَّثَنَا وَكِيعٌ عَنْ زَكَرِيَّا بْنِ أَبِي زَائِدَةَ، عَنِ الشَّعْبِيِّ، عَنِ الثُّعْمَانَ بْنِ بَشِيرٍ عَنِ النَّبِيِّ ﷺ، نَحْوَهُ بِمَعْنَاهُ.

Abū 'Eīsā said: This *Hadīth* is *Hasan Sahīh*, it has been reported by more than one from Ash-Sha'bi, from An-Nu'mān bin Bashīr.

قَالَ أَبُو عِيسَى: هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، وَقَدْ رَوَاهُ غَيْرُ وَاحِدٍ، عَنِ الشَّعْبِيِّ، عَنِ الثُّعْمَانَ بْنِ بَشِيرٍ.

تخريج: [صحيح] وأخرجه أحمد: ٢٦٩/٤ من حديث مجالد به، وأخرجه البخاري، ح: ٥٢ ومسلم، ح: ١٥٩٩ من حديث الشعبي به.

**Comments:**

Pastures are green and full of grass and there is temptation for the animals in it. It is duty of the shepherd to stop the animals from going into the pastures if the owner of the pasture has prohibited grazing the animals in it. If the animals enter the pasture the shepherd will have to bear the punishment as prescribed. Similarly Allāh has declared the unlawfulness of certain things, and whoever goes near them may be tempted by their attraction, and may knowingly or unknowingly commit the sin. So, it is recommended to avoid the doubtful things. It is also recommended to avoid the stimulating factors which lead to sinful actions.

**Chapter 2. What Has Been Related About Consuming *Ribā***

**1206.** Ibn Mas‘ūd narrated: “The Messenger of Allāh ﷺ cursed the one who consumed *Ribā*, and the one who charged it, those who witnessed it, and the one who recorded it.” (*Hasan*)

[He said:] There are narrations on this topic from ‘Umar, ‘Alī, Jābir [and Abū Juhaifah].

The *Hadīth* of ‘Abdullāh (bin Mas‘ūd) is a *Hasan Saḥīḥ Hadīth*.

**تخریج:** [إسناده حسن] وأخرجه أبو داود، البيهقي، باب: في أكل الربا وموكله، ح: ۳۳۳۳ وابن ماجه، ح: ۲۲۷۷ من حديث سماك به وصححه ابن حبان، ح: ۱۱۱۲ وللحديث شواهد كثيرة جداً \* وفي الباب عن عمر [ابن ماجه، ح: ۲۲۷۶ في أكل الربا] وعلي [النسائي، ح: ۵۱۰۶] وجابر [مسلم، ح: ۱۵۹۸] وأبي جحيفة [البخاري، ح: ۲۰۸۶].

**Comments:**

This narration shows the severity of *Ribā* or usury (lending money on interest.) Dealing in *Ribā* is so abominable and such a grave sin that any kind of participation in it is a cause of curse from Allāh. Whoever consumes *Ribā*, whoever charges it, whoever witnesses it and whoever records it — all are participants in this crime and liable to punishment. So, it is very essential to avoid such dealings.

**Chapter 3. What Has Been Related About The Severity Of Lying And False Speech**

**1207.** Anas narrated that the

(المعجم ۲) - بَابُ مَا جَاءَ فِي أَكْلِ  
الرِّبَا (التحفة ۲)

۱۲۰۶ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا أَبُو عَوَانَةَ  
عَنْ سِمَاكِ بْنِ حَرْبٍ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ  
عَبْدِ اللَّهِ بْنِ مَسْعُودٍ، عَنِ ابْنِ مَسْعُودٍ، قَالَ:  
لَعَنَّ رَسُولَ اللَّهِ ﷺ أَكَلَ الرِّبَا وَمُوكَلَّهُ  
وَشَاهِدِيهِ وَكَاتِبِيهِ.

[قَالَ:] وَفِي الْبَابِ عَنْ عُمَرَ وَعَلِيٍّ وَجَابِرِ  
[وَأَبِي جُحَيْفَةَ].

حَدِيثُ عَبْدِ اللَّهِ حَدِيثٌ حَسَنٌ صَحِيحٌ.

(المعجم ۳) - بَابُ مَا جَاءَ فِي التَّغْلِيظِ  
فِي الْكُذْبِ وَالزُّورِ وَنَحْوِهِ (التحفة ۳)

۱۲۰۷ - حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ الْأَعْلَى

Prophet ﷺ said about the major sins: “Associating partners with Allāh, disobeying parents, killing oneself, and false speech.” (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Abū Bakrah, Ayman bin Khuraim, and Ibn ‘Umar.

[Abū ‘Eīsā said:] The *Ḥadīth* of Anas is a *Ḥasan Ṣaḥīḥ Gharīb Ḥadīth*.

تخریج: متفق عليه، وأخرجه مسلم، الإیمان، باب الكبائر وأكبرها، ح: ٨٨ من حديث خالد ابن الحارث والبخاري، ح: ٢٦٥٣ من حديث شعبة به \* وفي الباب عن أبي بكرة [البخاري، ح: ٢٦٥٤ ومسلم، ح: ٨٧] وأيمن بن خريم [يأتي: ٢٢٩٩] وابن عمر [ابن ماجه، ح: ٢٣٧٣].

**Comments:**

‘Zūr’ means all those things which are against the truth. Any thing or action which causes a problem for others or creates trouble is *Zūr*.

**Chapter 4. What Has Been Related About Those Who Deal In Trade And What The Prophet ﷺ Called Them**

**1208.** Abū Wā’il narrated that Qais bin Abī Gharazah said: “The Messenger of Allāh ﷺ came to us, and we were what was called ‘brokers,’ he said: ‘O people of trade! Indeed the *Shaiṭān* and sin are present in the sale, so mix your sales with charity.” (*Ṣaḥīḥ*)

He said: There are narrations on this topic from Al-Barā’ bin ‘Āzib and Rifā’ah.

[Abū ‘Eīsā said:] The *Ḥadīth* of Qais bin Abī Gharazah (a narrator) is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

Manṣūr, Al-A’mash, Ḥabīb bin Abī Thābit and others reported it

الصَّنْعَانِي: حَدَّثَنَا خَالِدُ بْنُ الْحَارِثِ، عَنْ شُعْبَةَ: حَدَّثَنَا عُبَيْدُ اللَّهِ بْنُ أَبِي بَكْرٍ بْنِ أَنَسٍ، عَنْ أَنَسٍ عَنِ النَّبِيِّ ﷺ فِي الْكَبَائِرِ قَالَ: «الشُّرْكَ بِاللَّهِ، وَعُقُوقُ الْوَالِدَيْنِ، وَقَتْلُ النَّفْسِ، وَقَوْلُ الزُّورِ» [قَالَ: ] وَفِي الْبَابِ عَنْ أَبِي بَكْرَةَ وَأَيْمَنَ بْنِ خُرَيْمٍ وَابْنِ عُمَرَ. [قَالَ أَبُو عِيْسَى: ] حَدِيثُ أَنَسٍ، حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ.

(المعجم ٤) - بَابُ مَا جَاءَ فِي التِّجَارِ وَتَسْمِيَةِ النَّبِيِّ ﷺ إِيَّاهُمْ (التحفة ٤)

١٢٠٨ - حَدَّثَنَا هَنَادٌ: حَدَّثَنَا أَبُو بَكْرِ بْنُ عَيَّاشٍ عَنْ عَاصِمٍ، عَنْ أَبِي وَائِلٍ، عَنْ قَيْسِ ابْنِ أَبِي غَرْزَةَ، قَالَ: خَرَجَ عَلَيْنَا رَسُولُ اللَّهِ ﷺ وَنَحْنُ نُسَمَّى السَّمَايِرَةَ، فَقَالَ: «يَا مَعْشَرَ التِّجَارِ إِنَّ الشَّيْطَانَ وَالْإِنَّمَّ يَحْضُرَانِ الْبَيْعَ، فَشُوبُوا بَيْعَكُمْ بِالصَّدَقَةِ» قَالَ: وَفِي الْبَابِ عَنِ الْبَرَاءِ بْنِ عَازِبٍ وَرِفَاعَةَ.

[قَالَ أَبُو عِيْسَى: ] حَدِيثُ قَيْسِ بْنِ أَبِي غَرْزَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. رَوَاهُ مَنْصُورٌ وَالْأَعْمَشُ وَحَبِيبُ بْنُ أَبِي ثَابِتٍ وَغَيْرٌ وَاحِدٍ عَنْ أَبِي وَائِلٍ، عَنْ قَيْسِ بْنِ أَبِي غَرْزَةَ، وَلَا

from Abū Wā'il, from Qais bin Abi Gharzah, from the Prophet ﷺ. We do not know of anything from the Prophet ﷺ narrated by Qais other than this.

(Another chain of narration) from Qais bin Abi Gharzah, from the Prophet ﷺ, and it is similar in meaning, and there are narrations on this topic from Al-Barā' bin 'Azib and Rifā'ah.

[Abū 'Eisā said:] This *Hadīth* is *Ṣaḥīh*.

**تخريج: [صحيح]** وأخرجه النسائي: ١٤/٧، ١٥، ح: ٣٨٢٩ من حديث عاصم بن أبي النجود وأبو داود، ح: ٣٣٢٦ وابن ماجه، ح: ٢١٤٥ من حديث شقيق أبي وائل به وصححه ابن الجارود، ح: ٥٥٧ والحاكم: ٥/٢ ووافقه الذهبي \* وفي الباب عن البراء بن عازب [البيهقي في شعب الإيمان، ح: ٤٨٤٨] ورفاعة [يأتي: ١٢١٠] \* ورواه أبو داود، ح: ٣٣٢٦ من حديث أبي معاوية الضرير به، والأعمش صرح بالسماع عند الطحاوي في مشكل الآثار: ١٣/٣، ١٤، وتابعه جماعة.

**1209.** Abū Sa'eed narrated that the Prophet ﷺ said: "The truthful, trustworthy merchant is with the Prophets, the truthful, and the martyrs." (*Da'if*)

[Abū 'Eisā said:] This *Hadīth* is *Ḥasan*, we do not know it except from this route, a narration of *Ath-Thawrī* from Abū Ḥamzah. [Abū Ḥamzah's name is 'Abdullāh bin Jābir, and he is a *Shaiḫ* from Al-Baṣrah.]

(Another chain) from Abū Ḥamzah, with this chain of narration, and it is similar.

**تخريج: [إسناده ضعيف]** وأخرجه الدارمي: ٢٤٧/٢، ح: ٢٥٤٢ عن قبيصة به وقال: "أبو حمزة هذا هو صاحب إبراهيم وهو ميمون الأعور" سفيان الثوري والحسن البصري عننا.

**Comments:**

Business or trading is an honesty testing profession. Usually in business it appears that if the rule of honesty is applied it will lead to a loss and if the norms of expediency according to the need of the time are adopted it will

نَعْرِفُ لَقَيْسٍ عَنِ النَّبِيِّ ﷺ غَيْرَ هَذَا .  
 حَدَّثَنَا هَذَا: حَدَّثَنَا أَبُو مُعَاوِيَةَ عَنِ  
 الْأَعْمَشِ، عَنْ شَقِيقِ بْنِ سَلَمَةَ، [وَشَقِيقٌ هُوَ  
 أَبُو وَائِلٍ] عَنْ قَيْسِ بْنِ أَبِي عَزْرَةَ عَنِ النَّبِيِّ  
 ﷺ، نَحْوَهُ بِمَعْنَاهُ وَفِي الْبَابِ، عَنِ الْبَرَاءِ بْنِ  
 عَازِبٍ وَرِفَاعَةَ .  
 [قَالَ أَبُو عِيْسَى:] وَهَذَا حَدِيثٌ صَحِيحٌ .

١٢٠٩ - حَدَّثَنَا هَذَا: حَدَّثَنَا قَبِيصَةُ:  
 حَدَّثَنَا سُفْيَانُ عَنْ أَبِي حَمْزَةَ، عَنِ الْحَسَنِ، عَنْ  
 أَبِي سَعِيدٍ عَنِ النَّبِيِّ ﷺ قَالَ: «التَّاجِرُ الصَّدُوقُ  
 الْأَمِينُ، مَعَ النَّبِيِّينَ وَالصَّادِقِينَ وَالشُّهَدَاءِ» .  
 [قَالَ أَبُو عِيْسَى:] هَذَا حَدِيثٌ حَسَنٌ لَا  
 نَعْرِفُهُ إِلَّا مِنْ هَذَا الْوَجْهِ مِنْ حَدِيثِ الثَّوْرِيِّ عَنْ  
 أَبِي حَمْزَةَ. [وَأَبُو حَمْزَةَ: اسْمُهُ عَبْدُ اللَّهِ بْنُ  
 جَابِرٍ. وَهُوَ شَيْخٌ بَصْرِيٌّ]: حَدَّثَنَا سُؤَيْدُ بْنُ  
 نَصْرٍ: حَدَّثَنَا [عَبْدُ اللَّهِ] بْنُ الْمُبَارَكِ عَنْ سُفْيَانَ  
 الثَّوْرِيِّ، عَنْ أَبِي حَمْزَةَ بِهَذَا الْإِسْنَادِ نَحْوَهُ .

lead to profit, but, the businessman who has trust in Allāh and deals with honesty and in accordance with the standards of Islam, then it is he, in reality, who is successful in the test. For this reason on the Day of Judgement he will be with the Prophets, the truthful, and the martyrs.

**1210.** Ismā'il bin 'Ubaid bin Rifā'ah narrated from his father, from his grandfather, that he went with the Messenger of Allāh ﷺ to the *Muṣalla*, and he saw the people doing business so he said: 'O people of trade!' and they replied to the Messenger of Allāh ﷺ, turning their necks and their gazes towards him, and he said: 'Indeed the merchants will be resurrected on the Day of Judgement with the wicked, except the one who has *Taqwā* of Allāh, who behaves charitably and is truthful.'" (*Hasan*)  
[Abū 'Eisā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. And they also say Ismā'il bin 'Ubaidullāh bin Rifā'ah.

١٢١٠ - حَدَّثَنَا [أَبُو سَلَمَةَ] يَحْيَى بْنُ خَلْفٍ: حَدَّثَنَا بِشْرُ بْنُ الْمُفَضَّلِ عَنْ عَبْدِ اللَّهِ ابْنِ عُثْمَانَ بْنِ حُثَيْمٍ، عَنْ إِسْمَاعِيلِ بْنِ عُبَيْدِ بْنِ رِفَاعَةَ، عَنْ أَبِيهِ، عَنْ جَدِّهِ: أَنَّهُ حَرَجَ مَعَ النَّبِيِّ ﷺ إِلَى الْمُصَلَّى، فَرَأَى النَّاسَ يَتَبَايَعُونَ فَقَالَ: «يَا مَعْشَرَ التَّجَارِ» فَاسْتَجَابُوا لِرَسُولِ اللَّهِ ﷺ، وَرَفَعُوا أَعْنَاقَهُمْ وَأَبْصَارَهُمْ إِلَيْهِ، فَقَالَ: «إِنَّ التَّجَارَ يُبْعَثُونَ يَوْمَ الْقِيَامَةِ فُجَارًا، إِلَّا مَنْ اتَّقَى اللَّهَ وَبَرَ وَصَدَّقَ».  
[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، وَيُقَالُ: إِسْمَاعِيلُ بْنُ عُبَيْدِ اللَّهِ بْنِ رِفَاعَةَ أَيْضًا.

**تخریج:** [إسناده حسن] وأخرجه ابن ماجه، التجارات، باب التوقي في التجارة، ح: ١٤٦٦ من حديث ابن خثيم به وصححه ابن حبان، ح: ١٠٩٥ والحاكم: ٦/٢ والذهبي.

**Comments:**

Most people's business depends on cheating, deceiving, and fraudulent tricks. So, the Prophet ﷺ said that such businessmen will be raised with the wicked offenders. Those who abide by the Laws of Allāh and fulfill their promises with the people, and are honest in their dealings, will get their reward as has been mentioned in the preceding narration.

**Chapter 5. What Has Been Related About One Who Makes A False Oath About His Merchandise**

(المعجم ٥) - **بَابُ مَا جَاءَ فِيْمَنْ حَلَفَ عَلَى سِيلَعَةٍ كَاذِبًا** (التحفة ٥)

**1211.** Abū Dharr narrated that the Prophet ﷺ said: "There are three whom Allāh will not look at on the Day of Judgement, nor will He purify them, and theirs is a painful punishment." We said: "Who are

١٢١١ - حَدَّثَنَا مُحَمَّدُ بْنُ غَيْلَانَ: حَدَّثَنَا أَبُو دَاوُدَ قَالَ: أَبَانَا شُعْبَةُ قَالَ: أَخْبَرَنِي عَلِيُّ بْنُ مُدْرِكٍ قَالَ: سَمِعْتُ أَبَا زُرْعَةَ بْنَ عَمْرٍو بْنِ جَرِيرٍ، يُحَدِّثُ عَنْ خَرَشَةَ بْنِ الْحُرِّ، عَنْ أَبِي

they O Messenger of Allāh? For they have indeed failed and are lost!" He said: "The *Mannān*,<sup>[1]</sup> the one whose *Izār* hangs (below the ankles) and the one who promotes his merchandise with false oath." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Ibn Mas'ūd, Abū Hurairah, Abū Umāmah bin Tha'labah, 'Imrān bin Ḥuṣain, and Ma'qil bin Yasār.

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Dharr is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

ذَرَّ عَنِ النَّبِيِّ ﷺ قَالَ: «ثَلَاثَةٌ لَا يَنْظُرُ اللَّهُ إِلَيْهِمْ يَوْمَ الْقِيَامَةِ، وَلَا يُرَكِّبُهُمْ وَلَهُمْ عَذَابٌ أَلِيمٌ»، قُلْنَا: مَنْ هُمْ يَا رَسُولَ اللَّهِ؟ فَقَدْ خَابُوا وَخَسِرُوا، فَقَالَ: «الْمَنَّانُ، وَالْمُسْبِلُ إِزَارَهُ، وَالْمُتَّقِىُّ سَلْعَتَهُ بِالْحَلْفِ الْكَاذِبِ».

[قَالَ:] وفي البابِ عن ابنِ مسعودٍ وأبي هريرةٍ وأبي أمامةٍ بنِ ثعلبةٍ وعمرانَ بنِ حصينٍ ومَعْقِلِ بنِ يسارٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي ذَرٍّ، حَدِيثٌ حَسَنٌ صَحِيحٌ.

**تخريج:** وأخرجه مسلم، الإيمان، باب بيان غلظ تحريم إسبال الإزار والمن بالعطية ... الخ، ح: ١٠٦ من حديث شعبة به وهو في مسند أبي داود الطيالسي، ح: ٤٦٧ \* وفي الباب عن ابن مسعود [البخاري، ح: ٢٣٥٦، ٢٣٥٧، ٢٣٥٨] ومسلم، ح: ١٣٨] وأبي هريرة [يأتي مختصراً، ح: ١٥٩٥ والبخاري، ح: ٢٦٧٢، ٢٦٧٣] ومسلم، ح: ١٠٨] وأبي أمامة بن ثعلبة [مسلم، ح: ١٣٧] وعمران ابن حصين [أبو داود، ح: ٣٢٤٢] ومعقل بن يسار [أحمد: ٢٥/٥ والنسائي في الكبرى].

### Comments:

This narration points out that those who give something in charity and then boast and point out the favor conferred and remind of it time and again to the one they gave, those who keep their lower garment below the ankles, and those who promote their merchandise with false oaths, to these three types of people Allāh will not look at them with mercy on the Day of Judgement. Unfortunately today Muslims do not pay any heed to these.

### Chapter 6. What Has Been Related About Doing Business Early

**1212.** 'Umārah bin Ḥadīd narrated from Ṣaḥr Al-Ghāmīdī that the Messenger of Allāh ﷺ said: "O Allāh bless my *Ummah* in what they do early (in the day)." He said: "Whenever he ﷺ would

(المعجم ٦) - بَابُ مَا جَاءَ فِي التَّبَكِيرِ  
بِالتَّجَارَةِ (التحفة ٦)

١٢١٢ - حَدَّثَنَا يَعْقُوبُ بْنُ إِبْرَاهِيمَ الدُّورِيُّ: حَدَّثَنَا هُشَيْمٌ: حَدَّثَنَا يَعْلى بْنُ عَطَاءٍ عَنْ عُمَارَةَ بْنِ حَدِيدٍ، عَنْ صَحْرِ الْعَامِدِيِّ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «اللَّهُمَّ

[1] The one who does not give anything without obliging the one he gave it to. See *Tuhfat Al-Aḥwadhī*.

dispatch a military expedition or an army, he would send them in the first part of the day.”

And Ṣakhr, a man who was a merchant, used to send his goods for trade during the beginning of the day, so he became rich, and his wealth increased.

[He said:] There are narrations on this topic from ‘Alī, Buraidah, Ibn Mas‘ūd, Anas, Ibn ‘Umar, Ibn ‘Abbās, and Jābir. (*Ḥasan*)

[Abū ‘Eisā said:] The *Ḥadīth* of Ṣakhr Al-Ghāmīdī is a *Ḥasan Ḥadīth*. We do not know of a narration that Ṣakhr Al-Ghāmīdī reported from the Prophet ﷺ other than this *Ḥadīth*. Sufyān Ath-Thawrī reported this *Ḥadīth* from Shu‘bah, from Ya‘lā bin ‘Aṭā’.

بَارِكْ لِأُمَّتِي فِي بُكُورِهَا». قَالَ: وَكَانَ إِذَا بَعَثَ سَرِيَّةً أَوْ جَيْشًا، بَعَثَهُمْ أَوَّلَ النَّهَارِ، وَكَانَ صَخْرٌ رَجُلًا تَاجِرًا، وَكَانَ إِذَا بَعَثَ تِجَارَةً بَعَثَهُمْ أَوَّلَ النَّهَارِ، فَأَثَّرَى وَكَثُرَ مَالُهُ.

[قَالَ:] وَفِي الْبَابِ عَنْ عَلِيٍّ وَبُرَيْدَةَ وَابْنِ مَسْعُودٍ وَأَنْسِ وَابْنِ عُمَرَ وَابْنِ عَبَّاسٍ وَجَابِرٍ. [قَالَ أَبُو عِيْسَى:] حَدِيثُ صَخْرِ الْغَامِيدِيِّ حَدِيثٌ حَسَنٌ. وَلَا نَعْرِفُ لِصَخْرِ الْغَامِيدِيِّ عَنْ النَّبِيِّ ﷺ غَيْرَ هَذَا الْحَدِيثِ. وَقَدْ رَوَى سُفْيَانُ الثَّوْرِيُّ، عَنْ شُعْبَةَ، عَنْ يَعْلَى بْنِ عَطَاءٍ، هَذَا الْحَدِيثِ.

**تخریج:** [إسناده حسن] وأخرجه ابن ماجه، التجارات، باب ما يرجى من البركة في البكور، ح: ٢٢٣٦ وأبو داود، ح: ٢٦٠٦ من حديث هشيم به وصححه ابن حبان (الإحسان): ٤٧٣٤ \* وفي الباب عن علي [عبدالله بن أحمد في زوائد المسند: ١/١٥٣] وبريدة [العقيلي في الضعفاء: ١/١٢٤] وابن مسعود [البخاري في التاريخ الكبير: ٦/٢٩٠] والطبراني في الكبير: ١٠/٢٥٧، ح: ١٠٤٩٠ وأنس [البيزار (كشف الأستار): ٢/٨٠، ح: ١٢٤٩] وابن عمر [ابن ماجه، ح: ٢٢٣٨] وابن عباس [الطبراني في الكبير: ١٠/٣٤٨، ح: ١٠٦٧٩] وجابر [الطبراني في الأوسط: ١/٥٣٠، ح: ١٠٠٠].

**Comments:**

This narration makes it clear that starting religious duties and worldly affairs early in the morning brings the blessings of Allāh in business and other worldly affairs. It means getting up early in the morning and starting the day is a secret of prosperity and well being.

**Chapter 7. What Has Been Related About The Permission To Buy On Credit**

(المعجم ٧) - بَابُ مَا جَاءَ فِي الرُّخْصَةِ فِي الشِّرَاءِ إِلَى أَجَلٍ (التحفة ٧)

1213. ‘Āishah narrated: “The Messenger of Allāh ﷺ was wearing

١٢١٣ - حَدَّثَنَا أَبُو حَفْصٍ عَمْرُو بْنُ عَلِيٍّ: حَدَّثَنَا يَزِيدُ بْنُ زُرْعَةَ: حَدَّثَنَا عُمَارَةُ

two thick *Qitrī*<sup>[1]</sup> garments on. When he would sit, he would sweat since they were so heavy for him. Some clothes arrived from Ash-Shām for so-and-so, the Jew. I said: ‘Perhaps you could dispatch a request to him to buy some garments (on credit) from him until it is easy (to pay). So he sent a message to him and he said: ‘I know what he wants. He only wants to take away my wealth’ or ‘my Dirham.’ So the Messenger of Allāh ﷺ said: ‘He has lied, indeed he knows that I am the one with the most *Taqwā* among them, and the best at fulfilling trusts among them.’” (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Ibn ‘Abbās, Anas, and Asmā’ bint Yazīd.

[Abū ‘Eisā said:] The *Ḥadīth* of ‘Āishah is a *Ḥasan Ṣaḥīḥ Gharīb Ḥadīth*. Shu‘bah has also reported it from ‘Umārah bin Abī Ḥafṣah.

He said: I heard Muḥammad bin Firās Al-Baṣrī saying: “I heard Abū Dāwūd Aṭ-Ṭayālīsī saying: ‘One day Shu‘bah was asked about this *Ḥadīth*, and he said: “I will not narrate it to you (people) until you stand up before Ḥaramī bin ‘Umārah [bin Ḥafṣah] to kiss his head.” He said: ‘And Ḥaramī was there among the people.’”

[Abū ‘Eisā said:] meaning: “approving of this *Ḥadīth*.”

ابْنُ أَبِي حَفْصَةَ: حَدَّثَنَا عِكْرِمَةُ عَنْ عَائِشَةَ، قَالَتْ: كَانَ عَلَى رَسُولِ اللَّهِ ﷺ ثَوْبَانِ قِطْرِيَّانِ غَلِيظَانِ، فَكَانَ إِذَا قَعَدَ فَعَرِقَ، نَقَلَا عَلَيْهِ. فَقَدِمَ بَزٌّ مِنَ الشَّامِ لِفُلَانِ الْيَهُودِيِّ. فَقُلْتُ: لَوْ بَعَثْتُ إِلَيْهِ فَاشْتَرَيْتُ مِنْهُ ثَوْبَيْنِ إِلَى الْمَيْسِرَةِ، فَأَرْسَلَ إِلَيْهِ فَقَالَ: قَدْ عَلِمْتُ مَا يُرِيدُ، إِنَّمَا يُرِيدُ أَنْ يَذْهَبَ بِمَالِي، أَوْ يَدْرَاهِمِي، فَقَالَ رَسُولُ اللَّهِ ﷺ: «كَذَبَ، قَدْ عَلِمَ أَنِّي مِنْ أَتْقَاهُمْ لِلَّهِ وَأَدَاهُمْ لِلْأَمَانَةِ».

[قَالَ:] وَفِي الْبَابِ عَنِ ابْنِ عَبَّاسٍ وَأَنْسِ وَأَسْمَاءَ ابْنَةِ يَزِيدَ.

[قَالَ أَبُو عَيْسَى:] حَدِيثُ عَائِشَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ، وَقَدْ رَوَاهُ شُعْبَةُ أَيْضًا عَنْ عُمَارَةَ بْنِ أَبِي حَفْصَةَ، قَالَ: وَسَمِعْتُ مُحَمَّدَ بْنَ فِرَاسِ الْبَصْرِيِّ يَقُولُ: سَمِعْتُ أَبَا دَاوُدَ الطَّيَالِسِيِّ يَقُولُ: سِئِلَ شُعْبَةُ يَوْمًا عَنْ هَذَا الْحَدِيثِ فَقَالَ: لَسْتُ أُحَدِّثُكُمْ حَتَّى تَقُومُوا إِلَى حَرَمِيِّ بْنِ عُمَارَةَ [بْنِ أَبِي حَفْصَةَ] فَتَقْبِلُوا رَأْسَهُ. قَالَ: وَحَرَمِيِّ فِي الْقَوْمِ. [قَالَ أَبُو عَيْسَى:] أَيْ إِعْجَابًا بِهَذَا الْحَدِيثِ.

[1] A garment made with some coarseness and red designs in it. There was also a view that it is named after Qatar and that it comes from there. See *Tuhfat Al-Aḥwadhī* and *An-Nihāyah*.



**تخریج:** [إسناده صحيح] وأخرجه النسائي: ٢٩٤/٧، ح: ٤٦٣٢ (البيوع، باب البيع إلى الأجل المعلوم) عن عمرو بن علي الفلاس به \* وفي الباب عن ابن عباس [يأتي: ١٢١٤] وأنس [يأتي: ١٢١٥] وأسماء بنت يزيد [ابن ماجه، ح: ٢٤٣٨] \* قول شعبة، سنده صحيح.

**Comments:**

The Jews were well aware of the honesty of character of the Prophet ﷺ but as they were resentful, they always talked ill of him.

**1214.** Ibn ‘Abbās narrated: “The Prophet ﷺ died while his armour was pawned for twenty *Ṣā’* of food that he got for his family.” (*Ḥasan*) [Abū ‘Eisā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīh*.

١٢١٤ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا ابْنُ أَبِي عَدِيٍّ وَعُثْمَانُ بْنُ أَبِي عَمْرٍو عَنْ هِشَامِ ابْنِ حَسَّانٍ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ قَالَ: تُوِّفِيَ النَّبِيُّ ﷺ وَدِرْعُهُ مَرْهُونَةٌ بِعِشْرِينَ صَاعًا مِنْ طَعَامٍ، أَخَذَهُ لِأَهْلِهِ. [قَالَ أَبُو عِيسَى] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

**1215.** Anas narrated: “I walked to the Prophet ﷺ with some barley bread that had some rancid oil poured over it. The Prophet ﷺ had pawned his armour with a Jew for twenty *Ṣā’* of food that he got for his family. That day (he pawned it), I heard him saying: ‘Not for one evening has the household of Muḥammad had a *Ṣā’* of dates or a *Ṣā’* of grain.’ And on that day he had nine wives.” (*Ṣaḥīh*)

[Abū ‘Eisā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīh*.

تخریج: [حسن] وأخرجه النسائي: ٣٠٣/٧، ح: ٤٦٥٥ (البيوع، باب مبايعه أهل الكتاب) من حديث هشام بن حسان به وللحديث شواهد.  
١٢١٥ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا ابْنُ أَبِي عَدِيٍّ عَنْ هِشَامِ الدَّسْتَوَائِيِّ، عَنْ قَتَادَةَ، عَنْ أَنَسٍ؛ ح: قَالَ مُحَمَّدُ [بْنُ هِشَامٍ]: وَأَخْبَرَنَا مُعَاذُ بْنُ هِشَامٍ قَالَ: حَدَّثَنِي أَبِي عَنْ قَتَادَةَ، عَنْ أَنَسٍ قَالَ: مَشَيْتُ إِلَى النَّبِيِّ ﷺ بِخُبْزِ شَعِيرٍ وَإِهَالَةٍ سَنِخَةٍ، وَلَقَدْ رُهِنَ لَهُ دِرْعٌ عِنْدَ يَهُودِيٍّ بِعِشْرِينَ صَاعًا مِنْ طَعَامٍ أَخَذَهُ لِأَهْلِهِ، وَلَقَدْ سَمِعْتُهُ ذَاتَ يَوْمٍ يَقُولُ: مَا أَمْسَى عِنْدَ آلِ مُحَمَّدٍ ﷺ صَاعٌ تَمْرٍ وَلَا صَاعٌ حَبٍّ، وَإِنَّ عِنْدَهُ يَوْمَئِذٍ لَتِسْعَ نِسْوَةٍ. [قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

**Comments:**

It is clear from this narration that buying the needful and basic necessities on loan is approved and lawful. Such deals with non-Muslims are also permissible. Pawning something at the time of need is also lawful.

**Chapter 8. What Has Been Related About Recording The Conditions**

(المعجم ٨) - بَابُ مَا جَاءَ فِي كِتَابَةِ الشُّرُوطِ (التحفة ٨)

**1216.** ‘Abbād bin Laith Al-Karābīsī [Al-Baṣrī] narrated: “Abdul-Majīd bin Wahb narrated to us, he said: ‘Al-‘Addā’ bin Khālīd bin Hawdhah said to me: “Shall I not read to you a letter that was written for me from the Messenger of Allāh ﷺ?” He said: ‘I said: “Of course.” So he took out a letter for me: “This is what Al-‘Addā’ bin Khālīd bin Hawdhah purchased from Muḥammad, the Messenger of Allāh ﷺ. He purchased from him a slave’ – or – ‘a female slave, having no ailments, nor being a runaway, nor having any malicious behavior. Sold by a Muslim to a Muslim.’” (*Hasan*)

[Abū ‘Eisā said:] This *Hadīth* is *Hasan Gharīb*, we do not know of it except from ‘Abbād bin Laith. More than one of the people of *Hadīth* have reported this *Hadūh* from him.

١٢١٦ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبَّادُ بْنُ لَيْثٍ صَاحِبُ الْكَرَابِيسِيِّ [الْبَصْرِيُّ]: حَدَّثَنَا عَبْدُ الْمَجِيدِ بْنُ وَهْبٍ قَالَ: قَالَ لِي الْعَدَاءُ بْنُ خَالِدِ بْنِ هُوْدَةَ: أَلَا أُقْرِئُكَ كِتَابًا كَتَبَهُ لِي رَسُولُ اللَّهِ ﷺ؟ قَالَ: قُلْتُ: بَلَى، فَأَخْرَجَ لِي كِتَابًا: هَذَا مَا اشْتَرَى الْعَدَاءُ بْنُ خَالِدِ بْنِ هُوْدَةَ مِنْ مُحَمَّدٍ رَسُولِ اللَّهِ ﷺ، اشْتَرَى مِنْهُ عَبْدًا أَوْ أَمَةً، لَا دَاءَ وَلَا عَائِلَةَ وَلَا خَبِيئَةَ، بَيْعَ الْمُسْلِمِ الْمُسْلِمَ. [قَالَ أَبُو عَيْسَى:] هَذَا حَدِيثٌ حَسَنٌ غَرِيبٌ. لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ عَبَّادِ بْنِ لَيْثٍ، وَقَدْ رَوَى عَنْهُ هَذَا الْحَدِيثَ غَيْرُ وَاحِدٍ مِنْ أَهْلِ الْحَدِيثِ.

**تخریج:** [حسن] وأخرجه ابن ماجه، التجارات، باب شراء الرقيق، ح: ٢٢٥١ عن محمد بن بشار به وعلقه البخاري قبل، ح: ٢٠٧٩ بصيغة التمریض وصححه ابن الجارود، ح: ١٠٢٨ وحسنه الحافظ في الفتح: ٣٥٠/١٢.

**Comments:**

This narration points out that while doing a business deal, Muslims should make it transparent and clear. All the faults and good qualities of the property should be made clear to the buyer. As this deal mentioned in the narration was barter based, so in the deed sometimes the name of ‘Addā’ is mentioned as buyer (*Ashtarā’*) and sometimes the name of the Prophet ﷺ is mentioned as buyer.

### Chapter 9. What Has Been Related About Measures And Weights

1217. Ibn ‘Abbās narrated that the Messenger of Allāh ﷺ said to the people of weights and measures: “Indeed you have been entrusted with two matters that nations preceding you in the past were destroyed for.” (*Da‘if*)

[Abū ‘Eisā said:] We do not know this *Hadīth* to be *Marfū‘* except through the narration of Ḥusain bin Qais, and Ḥusain bin Qais was graded weak in *Hadīth*. This has been reported as a *Maqūf* narration from Ibn ‘Abbās with a *Ṣaḥīḥ* chain of narration.

تخريج: [إسناده ضعيف جداً] وأخرجه الطبراني في الكبير: ٢١٤/١١، ح: ١١٥٣٥ والحاكم: ٣١/٢ من حديث خالد به وقال الحاكم: "صحيح الإسناد" فقال الذهبي: "حسين ضعفه" وأخرجه ابن الجوزي في العلل: ١٠٢/٢، ح: ٩٧٢ من طريق الترمذي به.

#### Comments:

The Qur’ān mentions the destruction and extermination of the people of *Shu‘aib* due to their cheating and deceiving in weights and measures. There were many tribes in this nation and all of them were involved in this vice and Allāh destroyed them all.

### Chapter 10. What Has Been Related About Auctioning

1218. Anas bin Mālik narrated that the Messenger of Allāh ﷺ sold a saddle blanket and a drinking bowl. He ﷺ said: “Who will buy this saddle blanket and drinking bowl?” So a man said: “I will take them for a Dirham.” So the Prophet ﷺ said: “Who will give more than a Dirham? Who will give more than a Dirham?” A man agreed to give him two Dirham, so

(المعجم ٩) - بَابُ مَا جَاءَ فِي الْمِكْيَالِ وَالْمِيزَانِ (التحفة ٩)

١٢١٧ - حَدَّثَنَا سَعِيدُ بْنُ يَعْقُوبَ الطَّلَقَانِيُّ: حَدَّثَنَا خَالِدُ بْنُ عَبْدِ اللَّهِ الْوَاسِطِيُّ عَنْ حُسَيْنِ بْنِ قَيْسٍ، عَنْ عِكْرِمَةَ، عَنْ ابْنِ عَبَّاسٍ، قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ لِأَصْحَابِ الْكَيْلِ وَالْمِيزَانِ: «إِنَّكُمْ قَدْ وُلِّيتُمْ أَمْرَيْنِ، هَلَكَتَ فِيهِ الْأُمَّمُ السَّالِفَةُ قَبْلَكُمْ».

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ لَا نَعْرِفُهُ مَرْفُوعًا إِلَّا مِنْ حَدِيثِ حُسَيْنِ بْنِ قَيْسٍ، وَحُسَيْنُ ابْنُ قَيْسٍ يَضَعُفٌ فِي الْحَدِيثِ. وَقَدْ رَوَى هَذَا بِإِسْنَادٍ صَحِيحٍ عَنِ ابْنِ عَبَّاسٍ مَوْقُوفًا.

(المعجم ١٠) - بَابُ مَا جَاءَ فِي بَيْعِ مَنْ يَزِيدُ (التحفة ١٠)

١٢١٨ - حَدَّثَنَا حُمَيْدُ بْنُ مَسْعَدَةَ: حَدَّثَنَا عُبَيْدُ اللَّهِ بْنُ شُمَيْطٍ بْنِ عَجْلَانَ: حَدَّثَنَا الْأَخْضَرُ بْنُ عَجْلَانَ عَنْ عَبْدِ اللَّهِ الْحَنْطَوِيِّ، عَنْ أَنَسِ بْنِ مَالِكٍ: أَنَّ رَسُولَ اللَّهِ ﷺ بَاعَ جِلْسًا وَقَدَحًا، وَقَالَ: «مَنْ يَشْتَرِي هَذَا الْجِلْسَ وَالْقَدَحَ؟» فَقَالَ رَجُلٌ: «أَخَذْتُهُمَا بِدِرْهَمٍ»، فَقَالَ النَّبِيُّ ﷺ: «مَنْ يَزِيدُ عَلَيَّ

he sold them to him. (*Hasan*)

[Abū 'Eisā said:] This *Hadīth* is *Hasan*. We do not know of it except from the narration of Al-Akhḍar bin 'Ajlān, and 'Abdullāh Al-Ḥanafī who is reporting from Anas, is Abū Bakr Al-Ḥanafī.

This is acted upon according to some of the people of knowledge, they did not see any harm in auctioning the spoils of war and inheritance.

Al-Mu'tamir bin Sulaimān and others among the people of *Hadīth* reported from Al-Akhḍar bin 'Ajlān.

تخریج: [إسناده حسن] وأخرجه أبو داود، الزكاة، باب ما تجوز فيه المسألة، ح: ١٦٤١ وابن ماجه، ح: ٢١٩٨ والنسائي، ح: ٤٥١٢ من حديث الأخضر بن عجلان به، وأبو بكر الحنفي وثقه الترمذي وابن حبان، والحديث صححه ابن الجارود، ح: ٥٦٩.

**Comments:**

In the view of Imām Awzā'i and Ishāq and some other scholars, only spoils of war and the property of inheritance can be sold by bidding and auction. Most of the people of knowledge, Imām Shāfi'i and Imām Mālik are of view that all types of property and commodities can be sold by bidding and auction. It is not allowed to raise the price when the deal is over. (*Tuhfat Al-Ahwadhī* v. 2. p.230.)

**Chapter 11. What Has Been Related About The Sale Of A Mudabbar**

1219. Jābir narrated: "A man among the *Anṣār* decided to free a slave of his after his death. He died but he left no wealth behind beside the slave. So the Prophet ﷺ sold him and Nu'aim [bin 'Abdullāh] bin An-Naḥ-ḥām bought him." Jābir said: "He was a Coptic slave who died during the first year of the leadership of Ibn Az-Zubair." (*Ṣaḥīh*)

[Abū 'Eisā said:] This *Hadīth* is

إِرْهَمَ؟ مَنْ يَزِيدُ عَلَى ذَرَاهِمٍ؟ فَأَعْطَاهُ رَجُلٌ ذَرَاهِمَيْنِ، فَبَاعَهُمَا مِنْهُ.

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ الْأَخْضَرِ بْنِ عَجْلَانَ، وَعَبْدُ اللَّهِ الْحَنْفِيُّ الَّذِي رَوَى عَنْ أَنَسٍ، هُوَ أَبُو بَكْرٍ الْحَنْفِيُّ، وَالْعَمَلُ عَلَى هَذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، لَمْ يَرَوْا بَأْسًا بِبَيْعِ مَنْ يَزِيدُ فِي الْغَنَائِمِ وَالْمَوَارِيثِ وَقَدْ رَوَى الْمُعْتَمِرُ بْنُ سُلَيْمَانَ، وَغَيْرٌ وَاحِدٌ مِنْ أَهْلِ الْحَدِيثِ عَنِ الْأَخْضَرِ بْنِ عَجْلَانَ.

(المعجم ١١) - بَابُ مَا جَاءَ فِي بَيْعِ الْمُدَبَّرِ (التحفة ١١)

١٢١٩ - حَدَّثَنَا ابْنُ أَبِي عُمَرَ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ عَمْرِو بْنِ دِينَارٍ، عَنْ جَابِرٍ: أَنَّ رَجُلًا مِنَ الْأَنْصَارِ دَبَّرَ غُلَامًا لَهُ، فَمَاتَ وَلَمْ يَتْرِكْ مَالًا غَيْرَهُ، فَبَاعَهُ النَّبِيُّ ﷺ، فَاشْتَرَاهُ نَعِيمٌ [بْنُ عَبْدِ اللَّهِ] بْنِ النَّحَامِ قَالَ جَابِرٌ: عَبْدًا قَبْطِيًّا مَاتَ عَامَ الْأَوَّلِ، فِي إِمَارَةِ ابْنِ الزُّبَيْرِ.

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ

*Hasan Ṣaḥīḥ* and it has been reported through more than one route from Jābir bin ‘Abdullāh.

This *Hadīth* is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others. They did not see any harm in the sale of a *Mudabbar*. This is the view of Ash-Shāfi‘ī, Aḥmad and Iṣḥāq. There are those among people of knowledge, among the Companions of the Prophet ﷺ and others, who disliked selling the *Mudabbar*. This is the view of Sufyān Ath-Thawrī, Mālik and Al-Awzā‘ī.

صَحِيحٌ وَقَدْ رُوِيَ مِنْ غَيْرِ وَجْهٍ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ، وَالْعَمَلُ عَلَى هَذَا الْحَدِيثِ عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ لَمْ يَرَوْا بَيْعَ الْمُدَبَّرِ بَأْسًا وَهُوَ قَوْلُ الشَّافِعِيِّ وَأَحْمَدَ وَإِسْحَاقَ، وَكَرِهَهُ قَوْمٌ مِنْ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ بَيْعَ الْمُدَبَّرِ، وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وَمَالِكٍ وَالْأَوْزَاعِيِّ.

تخریج: متفق عليه، ومسلم، الأیمان، باب جواز بیع المدبر، ح: ۵۹/۹۹۷ من حدیث سفیان بن عیینة والبخاری، ح: ۶۷۱۶ من حدیث عمرو بن دینار به.

**Comments:**

The slave who is promised by his owner to be freed after the owners’ death is called ‘*Mudabbar*.’ There are different opinions about the sale of *Mudabbar*. But according to a *Ṣaḥīḥ* narration, the sale of a *Mudabbar* is proved (*Tuhfat Al-Aḥwadhī* v.2. p. 231). A *Mudabbar* can only be sold in case of dire need.

**Chapter 12. What Has Been Related About It Being Disliked To Meet The Owners Of The Goods**

(المعجم ۱۲) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ تَلْقَى النَّبِيعِ (التحفة ۱۲)

1220. Ibn Mas‘ūd narrated from the Prophet ﷺ: “He prohibited meeting the owners of the goods.”<sup>[1]</sup>

۱۲۲۰ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا ابْنُ الْمُبَارَكِ: حَدَّثَنَا سُلَيْمَانُ التَّمِيمِيُّ عَنْ أَبِي عُمَانَ، عَنِ ابْنِ مَسْعُودٍ عَنِ النَّبِيِّ ﷺ: أَنَّهُ نَهَى عَنْ تَلْقَى النَّبِيعِ. [قَالَ: ] وَفِي الْبَابِ عَنْ عَلِيٍّ وَابْنِ عَبَّاسٍ وَأَبِي هُرَيْرَةَ وَأَبِي سَعِيدٍ

[He said:] There are narrations on this topic from ‘Alī, Ibn ‘Abbās, Abū Hurairah, Abū Sa‘eed, Ibn ‘Umar, and a man from the

[1] This is a situation when merchants from the town or city meet villagers before they arrive at city markets and inform them of depression and unsalability of their wares, with the intention of deceiving them into selling those wares at prices much cheaper than actual market prices.

Companions of the Prophet ﷺ. وابنِ عُمَرَ وَرَجُلٍ مِنْ أَصْحَابِ النَّبِيِّ ﷺ. (Sahih)

**تخریج:** متفق عليه، وأخرجه مسلم، البيوع، باب تحريم تلقي الجلب، ح: ١٥١٨ من حديث ابن المبارك والبخاري، ح: ٢١٦٤ من حديث سليمان به \* وفي الباب عن علي [لم أجده] وابن عباس [البخاري، ح: ٢١٥٨ ومسلم، ح: ١٥٢١] وأبي هريرة [يأتي: ١٢٢١] وأبي سعيد [الطحاوي في معاني الآثار: ٨/٤] وابن عمر [مسلم، ح: ١٥١٧] ورجل من أصحاب النبي ﷺ [أحمد: ٤/٣١٤].

**Comments:**

The word ‘Talaqqa’ means to go out of a populace to meet the merchant caravan. Here ‘Al-Buyū’ stands for the merchandise or goods for sale.

**1221.** Abū Hurairah narrated: “The Prophet ﷺ prohibited meeting the goods being brought (to the market). If someone were to meet them and buy them, then the owner of the goods retains the option when he reaches the market.” (Sahih)

[Abū ‘Eisā said:] This *Hadīth* is *Hasan Gharīb* narration of Ayyūb (a narrator). The *Hadīth* of Ibn Mas‘ūd is a *Hasan Ṣahīḥ Hadīth*. There are those among the people of knowledge who disliked meeting the owners of the goods, saying that it is a type of deception. This is the view of Ash-Shāfi‘ī, and others among our companions.

١٢٢١ - حَدَّثَنَا سَلْمَةُ بْنُ شَيْبٍ: حَدَّثَنَا عَبْدُ اللَّهِ بْنُ جَعْفَرِ الرَّقِّي: حَدَّثَنَا عُبَيْدُ اللَّهِ بْنُ عَمْرٍو الرَّقِّي عَنْ أَبِي بَرْ، عَنْ مُحَمَّدِ بْنِ سِيرِينَ، عَنْ أَبِي هُرَيْرَةَ أَنَّ النَّبِيَّ ﷺ نَهَى أَنْ يُتَلَقَّى الْجَلْبُ، فَإِنْ تَلَقَّاهُ إِنْسَانٌ فَابْتِاعَهُ، فَصَاحِبُ السَّلْعَةِ فِيهَا بِالْخِيَارِ، إِذَا وَرَدَ السُّوقُ.

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ غَرِيبٌ مِنْ حَدِيثِ أَبِي بَرْ. وَحَدِيثُ ابْنِ مَسْعُودٍ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَقَدْ كَرِهَ قَوْمٌ مِنْ أَهْلِ الْعِلْمِ تَلَقَّى الْبُيُوعِ، وَهُوَ ضَرْبٌ مِنَ الْحَدِيثَةِ. وَهُوَ قَوْلُ الشَّافِعِيِّ وَغَيْرِهِ مِنْ أَصْحَابِنَا.

**تخریج:** [إسناده صحيح] وأخرجه أبو داود، البيوع، باب: في التلقى، ح: ٣٤٣٧ من حديث عبيدالله بن عمرو، ومسلم، ح: ١٥١٩ من حديث محمد بن سيرين به.

**Comments:**

The Prophet ﷺ has prohibited the purchase of goods on the way while being brought to the market until they reach it. It is prohibited to go out of the village or town and meet the merchants on the way and purchase the goods at a low price as the owner is unaware of the market price.

**Chapter 13. What Has Been Related About ‘The Dweller Of A Town Is Not To Sell On Behalf Of The Bedouin’**

(المعجم ١٣) - بَابُ مَا جَاءَ لَا يَبِيعُ  
حَاضِرٌ لِبَادٍ (التحفة ١٣)

1222. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: “The dweller of the town is not to sell for the Bedouin.” (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Ṭalḥah, Jābir, Anas, Ibn ‘Abbās, Ḥakīm bin Abī Yazīd from his father, ‘Amr bin ‘Awf Al-Muzanī the grandfather of Kathīr bin ‘Abdullāh, and a man from the Companions of the Prophet ﷺ.

١٢٢٢ - حَدَّثَنَا قُتَيْبَةُ وَأَحْمَدُ بْنُ مَنِيعٍ قَالَا: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنِ الرَّهْرِيِّ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ - وَقَالَ قُتَيْبَةُ: يَبْلُغُ بِهِ النَّبِيُّ ﷺ قَالَ -: «لَا يَبِيعُ حَاضِرٌ لِبَادٍ».  
[قَالَ:] وفي البَابِ عَنْ طَلْحَةَ وَجَابِرٍ وَأَنْسِ وَابْنِ عَبَّاسٍ وَحَكِيمِ بْنِ أَبِي يَزِيدَ، عَنْ أَبِيهِ، وَعَمْرٍو بْنِ عَوْفِ الْمُزَنِيِّ جَدِّ كَثِيرِ بْنِ عَبْدِ اللَّهِ وَرَجُلٍ مِنْ أَصْحَابِ النَّبِيِّ ﷺ.

**تخريج:** وأخرجه البخاري، البيوع، باب: لا يبيع على بيع أخيه ... إلخ، ح: ٢١٤٠ من حديث سفیان بن عیینة به، ومسلم، ح: ١٥١٥ من طريق آخر عن أبي هريرة به \* وفي الباب عن طلحة [أبو داود، ح: ٣٤٤١] وأنس [البخاري، ح: ٢١٦١] ومسلم، ح: ١٥٢٣] وجابر [يأتي: ١٢٢٣] وابن عباس [البخاري، ح: ٢١٥٨] ومسلم، ح: ١٥٢١] وحكيم بن أبي يزيد [عبد بن حميد، ح: ٤٣٨] وأحمد: ٤١٨/٣ وانظر أطراف المسند] وعمرو بن عوف المزني [البخاري، ح: ١٢٧٢] ورجل من أصحاب النبي ﷺ [أحمد: ٣١٤/٤].

**Comments:**

There is great wisdom in this prohibition. This prohibition is to eliminate the commission agents from in between the urban population and the residents of the rural area who come to the towns and cities to sell their produce and products. Usually the people of rural areas bring their goods to sell to the people of a town with the intention of fulfilling the needs of both areas. If they sell their goods directly to the dwellers of the town they will get the goods at a low price and the seller will get the money to fulfill his other needs. But if a third person from the town or city comes in between, it creates many problems. The seller gets his money late because the commission agent will not give him money until he sells it (since he likes to sell at a higher price) and the purchaser gets the goods at a high price and the commission agent makes the money for nothing. There are many other vices which emerge from this action. Hoarding, black marketing, problems of demand and supply etc., make life troublesome.

1223. Jābir narrated that the Messenger of Allāh ﷺ said: “The dweller of the town is not to sell for the Bedouin, leave the people; Allāh provides for some of them through others.” (*Ṣaḥīḥ*)

[Abū ‘Eīsā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Ḥadīth*, and this *Ḥadīth* of Jābir is a *Ḥasan Ṣaḥīḥ Ḥadīth* as well.

This *Ḥadīth* is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others. They dislike the dweller of the town to sell for the Bedouin, while some of them permitted the town dweller to purchase for the Bedouin. *Ash-Shāfi‘ī* said: “It is disliked for the dweller of the town to sell for the Bedouin, and if he does sell, then the sale is permissible.”

١٢٢٣ - حَدَّثَنَا نَصْرُ بْنُ عَلِيٍّ وَأَحْمَدُ بْنُ مَنِيعٍ قَالَا: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «لَا يَبِيعُ حَاضِرٌ لِبَادٍ، دَعُوا النَّاسَ، يَرْزُقِ اللَّهُ بَعْضُهُمْ مِنْ بَعْضٍ».

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَحَدِيثُ جَابِرٍ فِي هَذَا، هُوَ حَدِيثٌ حَسَنٌ صَحِيحٌ أَيْضًا، وَالْعَمَلُ عَلَى هَذَا الْحَدِيثِ عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ، كَرَهُوا أَنْ يَبِيعَ حَاضِرٌ لِبَادٍ، وَرَخَّصَ بَعْضُهُمْ فِي أَنْ يَشْتَرِيَ حَاضِرٌ لِبَادٍ. وَقَالَ الشَّافِعِيُّ: يُكْرَهُ أَنْ يَبِيعَ حَاضِرٌ لِبَادٍ، وَإِنْ بَاعَ فَالْبَيْعُ جَائِزٌ.

تخريج: وأخرجه مسلم، البيوع، باب تحريم بيع الحاضر للبادي، ح: ١٥٢٢ من حديث سفیان بن عیینة به.

### Comments:

This narration of Jābir makes the point clear; if the buyer and seller deal directly it is beneficial for both of them. When a person from a rural area brings his goods and sells them directly to the people of the town without any intervention of a third person, he sells them at the price which suits him and he gets the money on the spot. This encourages him to bring more things to the town and ultimately business flourishes and the residents of the town get needed things on reasonably low prices. But if there is an intervention of a third person, it complicates the whole business process. Supply and demand is affected. The third person or the commission agent does not supply the needed thing in time and raises the prices. The owners of the goods do not get their money on the spot and their needs are delayed. So, Islam has prevented such intervention.



### Chapter 14. What Has Been Related About the Prohibition of *Muhāqalah* and *Muzābanah*

1224. Abū Hurairah narrated: "The Messenger of Allāh ﷺ prohibited *Muhāqalah* and *Muzābanah*."

[He said:] There are narrations on this topic from Ibn 'Umar, Ibn 'Abbās, Zaid bin Thābit, Sa'd, Jābir, Rāfi' bin Khadij, and Abū Sa'eed. (*Ṣaḥīḥ*)

[Abū 'Eisā said:] The *Hadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Hadīth*.

*Muhāqalah* is selling crops for wheat, and *Muzābanah* is selling dates that are on the date-palm for dried dates. This is acted upon according to most of the people of knowledge, they disliked sales of *Muhāqalah* and *Muzābanah*.

(المعجم ١٤) - بَابُ مَا جَاءَ فِي النَّهْيِ،  
عَنِ الْمُحَاقَلَةِ وَالْمُزَابَنَةِ (التحفة ١٤)

١٢٢٤ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا يَعْقُوبُ بْنُ عَبْدِ الرَّحْمَنِ [الإسكندراني] عَنْ سَهْلِ بْنِ أَبِي صَالِحٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: نَهَى رَسُولُ اللَّهِ ﷺ عَنِ الْمُحَاقَلَةِ وَالْمُزَابَنَةِ. [قَالَ:] وَفِي الْبَابِ عَنِ ابْنِ عُمَرَ وَابْنِ عَبَّاسٍ وَزَيْدِ بْنِ ثَابِتٍ وَسَعْدِ بْنِ جَابِرٍ وَرَافِعِ بْنِ خَدِيجٍ وَأَبِي سَعِيدٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ.

وَالْمُحَاقَلَةُ بَيْعُ الزَّرْعِ بِالْحِنْطَةِ، وَالْمُزَابَنَةُ بَيْعُ الثَّمَرِ عَلَى رُؤُوسِ النَّخْلِ بِالثَّمَرِ، وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ، كَرَهُوا بَيْعَ الْمُحَاقَلَةِ وَالْمُزَابَنَةِ.

تخریج: وأخرجه مسلم، البيوع، باب كراء الأرض، ح: ١٥٤٥ عن قتيبة به \* وفي الباب عن ابن عمر [البخاري، ح: ٢٢٠٥ ومسلم، ح: ١٥٤٢] وابن عباس [البخاري، ح: ٢١٨٧] وزيد بن ثابت [أبو داود، ح: ٣٤٠٧] وسعد [يأتي: ١٢٢٥] وجابر [مسلم، ح: ١٥٣٦] ورافع بن خديج [أبو داود، ح: ٣٤٠٠ وابن ماجه، ح: ٢٢٦٧، ٢٤٤٩] وأبي سعيد [البخاري، ح: ٢١٨٦] ومسلم، ح: ١٥٤٦.]

#### Comments:

There is a difference of opinion in the explanation of '*Muhāqalah*'. A) Selling of standing crops for cleaned and dry wheat. B) To give the land for cultivation on the basis of division of crop or on fixed amount of money. C) Selling of the standing crop before it is ready for reaping. '*Muzābanah*' is selling of the fruits still on the trees for dried dates. Islam has prohibited both types of dealings because standing wheat crops when not yet ready for reaping, and fruits on the tree both, are not measurable or weighable. So, depending one's guess is not right, it may bring problems for one of the parties, that is why Islam has prohibited this kind of deal.

1225. ‘Abdullāh bin Yazīd narrated: “Zaid, Abū Ayyāsh asked Sa’d regarding white wheat in exchange for barley: which of them was better? He said the white, then he forbade that. Sa’d said: ‘I heard the Messenger of Allāh ﷺ being asked about selling dried dates for ripe dates and he said to those present: “Will the fresh dates shrink when they are dry?” They said yes, so he forbade that.”’ (*Hasan*)

(Another chain of narrators) with similar meaning.

[Abū ‘Eisā said:] This *Hadīth* is *Hasan Ṣaḥīḥ*, and this is acted upon according to the people of knowledge. It is the view of *Ash-Shāfi‘ī* and our companions.

١٢٢٥ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا مَالِكُ بْنُ أَنَسٍ عَنْ عَبْدِ اللَّهِ بْنِ يَزِيدَ: أَنَّ زَيْدًا أَبَا عَيَّاشٍ، سَأَلَ سَعْدًا عَنِ الْبَيْضَاءِ بِالسُّلْتِ، فَقَالَ: أَيُّهُمَا أَفْضَلُ؟ قَالَ: الْبَيْضَاءُ، فَنَهَى عَنْ ذَلِكَ، وَقَالَ سَعْدٌ: سَمِعْتُ رَسُولَ اللَّهِ ﷺ يُسْأَلُ عَنِ اشْتِرَاءِ التَّمْرِ بِالرُّطْبِ، فَقَالَ لِمَنْ حَوْلَهُ: «أَيَنْقُصُ الرُّطْبُ إِذَا يَبَسَ؟» قَالُوا: نَعَمْ، فَنَهَى عَنْ ذَلِكَ.

حَدَّثَنَا هَنَادٌ: حَدَّثَنَا وَكَيْعٌ عَنْ مَالِكٍ، عَنْ عَبْدِ اللَّهِ بْنِ يَزِيدَ، عَنْ زَيْدِ أَبِي عَيَّاشٍ قَالَ: سَأَلْنَا سَعْدًا، فَذَكَرَ نَحْوَهُ.

[قَالَ أَبُو عِيْسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ، وَهُوَ قَوْلُ الشَّافِعِيِّ وَأَصْحَابِنَا.

تخريج: [إسناده حسن] وأخرجه أبو داود، البيوع، باب: في الثمر بالتمر، ح: ٣٣٥٩ وابن ماجه، ح: ٢٢٦٤ والنسائي: ٢٩٨/٧، ٢٦٩، ح: ٤٥٤٩ من حديث مالك به وهو في الموطأ: ٢/٦٢٤ وصححه ابن حبان (موارد): ٦٥٧ وابن الجارود، ح: ٦٥٧ والحاكم: ٣٨/٢، ٣٩، والذهبي.

**Comments:**

The point made clear in this narration is that the exchange of the same kind of produce is not approved if there is a difference in the quality or the quantity of the produce in being exchanged. Imām Abū Ḥanifah allows the exchange of fresh and dried dates, whereas there is a difference of weight in this exchange. Fresh dates when dried up weigh less, for this reason the exchange of fresh dates and dried dates is prohibited. Most of the people act on the narration. (*Tuḥfat Al-Aḥwadhī* v. 2 p.233-234.)

**Chapter 15. What Has Been Related About It Being Disliked To Sell Fruits Until They Begin To Blossom**

(المعجم ١٥) - بَابُ مَا جَاءَ فِي كِرَاهِيَةِ بَيْعِ الثَّمَرَةِ حَتَّى يَبْدُو صَلَاحُهَا (التحفة ١٥)

1226. Ibn ‘Umar narrated: “The Messenger of Allāh ﷺ prohibited selling date-palms until they have blossomed.” (*Ṣaḥīḥ*)

١٢٢٦ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ عَنْ أَيُّوبَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ: أَنَّ رَسُولَ اللَّهِ ﷺ نَهَى عَنْ

بَيْعِ النَّخْلِ حَتَّى يَرْهُوَ.

**تخریج:** وأخرجه مسلم، البيوع، باب النهي عن بيع الثمار قبل بدو صلاحها بغير شرط القطع، ح: ١٥٣٥ من حديث إسماعيل بن علية به.

**1227.** With this (same as no. 1226) chain: “The Prophet ﷺ prohibited selling ears (of grain) until they have whitened (shown their kernals) and are safe from blight, he forbade it for the seller and the buyer.”

[He said:] There are narrations on this topic from Anas, ‘Āishah, Abū Hurairah, Ibn ‘Abbās, Jabir, Abū Sa‘eed, and Zaid bin Thābit. (*Ṣaḥīḥ*)

[Abū ‘Eisā said:] The *Hadīth* of Ibn ‘Umar is a *Ḥasan Ṣaḥīḥ Hadīth*. This is acted upon according to the people of knowledge among the Companions of the Prophet ﷺ and others. They dislike selling fruits before their usefulness appears, this is the view of *Ash-Shāfi‘ī*, *Aḥmad* and *Ishāq*.

١٢٢٧ - وبهذا الإسناد: أَنَّ النَّبِيَّ ﷺ نَهَى عَنْ بَيْعِ السُّنْبُلِ حَتَّى يَبْيَضَّ وَيَأْمَنَ الْعَاثَةَ، نَهَى الْبَائِعَ وَالْمَشْتَرِيَ.

[قَالَ:] وَفِي الْبَابِ عَنْ أَنَسٍ، وَعَائِشَةَ، وَأَبِي هُرَيْرَةَ، وَابْنِ عَبَّاسٍ، وَجَابِرِ وَأَبِي سَعِيدٍ وَزَيْدِ بْنِ ثَابِتٍ.

[قَالَ أَبُو عِيْسَى:] حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ. كَرِهُوا بَيْعَ الثَّمَارِ قَبْلَ أَنْ يَبْدُوَ صَلَاحُهَا، وَهُوَ قَوْلُ الشَّافِعِيِّ وَأَحْمَدَ وَإِسْحَاقَ.

**تخریج:** وأخرجه مسلم، انظر الحديث السابق \* وفي الباب عن أنس، [يأتي: ١٢٢٨] وعائشة [أحمد: ٧٠/٦، ١٠٥] وأبي هريرة [مسلم، ح: ٥٣٨] وابن عباس [البخاري، ح: ٢٢٤٦] ومسلم، ح: ١٥٣٧] وجابر [البخاري، ح: ١٤٨٧] ومسلم، ح: ١٥٣٦] وأبي سعيد [الطبراني في الأوسط، ح: ٦٤١٢] وزيد بن ثابت [أبو داود، ح: ٣٣٧٢] وأحمد: ١٨٥/٥، ١٩٠].

**1228.** Anas narrated: “The Messenger of Allāh ﷺ prohibited selling grapes until they appear and selling grains until they become firm.” (*Da‘if*)

[Abū ‘Eisā said:] This *Hadīth* is *Ḥasan Gharīb*, we do not know of it being *Marfū‘* except from the narration of Ḥammād bin Salamah.

١٢٢٨ - حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا أَبُو الْوَلِيدِ وَعَقْفَانُ وَسَلَمَةُ بْنُ حَرْبٍ قَالُوا: حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ عَنْ حُمَيْدٍ، عَنْ أَنَسٍ: أَنَّ رَسُولَ اللَّهِ ﷺ نَهَى عَنْ بَيْعِ الْعِنَبِ حَتَّى يَسْوَدَّ، وَعَنْ بَيْعِ الْحَبِّ حَتَّى يَسْتَدَّ. [قَالَ أَبُو عِيْسَى:] هَذَا حَدِيثٌ حَسَنٌ

غَرِيبٌ، لَا نَعْرِفُهُ مَرْفُوعًا إِلَّا مِنْ حَدِيثِ  
حَمَادِ بْنِ سَلَمَةَ.

**تخریج:** [إسناده ضعيف] وأخرجه أبو داود، البيوع، باب: في بيع الثمار قبل أن يبدو صلاحها، ح: ٣٣٧١ عن الحسن بن علي وابن ماجه، ح: ٢٢١٧ من حديث حماد بن سلمة به، حميد عن عن وصححه ابن حبان (الإحسان): ٤٩٧٢ والحاكم: ١٩/٢ على شرط الشيخين ووافقه الذهبي.

### Comments:

The orders of not selling the grains and fruits until they are ripe enough and safe from blight, were given to stop the conflict between the buyer and the seller. Though it is prohibited to sell before it is ripe and safe but if the buyer wants to reap the crop and pick up the fruit from the trees before it is ready, then according to the Four *A'immah* it is approved and lawful to sell it.

### Chapter 16. What Has Been Related About The Sale Of *Habalil-Habalah*

(المعجم ١٦) - بَابُ مَا جَاءَ فِي بَيْعِ  
حَبْلِ الْحَبَلَةِ (التحفة ١٦)

**1229.** Ibn 'Umar narrated: "The Prophet ﷺ prohibited the sale of *Habalil-Habalah*." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from 'Abdullāh bin 'Abbās and Abū Sa'eed Al-Khudrī.

[Abū 'Eisā said:] The *Ḥadīth* of Ibn 'Umar is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to the people of knowledge. And *Habalil-Habalah* is the offspring of the offspring (of an animal). It is an invalid sale according to the people of knowledge and it is a type of *Gharar* sale.<sup>[1]</sup>

Shu'bah reported this *Ḥadīth* from Ayyūb, from Sa'eed bin Jubair, from Ibn 'Abbās.

'Abdul-Wahhāb Ath-Thaqafī and others reported it from Ayyūb, from Sa'eed bin Jubair and Nāfi',

١٢٢٩ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا حَمَادُ بْنُ زَيْدٍ عَنْ أَيُّوبَ، عَنْ نَافِعٍ، عَنْ ابْنِ عُمَرَ: أَنَّ النَّبِيَّ ﷺ نَهَى عَنْ بَيْعِ حَبْلِ الْحَبَلَةِ. [قَالَ:] وَفِي الْبَابِ عَنْ عَبْدِ اللَّهِ بْنِ عَبَّاسٍ وَأَبِي سَعِيدِ الْخُدْرِيِّ.

[قَالَ أَبُو عِيْسَى:] حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ، وَحَبْلُ الْحَبَلَةِ نِتَاجُ النَّتَاجِ، وَهُوَ بَيْعٌ مَفْسُوحٌ عِنْدَ أَهْلِ الْعِلْمِ، وَهُوَ مِنْ بَيْعِ الْعَرَرِ. وَقَدْ رَوَى شُعْبَةُ هَذَا الْحَدِيثَ عَنْ أَيُّوبَ، عَنْ سَعِيدِ بْنِ جُبَيْرٍ، عَنْ ابْنِ عَبَّاسٍ. وَرَوَى عَبْدُ الْوَهَّابِ النَّقْفِيُّ وَغَيْرُهُ عَنْ أَيُّوبَ، عَنْ سَعِيدِ بْنِ جُبَيْرٍ وَنَافِعٍ، عَنْ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ، وَهَذَا أَصَحُّ.

[1] See the next chapter.

from Ibn ‘Umar, from the Prophet ﷺ, and this is more correct.

**تخریج:** [صحیح] وأخرجه النسائي في الكبرى، ح: ٦٢١٩ عن قتيبة، والبخاري، ح: ٢١٤٣ ومسلم، ح: ١٥١٤ من حديث نافع به \* وفي الباب عن عبدالله بن عباس [النسائي، ح: ٤٦٢٦] وأبي سعيد الخدري [يأتي مختصراً: ١٥٦٣ وابن ماجه، ح: ٩٦].

**Comments:**

‘*Habalah*’ is plural of ‘*Habl*’ as ‘*Katabah*’ is plural of ‘*Katab*’ ‘*Habalil Habalah*’ is an offspring of the offspring of an animal. Explanation: A) To pay at the time when the she-camel will give birth to a she-camel and that offspring she-camel will give birth to a camel or she-camel. Imām Shafī’ī and some others support this explanation of ‘*Habalil Habalah*’. B) Others said it is to pay at the time when the she-camel gives birth to a she-camel and that offspring she-camel gets pregnant. In both situations the deal is unlawful and strictly disapproved because of the time factor. Nobody knows what will happen during this long period of time.

**Chapter 17. What Has Been Related About: Sales Of *Gharar*<sup>[1]</sup> Are Disliked**

(المعجم ١٧) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ بَيْعِ الْغَرَرِ (التحفة ١٧)

**1230.** Abū Hurairah narrated: “The Messenger of Allāh ﷺ prohibited the *Gharar* sale, and the *Haṣāh* sale.” (*Ṣaḥīh*)

١٢٣٠ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا أَبُو أُسَامَةَ عَنْ عُبَيْدِ اللَّهِ بْنِ عُمَرَ، عَنْ أَبِي الزَّنَادِ، عَنِ الْأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: نَهَى رَسُولُ اللَّهِ ﷺ عَنْ بَيْعِ الْغَرَرِ وَبَيْعِ الْخِصَاةِ.

[He said:] There are narrations on this topic from Ibn ‘Umar, Ibn ‘Abbās, Abū Sa‘eed, and Anas.

[قَالَ:] وَفِي الْبَابِ عَنِ ابْنِ عُمَرَ وَابْنِ عَبَّاسٍ وَأَبِي سَعِيدٍ وَأَنْسٍ.

[Abū ‘Eisā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīh Ḥadīth*.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَالْعَمَلُ عَلَى هَذَا الْحَدِيثِ عِنْدَ أَهْلِ الْعِلْمِ، كَرَهُوا بَيْعَ الْغَرَرِ. قَالَ الشَّافِعِيُّ: وَمِنْ بَيْعِ الْغَرَرِ بَيْعُ السَّمَكِ فِي الْمَاءِ، وَبَيْعُ الْعَبْدِ الْآبِقِ، وَبَيْعُ الطَّيْرِ فِي السَّمَاءِ، وَنَحْوُ ذَلِكَ مِنَ النَّبِيِّعِ، وَمَعْنَى بَيْعِ

This *Ḥadīth* is acted upon according to the people of knowledge, they dislike the *Gharar* sale. Ash-Shāfi’ī said: “The *Gharar* sale includes selling fish that are in the water, selling a slave that has escaped, selling birds that are in the sky, and similar types of sales. And the meaning of the *Haṣāh* sale is when the seller says to the buyer:

[1] A sale involving uncertainty or deceit. It normally refers to the sale of what one does not possess, or what can not be defined, see the comments of the author.

'When I toss the pebble at you, then the sale between you and I is final.' This resembles the sale of *Munābadhah* and this is one of the selling practices of the people of *Jahiliyyah*."

الْحَصَاةِ، أَنْ يَقُولَ الْبَائِعُ لِلْمُسْتَرِي: إِذَا نَبَذْتُ إِلَيْكَ بِالْحَصَاةِ، فَقَدْ وَجَبَ الْبَيْعُ فِيمَا بَيْنِي وَبَيْنَكَ. وَهَذَا يُشْبِهُ بَيْعَ الْمُنَابَذَةِ، وَكَانَ هَذَا مِنْ بَيْعِ أَهْلِ الْجَاهِلِيَّةِ.

**تخریج:** وأخرجه مسلم، البيوع، باب بطلان بيع والحصاة والبيع الذي فيه غرر، ح: ١٥١٣ من حديث أبي أسامة به \* وفي الباب عن ابن عمر [ابن حبان، ح: ١١١٥ والبيهقي: ٣٣٨/٥] وابن عباس [ابن ماجه، ح: ٢١٩٥] وأبي سعيد [لعله يشير إلى حديث البخاري، ح: ٦٢٨٤] ومسلم، ح: ١٥١٢] وأنس [أبو يعلى: ١٥٥/٥، ح: ٢٧٦٧ والبيهقي: ٩/٥].

**Comments:**

A sale involving uncertainty and deceitful tricks is called a sale of 'Gharar'. All such sales that are based on deceiving others are unlawful and prohibited. All *A'imma* and scholars agree on this issue. The example of the sale of *Gharar* is selling an animal which is still in the womb of the mother or sale of the fish which is still in water and the net has been thrown for their catch, or selling a slave that has escaped, or sale of birds which are in the sky and sale of run away or lost animals.

**Chapter 18. What Has Been Related About The Prohibition Of Two Sales In One**

(المعجم ١٨) - بَابُ مَا جَاءَ فِي النَّهْيِ عَنْ بَيْعَتَيْنِ فِي بَيْعَةٍ (التحفة ١٨)

**1231.** Abū Hurairah narrated: "The Messenger of Allāh ﷺ prohibited two sales in one."

١٢٣١ - حَدَّثَنَا هَذَا: حَدَّثَنَا عَبْدُ بِنُ سَلَمَةَ عَنْ مُحَمَّدِ بْنِ عَمْرٍو، عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ، قَالَ: نَهَى رَسُولُ اللَّهِ ﷺ عَنْ بَيْعَتَيْنِ فِي بَيْعَةٍ.

There are narrations on this topic from 'Abdullāh bin 'Amr, Ibn 'Umar, and Ibn Mas'ūd. (*Hasan*)

[Abū 'Eisā said:] The *Hadīth* of Abū Hurairah is a *Hasan Ṣaḥīḥ Hadīth*.

وَفِي الْبَابِ عَنْ عَبْدِ اللَّهِ بْنِ عَمْرٍو وَابْنِ عُمَرَ وَابْنِ مَسْعُودٍ.

This is acted upon according to the people of knowledge. Some of the people of knowledge have explained it by saying that two sales in one is when one says: "I will sell you this garment for ten in cash, and twenty on credit." He does not distinguish between either of the two sales. But when he distinguishes it as being one of them, then there is no harm when

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ، وَقَدْ فَسَّرَ بَعْضُ أَهْلِ الْعِلْمِ، قَالُوا: بَيْعَتَيْنِ فِي بَيْعَةٍ، أَنْ يَقُولَ: أبيعُكَ هَذَا الثَّوْبَ بِتَقْدِيرِ بَعْشَرَةٍ، وَبِئْسَبِيئَةٍ بِعَشْرِينَ، وَلَا يُفَارِقُهُ عَلَى أَحَدِ الْبَيْعَيْنِ، فَإِذَا فَارَقَهُ عَلَى

one of them is agreed upon.

Ash-Shāfi'i said: "Included in the meaning of what the Prophet ﷺ prohibited of regarding two sales in one, is if one said: 'I will sell you this house of mine for that (price), upon the condition that you sell me your slave for this (price). When I get the slave, then you get the house.' In this way the sales are distinguished without the prices being known, and neither of them knows what will happen at the conclusion of it (the agreement)."

أَحَدِهِمَا، فَلَا بَأْسَ إِذَا كَانَتْ الْمُقَدَّةُ عَلَى وَاحِدٍ مِنْهُمَا. قَالَ الشَّافِعِيُّ: وَمِنْ مَعْنَى مَا نَهَى النَّبِيُّ ﷺ عَنْ بَيْعَتَيْنِ فِي بَيْعَةٍ، أَنْ يَقُولَ: أَيْبِعُكَ دَارِي هَذِهِ بِكَذَا، عَلَى أَنْ تَبِيعَنِي غُلَامَكَ بِكَذَا فَإِذَا وَجَبَ لِي غُلَامُكَ وَجَبَ لَكَ دَارِي، وَهَذَا يُفَارِقُ عَنْ بَيْعٍ بغيرِ تَمَنِ مَعْلُومٍ، وَلَا يَدْرِي كُلُّ وَاحِدٍ مِنْهُمَا عَلَى مَا وَقَعَتْ عَلَيْهِ صَفَقَتُهُ.

**تخریج:** [إسناده حسن] وأخرجه النسائي، البيوع، باب بيعتين في بيعة... إلخ، ح: ٧/٢٩٥، ح: ٤٦٣٦ من حديث محمد بن عمرو به \* وفي الباب عن عبدالله بن عمرو (يأتي: ١٢٣٤) وأحمد: ١٧٤/٢، ١٧٥، والبيهقي: ٣٤٣/٥ وابن عمر [ابن عبدالبر في التمهيد: ٣٨٨/٢٤] وابن مسعود [أحمد: ٣٩٨/١] وغيره.

**Comments:**

Three explanations have been given of "two sales in one" by scholars. Imām At-Tirmidhi has already given two explanations of the narration and the third explanation is that a person pays another person one Dinar on the promise that he will give him ten kilos of wheat next month. After one month when he demands ten kilos of wheat the other man says that the wheat he owes him may be sold to him again and next month he will give him twenty kilos of wheat. All kinds of such sales are unlawful and strictly prohibited. It is also a kind of *Ribā*.

**Chapter 19. What Has Been Related About It Being Disliked To Sell What One Does Not Have**

(المعجم ١٩) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ بَيْعِ مَا لَيْسَ عِنْدَهُ (التحفة ١٩)

1232. Ḥakīm bin Ḥizām narrated: "I asked the Messenger of Allāh ﷺ, I said: 'A man came to me asking to buy something that I did not have. Can I buy it from the market for him and then give it to him?'<sup>[1]</sup> He said: 'Do not sell what

١٢٣٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا هُشَيْمٌ عَنْ أَبِي بَشْرٍ، عَنْ يُونُسَ بْنِ مَاهَكَ، عَنْ حَكِيمِ ابْنِ حِزَامٍ قَالَ: سَأَلْتُ رَسُولَ اللَّهِ ﷺ. فَقُلْتُ: يَا نَبِيَّ الرَّجُلُ يَسْأَلُنِي مِنَ الْبَيْعِ مَا لَيْسَ عِنْدِي، أَتَبَاعُ لَهُ مِنَ السُّوقِ ثُمَّ أَيْبِعُهُ؟

[1] That is: Collect the money from him as in a sale, pay it in the market and then give it to him? See *Tuhfat Al-Aḥwadhī*.

is not with you.” (Hasan)

قَالَ: «لَا تَبِعْ مَا لَيْسَ عِنْدَكَ».

**تخریج:** [إسناده حسن] وأخرجه النسائي: ٢٨٩/٧، ح: ٤٦١٧ (اليبوع، باب بيع ما ليس عند البائع) من حديث هشيم، وأبو داود، ح: ٣٥٠٣ وابن ماجه، ح: ٢١٨٧ من حديث أبي بشر به وصححه ابن حزم، وله طرق كثيرة عند ابن الجارود، ح: ٦٠٢ وغيره.

**1233.** Ḥakīm bin Ḥizām narrated: “The Messenger of Allāh ﷺ prohibited me from selling what was not with me.” (Ṣaḥīḥ)

[Abū ‘Eīsā said:] This *Hadīth* is Ḥasan. He said: There is something on this topic from ‘Abdullāh bin ‘Umar.

Ishāq bin Manṣūr said: “I said to Aḥmad: ‘What is the meaning of the prohibition from a loan along with a sale?’ He said: ‘That he gives him a loan and then he makes a sale to him greater than it’s actual worth. And, it carries the meaning of him loaning it to him in exchange for something (as collateral), so he says: ‘If you are unable to pay it (the loan), then it (the collateral) will be a sale for you.’ Ishāq [meaning Ibn Rahuwah] said as he said. And I said to Aḥmad: ‘What about selling what one does not possess?’ He said: ‘To me it does not apply except in cases of food – meaning when one has not taken possession of it.’ And Ishāq said the same for all of what is measured or weighed. Aḥmad said: ‘When he says: “I will sell you this garment, with the condition that I am the tailor for it, and I am the one who bleaches it.’ This is an example of two conditions in one sale. But if he says: “I am selling it to you with the

١٢٣٣ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا حَمَادُ بْنُ زَيْدٍ عَنْ أَبِي يُونُسَ، عَنْ يُونُسَ بْنِ مَاهَكَ، عَنْ حَكِيمِ بْنِ حِزَامٍ قَالَ: نَهَانِي رَسُولُ اللَّهِ ﷺ أَنْ أُبِيعَ مَا لَيْسَ عِنْدِي.

[قَالَ أَبُو عِيْسَى:] وَهَذَا حَدِيثٌ حَسَنٌ، قَالَ وَفِي الْبَابِ عَنْ عَبْدِ اللَّهِ بْنِ عَمْرٍ.

قَالَ إِسْحَاقُ بْنُ مَنْصُورٍ: قُلْتُ لِأَحْمَدَ مَا مَعْنَى نَهَى عَنْ سَلْفٍ وَبَيْعٍ؟ قَالَ: أَنْ يَكُونَ يُرِضُهُ قَرْضًا ثُمَّ يَبِيعُهُ عَلَيْهِ بَيْعًا يَزِدَادُ عَلَيْهِ، وَيَحْتَمِلُ أَنْ يَكُونَ يُسَلِّفُ إِلَيْهِ فِي شَيْءٍ فَيَقُولُ: إِنْ لَمْ يَتَهَيَّأْ عِنْدَكَ فَهَوُ بَيْعٌ عَلَيْكَ، قَالَ إِسْحَاقُ [يَعْنِي ابْنَ رَاهُوِيَه] كَمَا قَالَ قُلْتُ لِأَحْمَدَ: وَعَنْ بَيْعٍ مَا لَمْ تَضْمَنْ؟ قَالَ: لَا يَكُونُ عِنْدِي إِلَّا فِي الطَّعَامِ يَعْنِي مَا لَمْ تَقْبِضْ، قَالَ إِسْحَاقُ: كَمَا قَالَ، فِي كُلِّ مَا يُكَالُ أَوْ يُوزَنُ. قَالَ أَحْمَدُ: إِذَا قَالَ: أُبِيعُكَ هَذَا الثَّوْبَ وَعَلَيَّ خِيَاطَتُهُ وَقَصَارَتُهُ، فَهَذَا مِنْ نَحْوِ شَرْطَيْنِ فِي بَيْعٍ، وَإِذَا قَالَ: أُبِيعُكَ، وَعَلَيَّ خِيَاطَتُهُ فَلَا بَأْسَ بِهِ، وَقَالَ: أُبِيعُكَ وَعَلَيَّ قَصَارَتُهُ فَلَا بَأْسَ بِهِ، إِنَّمَا هَذَا شَرْطٌ وَاحِدٌ، قَالَ إِسْحَاقُ: كَمَا قَالَ.



condition that I am its tailor,” then there is no harm in it. And, if he said: “I am selling it to you with the condition that I am the one who bleaches it” then there is no harm in it, because this is only one condition.’ And Ishāq said as he said.”

**تخریج:** [إسناده صحيح] وأخرجه أحمد: ٤٠٢/٣ من حديث أيوب السخيتاني به وانظر الحديث السابق \* وفي الباب عن عبدالله بن عمر [وصوابه عبدالله بن عمرو كما في تحفة الأوحدي: ٢٣٧/٢ والنسخة الهندية، وحديثه يأتي بعده: ١٢٣٤].

**1234.** Ayyūb narrated: ‘Amr bin Shu‘aib narrated to us, saying: My father narrated to me from his father’ until he mentioned ‘Abdullāh bin ‘Amr: “The Messenger of Allāh ﷺ said: ‘It is not lawful to lend and sell, nor two conditions in a sale, nor to profit from what is not possessed, nor to sell what one does not have.’” (Ṣaḥīḥ)

[Abū ‘Eisā said:] This Ḥadīth is Ḥasan Ṣaḥīḥ.

[Abū ‘Eisā said:] The Ḥadīth of Ḥakīm bin Ḥizām is a Ḥasan Ḥadīth, it has been reported from him through other routes. Ayyūb As-Sakhtiyānī and Abū Bishr report from Yūsuf bin Māhak, from Ḥakīm bin Ḥizām.

[Abū ‘Eisā said:] ‘Awf and Hishām bin Ḥassān reported this Ḥadīth from Ibn Sīrīn, from Ḥakīm bin Ḥizām from the Prophet ﷺ. And this is a Mursal Ḥadīth. Ibn Sīrīn only reported it from Ayyūb As-Sikhtiyānī from Yūsuf bin Māhak, from Ḥakīm bin Ḥizām like this.

١٢٣٤ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ: حَدَّثَنَا أَيُّوبُ: حَدَّثَنَا عَمْرُو بْنُ شُعَيْبٍ قَالَ: حَدَّثَنِي أَبِي، عَنْ أَبِيهِ، حَتَّى ذَكَرَ عَبْدَ اللَّهِ بْنُ عَمْرٍو، أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: «لَا يَجُلُّ سَلْفٌ وَيَبِّعُ، وَلَا شَرْطَانٌ فِي بَيْعٍ، وَلَا رِبْحٌ مَا لَمْ يُضْمَنْ، وَلَا يَبِّعُ مَا لَيْسَ عِنْدَكَ».

[قَالَ أَبُو عِيسَى:] وَهَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. [قَالَ أَبُو عِيسَى:] حَدِيثُ حَكِيمِ بْنِ حِزَامٍ حَدِيثٌ حَسَنٌ. قَدْ رَوَى عَنْهُ مِنْ غَيْرِ وَجْهٍ. وَرَوَى أَيُّوبُ السَّخْتِيَانِيُّ وَأَبُو بَشِيرٍ، عَنْ يُونُسَ بْنِ مَاهَكَ، عَنْ حَكِيمِ بْنِ حِزَامٍ.

[قَالَ أَبُو عِيسَى:] وَرَوَى هَذَا الْحَدِيثَ عَوْفٌ وَهَيْشَامُ بْنُ حَسَّانَ، عَنِ ابْنِ سِيرِينَ عَنْ حَكِيمِ بْنِ حِزَامٍ عَنِ النَّبِيِّ ﷺ. وَهَذَا حَدِيثٌ مُرْسَلٌ. إِنَّمَا رَوَاهُ ابْنُ سِيرِينَ عَنْ أَيُّوبَ السَّخْتِيَانِيِّ، عَنْ يُونُسَ بْنِ مَاهَكَ، عَنْ حَكِيمِ بْنِ حِزَامٍ هَكَذَا.

تخريج: [إسناده صحيح] وأخرجه أبو داود، البيهقي، باب: في الرجل يبيع ما ليس عنده، ح: ٣٥٠٤ وابن ماجه، ح: ٢١٨٨ من حديث إسماعيل ابن عليه به والنسائي، ح: ٤٦١٥ من حديث أيوب، وصححه ابن الجارود، ح: ٦٠١ والحاكم: ١٧/٢ والذهبي.

**1235.** Ḥakīm [bin Ḥizām] narrated: “The Messenger of Allāh ﷺ prohibited me from selling what was not with me.” (*Sahih*)

[Abū ‘Eisā said:] Wakī reported this *Ḥadīth* from Yazīd bin Ibrāhīm, from Ibn Sīrīn, from Ayyūb, from Ḥakīm bin Ḥizām, and he did not mention in it: “From Yūsuf bin Māhak.”

And the narration of ‘Abduṣ-Ṣamad (a narrator in the chain of *Ḥadīth* no. 1235) is more correct.

Yaḥya bin Abī Kathīr reported this *Ḥadīth* from Ya‘lā bin Ḥakīm, from Yūsuf bin Māhak, from ‘Abdullāh bin ‘Iṣmah, from Ḥakīm bin Ḥizām, from the Prophet ﷺ.

This *Ḥadīth* is acted upon according to most of the people of knowledge, they dislike for a man to sell what is not with him.

١٢٣٥ - حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ وَعَبْدَةُ بْنُ عَبْدِ اللَّهِ [الْحَزَائِمِيُّ الْبَصْرِيُّ أَبُو سَهْلٍ] وَغَيْرُ وَاحِدٍ قَالُوا: حَدَّثَنَا عَبْدُ الصَّمَدِ ابْنُ عَبْدِ الْوَارِثِ عَنْ يَزِيدَ بْنِ إِبْرَاهِيمَ، عَنِ ابْنِ سِيرِينَ، عَنْ أَيُّوبَ، عَنْ يُونُسَ بْنِ مَاهَكَ، عَنْ حَكِيمِ [بْنِ حِزَامٍ] قَالَ: نَهَانِي رَسُولُ اللَّهِ ﷺ أَنْ أُبَيْعَ مَا لَيْسَ عِنْدِي.

[قَالَ أَبُو عِيْسَى]: وَرَوَى وَكَيْعٌ هَذَا الْحَدِيثَ عَنْ يَزِيدَ بْنِ إِبْرَاهِيمَ عَنِ ابْنِ سِيرِينَ، عَنْ أَيُّوبَ، عَنْ حَكِيمِ بْنِ حِزَامٍ. وَلَمْ يَذْكُرْ فِيهِ عَنْ يُونُسَ بْنِ مَاهَكَ. وَرَوَايَةُ عَبْدِ الصَّمَدِ أَصَحُّ.

وَقَدْ رَوَى يَحْيَى بْنُ أَبِي كَثِيرٍ هَذَا الْحَدِيثَ عَنْ يَغْلَى بْنِ حَكِيمٍ، عَنْ يُونُسَ بْنِ مَاهَكَ، عَنْ عَبْدِ اللَّهِ بْنِ عِصْمَةَ، عَنْ حَكِيمِ بْنِ حِزَامٍ، عَنِ النَّبِيِّ ﷺ، وَالْعَمَلُ عَلَى هَذَا الْحَدِيثِ عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ. كَرِهُوا أَنْ يُبَيْعَ الرَّجُلُ مَا لَيْسَ عِنْدَهُ.

تخريج: [إسناده صحيح] انظر، ح: ١٢٣٢، ١٢٣٣.

### Comments:

According to Imām Aḥmad’s view it is related to grains only. It means that the grains which are not in possession, it is illegal to sell them. Imām Ishāq says all things that are measured and weighed and are not in possession are included in it. In the view of Imām Ash-Shāfi‘ī and Muḥammad, all the things which are not in possession are included in it. According to Imām Mālik it is not lawful to sell grains and fruits which are not in possession, and in the view of Imām Abū Ḥanīfah, all moveable property which is not in possession, its sale is unlawful. (See for details: *Sharḥ Muslim lin-Nawawī* v.2. p5)

## Chapter 20. What Has Been Related About It Being Disliked To Sell *Walā'* And To Confer It<sup>[1]</sup>

1236. Ibn 'Umar narrated: "The Messenger of Allāh ﷺ prohibited selling the *Walā'* and conferring it." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. We do not know of it except as a narration of 'Abdullāh bin Dinār, from Ibn 'Umar.

This *Ḥadīth* is acted upon according to the people of knowledge.

Yahya bin Sulaim reported this *Ḥadīth* from 'Ubaidullāh bin 'Umar, from Nāfi' from Ibn 'Umar from the Prophet ﷺ, (saying) "That he prohibited selling the *Walā'* and conferring it."

But this is a mistake from Yahya bin Sulaim. Because 'Abdul-Wahhāb Ath-Thaqafi, 'Abdullāh bin Numair and others reported it from 'Ubaidullāh bin 'Umar, from 'Abdullāh bin Dinār, from Ibn 'Umar, from the Prophet ﷺ. And this is more correct than the narration of Yahya bin Sulaim.

(المعجم ٢٠) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ بَيْعِ الْوَلَاءِ وَهَبْتِهِ (التحفة ٢٠)

١٢٣٦ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ مُهْدِيٍّ [قَالَ]: حَدَّثَنَا سُفْيَانُ وَشُعْبَةُ، عَنْ عَبْدِ اللَّهِ بْنِ دِينَارٍ، عَنِ ابْنِ عُمَرَ: أَنَّ رَسُولَ اللَّهِ ﷺ نَهَى عَنْ بَيْعِ الْوَلَاءِ وَهَبْتِهِ.

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ عَبْدِ اللَّهِ بْنِ دِينَارٍ، عَنِ ابْنِ عُمَرَ، وَالْعَمَلُ عَلَى هَذَا الْحَدِيثِ عِنْدَ أَهْلِ الْعِلْمِ، وَقَدْ رَوَى يَحْيَى بْنُ سُلَيْمٍ هَذَا الْحَدِيثَ عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ: أَنَّهُ نَهَى عَنْ بَيْعِ الْوَلَاءِ وَهَبْتِهِ. وَهُوَ وَهْمٌ: وَهَمٌّ فِيهِ يَحْيَى بْنُ سُلَيْمٍ وَقَدْ رَوَى عَبْدُ الْوَهَّابِ الثَّقَفِيُّ وَعَبْدُ اللَّهِ بْنُ نُمَيْرٍ وَغَيْرُ وَاحِدٍ عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، عَنْ عَبْدِ اللَّهِ بْنِ دِينَارٍ، عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ. وَهَذَا أَصَحُّ مِنْ حَدِيثِ يَحْيَى بْنِ سُلَيْمٍ.

تخريج: متفق عليه، وأخرجه البخاري، العتق، باب بيع الولاء وهبته، ح: ٢٥٣٥ من حديث شعبة وح: ٦٧٥٦ من حديث سفیان ومسلم، ح: ١٥٠٦ من حديث شعبة وسفيان الثوري به.

### Comments:

'*Walā'* is the relationship between a slave and the one who manumits. By this relationship one who gets freedom is considered the family member of the one who frees. If the freed slave dies without having any legal heir his property goes to the one who manumitted him. Arabs before the advent of Islam used to sell or confer this relationship of *Walā'*. The Prophet ﷺ prohibited it.

[1] *Al-Walā'* is the right for the one who freed a slave to inherit his or her property. It is not lawful to sell that right, nor give it to someone as a gift.

**Chapter 21. What Has Been Related About It Being Disliked To Barter Animals For Animals On Credit**

1237. Samurah narrated: “The Messenger of Allāh ﷺ prohibited bartering animals for animals on credit.” (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Ibn ‘Abbās, Jābir, and Ibn ‘Umar.

[Abū ‘Eisā said:] The *Hadīth* of Samurah is a *Ḥasan Ṣaḥīḥ Hadīth*. It is correct that Al-Ḥasan heard from Samurah, this is what ‘Alī bin Al-Madīnī and others said.

Regarding (the prohibition of) bartering animals for animals on credit, this is acted upon according to most of the people of knowledge among the Companions of the Prophet ﷺ and others. This is the view of Sufyān Ath-Thawrī and the people of Al-Kūfah, and it is the view of Aḥmad.

Some of the people of knowledge, among the Companions of the Prophet ﷺ and others, permitted bartering animals for animals on credit. This is the view of Ash-Shāfi‘ī and Ishāq.

**تخریج:** [صحيح] وأخرجه أبو داود، البيوع، باب: في الحيوان بالحيوان نسيئة، ح: ٣٣٥٦ من حديث حماد بن سلمة به وصححه ابن الجارود، ح: ٦١١ ورواه شعبة عن قتادة به وللحديث شواهد عند ابن حبان، ح: ١١١٣ \* وفي الباب عن ابن عباس [البيهقي: ٢٨٨/٥، ٢٨٩] وجابر [يأتي: ١٢٣٨] وابن عمر [الطحاوي في معاني الآثار: ٦٠/٤].

1238. Jābir narrated that the Messenger of Allāh ﷺ said: “Animals [two for one] are not

(المعجم ٢١) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ بَيْعِ الْحَيَوَانِ بِالْحَيَوَانِ نَسِيئَةً (التحفة ٢١)

١٢٣٧ - حَدَّثَنَا مُحَمَّدُ بْنُ مُنْثَى أَبُو مُوسَى: حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ مَهْدِيٍّ عَنْ حَمَادِ بْنِ سَلَمَةَ، عَنْ قَتَادَةَ، عَنِ الْحَسَنِ، عَنْ سَمُرَةَ: أَنَّ النَّبِيَّ ﷺ نَهَى عَنْ بَيْعِ الْحَيَوَانِ بِالْحَيَوَانِ نَسِيئَةً.

[قَالَ:] وفي الباب عن ابن عباس وجابر وابن عمر.

[قَالَ أَبُو عِيسَى:] حَدِيثُ سَمُرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَسَمَاعُ الْحَسَنِ مِنْ سَمُرَةَ صَحِيحٌ. هَكَذَا قَالَ عَلِيُّ بْنُ الْمَدِينِيِّ وَعَبْدُ الْعَمَلِ عَلَى هَذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَعَبِيرِهِمْ، فِي بَيْعِ الْحَيَوَانِ بِالْحَيَوَانِ نَسِيئَةً، وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وَأَهْلِ الْكُوفَةِ، وَبِهِ يَقُولُ أَحْمَدُ وَقَدْ رَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَعَبِيرِهِمْ فِي بَيْعِ الْحَيَوَانِ بِالْحَيَوَانِ نَسِيئَةً، وَهُوَ قَوْلُ الشَّافِعِيِّ وَإِسْحَاقَ.

١٢٣٨ - حَدَّثَنَا أَبُو عَمَرَ الْحُسَيْنُ بْنُ حُرَيْثٍ: حَدَّثَنَا عَبْدُ اللَّهِ بْنُ نُمَيْرٍ عَنِ الْحَجَّاجِ

proper on credit, and there is no harm in a hand to hand (exchange).” (*Da‘īf*)

This *Hadīth* is *Hasan* [*Ṣaḥīḥ*].

وَهُوَ ابْنُ أَرْطَاةَ - عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «الْحَيَوَانُ [اثنان بواحد]، لَا يَصْلُحُ نَسِيئًا، وَلَا بَأْسَ بِهِ يَدًا بِيَدٍ».

هَذَا حَدِيثٌ حَسَنٌ [صَحِيحٌ].

تخریج: [إسناده ضعيف] وأخرجه ابن ماجه، التجارات، باب الحيوان بالحيوان بالنسيئة، ح: ٢٢٧١ من حديث الحجاج بن أرتاة به وهو ضعيف مدلس، والحديث السابق يغني عن حديثه.

**Comments:**

There is a narration in *Ṣaḥīḥ Al-Bukhārī* that the Prophet ﷺ bought a camel on credit from a Bedouin and later on returned a better camel to him. Imām Bukhārī has written a ‘Chapter on Loan of Camels’. It proves that an animal can be bartered on credit. According to Ḥāfiẓ Ibn Ḥajar most of the people of knowledge act upon this narration.

**Chapter 22. What Has Been Related About Buying A Slave In Exchange For Two Slaves**

(المعجم ٢٢) - بَابُ مَا جَاءَ فِي شِرَاءِ الْعَبْدِ بِالْعَبْدَيْنِ (التحفة ٢٢)

1239. Jābir narrated: “A slave came to give the pledge to the Prophet ﷺ for *Hijrah*, but the Prophet ﷺ did not realize that he was a slave. So his master came to get him and the Prophet ﷺ said: ‘Sell him to me.’ So he purchased him for two black slaves. Then he would not take the pledge from anyone until he asked him if he was a slave.” (*Ṣaḥīḥ*)

١٢٣٩ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ قَالَ: جَاءَ عَبْدٌ فَبَايَعَ النَّبِيَّ ﷺ عَلَى الْهَجْرَةِ، وَلَا يَشْعُرُ النَّبِيُّ ﷺ أَنَّهُ عَبْدٌ، فَجَاءَ سَيِّدُهُ يُرِيدُهُ، فَقَالَ النَّبِيُّ ﷺ: «بِعْنِيهِ».

فَاشْتَرَاهُ بِعَبْدَيْنِ أَسْوَدَيْنِ، ثُمَّ لَمْ يُبَايِعْ أَحَدًا بَعْدُ، حَتَّى يَسْأَلَهُ: «أَعْبُدُ هُوَ؟».

[He said:] There is something on this topic from Anas.

[Abū ‘Eisā said:] The *Hadīth* of Jābir is a *Hasan Ṣaḥīḥ Hadīth*. This is acted upon according to the people of knowledge. There is no harm in a slave for two slaves in a hand to hand exchange, but they differ when it is on credit.

[قَالَ:] وَفِي الْبَابِ عَنْ أَنَسٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ جَابِرٍ حَدِيثٌ

حَسَنٌ صَحِيحٌ، وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ، أَنَّهُ لَا بَأْسَ بِعَبْدٍ بِعَبْدَيْنِ، يَدًا بِيَدٍ، وَاخْتَلَفُوا فِيهِ إِذَا كَانَ نَسِيئًا.

**تخریج:** وأخرجه مسلم، المساقاة، باب جواز بیع الحيوان بالحيوان، من جنسه، متفاضلاً، ح: ١٦٠٢ عن قتيبة به \* وفي الباب عن أنس [ابن ماجه، ح: ٢٢٧٢ وأبو داود، ح: ٢٩٩٧ وأصله متفق عليه].

**Chapter 23. What Has Been Related About That Wheat Is To Be Exchanged For Wheat, Kind For Kind, And That An Increase In It Is Disliked**

1240. ‘Ubādah bin Aṣ-Ṣāmit narrated that the Prophet ﷺ said: “Gold for gold, kind for kind; silver for silver, kind for kind; dried-dates for dried-dates, kind for kind; wheat for wheat, kind for kind; salt for salt, kind for kind; and barley for barley, kind for kind. Whoever increases or seeks an increase, then he has dealt with *Ribā*. Sell gold for silver as you wish, hand to hand; and sell wheat for dried-dates as you wish, hand to hand; and sell barley for dried-dates as you wish, hand to hand.” (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Abū Sa‘eed, Abū Hurairah, Bilāl, [and Anas].

[Abū ‘Eisā said:] The *Ḥadīth* of ‘Ubādah bin Aṣ-Ṣāmit is *Ḥasan Ṣaḥīḥ*. Some of them reported this *Ḥadīth* from *Khālid*, with this chain, and he said: “Sell wheat for barley as you wish, hand to hand.”

Some of them reported this *Ḥadīth* from *Khālid*, from Abū Qilābah, from *Ash‘ath*, from ‘Ubādah from the Prophet ﷺ. In that *Ḥadīth*, they added that *Khālid* said: “Abū Qilābah said: “Sell wheat for barley as you wish, hand to hand.”

This *Ḥadīth* is acted upon

(المعجم ٢٣) - بَابُ مَا جَاءَ أَنَّ الْحِنْطَةَ بِالْحِنْطَةِ مِثْلًا بِمِثْلِ وَكَرَاهِيَةُ التَّفَاضُلِ فِيهِ (التحفة ٢٣)

١٢٤٠ - حَدَّثَنَا سُؤَيْدُ بْنُ نَصْرٍ: حَدَّثَنَا عَبْدُ اللَّهِ بْنُ الْمُبَارَكِ: حَدَّثَنَا سُفْيَانُ عَنْ خَالِدِ الْحَدَّاءِ، عَنْ أَبِي قَلَابَةَ، عَنْ أَبِي الْأَشْعَثِ، عَنْ عُبَادَةَ بْنِ الصَّامِتِ عَنِ النَّبِيِّ ﷺ قَالَ: «الذَّهَبُ بِالذَّهَبِ مِثْلًا بِمِثْلِ وَالْفِضَّةُ بِالْفِضَّةِ مِثْلًا بِمِثْلِ، وَالتَّمْرُ بِالتَّمْرِ مِثْلًا بِمِثْلِ، وَالتَّبُّرُ بِالتَّبْرِ مِثْلًا بِمِثْلِ، وَالمِلْحُ بِالمِلْحِ مِثْلًا بِمِثْلِ، وَالشَّعِيرُ بِالشَّعِيرِ مِثْلًا بِمِثْلِ. فَمَنْ زَادَ أَوْ اِزْدَادَ فَقَدْ أَرَبَى، يَبْعُوا الذَّهَبَ بِالْفِضَّةِ كَيْفَ شِئْتُمْ، يَدَا بِيَدٍ، وَيَبْعُوا التَّبْرَ بِالتَّمْرِ كَيْفَ شِئْتُمْ يَدَا بِيَدٍ، وَيَبْعُوا الشَّعِيرَ بِالتَّمْرِ كَيْفَ شِئْتُمْ يَدَا بِيَدٍ».

[قَالَ:] وفي البابِ عَنْ أَبِي سَعِيدٍ وَأَبِي هُرَيْرَةَ وَبِلَالٍ [وَأَنَسٍ].

[قَالَ أَبُو عَمِيْرٍ:] حَدِيثُ عُبَادَةَ حَدِيثٌ حَسَنٌ صَحِيْحٌ، وَقَدْ رَوَى بَعْضُهُمْ هَذَا الْحَدِيثَ عَنْ خَالِدٍ بِهَذَا الْإِسْنَادِ، قَالَ: «يَبْعُوا التَّبْرَ بِالشَّعِيرِ كَيْفَ شِئْتُمْ يَدَا بِيَدٍ».

وَرَوَى بَعْضُهُمْ هَذَا الْحَدِيثَ عَنْ خَالِدٍ، عَنْ أَبِي قَلَابَةَ، عَنْ أَبِي الْأَشْعَثِ، عَنْ عُبَادَةَ عَنِ النَّبِيِّ ﷺ الْحَدِيثِ، وَزَادَ فِيهِ قَالَ خَالِدٌ:

according to the people of knowledge, they do not think that one may sell wheat for wheat except when it is the same kind for the same kind, and (the same for) barely in exchange for barely, kind for kind. When the items are themselves different, then there is no harm in one being more than the other if it is hand to hand. This is the saying of most of the people of knowledge among the Companions of the Prophet ﷺ and others. It is the view of Sufyān Ath-Thawrī, Ash-Shāfi'ī, Ahmad, and Ishāq. Ash-Shāfi'ī said: "And the proof for that is the saying of the Prophet ﷺ: 'Sell barely for wheat as you wish, hand to hand.'"

[Abū 'Eīsā said:] Some of the people of knowledge considered it disliked that wheat be sold for barely unless it was kind for kind. This is the view of Mālik bin Anas, but the first view is more correct.

قَالَ أَبُو قَلَابَةَ: يَبْعُوا الْبُرَّ بِالشَّعِيرِ كَيْفَ شِئْتُمْ فَذَكَرَ الْحَدِيثَ. وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ، لَا يَرَوْنَ أَنْ يُبَاعَ الْبُرُّ بِالْبُرِّ إِلَّا مِثْلًا بِمِثْلٍ، وَالشَّعِيرُ بِالشَّعِيرِ إِلَّا مِثْلًا بِمِثْلٍ، فَإِذَا اخْتَلَفَ الْأَصْنَافُ فَلَا بَأْسَ أَنْ يُبَاعَ مُتَفَاضِلًا إِذَا كَانَ يَدًا يَدًا، وَهَذَا قَوْلُ أَكْثَرِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ. وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وَالشَّافِعِيِّ وَأَحْمَدَ وَإِسْحَاقَ. وَقَالَ الشَّافِعِيُّ: وَالْحُجَّةُ فِي ذَلِكَ قَوْلُ النَّبِيِّ ﷺ: «يَبْعُوا الشَّعِيرَ بِالْبُرِّ كَيْفَ شِئْتُمْ، يَدًا يَدًا».

[قَالَ أَبُو عَيْسَى:] وَقَدْ كَرِهَ قَوْمٌ مِنْ أَهْلِ الْعِلْمِ أَنْ تُبَاعَ الْحِنْطَةُ بِالشَّعِيرِ إِلَّا مِثْلًا بِمِثْلٍ، وَهُوَ قَوْلُ مَالِكِ بْنِ أَنَسٍ، وَالْقَوْلُ الْأَوَّلُ أَصَحُّ.

**تخريج:** وأخرجه مسلم، المساقاة، باب الصرف وبيع الذهب بالورق نقدًا، ح: ١٥٨٧ من حديث سفیان الثوري به \* وفي الباب عن أبي سعيد [يأتي: ١٢٤١] وأبي هريرة [مسلم، ح: ١٥٨٨] وبلال [الدارمي، ح: ٢٥٧٩] وأنس [البيزار (كشف الأستار): ١٠٩/٢، ح: ١٣١٩].

**Comments:**

*Ribā* (Usury or Interest) is of two kinds. a) Direct and b) Indirect. The example of direct *Ribā* is very clear, it is to take money or anything else on loan and settle the terms and conditions of return in advance and to agree by both parties to pay more than the original loan taken, or to return a better thing than the thing taken on loan. This is unlawful. The second kind of *Ribā* is indirect interest for which the narration in the chapter has the basic standing. *Ribā* means increase. Exchange of one kind of grain with the same kind of grain with some addition is because it resembles the Direct Interest, therefore, it has been declared unlawful. (See for details: *Hujjatullāh Al-Bālighah* v.2. p.106 - 107.)

**Chapter 24. What Has Been Related About Exchange**

(المعجم ٢٤) - بَابُ مَا جَاءَ فِي

الصَّرْفِ (التحفة ٢٤)

1241. Nāfi‘ narrated: “Ibn ‘Umar and I went to Abū Sa‘eed and he narrated to us: ‘the Messenger of Allāh ﷺ said – and I heard him with these [two] ears: “Do not sell gold for gold except kind for kind, nor silver for silver except kind for kind, do not exchange more of one than the other, and do not sell what is not present from them for what is present.” (*Ṣaḥīḥ*)

[Abū ‘Eīsā said:] There are narrations on this topic from Abū Bakr, ‘Umar, ‘Uthmān, Abū Hurairah, Hishām bin ‘Āmir, Al-Barā’, Zaid bin Arqam, Faḍālah bin ‘Ubaid, Abū Bakrah, Ibn ‘Umar, Abū Ad-Dardā’, and Bilāl.

[He said:] the *Hadīth* of Abū Sa‘eed, from the Prophet ﷺ [about *Ribā*] is a *Ḥasan Ṣaḥīḥ Hadīth*.

This is acted upon according to the people of knowledge among the Companions of the Prophet ﷺ and others, except for what has been related from Ibn ‘Abbās; he did not see any harm in exchanging gold for gold or silver for silver, more for less, when it is done hand to hand, and he said: “*Ribā* is only in credit.” Similar has been related from some of his companions. It has been related that Ibn ‘Abbās changed his opinion when Abū Sa‘eed narrated it to him from the Prophet ﷺ. The first view is more correct.

And this is acted upon according to the people of knowledge [among the

١٢٤١ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا حُسَيْنُ بْنُ مُحَمَّدٍ: حَدَّثَنَا شَيْبَانُ عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ، عَنْ نَافِعٍ، قَالَ: انْطَلَقْتُ أَنَا وَابْنُ عُمَرَ إِلَى أَبِي سَعِيدٍ، فَحَدَّثَنَا: أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: سَمِعْتُهُ أُذُنَايَ [هَاتَانِ] يَقُولُ: «لَا تَبِيعُوا الذَّهَبَ بِالذَّهَبِ إِلَّا مِثْلًا بِمِثْلٍ، وَالْفِضَّةَ بِالْفِضَّةِ إِلَّا مِثْلًا بِمِثْلٍ، لَا يُشَفُّ بَعْضُهُ عَلَى بَعْضٍ، وَلَا تَبِيعُوا مِنْهُ غَائِبًا بِنَاجِزٍ».

[قَالَ أَبُو عِيسَى:] [وَفِي الْبَابِ عَنْ أَبِي بَكْرٍ وَعُمَرَ وَعُثْمَانَ وَأَبِي هُرَيْرَةَ وَهَشَامِ بْنِ عَامِرٍ وَالْبَرَاءِ وَزَيْدِ بْنِ أَرْقَمَ وَفَضَالَةَ بْنِ عُبَيْدٍ وَأَبِي بَكْرَةَ وَابْنَ عُمَرَ وَأَبِي الدَّرْدَاءِ وَبِلَالٍ] [قَالَ: وَاحْدَيْتُ أَبِي سَعِيدٍ عَنِ النَّبِيِّ ﷺ [فِي الرَّبَا] حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ، إِلَّا مَا رَوَى عَنِ ابْنِ عَبَّاسٍ: أَنَّهُ كَانَ لَا يَرَى بَأْسًا أَنْ يُبَاعَ الذَّهَبُ بِالذَّهَبِ مُتَّفَاعِلًا، وَالْفِضَّةُ بِالْفِضَّةِ مُتَّفَاعِلًا، إِذَا كَانَ يَدًا بِيَدٍ، وَقَالَ: إِنَّمَا الرَّبَا فِي النَّسْبَةِ، وَكَذَلِكَ رَوَى عَنْ بَعْضِ أَصْحَابِهِ شَيْءٌ مِنْ هَذَا، وَقَدْ رَوَى عَنِ ابْنِ عَبَّاسٍ أَنَّهُ رَجَعَ عَنْ قَوْلِهِ حِينَ حَدَّثَهُ أَبُو سَعِيدٍ الْخُدْرِيُّ عَنِ النَّبِيِّ ﷺ، وَالْقَوْلُ الْأَوَّلُ أَصَحُّ. وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ [مِنْ أَصْحَابِ النَّبِيِّ ﷺ]



Companions of the Prophet ﷺ and others]. It is the view of Sufyān Ath-Thawrī, Ibn Al-Mubārak, Ash-Shāfi'ī, Aḥmad, and Ishāq. It has been reported that Ibn Al-Mubārak said: "There no difference over exchange."

وَعَبْرِهِمْ] وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وَإِبْنِ الْمُبَارَكِ وَالشَّافِعِيِّ وَأَحْمَدَ وَإِسْحَاقَ. وَرُوِيَ عَنِ ابْنِ الْمُبَارَكِ أَنَّهُ قَالَ: لَيْسَ فِي الصَّرْفِ اخْتِلَافٌ.

**تخريج:** [إسناده صحيح] وأخرجه أحمد: ۷۳/۳ من حديث يحيى بن أبي كثير، ومسلم، ح: ۱۵۸۴ من حديث نافع، والبخاري، ح: ۲۱۷۶ من طريق آخر عن ابن عمر به وح: ۲۱۷۷ من حديث نافع به \* وفي الباب عن أبي بكر [البرار (كشف الأستار): ۱۰۹/۲، ح: ۱۳۱۸] وعمر [يأتي: ۱۲۴۳] وعثمان [مسلم، ح: ۱۵۸۵] وأبي هريرة [مسلم، ح: ۱۵۸۸] وهشام بن عامر [أحمد: ۲۰، ۱۹/۴] البراء [البخاري، ح: ۲۱۸۰، ۲۱۸۱] ومسلم، ح: ۱۵۸۹] وزيد بن أرقم [البخاري، ح: ۲۱۸۰، ۲۱۸۱] ومسلم: ۱۵۸۹ وأحمد: ۳۶۸/۴، ۳۷۲] وفضالة بن عبيد [مسلم، ح: ۱۵۹۱] وأبي بكره [البخاري، ح: ۲۱۸۲] ومسلم، ح: ۱۵۹۰] وابن عمر [يأتي: ۱۲۴۲] وأبي الدرداء [مالك في الموطأ: ۶۳۴/۲ والنسائي، ح: ۴۵۷۶] وبلال [الدارمي، ح: ۲۵۷۹].

**Comments:**

“Lā Yushaffu” means making an increase or decrease during exchange. And “Nājiz” means present. Exchange of gold with silver, or silver with gold, or gold with gold, and silver with silver, on credit, is not lawful. It is unanimously agreed upon. An exchange of the same kind with increase or decrease is also unlawful. The command of the Prophet ﷺ is that “Ribā is in loan.” It means taking a loan and returning it with increase in it. This type of exchange was customary among the people of that time. The Prophet ﷺ disapproved it and declared it unlawful. If the kind is not the same in the exchange there can be increase or decrease in it, and it is approved, but if the deal of exchange is on credit, it is unlawful.

**1242.** Ibn ‘Umar narrated: “I would sell camels at Al-Baqī’, so I would sell them for Dinar but take in place of them Dirham, and, I would sell for silver and take Dinar in its place. So I went to the Messenger of Allāh ﷺ and found him leaving the house of Ḥafṣah. I asked him about that and he said: ‘There is no harm in that when it (equals) the price.’” (Ḥasan)

[Abū ‘Eisā said:] We do not know of this Ḥadīth being Marfū’ except from the narration of Simāk bin

۱۲۴۲ - حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ: حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ عَنْ سِمَاكِ بْنِ حَرْبٍ، عَنْ سَعِيدِ بْنِ جُبَيْرٍ، عَنِ ابْنِ عَمَرَ قَالَ: كُنْتُ أبيعُ الْإِبِلَ بِالْبَقِيعِ، فَأبيعُ بِالدَّنَانِيرِ، فَأخذُ مَكَانَهَا الْوَرِقَ وَأبيعُ بِالْوَرِقِ فَأخذُ مَكَانَهَا الدَّنَانِيرَ، فَأَتَيْتُ رَسُولَ اللَّهِ ﷺ، فَوَجَدْتُهُ حَارِجًا مِنْ بَيْتِ حَفْصَةَ، فَسَأَلْتُهُ عَنْ ذَلِكَ فَقَالَ: «لَا بَأْسَ بِهِ بِالْقِيَمَةِ».

Harb from Sa'eed bin Jubair, from Ibn 'Umar.

Dāwūd bin Abī Hind narrated this *Ḥadīth* form Sa'eed bin Jubair, from Ibn 'Umar in *Mawqūf* form.

This is acted upon according to some of the people of knowledge. There is no harm in paying for gold with silver and silver with gold. This is the view of Aḥmad and Ishāq. Some of the people of knowledge, among the Companions and others, disliked that.

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ لَا نَعْرِفُهُ مَرْفُوعًا إِلَّا مِنْ حَدِيثِ سَمَّاكِ بْنِ حَرْبٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنِ ابْنِ عُمَرَ. وَرَوَى دَاوُدُ بْنُ أَبِي هِنْدٍ هَذَا الْحَدِيثَ عَنْ سَعِيدِ بْنِ جُبَيْرٍ، عَنِ ابْنِ عُمَرَ، مَوْقُوفًا. وَالْعَمَلُ عَلَى هَذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ أَنْ لَا بَأْسَ أَنْ يَقْتَضِيَ الذَّهَبَ مِنَ الْوَرَقِ، وَالْوَرَقَ مِنَ الذَّهَبِ، وَهُوَ قَوْلُ أَحْمَدَ وَإِسْحَاقَ. وَقَدْ كَرِهَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ، ذَلِكَ.

تخريج: [إسناده حسن] وأخرجه أبو داود، البيوع، باب: في اقتضاء الذهب من الورق، ح: ٢٣٥٤ من حديث حماد بن سلمة به وصححه ابن حبان، ح: ١١٢٨ وابن الجارود، ح: ٦٥٥ والحاكم على شرط مسلم: ٤٤/٢ ووافقه الذهبي.

**Comments:**

All *A'imma*h, Mālik, Abū Ḥanīfah, *Shāfi'ī*, Aḥmad, Ath-*Thawrī*, Al-*Awzā'ī* and Ḥasan, and others, agree and approve if a thing is sold in Dinar, and Dihrams are taken instead of Dinar, or vice versa, but the deal must be hand to hand. If the deal is on credit, it is unlawful.

1243. Ibn *Shihāb* narrated from Mālik bin Aws bin Ḥadathān that he said: "I once said: 'Who can change some Dirham?' So Ṭalḥah bin 'Ubadullāh – and he was with 'Umar bin Al-*Khaṭṭāb* – said: "Leave your gold with us, then return to us when our servant comes and we will give you your silver." 'Umar bin Al-*Khaṭṭāb* said: "No! By Allāh! Either give him his silver or return his gold to him. Indeed the Messenger of Allāh ﷺ said: 'Silver for gold is *Ribā*, except for hand to hand; and wheat for wheat is *Ribā* except for hand to hand; and barley for barley is *Ribā* except for hand to hand; and dried-dates for dried-dates is *Ribā* except

١٢٤٣ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ ابْنِ شِهَابٍ، عَنْ مَالِكِ بْنِ أَوْسِ بْنِ الْحَدَثَانِ، أَنَّهُ قَالَ: أَقْبَلْتُ أَقُولُ: مَنْ يَضْطَرُّ الدَّرَاهِمَ؟ فَقَالَ طَلْحَةُ بْنُ عُبَيْدِ اللَّهِ - وَهُوَ عِنْدَ عُمَرَ بْنِ الْخَطَّابِ -: أَرِنَا ذَهَبَكَ ثُمَّ اثْنَيْتَا إِذَا جَاءَ خَادِمُنَا نُعْطِكَ وَرِقَّكَ، فَقَالَ عُمَرُ بْنُ الْخَطَّابِ: كَلَّا، وَاللَّهِ لَتُعْطِيَنَّهُ وَرِقَّهُ أَوْ تَرُدَّنَّ إِلَيْهِ ذَهَبَهُ، فَإِنَّ رَسُولَ اللَّهِ ﷺ قَالَ: «الْوَرَقُ بِالذَّهَبِ رِبَاٌ إِلَّا هَاءَ وَهَاءَ، وَالْبُرُّ بِالْبُرِّ رِبَاٌ إِلَّا هَاءَ وَهَاءَ، وَالشَّعِيرُ بِالشَّعِيرِ رِبَاٌ إِلَّا هَاءَ وَهَاءَ.»

for hand to hand.” (*Ṣaḥīḥ*)

[Abū ‘Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This is acted upon according to the people of knowledge. And the meaning of *Hā’ Wa Hā’* is hand to hand.

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ، وَمَعْنَى قَوْلِهِ إِلَّا هَاءَ وَهَاءَ يَقُولُ يَدًا يَدًا.

تخریج: وأخرجه مسلم، المساقاة، باب الصرف وبيع الذهب بالورق نقداً، ح: ٧٩/١٥٨٦ عن قتبية، والبخاري، ح: ٢١٧٠ من حديث الليث بن سعد به مختصراً، ح: ٢١٧٤ ومطولاً.

**Comments:**

Nowadays, paper currency is in circulation instead of Dirham and Dinar, so their exchange comes under the orders of gold and silver. Currency of one country will be dealt on equal basis with the currency of another country. Taking or giving one hundred rupees (for example) in place of a lesser or greater amount of rupees is unlawful because it resembles *Ribā*. The currency of different countries can be exchanged with increase or decrease as in the exchange of Dollar or Pound or Riyal. This exchange is lawful because the kind is not the same. This exchange will be hand to hand and not on credit.

**Chapter 25. What Has Been Related About Purchasing Date-Palms After Pollination And A Slave That Has Property**

(المعجم ٢٥) - بَابُ مَا جَاءَ فِي ابْتِئَاعِ النَّخْلِ بَعْدَ التَّأْبِيرِ، وَالْعَبْدِ وَلَهُ مَالٌ (التحفة ٢٥)

1244. Sālim narrated from his father that the Messenger of Allāh ﷺ said: “Whoever purchases a date-palm after it has been pollinated then its fruits are for the one who sold it, unless the buyer made it a condition. And whoever purchases a slave who has property, then his property is for the one who sold him, unless the buyer made it a condition.” (*Ṣaḥīḥ*)

[He said:] There is something on this topic from Jābir. The *Ḥadīth* of Ibn ‘Umar is a *Ḥasan Ṣaḥīḥ Ḥadīth*. Similarly, it has been reported by more than one route from Az-Zuhrī, from Sālim, from Ibn ‘Umar, that the Prophet ﷺ said:

١٢٤٤ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنِ ابْنِ شِهَابٍ، عَنْ سَالِمٍ، عَنْ أَبِيهِ قَالَ: سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ: «مَنْ ابْتَاعَ نَخْلًا بَعْدَ أَنْ تُؤَبَّرَ فَتَمَرْتُهَا لِلَّذِي بَاعَهَا، إِلَّا أَنْ يَشْتَرِطَ الْمُبْتَاعُ، وَمَنْ ابْتَاعَ عَبْدًا وَلَهُ مَالٌ فَمَالُهُ لِلَّذِي بَاعَهُ، إِلَّا أَنْ يَشْتَرِطَ الْمُبْتَاعُ».

[قَالَ:] [وَفِي الْبَابِ عَنْ جَابِرِ. [وَأَحَدٌ حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ. هَكَذَا رُوِيَ مِنْ غَيْرِ وَجْهٍ عَنِ الرَّهْرِيِّ، عَنْ سَالِمٍ، عَنْ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ أَنَّهُ قَالَ: «مَنْ ابْتَاعَ نَخْلًا بَعْدَ أَنْ تُؤَبَّرَ فَتَمَرْتُهَا لِلْبَائِعِ إِلَّا أَنْ يَشْتَرِطَ الْمُبْتَاعُ، وَمَنْ بَاعَ عَبْدًا وَلَهُ مَالٌ فَمَالُهُ

“Whoever purchases a date-palm after it has been pollinated, then its fruits are for the seller, unless the buyer made it a condition. And whoever purchases a slave who has property, then his property is for the seller, unless the buyer made it a condition.” And it has been reported from Nāfi‘, from Ibn ‘Umar, that the Prophet ﷺ said: “Whoever purchases a date-palm that has been pollinated, then its fruits are for the seller, unless the buyer made it a condition.”

It has been reported from Nāfi‘, from Ibn ‘Umar from ‘Umar, that he ﷺ said: “Whoever sold a slave who has property, his property is for the seller, unless the buyer made it a condition.” This is how the two *Ahādīth* were reported by ‘Ubaidullāh bin ‘Umar and others from Nāfi‘.

Some of them have also reported this *Hadīth* from Nāfi‘, from Ibn ‘Umar, from the Prophet ﷺ.

‘Ikrimah bin Khālid reported similar to the *Hadīth* of Sālim, from Ibn ‘Umar, from the Prophet ﷺ.

This *Hadīth* is acted upon according to some of the people of knowledge. It is the view of Ash-Shāfi‘ī, Aḥmad, and Ishāq.

Muḥammad bin Ismā‘īl said: “The *Hadīth* of Az-Zuhrī from Sālim, from his father, from the Prophet ﷺ is the most correct [of what has been reported on this topic].”

لِلْبَائِعِ، إِلَّا أَنْ يَشْتَرِطَ الْمُبْتَاعُ». وَ[قَدْ] رُوِيَ عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ ابْتَاعَ نَخْلًا قَدْ أَثْرَتْ فَتَمَرْتَهَا لِلْبَائِعِ، إِلَّا أَنْ يَشْتَرِطَ الْمُبْتَاعُ».

و[قَدْ] رُوِيَ عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ عَنِ عُمَرَ، أَنَّهُ قَالَ: مَنْ بَاعَ عَبْدًا وَلَهُ مَالٌ، فَمَالُهُ لِلْبَائِعِ إِلَّا أَنْ يَشْتَرِطَ الْمُبْتَاعُ. هَكَذَا رَوَاهُ عُبَيْدُ اللَّهِ بْنُ عُمَرَ وَغَيْرُهُ عَنْ نَافِعٍ، الْحَدِيثَيْنِ. وَقَدْ رَوَى بَعْضُهُمْ هَذَا الْحَدِيثَ عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ أَيْضًا.

وَرَوَى عِكْرِمَةُ بْنُ خَالِدٍ عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ نَحْوَ حَدِيثِ سَالِمٍ. وَالْعَمَلُ عَلَى هَذَا الْحَدِيثِ عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، وَهُوَ قَوْلُ الشَّافِعِيِّ وَأَحْمَدَ وَإِسْحَاقَ.

قَالَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ: حَدِيثُ الزُّهْرِيِّ عَنْ سَالِمٍ عَنْ أَبِيهِ عَنِ النَّبِيِّ ﷺ، أَصَحُّ [مَا جَاءَ فِي هَذَا الْبَابِ].

تخريج: متفق عليه، وأخرجه مسلم، البيوع، باب من باع نخلاً عليها تمر، ح: ١٥٤٣/٨٠ عن قتيبة والبخاري، ح: ٢٣٧٩ من حديث الليث بن سعد به \* وفي الباب عن جابر [عله يشير إلى حديث مسلم، ح: ١٥٣٦ وفي الباب أحاديث أخرى].

**Comments:**

“*Tu'abbar*” means pollination. In the time of the Prophet ﷺ people used to take more produce with artificial pollination, as today trees are grafted to have more produce.

**Chapter 26. What Has Been Related About ‘Both The Buyer And The Seller Retain The Option As Long As They Have Not Separated’**

1245. Nāfi‘ narrated from Ibn ‘Umar, that the Messenger of Allāh ﷺ said: “Both the buyer and the seller retain the option as long as they have not separated or they give each other the option.”

He (Nāfi‘) said: “So when Ibn ‘Umar purchased something while he was sitting, he would stand to complete the sale.” (*Ṣaḥīḥ*)

[Abū ‘Eīsā said:] There are narrations on this topic from Abū Barzah, [Ḥakīm bin Hizām], ‘Abdullāh bin ‘Amr, Samurah, Abū Hurairah, and ‘Abdullāh bin ‘Abbās.

Abū ‘Eīsā said: The *Hadīth* of Ibn ‘Umar is a *Ḥasan Ṣaḥīḥ Hadīth*. This is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others. It is the view of Ash-Shāfi‘ī, Aḥmad, and Ishāq, they said: “The separation means parting, not in speech.”

Some of the people of knowledge held the view that the saying of the Prophet ﷺ: “As long as they have not separated” means making a separation in speech.<sup>[1]</sup> But the

(المعجم ٢٦) - بَابُ مَا جَاءَ: الْبَيْعَانِ  
بِالْخِيَارِ مَا لَمْ يَتَفَرَّقَا (التحفة ٢٦)

١٢٤٥ - حَدَّثَنَا وَاصِلُ بْنُ عَبْدِ الْأَعْلَى  
الْكُوفِيُّ: حَدَّثَنَا مُحَمَّدُ بْنُ فَضِيلٍ عَنْ يَحْيَى  
ابْنِ سَعِيدٍ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ قَالَ:  
سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ: «الْبَيْعَانِ  
بِالْخِيَارِ مَا لَمْ يَتَفَرَّقَا أَوْ يَخْتَارَا».

قَالَ: فَكَانَ ابْنُ عُمَرَ إِذَا ابْتَاعَ بَيْعًا وَهُوَ  
قَاعِدٌ، قَامَ لِيَجِبَ لَهُ [الْبَيْعُ].

[قَالَ أَبُو عِيْسَى:] وَفِي الْبَابِ عَنْ أَبِي  
بُرْزَةَ [وَوَحْكِيمِ بْنِ جِرَامٍ] وَعَبْدِ اللَّهِ بْنِ عَمْرٍو  
وَسَمُرَةَ وَأَبِي هُرَيْرَةَ وَعَبْدِ اللَّهِ بْنِ عَبَّاسٍ.

قَالَ أَبُو عِيْسَى: حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ  
حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هَذَا عِنْدَ بَعْضِ  
أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَعَبَرِهِمْ.  
وَهُوَ قَوْلُ الشَّافِعِيِّ وَأَحْمَدَ وَإِسْحَاقَ،  
وَقَالُوا: الْفُرْقَةُ بِالْأَبْدَانِ لَا بِالْكَلَامِ.

وَقَدْ قَالَ بَعْضُ أَهْلِ الْعِلْمِ: مَعْنَى قَوْلِ  
النَّبِيِّ ﷺ: «مَا لَمْ يَتَفَرَّقَا» يَعْنِي الْفُرْقَةَ  
بِالْكَلَامِ، وَالْقَوْلُ الْأَوَّلُ أَصَحُّ، لِأَنَّ ابْنَ عُمَرَ  
هُوَ رَوَى عَنْ رَسُولِ اللَّهِ ﷺ، وَهُوَ أَعْلَمُ

[1] Meaning when the seller says: “Sold” or the buyer says something similar.

first view is more correct, because Ibn 'Umar – who narrated it from the Messenger of Allāh ﷺ – is more knowledgeable about the meaning of what he narrated, and it is reported that when he wanted to conclude a sale, he would walk away to conclude it.

بِمَعْنَى مَا رَوَى. وَرَوَى عَنْهُ: أَنَّهُ كَانَ إِذَا أَرَادَ أَنْ يُوجِبَ الْبَيْعَ، مَشَى لِيَجِبَ لَهُ.

**تخریج:** متفق عليه، وأخرجه البخاري، البيوع، باب: كم يجوز الخيار؟، ح: ٢١٠٧ ومسلم، ح: ١٥٣١ من حديث يحيى بن سعيد به \* وفي الباب عن أبي بركة [أبو داود، ح: ٣٤٥٧] وحكيم ابن حزام [يأتي: ١٢٤٦] وعبدالله بن عمرو [يأتي: ١٢٤٧] وسمرة [ابن ماجه، ح: ٢١٨٣] والنسائي: ٢٥١/٧، ح: [٤٤٨٢] وأبي هريرة [يأتي: ١٢٤٨] وعبدالله بن عباس [ابن حبان، ح: ١١٠٠] والبيهقي: ٢٧٠/٥ والحاكم: ١٤/٢.

### Comments:

A bargain is not considered complete until the consent is given from both sides. There is the possibility of cancellation until the bargain is finished and agreed upon by both the parties. After giving the consent both the parties keep the right of cancellation of the deal as long as they are present at the place where the deal is taking place but if one of the parties, or both of them, left the place, they lose the right of cancellation and the deal is sealed.

**1246.** Ḥakīm bin Ḥizām narrated that the Messenger of Allāh ﷺ said: “Both the buyer and the seller retain the option as long as they have not separated. If they spoke the truth and clarified (any defects or conditions), then they would be blessed in their sale, and if they hid something and lied then their sale would be deprived of blessings.” (*Ṣaḥīḥ*)

And this is a *Ṣaḥīḥ Hadīth*.

This is how it was reported from Abū Barzah Al-Aslamī, that two men came disputing to him after the sale of a horse, and they were on a ship, so he said: “I did not see the two of you separate, and the Messenger of Allāh ﷺ said: ‘The buyer and the seller retain the choice as long as they did not

١٢٤٦ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ عَنْ شُعْبَةَ: حَدَّثَنِي قَتَادَةُ، عَنْ صَالِحِ أَبِي الْخَلِيلِ، عَنْ عَبْدِ اللَّهِ بْنِ الْحَارِثِ، عَنْ حَكِيمِ بْنِ حِزَامٍ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «الْبَيْعَانِ بِالْخِيَارِ مَا لَمْ يَتَفَرَّقَا، فَإِنْ صَدَقَا وَبَيَّنَّا، بُورِكَ لَهُمَا فِي بَيْعِهِمَا، وَإِنْ كَتَمَا وَكَذَبَا مُحِقَّتْ بَرَكَةُ بَيْعِهِمَا».

وَهَذَا حَدِيثٌ صَحِيحٌ.

وَهَكَذَا رُوِيَ عَنْ أَبِي بَرَزَةَ الْأَسْلَمِيِّ: أَنَّ رَجُلَيْنِ اخْتَصَمَا إِلَيْهِ فِي فَرَسٍ بَعْدَ مَا تَبَايَعَا، وَكَانُوا فِي سَفِينَةٍ، فَقَالَ: لَا أَرَاكُمَا أَفْتَرَقْتُمَا، وَقَالَ رَسُولُ اللَّهِ ﷺ: «الْبَيْعَانِ

separate.”

Some of the people of knowledge, among the people of Al-Kūfah and others, held the view that the separation refers to speech. This is the saying of [Sufyān] Ath-Thawrī. This has been reported from Mālik bin Anas, and it has been reported from Ibn Al-Mubārak that he said: “How could this be refuted?” And the *Hadīth* about it from the Prophet ﷺ is *Ṣaḥīḥh*, and it strengthens this view.

And the meaning of the saying of the Prophet ﷺ: “Except for the optional sale” is, that (while they are still together) the seller gives the buyer the option to cancel after the conclusion of the sale. If he chooses to agree to the sale, then he does not have the choice to cancel the sale after that, even if they did not separate. This is how Ash-Shāfi‘ī and others explained it. And what strengthens the view of those who said that the separation refers to them parting, (and) it does not refer to speech, is the (following) *Hadīth* of ‘Abdullāh bin ‘Amr from the Prophet ﷺ.

تخریج: متفق علیه، وأخرجه مسلم، البيوع، باب الصدق في البيع والبيان، ح: ١٥٣٢ من حديث يحيى القطان والبخاري، ح: ٢٠٧٩ من حديث شعبة به.

1247. ‘Amr bin Shu‘aib narrated from his father, from his grandfather, that the Messenger of Allāh ﷺ said: “Both the buyer and the seller retain the option as long as they did not separate, unless they agreed to making it optional. And it is not lawful for him to separate from his companion, fearing that he

بِالْخِيَارِ مَا لَمْ يَتَفَرَّقَا». وَقَدْ ذَهَبَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَهْلِ الْكُوفَةِ وَغَيْرِهِمْ، إِلَى أَنَّ الْفُرْقَةَ بِالْكَلامِ، وَهُوَ قَوْلُ [سُفْيَانَ] الثَّوْرِيِّ. وَهَكَذَا رُوِيَ عَنِ مَالِكِ بْنِ أَنَسٍ، وَرُوِيَ عَنِ ابْنِ الْمُبَارَكِ أَنَّهُ قَالَ: كَيْفَ أُرَدُّ هَذَا؟ وَالْحَدِيثُ فِيهِ عَنِ النَّبِيِّ ﷺ صَحِيحٌ وَقَوَى هَذَا الْمَذْهَبَ.

وَمَعْنَى قَوْلِ النَّبِيِّ ﷺ: «إِلَّا يَبِيعُ الْخِيَارِ» مَعْنَاهُ أَنْ يُخَيَّرَ الْبَائِعُ الْمُشْتَرِيَ بَعْدَ إِجَابِ الْبَيْعِ، فَإِذَا خَيَّرَهُ فَاخْتَارَ الْبَيْعَ، فَلَيْسَ لَهُ خِيَارٌ بَعْدَ ذَلِكَ فِي فَسْخِ الْبَيْعِ، وَإِنْ لَمْ يَتَفَرَّقَا، هَكَذَا فَسَّرَهُ الشَّافِعِيُّ وَغَيْرُهُ. وَمِمَّا يُقَوِّي قَوْلَ مَنْ يَقُولُ: الْفُرْقَةُ بِالْأَبْدَانِ لَا بِالْكَلامِ حَدِيثُ عَبْدِ اللَّهِ بْنِ عَمْرٍو عَنِ النَّبِيِّ ﷺ.

١٢٤٧ - حَدَّثَنَا بِذَلِكَ قُتَيْبَةُ [بْنُ سَعِيدٍ]: حَدَّثَنَا اللَّيْثُ بْنُ سَعْدٍ عَنِ ابْنِ عَجَلَانَ، عَنْ عَمْرٍو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ: أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: «الْبَيْعَانِ بِالْخِيَارِ مَا لَمْ يَتَفَرَّقَا، إِلَّا أَنْ تَكُونَ صَفَقَةً خِيَارًا، وَلَا يَحِلُّ لَهُ أَنْ يُفَارِقَ صَاحِبَهُ خَشْيَةَ أَنْ يَسْتَقْبِلَهُ».

will change his mind.” (*Hasan*)

[Abū ‘Eisā said:] This *Hadīth* is *Hasan* and this means separating from him after the sale, fearing that he will change his mind. And if the separation referred to speech, and there was no option left for him after the sale, then this *Hadīth* would be meaningless, since he ﷺ said: “And it is not lawful for him to separate from his companion, fearing that he will change his mind.”

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ، وَمَعْنَى هَذَا، أَنْ يُفَارِقَهُ بَعْدَ الْبَيْعِ خَشْيَةَ أَنْ يَسْتَقْبِلَهُ، وَلَوْ كَانَتْ الْفُرْقَةُ بِالْكَلَامِ، وَلَمْ يَكُنْ لَهُ خِيَارٌ بَعْدَ الْبَيْعِ، لَمْ يَكُنْ لِهَذَا الْحَدِيثِ مَعْنَى، حَيْثُ قَالَ [ﷺ]: «وَلَا يَجِلُّ لَهُ أَنْ يُفَارِقَهُ خَشْيَةَ أَنْ يَسْتَقْبِلَهُ».

تخریج: [حسن] وأخرجه أبو داود، البيوع، باب: في خيار المتبايعين، ح: ٣٤٥٦ والنسائي، ح: ٤٤٨٨ عن قتبية به وصححه ابن الجارود، ح: ٦٢٠.

**Comments:**

Here “*Iqalah*” means the appeal for the cancellation of deal. Here it does not mean the demand of return of goods purchased after the deal is complete, because the return of purchased things is possible even after the separation, with consent of the two parties. One party does not have the choice alone.

**Chapter 27. What Has Been Related About The Option Of The Buyer And The Seller**

(المعجم ٢٧) - بَابُ [مَا جَاءَ فِي خِيَارِ الْمُتَبَايِعِينَ] (التحفة ٢٧)

**1248.** Abū Hurairah narrated that the Prophet ﷺ said: “They (the two) are not to separate from a sale except in agreement.” (*Hasan*) [He said:] This *Hadīth* is *Gharib*.

١٢٤٨ - حَدَّثَنَا نَصْرُ بْنُ عَلِيٍّ: حَدَّثَنَا أَبُو أَحْمَدَ: حَدَّثَنَا يَحْيَى بْنُ أَيُّوبَ [وَهُوَ الْبَجَلِيُّ الْكُوفِيُّ] قَالَ: سَمِعْتُ أَبَا زُرْعَةَ بْنَ عَمْرٍو [بْنِ جَرِيرٍ] يُحَدِّثُ عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «لَا يَتَفَرَّقَنَّ عَنْ بَيْعٍ إِلَّا عَنْ تَرَاضٍ». [قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ غَرِيبٌ.

تخریج: [إسناده حسن] وأخرجه أبو داود، أيضًا، ح: ٣٤٥٨ من حديث يحيى بن أيوب به.

**1249.** Jābir narrated: “The Prophet ﷺ gave a Bedouin the option after a sale.” (*Da‘if*)

This *Hadīth* is *Hasan Gharib*.

١٢٤٩ - حَدَّثَنَا عَمْرُو بْنُ حَفْصِ الشَّيْبَانِيِّ: حَدَّثَنَا ابْنُ وَهْبٍ عَنِ ابْنِ جُرَيْجٍ، عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ: أَنَّ النَّبِيَّ ﷺ خَيَّرَ



أَعْرَابِيًّا بَعْدَ الْبَيْعِ . وَهَذَا حَدِيثٌ حَسَنٌ غَرِيبٌ .

تخريج: [إسناده ضعيف] وأخرجه ابن ماجه، التجارات، باب بيع الخيار، ح: ٢١٨٤ من حديث عبدالله ابن وهب به وصححه الحاكم على شرط مسلم ٤٩/٢ ووافقه الذهبي، ابن جريج صرح بالسماح وللحديث شواهد.

**Comments:**

The basis of a business deal according to Islamic Law (*Sharī'ah*) depends on mutual consent and good-will, as Allāh said: “But let there be among you trade by mutual good-will” (*Sūrat An-Nisā'* 4:29.) So, the Islamic *Sharī'ah* gives the option of annulment of a deal to all the parties before the conclusion of the meeting, and it also advises not to leave the meeting for the fear of the other party's appeal of cancelling the deal. If both parties agree on the final decision they are allowed to end the meeting. They are also allowed to give the option of cancellation of the deal to one or both the parties after the end of the meeting, but this choice is given in the meeting.

**Chapter 28. What Has Been Related About Who Is Cheated In Business**

(المعجم ٢٨) - بَابُ مَا جَاءَ فِيْمَنْ يُخَدَعُ فِي الْبَيْعِ (التحفة ٢٨)

1250. Anas narrated that there was a man who was not very sensible and he would make purchases. So his family came to the Prophet ﷺ and said: “O Messenger of Allāh! Stop him (from making purchases).” So Allāh's Prophet ﷺ called him to prohibit him, and he said: “O Messenger of Allāh! I have no patience for business.” So he said: “When you are buying, say: ‘Hand to hand, and no cheating.’” (*Ṣaḥīḥ*)

١٢٥٠ - حَدَّثَنَا يُوسُفُ بْنُ حَمَّادٍ الْبُصْرِيُّ: حَدَّثَنَا عَبْدُ الْأَعْلَى بْنُ عَبْدِ الْأَعْلَى عَنْ سَعِيدٍ، عَنْ قَتَادَةَ، عَنْ أَنَسٍ: أَنَّ رَجُلًا كَانَ فِي عُمَّدَتِهِ ضَعْفٌ، وَكَانَ يُبَايِعُ، وَأَنَّ أَهْلَهُ أَتَوْا النَّبِيَّ ﷺ فَقَالُوا: يَا رَسُولَ اللَّهِ احْجُرْ عَلَيْهِ، فَدَعَاهُ نَبِيُّ اللَّهِ ﷺ فَنَهَاَهُ، فَقَالَ: يَا رَسُولَ اللَّهِ إِنِّي لَا أَضِيرُ عَنِ الْبَيْعِ، فَقَالَ: «إِذَا بَايَعْتَ فَقُلْ هَاءَ وَهَاءَ وَلَا خِلَابَةَ» .

[Abū 'Eīsā said:] There is a narration on this topic from Ibn 'Umar.

[قَالَ أَبُو عِيسَى:] وَفِي الْبَابِ عَنِ ابْنِ عُمَرَ .

The *Ḥadīth* of Anas is a *Ḥasan Ṣaḥīḥ Gharīb Ḥadīth*.

This is acted upon according to the people of knowledge. They say that the free man can be prevented from selling and buying when his

وَحَدِيثُ أَنَسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ، وَالْعَمَلُ عَلَى هَذَا الْحَدِيثِ عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، وَقَالُوا: الْحَجْرُ عَلَى الرَّجُلِ

intellect is weak. This is the view of Aḥmad and Iṣḥāq. Some of the scholars did not think that the free person who had attained the age of responsibility could be prevented from that.

الْحُرُّ فِي الْبَيْعِ وَالشَّرَاءِ إِذَا كَانَ ضَعِيفَ الْعَقْلِ، وَهُوَ قَوْلُ أَحْمَدَ وَإِسْحَاقَ، وَلَمْ يَرَّ بَعْضُهُمْ أَنْ يُحْجَرَ عَلَى الْحُرِّ الْبَالِغِ.

**تخريج:** [صحيح] وأخرجه النسائي ٢٥٢/٧، ح: ٤٤٩٠ (البيع، باب الخديعة في البيع) من يوسف بن حماد، وابن ماجه، ح: ٢٣٥٤ من حديث عبدالأعلى به ورواه أبو داود، ح: ٣٥٠١ من حديث سعيد بن أبي عروبة به وصححه ابن الجارود، ح: ٥٦٨ وابن حبان (الإحسان): ٥٠٢٨ و٥٠٢٨ والحاكم: ١٠١/٤ على شرط الشيخين ووافقه الذهبي وله شواهد عند البخاري ومسلم وغيرهما \* وفي الباب عن ابن عمر [البخاري، ح: ٢١١٧ ومسلم، ح: ١٥٣٣].

**Comments:**

As for a person of low calibre and less intelligence or not so smart for business and trade; if he says before making any bargain: ‘hand to hand and no cheating’ and he keeps the choice of cancellation of the deal if there is any cheating, he should be given this choice. The court of the country has the right to prevent such a person from doing business on the request of his heirs.

**Chapter 29. What Has Been Related About The Animal That Has Not Been Milked<sup>[1]</sup>**

(المعجم ٢٩) - بَابُ مَا جَاءَ فِي الْمُصْرَاةِ (التحفة ٢٩)

**1251.** Abū Hurairah narrated that the Prophet ﷺ said: “Whoever purchased an animal that has not been milked, then he has the choice when he milks it, if he wishes he may return it, returning a Ṣā’ of dried-dates along with it.” (Ṣaḥīḥ)

١٢٥١ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا وَكَيْعٌ عَنْ حَمَادِ بْنِ سَلَمَةَ، عَنْ مُحَمَّدِ بْنِ زِيَادٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ النَّبِيُّ ﷺ: «مَنْ اشْتَرَى مُصْرَاةً فَهُوَ بِالْخِيَارِ إِذَا حَلَبَهَا، إِنْ شَاءَ رَدَّهَا وَرَدَّ مَعَهَا صَاعًا مِنْ تَمْرٍ».

[Abū ‘Eīsā said:] There are narrations on this topic from Anas, and a man from the Companions of the Prophet ﷺ.

[قَالَ أَبُو عِيْسَى:] وَفِي الْبَابِ عَنْ أَنَسٍ وَرَجُلٍ مِنْ أَصْحَابِ النَّبِيِّ ﷺ.

**تخريج:** [إسناده صحيح] وأخرجه أحمد: ٣٨٦/٢ من حديث حماد بن سلمة به وله طرق عند البخاري، ح: ٢١٤٨ ومسلم، ح: ١٥١٥ وغيرهما عن أبي هريرة رضي الله عنه \* وفي الباب عن أنس [البيزار (كشف الأستار): ٨٩، ٩٠، ح: ١٢٧٤ وأبو يعلى: ١٥٥/٥، ح: ٢٧٦٧ والبيهقي: ٣١٩/٥] ورجل من أصحاب النبي ﷺ [أحمد: ٣١٤/٤].

<sup>[1]</sup> *Al-Muṣarrāt*: It is the camel, cow or sheep, whose milk has been retained in its udders. See *Tuḥfat Al-Aḥwadhī* and *An-Nihāyah*.

**1252.** Abū Hurairah narrated that the Prophet ﷺ said: “Whoever purchases an animal that has not been milked, then he retains the option for three days. If he returns it, then he is to return with it a *Ṣā'* of food, not *Samrā'*.” (*Ṣaḥīḥ*)

[Abū 'Eisā said]: The meaning of: “Not *Samrā'*” is “not wheat.”

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This *Ḥadīth* is acted upon according to our companions, among them *Ash-Shāfi'i*, *Aḥmad*, and *Ishāq*.

١٢٥٢ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا أَبُو عَامِرٍ: حَدَّثَنَا قُرَّةُ بْنُ خَالِدٍ عَنْ مُحَمَّدِ بْنِ سِيرِينَ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ اشْتَرَى مُصْرَاءً فَهُوَ بِالْخِيَارِ ثَلَاثَةَ أَيَّامٍ، فَإِنْ رَدَّهَا رَدَّ مَعَهَا صَاعًا مِنْ طَعَامٍ لَا سَمْرَاءَ».

[قَالَ أَبُو عِيسَى:] مَعْنَى لَا سَمْرَاءَ: لَا بُرٌّ. هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، وَالْعَمَلُ عَلَى هَذَا الْحَدِيثِ عِنْدَ أَصْحَابِنَا، مِنْهُمْ الشَّافِعِيُّ وَأَحْمَدُ وَإِسْحَاقُ.

تخریج: وأخرجه مسلم، البيوع باب حكم بيع المصرة، ح: ١٥٢٤ من حديث أبي عامر به.

**Comments:**

“*Al-Muṣarrāt*” is derived from ‘*Taṣrrah*’ which means to withhold or block. “*Al-Muṣarrāt*” is a camel, cow or sheep whose milk is left in its udder to tempt the buyer that the animal gives plenty of milk.

**Chapter 30. What Has Been Related About The Stipulation For Riding An Animal At The Time Of The Sale**

**1253.** Jābir bin ‘Abdullāh narrated that he sold a camel to the Prophet ﷺ and made the condition that he could ride it to (return to) his family. (*Ṣaḥīḥ*)

[Abū 'Eisā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. It has been reported through other routes from Jābir.

This is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others. They consider it allowed to make a condition in a sale when it is one condition. This is the view of

(المعجم ٣٠) - بَابُ مَا جَاءَ فِي اشْتِرَاطِ ظَهْرِ الدَّابَّةِ عِنْدَ الْبَيْعِ (التحفة ٣٠)

١٢٥٣ - حَدَّثَنَا ابْنُ أَبِي عُمَرَ: حَدَّثَنَا وَكَيْعٌ عَنْ زَكَرِيَّا، عَنِ الشَّعْبِيِّ، عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ: أَنَّهُ بَاعَ مِنَ النَّبِيِّ ﷺ بَعِيرًا، وَاشْتَرَطَ ظَهْرَهُ إِلَى أَهْلِهِ. [قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

وَقَدْ رُوِيَ مِنْ غَيْرِ وَجْهٍ عَنْ جَابِرٍ، وَالْعَمَلُ عَلَى هَذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ، يَرَوْنَ الشَّرْطَ فِي الْبَيْعِ جَائِزًا، إِذَا كَانَ شَرْطًا وَاحِدًا، وَهُوَ

Aḥmad and Ishāq.

Some of the people of knowledge said that it is not allowed to make a condition in a sale, nor to complete a sale when there is a condition for it.

قَوْلُ أَحْمَدَ وَإِسْحَاقَ.

وَقَالَ بَعْضُ أَهْلِ الْعِلْمِ: لَا يَجُوزُ الشَّرْطُ فِي الْبَيْعِ، وَلَا يَتِمُّ الْبَيْعُ إِذَا كَانَ فِيهِ شَرْطٌ.

تخريج: متفق عليه، وأخرجه مسلم، المساقاة، باب بيع البعير واستثناء ركوبه، ح: ٧١٥ بعد، ح: ١٥٩٩ من حديث زكريا والبخاري، ح: ٢٩٦٧ من حديث الشعبي به مطولاً ومختصراً.

### Comments:

Putting a condition on a sale by which only one party gets the benefit is lawful. For example the seller of a horse can make a condition that he would ride the horse to return to his house, or on the sale of a house the seller can make a condition that he will reside in this house for such a period and then the possession will be given. 'Allāmah Taqī also approves of putting only one condition. (See Appendix of the *Mujalah Al-Ahkām Al-Adliyah* (Urdu) v. 1 p.636. and p.49 and *Ṣaḥīḥ Muslim, Fawaid*.)

### Chapter 31. [What Has Been Related About] Using What Is Pawned

**1254.** Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "A riding animal can be ridden while it is pawned, and a milking animal can be milked while it is pawned, and it is up to the one riding and drinking (the milk) to maintain it." (*Ṣaḥīḥ*)

[Abū 'Eisā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

We do not know of it being *Marfū'* except by the narration of 'Āmir Ash-Sha'bī from Abū Hurairah. Others have reported this *Ḥadīth* from Al-A'mash, from Abū Ṣāliḥ, from Abū Hurairah in *Mawqūf* form.

This is acted upon according to some of the people of knowledge, and it is the view of Aḥmad and

(المعجم ٣١) - بَابُ [مَا جَاءَ فِي]

الانْتِفَاعِ بِالرَّهْنِ (التحفة ٣١)

١٢٥٤ - حَدَّثَنَا أَبُو كُرَيْبٍ وَيُوسُفُ بْنُ عَيْسَى قَالَا: حَدَّثَنَا وَكَيْعٌ عَنْ زَكَرِيَّا، عَنْ عَامِرٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «الظَّهْرُ يُرَكَّبُ إِذَا كَانَ مَرْهُونًا، وَلَبَنُ الدَّرِّ يُشْرَبُ إِذَا كَانَ مَرْهُونًا، وَعَلَى الَّذِي يَرَكَّبُ وَيَشْرَبُ، نَفَقَتُهُ».

[قَالَ أَبُو عَيْسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

لَا نَعْرِفُهُ مَرْفُوعًا إِلَّا مِنْ حَدِيثِ عَامِرِ الشَّعْبِيِّ، عَنْ أَبِي هُرَيْرَةَ، وَقَدْ رَوَى غَيْرُ وَاحِدٍ هَذَا الْحَدِيثَ عَنِ الْأَعْمَشِ، عَنْ أَبِي صَالِحٍ، عَنْ أَبِي هُرَيْرَةَ مَوْقُوفًا، وَالْعَمَلُ عَلَى هَذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، وَهُوَ قَوْلُ أَحْمَدَ

Ishāq.

Some of the people of knowledge said that one may not benefit in any way from what is pawned.

وَإِسْحَاقَ .

وَقَالَ بَعْضُ أَهْلِ الْعِلْمِ: لَيْسَ لَهُ أَنْ يَنْتَفِعَ

مِنَ الرَّهْنِ بِشَيْءٍ .

تخريج: وأخرجه البخاري، الرهن في الحضر، باب الرهن مركوب ومحلوب، ح: ٢٥١١،

### Comments:

It is proved from this narration that the benefit of a pawned thing or animal be taken in proportion to the expenditure of maintenance. Imām Aḥmad and Ishāq approve this view, and according to most of the people of knowledge this view is correct.

٢٥١٢ من حديث زكريا بن أبي زائدة به .

### Chapter 32. What Has Been Related About Selling A Necklace Containing Gold And Jewels

1255. Faḍālah bin ‘Ubaidah narrated: “On the Day of Khaibar I purchased a necklace that contained gold and jewels for twelve Dinar. I separated it and found that it was worth more than twelve Dinar. I mentioned that to the Prophet ﷺ and he said: ‘Do not sell it until it is separated.’”

(*Sahih*)

(Another chain of narration) with similar meaning.

[Abū ‘Eisā said:] This *Hadīth* is *Hasan Sahih*. This is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others. They did not think that an embellished (silver-gilded) sword could be sold for Dirham, nor a silver-plated waist-band, or something similar, until it (the silver) was distinguished and separated. This is the view of Ibn Al-Mubārak, Ash-Shāfi‘ī, Aḥmad, and Ishāq.

Some of the people of knowledge,

(المعجم ٣٢) - بَابُ مَا جَاءَ فِي شِرَاءِ

الْقِلَادَةِ وَفِيهَا ذَهَبٌ وَخَرَزٌ (التحفة ٣٢)

١٢٥٥ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ

أَبِي شُجَاعٍ سَعِيدِ بْنِ يَزِيدَ، عَنْ خَالِدِ بْنِ أَبِي

عِمْرَانَ، عَنْ حَسَنِ الصَّنْعَانِيِّ، عَنْ فَضَالَةَ بْنِ

عُبَيْدٍ قَالَ: اشْتَرَيْتُ يَوْمَ خَيْبَرَ قِلَادَةً بَانْتِي

عَشْرَ دِينَارًا، فِيهَا ذَهَبٌ وَخَرَزٌ، فَفَضَّلْتُهَا،

فَوَجَدْتُ فِيهَا أَكْثَرَ مِنْ اثْنَيْ عَشَرَ دِينَارًا،

فَذَكَرْتُ ذَلِكَ لِلنَّبِيِّ ﷺ فَقَالَ: «لَا تَبَاعَ حَتَّى

تُفْضَلَ» .

حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا ابْنُ الْمُبَارَكِ عَنْ أَبِي

شُجَاعِ سَعِيدِ بْنِ يَزِيدَ، بِهَذَا الْإِسْنَادِ، نَحْوَهُ .

[قَالَ أَبُو عِيْسَى:] هَذَا حَدِيثٌ حَسَنٌ

صَحِيحٌ، وَالْعَمَلُ عَلَى هَذَا عِنْدَ بَعْضِ أَهْلِ

الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ، لَمْ

يَرَوْا أَنْ يَبَاعَ السَّيْفُ مُحَلًى، أَوْ مِنْطَقَةٌ

مُفَضَّضَةٌ، أَوْ مِثْلُ هَذَا، بِدَرَاهِمَ حَتَّى يُمَيَّرَ

وَيُفْضَلَ، وَهُوَ قَوْلُ ابْنِ الْمُبَارَكِ، وَالشَّافِعِيِّ،

وَأَحْمَدَ، وَإِسْحَاقَ .

among the Companions of the Prophet ﷺ and others, permitted that.

وَقَدْ رَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ فِي ذَلِكَ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ.

تخريج: وأخرجه مسلم، المساقاة، باب بيع القلادة فيها خرز وذذهب، ح: ١٥٩١ عن قتيبة به.

**Comments:**

This narration shows that if anything is mixed with gold and it is being sold for the sake of gold, the gold must be separated from the object. The same formula is applied to silver. This has been commanded so that every metal is sold separately at its own price. In case of mixture of metals, it is not possible to weigh each metal exactly, and selling a thing based upon estimation is prohibited. To avoid this doubt, it has been ordered to separate the metals.

**Chapter 33. What Has Been Related About Making A Condition To Retain *Al-Walā*’<sup>[1]</sup> And The Rebuke For That**

(المعجم ٣٣) - بَابُ مَا جَاءَ فِي اشْتِرَاطِ الْوَلَاءِ وَالزَّجْرِ عَنْ ذَلِكَ (التحفة ٣٣)

**1256.** Al-Aswad narrated from ‘Āishah that she wanted to purchase Barīrah, but they (her owners) made the condition that they would retain the *Walā*. So the Prophet ﷺ said: “Buy her; the *Walā*’ is only for the one who gives the price, or for the one who grants the favor.”<sup>[2]</sup>

١٢٥٦ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ مَهْدِيٍّ: حَدَّثَنَا سُفْيَانُ عَنْ مَنْصُورٍ، عَنْ إِبْرَاهِيمَ، عَنِ الْأَسْوَدِ، عَنْ عَائِشَةَ: أَنَّهَا أَرَادَتْ أَنْ تَشْتَرِيَ بَرِيرَةَ، فَاشْتَرَطُوا الْوَلَاءَ، فَقَالَ النَّبِيُّ ﷺ: «اشْتَرَيْهَا، فَإِنَّمَا الْوَلَاءُ لِمَنْ أَعْطَى الثَّمَنَ، أَوْ لِمَنْ وَلِيَ النَّعْمَةَ».

[He said:] There is something on this topic from Ibn ‘Umar. (*Ṣaḥīḥ*)

[قَالَ:] وَفِي الْبَابِ عَنِ ابْنِ عُمَرَ. [قَالَ أَبُو عِمْسَى:] حَدِيثُ عَائِشَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ. قَالَ: وَمَنْصُورُ بْنُ الْمُعْتَمِرِ يُكْنَى أَبَا عَتَّابٍ.

[Abū ‘Eīsā said:] The *Ḥadīth* of ‘Āishah is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to the people of knowledge. And Manṣūr bin Al-Mu‘tamir’s *Kunyah* is Abū ‘Attāb.

Abū Bakr Al-‘Aṭṭār Al-Baṣrī narrated to us from ‘Alī bin Al-Madīnī who said: “I heard Yaḥya bin Sa‘eed saying: ‘When you get a narration from Manṣūr, then your

حَدَّثَنَا أَبُو بَكْرِ الْعَطَّارُ الْبَصْرِيُّ عَنْ عَلِيِّ ابْنِ الْمَدِينِيِّ قَالَ: سَمِعْتُ يَحْيَى بْنَ سَعِيدٍ

[1] See no. 1236.

[2] Meaning, the one who frees them. (*Tuḥfat Al-Aḥwadhī*)

hand has been filled with goodness, without needing others.' Then Yahya said: 'I did not find anyone more reliable in (narrating from) Ibrāhīm An-Nakha'ī and Mujāhid than Mansūr.'

[He said:] Muḥammad informed me from 'Abdullāh bin Abī Al-Aswad who said: "'Abdur-Raḥmān bin Mahdī said: 'Manṣūr is the most reliable of the people of Al-Kūfah.'"

تخريج: وأخرجه البخاري، الفرائض، باب الولاء لمن أعتق وميراث اللقيط، ح: ٦٧٥١ من حديث إبراهيم النخعي به وله طريق آخر عند مسلم، ح: ١٥٠٤ عن عائشة به \* وفي الباب عن ابن عمر [البخاري، ح: ٦٧٥٢] \* قول يحيى بن سعيد القطان: إذا حدثت عن منصور إلخ، سنده صحيح وكذا قول ابن مهدي، صحيح عنه.

**Comments:**

A person who frees a slave or a slave-girl, or makes the payment for their freedom, or buys them, has the right of their inheritance. At the time of selling a slave, putting a condition of *Walā'* is against the *Sharī'ah*, and whoever goes against the Islamic Law is liable to punishment and action performed. (See for details *Faṭḥ Al-Bārī* v. 5 p.335-336.)

**Chapter 34. Contingent Purchases And Sales**

(المعجم ٣٤) - بَابُ الشَّرَاءِ وَالْبَيْعِ

الْمَوْقُوفِينَ [التحفة ٣٤]

1257. Ḥabīb bin Abī Thābit narrated from Ḥakīm bin Ḥizām, that the Messenger of Allāh ﷺ sent Ḥakīm bin Ḥizām with a Dīnār to buy an animal for *Uḍḥiyyah* (an animal for sacrifice) for him. He purchased an *Uḍḥiyyah* which he sold and profited a Dīnār from, so he purchased another in its place. And he returned to the Messenger of Allāh ﷺ with the *Uḍḥiyyah* and the Dīnār, so he said: 'The sheep is for sacrifice and the Dīnār is for charity.'" (*Da'if*)

[Abū 'Eisā said:]: We do not know of the *Ḥadīth* of Ḥakīm bin Ḥizām

يَقُولُ: إِذَا حَدَّثْتَ عَنْ مَنْصُورٍ فَقَدْ مَلَأْتَ يَدَكَ مِنَ الْخَيْرِ لَا تُرْدُ غَيْرُهُ، ثُمَّ قَالَ يَحْيَى: مَا أَجِدُ فِي إِبْرَاهِيمَ النَّخَعِيِّ وَمُجَاهِدٍ، أَثْبَتَ مِنْ مَنْصُورٍ.

[قَالَ:] وَأَخْبَرَنِي مُحَمَّدٌ عَنْ عَبْدِ اللَّهِ بْنِ أَبِي الْأَسْوَدِ قَالَ: قَالَ عَبْدُ الرَّحْمَنِ بْنُ مَهْدِيٍّ: مَنْصُورٌ أَثْبَتُ أَهْلَ الْكُوفَةِ.

١٢٥٧ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا أَبُو بَكْرِ بْنُ عَيَّاشٍ عَنْ أَبِي حُصَيْنٍ، عَنْ حَبِيبِ ابْنِ أَبِي ثَابِتٍ، عَنْ حَكِيمِ بْنِ حِزَامٍ: أَنَّ رَسُولَ اللَّهِ ﷺ بَعَثَ حَكِيمَ بْنَ حِزَامٍ يَشْتَرِي لَهُ أَوْضَحِيَّةً بَدِينَارًا، فَاشْتَرَى أَوْضَحِيَّةً فَأَرْبَحَ فِيهَا دِينَارًا، فَاشْتَرَى أُخْرَى مَكَانَهَا، فَجَاءَ بِالْأَوْضَحِيَّةِ وَالدِّينَارِ إِلَى رَسُولِ اللَّهِ ﷺ فَقَالَ: «صَحَّ بِالشَّاةِ، وَتَصَدَّقَ بِالدِّينَارِ».

[قَالَ أَبُو عِيسَى:] حَدِيثُ حَكِيمِ بْنِ حِزَامٍ لَا نَعْرِفُهُ إِلَّا مِنْ هَذَا الْوَجْهِ، وَحَبِيبُ بْنُ أَبِي ثَابِتٍ لَمْ يَسْمَعْ، عِنْدِي، مِنْ حَكِيمِ بْنِ حِزَامٍ.

except through this route, and Ḥabīb bin Abī Thābīt did not hear from Ḥakīm bin Hizām — in my view.

تخریج: [إسناده ضعيف] وأخرجه أبو داود، البيوع، باب: في المضارب يخالف، ح: ۳۳۸۶ عن أبي حصين عن شيخ من أهل المدينة عن حكيم به \* حبيب بن أبي ثابت: مدلس وعنن وهو شيخ من أهل المدينة.

**Comments:**

The Prophet ﷺ gave one Dīnār to Ḥakīm to buy an animal for sacrifice and not for the sake of business. Ḥakīm, in good faith and as a well-wisher of the Prophet ﷺ, earned one Dīnār by a business transaction. He came to the Prophet ﷺ and presented the animal and the Dīnār. The motive of the Prophet ﷺ was only to make a sacrifice and not any kind of business, so he ordered Ḥakīm to slaughter the animal and give a Dīnār in charity.

1258. ‘Urwah Al-Bāriqī said: “The Messenger of Allāh ﷺ gave me one Dīnār to purchase a sheep for him. So I purchased two sheep for him, and I sold one of them for a Dīnār. So I returned with the sheep and the Dīnār to the Prophet ﷺ, and I mentioned what had happened and he said: ‘May Allāh bless you in your business dealings.’ After that he went to Kunāsah in Al-Kūfah, and he made tremendous profits. He was among the wealthiest of the people of Al-Kūfah.” (*Sahih*)

(Another chain of narration) with similar meaning.

[Abū ‘Eīsā said:] Some of the people of knowledge followed this *Hadīth* and stated their view accordingly. This is the view of Aḥmad and Ishāq. Some of the people of knowledge did not use this *Hadīth*, among them are Ash-Shāfi‘ī and Sa‘eed bin Zaid the brother of Ḥammād bin Zaid. And Abū Labīd’s (a narrator) name is Limāzah [bin Zabbār].

۱۲۵۸ - حَدَّثَنَا أَحْمَدُ بْنُ سَعِيدٍ الدَّارِمِيُّ: حَدَّثَنَا حَبَّانُ: حَدَّثَنَا هَارُونُ [الْأَعْوَزُ الْمُقْرِيءُ] - وَهُوَ [ابْنُ مُوسَى الْقَارِيءُ] -: حَدَّثَنَا الزُّبَيْرُ بْنُ الْخَرَيْبِ عَنْ أَبِي لَيْبِدٍ، عَنْ عُرْوَةَ الْبَارِقِيِّ قَالَ: دَفَعَ إِلَيَّ رَسُولُ اللَّهِ ﷺ دِينَارًا لِأَشْتَرِي لَهُ شَاةً، فَاشْتَرَيْتُ لَهُ شَاتَيْنِ، فَبِعْتُ إِحْدَاهُمَا بِدِينَارٍ، وَجِئْتُ بِالشَّاةِ وَالذِّنَّارِ إِلَى النَّبِيِّ ﷺ، فَذَكَرَ لَهُ مَا كَانَ مِنْ أَمْرِهِ، فَقَالَ [لَهُ]: «بَارَكَ اللَّهُ لَكَ فِي صَفْقَةِ يَمِينِكَ». فَكَانَ يَخْرُجُ بَعْدَ ذَلِكَ إِلَى كُنَاسَةَ الْكُوفَةِ، فَيَبِيعُ الرِّبْحَ الْعَظِيمَ، فَكَانَ مِنْ أَكْثَرِ أَهْلِ الْكُوفَةِ مَالًا.

حَدَّثَنَا أَحْمَدُ بْنُ سَعِيدٍ الدَّارِمِيُّ: حَدَّثَنَا حَبَّانُ: حَدَّثَنَا سَعِيدُ بْنُ زَيْدٍ [هُوَ أَخُو حَمَّادِ ابْنِ زَيْدٍ] قَالَ: حَدَّثَنَا الزُّبَيْرُ بْنُ خَرَيْبٍ. فَذَكَرَ نَحْوَهُ عَنْ أَبِي لَيْبِدٍ.

[قَالَ أَبُو عِيسَى:] وَقَدْ ذَهَبَ بَعْضُ أَهْلِ الْعِلْمِ إِلَى هَذَا الْحَدِيثِ وَقَالُوا بِهِ. وَهُوَ قَوْلُ



أَحْمَدَ وَإِسْحَاقَ، وَلَمْ يَأْخُذْ بَعْضُ أَهْلِ الْعِلْمِ  
بِهَذَا الْحَدِيثِ، مِنْهُمْ الشَّافِعِيُّ وَسَعِيدُ بْنُ  
زَيْدٍ، أَخُو حَمَّادِ بْنِ زَيْدٍ. وَأَبُو لَيْدٍ اسْمُهُ  
لِمَا زَةُ [بُنُ زَبَّارًا].

**تخریج:** [صحیح] وأخرجه ابن ماجه، الصدقات، باب الأمين يتجر فيه فيريح، ح: ٢٤٠٢  
من حديث الزبير بن خريت به وله طريق آخر عند البخاري، ح: ٣٦٤٢ عن عروة البارقي به،  
وأخرجه أبو داود، ح: ٣٣٨٥ من حديث سعيد بن زيد وسنده حسن.

**Comments:**

Some *A'imma* and scholars, on the basis of this narration, have approved of making a profit with the money of others without their permission, and giving the profit to them. 'Urwah purchased two goats with the money given to him by the Prophet ﷺ, without the permission of the Prophet ﷺ, whereas the money was given to him for the purchase of one goat. He sold one goat and earned one Dīnār. He returned to the Prophet ﷺ with a goat and Dīnār. The Prophet ﷺ appreciated his sentiments and invoked Allāh's blessings for him.

**Chapter 35. What Has Been Related About The Mukātab<sup>[1]</sup> Who Has What Will Fulfill (His Release)**

(المعجم ٣٥) - بَابُ مَا جَاءَ فِي الْمُكَاتِبِ  
إِذَا كَانَ عِنْدَهُ مَا يُؤَدِّي (التحفة ٣٥)

1259. Ibn 'Abbās narrated that the Prophet ﷺ said: "When the penalty (of blood money) goes to a *Mukātab*, or an inheritance, then he inherits in accordance with as much as he is freed from it." And the Prophet ﷺ said: "The *Mukātab* is given the blood-money of a free person in accordance to what he has paid (for his freedom), and that of a slave in accordance to what remains."<sup>[2]</sup> (*Ṣaḥīḥ*)

١٢٥٩ - حَدَّثَنَا هَارُونُ بْنُ عَبْدِ اللَّهِ  
الْبَرَّازِيُّ: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ: حَدَّثَنَا حَمَّادُ  
ابْنُ سَلَمَةَ عَنْ أَبِي ثَوْبَانَ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ  
عَبَّاسٍ عَنِ النَّبِيِّ ﷺ قَالَ: «إِذَا أَصَابَ  
الْمُكَاتِبُ حَدًّا أَوْ مِيرَاثًا، وَرِثَ بِحِسَابِ مَا  
عَتَقَ مِنْهُ».

[He said:] There is something on this from Umm Salamah.

وَقَالَ النَّبِيُّ ﷺ: «يُؤَدِّي الْمُكَاتِبُ بِحِصَّةِ  
مَا أَدَّى، دِيَّةَ حُرٍّ: وَمَا بَقِيَ، دِيَّةَ عَبْدٍ».

[Abū 'Eisā said:] The *Ḥadīth* of

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ عَبَّاسٍ

[1] The *Mukātab* is the slave that has an agreement from his owner to free him for a price.  
[2] If the *Mukātab* deserves some inheritance or he is to be paid some blood money, then the portions of these that he is due will depend on the portion of freedom that he has purchased from his owner.

Ibn ‘Abbās is a *Ḥasan Ḥadīth*. This is how it was reported from Yahya bin Abī Kathīr from ‘Ikrimah, from Ibn ‘Abbās, from the Prophet ﷺ.

Khālid bin Al-Ḥadh-dhā’ reported it from ‘Ikrimah, from ‘Alī as his saying.

This is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others.

Most of the people of knowledge among the Companions of the Prophet ﷺ and others said that the *Mukātab* remains a slave as long as he still owes a Dirham. This is the view of Sufyan Ath-Thawrī, Ash-Shāfi‘ī, Aḥmad, and Ishāq.

تخریج: [إسناده صحيح] وأخرجه أبو داود، الديات، باب: في دية المكاتب، ح: ٤٥٨٢ من حديث حماد بن سلمة، والنسائي، ح: ٤٨١٥ من حديث أيوب السخيتاني به وصححه الحاكم: ٢١٩، ٢١٨/٢ ووافقه الذهبي \* وفي الباب عن أم سلمة [يأتي: ١٢٦١]. =

1260. ‘Amr bin Shu‘aib narrated from his father, from his grandfather that he heard the Messenger of Allāh ﷺ delivering a *Khutbah* in which he said: “Whoever gives a writ of emancipation to his slave, for one hundred *Uqiyah*, and he pays it to him less ten *Uqiyah*,” – or he said: “Ten Dirham” – “then he becomes incapable (of paying the remainder), then he remains a slave.” (*Ḥasan*)

[Abū ‘Eisā said:] This *Ḥadīth* is [*Ḥasan*] *Gharīb*. And this is acted upon according to most of the people of knowledge among the Companions of the Prophet ﷺ and others: The *Mukātab* is a slave as long as something remains due from him for his *Kitābah*.

حَدِيثٌ حَسَنٌ. وَهَكَذَا رَوَى يَحْيَى بْنُ أَبِي كَثِيرٍ عَنْ عِكْرِمَةَ، عَنْ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ، وَرَوَى خَالِدُ الْحَدَّاءُ عَنْ عِكْرِمَةَ، عَنْ عَلِيِّ قَوْلَهُ. وَالْعَمَلُ عَلَى هَذَا الْحَدِيثِ عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ.

وَقَالَ أَكْثَرُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ: الْمُكَاتَبُ عَبْدٌ، مَا بَقِيَ عَلَيْهِ دِرْهَمٌ، وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وَالشَّافِعِيِّ وَأَحْمَدَ وَإِسْحَاقَ.

١٢٦٠ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا عَبْدُ الْوَارِثِ ابْنُ سَعِيدٍ عَنْ يَحْيَى بْنِ أَبِي أَنْبَسَةَ، عَنْ عَمْرٍو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ قَالَ: سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَخْطُبُ يَقُولُ: «مَنْ كَاتَبَ عَبْدَهُ عَلَى مِائَةِ أُوقِيَّةٍ، فَأَدَّاهَا إِلَّا عَشْرَةَ أُوقِ - أَوْ قَالَ: عَشْرَةَ دَرَاهِمٍ - ثُمَّ عَجَزَ، فَهُوَ رَقِيقٌ».

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ [حَسَنٌ] غَرِيبٌ، وَالْعَمَلُ عَلَيْهِ عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ: أَنَّ الْمُكَاتَبَ عَبْدٌ مَا بَقِيَ عَلَيْهِ شَيْءٌ مِنْ كِتَابَتِهِ. وَقَدْ رَوَاهُ الْحَجَّاجُ بْنُ أَرْطَاةَ عَنْ عَمْرٍو بْنِ شُعَيْبٍ نَحْوَهُ.

Al-Ḥajjāj bin Arṭāt reported similarly from ‘Amr bin Shu’aib.

**تخریج:** [حسن] وأخرجه أبو داود، العتق، باب: في المكاتب، ح: ٣٩٢٧ وابن ماجه، ح: ٢٥١٩ من حديث عمرو بن شعيب به وله شواهد عند أبي داود، ح: ٣٩٢٦ وغيره.

**1261.** Umm Salamah narrated that the Messenger of Allāh ﷺ said: “When one of you (women) has a *Mukātab* who has with him what will fulfill (the *Kitābah*) then observe *Hijāb* from him.” (*Ḥasan*)

[Abū Isa said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. And the meaning of this *Ḥadīth* according to the people of knowledge is that of caution. They say that the *Mukātab* is not freed, even if he has the amount to pay, until he pays it.

١٢٦١ - حَدَّثَنَا سَعِيدُ بْنُ عَبْدِ الرَّحْمَنِ الْمَخْزُومِيُّ قَالَ: حَدَّثَنَا سُفْيَانُ [بْنُ عُيَيْنَةَ] عَنِ الزُّهْرِيِّ، عَنْ نَبْهَانَ مَوْلَى أُمِّ سَلَمَةَ، عَنْ أُمِّ سَلَمَةَ قَالَتْ: قَالَ رَسُولُ اللَّهِ ﷺ: «إِذَا كَانَ عِنْدَ مُكَاتَبٍ إِحْدَاكُنَّ مَا يُؤَدِّي، فَلْتَحْتَجِبِي مِنْهُ».

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، وَمَعْنَى هَذَا الْحَدِيثِ عِنْدَ أَهْلِ الْعِلْمِ عَلَى التَّوَرُّعِ، وَقَالُوا: لَا يُعْتَقُ الْمُكَاتَبُ، وَإِنْ كَانَ عِنْدَهُ مَا يُؤَدِّي، حَتَّى يُؤَدِّي.

**تخریج:** [إسناده حسن] وأخرجه أبو داود، ح: ٣٩٢٨ (انظر الحديث السابق) وابن ماجه، ح: ٢٥٢٠ من حديث سفیان بن عيينة به وصححه ابن حبان، ح: ١٢١٤ والحاكم: ٢/٢١٩ ووافقه الذهبي، الزهري صرح بالسماع ونبهان حسن الحديث وثقه الذهبي في الكاشف والترمذي وابن حبان وغيره.

**Comments:**

If a *Mukātab* slave has enough money to pay for his freedom, the woman master of the slave should observe *Hijāb* from him. The slave is not free until he pays the amount in full, though he has enough amount to pay for his freedom, so, one should observe *Hijāb* as a precaution as he has the ability to get freedom.

**Chapter 36. What Has Been Related About When A Man In Debt Becomes Bankrupt And One’s Goods Are Found With Him**

(المعجم ٣٦) - بَابُ مَا جَاءَ إِذَا أُلْفِسَ لِلرَّجُلِ غَرِيمٌ فَيَجِدُ عِنْدَهُ مَتَاعَهُ (التحفة ٣٦)

**1262.** Abū Hurairah narrated that the Messenger of Allāh ﷺ said: “Whichever person becomes bankrupt, and a man finds his particular merchandise with him, then he is more deserving of it than others.” (*Ṣaḥīḥ*)

١٢٦٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ أَبِي بَكْرٍ بْنِ مُحَمَّدٍ [بْنِ عَمْرٍو] بِنِ حَزْمٍ، عَنْ عُمَرَ بْنِ عَبْدِ الْعَزِيزِ، عَنْ أَبِي بَكْرٍ بْنِ عَبْدِ الرَّحْمَنِ بْنِ الْحَارِثِ بْنِ هِشَامٍ، عَنْ أَبِي هُرَيْرَةَ عَنْ رَسُولِ اللَّهِ ﷺ أَنَّهُ

[He said:] There are narrations on this topic from Samurah and Ibn ‘Umar.

[Abū ‘Eīsā said:] The *Hadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to some of the people of knowledge and it is the view of Ash-Shāfi‘ī, Aḥmad, and Ishāq.

Some of the people of knowledge said that he is just like one of the debtors. This is the view of the people of Al-Kūfah.

قَالَ: «أَيَّمَا أَمْرِيءِ أَفْلَسَ، وَوَجَدَ رَجُلٌ سَلَعَتُهُ عِنْدَهُ بِعَيْنَيْهَا، فَهُوَ أَوْلَىٰ بِهَا مِنْ غَيْرِهِ». [قَالَ:] وَفِي الْبَابِ عَنْ سُمْرَةَ وَابْنِ عُمَرَ. [قَالَ أَبُو عِيْسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَىٰ هَذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ. وَهُوَ قَوْلُ الشَّافِعِيِّ وَأَحْمَدَ وَإِسْحَاقَ. وَقَالَ بَعْضُ أَهْلِ الْعِلْمِ: هُوَ أَسْوَأُ الْعُرْمَاءِ، وَهُوَ قَوْلُ أَهْلِ الْكُوفَةِ.

**تخریج:** متفق عليه، وأخرجه مسلم، المساقاة، باب من أدرك ما باعه عند المشتري، وقد أفلس، فله الرجوع فيه، ح: ١٥٥٩ عن قتيبة البخاري، ح: ٢٤٠٢ من حديث يحيى بن سعيد الأضراري به \* وفي الباب عن سمرة [أبو داود، ح: ٣٥٣١] وابن عمر [ابن حبان (موارد): ١١٦٥].

**Comments:**

According to this narration, if a person becomes bankrupt and he still has another person’s merchandise with him, the owner of the goods can have his stock back because he is the real owner. Three *A‘immah*, Mālik, Shāfi‘ī, and Aḥmad, and most of the scholars and people of knowledge among the Companions approve of this view.

**Chapter 37. What Has Been Related About The Prohibition For The Muslim To Give Wine To The *Dhimmī* When Bartering With Him**

(المعجم ٣٧) - بَابُ مَا جَاءَ فِي النَّهْيِ لِلْمُسْلِمِ، أَنْ يَدْفَعَ إِلَى الدِّمِّيِّ الْخَمْرَ يَبِيعُهَا لَهُ (التحفة ٣٧)

1263. Abū Al-Waddāk narrated that Abū Sa‘eed said: “We had some wine that belonged to an orphan. When *Al-Mā'idah* was revealed I asked the Messenger of Allāh ﷺ about it, I said: ‘It belongs to an orphan.’ He said: ‘Spill it out.’” (*Ṣaḥīḥ*)

[He said:] There is something on this topic from Anas bin Mālik.

[Abū ‘Eīsā said:] The *Hadīth* of

١٢٦٣ - حَدَّثَنَا عَلِيُّ بْنُ حَشْرَمٍ: أَخْبَرَنَا عِيْسَى بْنُ يُوْنُسَ عَنْ مُجَالِدٍ، عَنْ أَبِي الْوَدَّاعِ، عَنْ أَبِي سَعِيدٍ قَالَ: كَانَ عِنْدَنَا خَمْرٌ لَيْتِيْمٍ. فَلَمَّا نَزَلَتْ الْمَائِدَةُ، سَأَلْتُ رَسُوْلَ اللهِ ﷺ عَنْهُ، وَقُلْتُ: إِنَّهُ لَيْتِيْمٍ فَقَالَ: «أَهْرِيقُوهُ». [قَالَ:] وَفِي الْبَابِ عَنْ أَنَسِ بْنِ مَالِكٍ. [قَالَ أَبُو عِيْسَى:] حَدِيثُ أَبِي سَعِيدٍ

Abū Sa‘eed is a *Hasan* [*Ṣaḥīḥ*] *Hadīth*. Similar to this has been reported through other routes from the Prophet ﷺ. Some of the people of knowledge stated according to this, they dislike the usage of wine for making vinegar. And the only thing that they disliked about it, and Allāh knows best, is for a Muslim to have wine in his house until it becomes vinegar. Some of them permitted wine vinegar when it is found that it has become vinegar. [Abū Al-Waddāk’s name is Jabr bin Nawf].

حَدِيثٌ حَسَنٌ [صَحِيحٌ]. وَقَدْ رُوِيَ مِنْ غَيْرِ وَجْهِ عَنِ النَّبِيِّ ﷺ نَحْوُ هَذَا. وَقَالَ بِهَذَا بَعْضُ أَهْلِ الْعِلْمِ. وَكَرِهُوا أَنْ تَتَّخَذَ الْخَمْرُ خَلًّا، وَإِنَّمَا كُرِهَ مِنْ ذَلِكَ، وَاللَّهُ أَعْلَمُ، أَنْ يَكُونَ الْمُسْلِمُ فِي بَيْتِهِ خَمْرًا حَتَّى يَصِيرَ خَلًّا، وَرَخَّصَ بَعْضُهُمْ فِي خَلِّ الْخَمْرِ، إِذَا وُجِدَ قَدْ صَارَ خَلًّا [أَبُو الْوَدَّاءِ اسْمُهُ جَبْرُ بْنُ نَوْفٍ].

تخریج: [صَحِيحٌ] وأخرجه أحمد: ۲۶/۳ من حديث مجالد به، وصححه ابن الجارود، ح: ۸۵۳ وله شواهد عند الترمذي، ح: ۱۲۹۳ وأبي داود، ح: ۳۶۷۵ وغيرهما \* وفي الباب عن أنس بن مالك [لعله يشير إلى الحديث الآتي: ۱۲۹۴].

**Comments:**

Most of the people of knowledge do not approve of making vinegar from wine; they argue that if it had been acceptable why would the Prophet ﷺ order him to spill it out. This point is correct and most of the people act according to this. According to Imām Abū Ḥanifah and Imām Awzā‘ī it is approved to make vinegar from wine. (For details see *Ṣaḥīḥ Muslim*.)

**Chapter 38. ‘Fulfill The Trust For The One Who Entrusted You’**

1264. Abū Hurairah narrated that the Prophet ﷺ said: “Fulfill the trust for the one who entrusted you, and do not cheat the one who cheated you.” (*Da‘īf*)

[Abū ‘Eīsā said:] This *Hadīth* is *Hasan Gharīb*. Some of the people of knowledge followed this *Hadīth*, they said that when something belonging to a man is with another and he leaves (with it), then he has something that belongs to him, he may not withhold from him an

(المعجم ۳۸) - بَابُ: [أَدُّ الْأَمَانَةِ إِلَى مَنْ ائْتَمَنَكَ] (التحفة ۳۸)

۱۲۶۴ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا طَلْقُ ابْنُ عَنَامٍ عَنْ شَرِيكَ. وَوَيْسٌ عَنْ أَبِي حَصِينٍ، [عَنْ أَبِي صَالِحٍ]، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ النَّبِيُّ ﷺ: «أَدُّ الْأَمَانَةَ إِلَى مَنْ ائْتَمَنَكَ، وَلَا تَخُنْ مَنْ خَانَكَ».

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ غَرِيبٌ. وَقَدْ ذَهَبَ بَعْضُ أَهْلِ الْعِلْمِ إِلَى هَذَا الْحَدِيثِ وَقَالُوا: إِذَا كَانَ لِلرَّجُلِ عَلَى آخَرَ

equivalent to what the other took of his.

Some of the people of knowledge among the *Tābi‘īn* allowed that. This is the view of Sufyān Ath-Thawrī, he said: “If one man has some Dirham that belong to another, and the second has some Dīnār belonging to the first, he may not withhold any in place of his Dirham, unless it so happens that he has some Dirham of his, then in that case he can withhold some of his Dirham equal to what he is owed by the first.”

شَيْءٌ فَذَهَبَ بِهِ، فَوَقَعَ لَهُ عِنْدَهُ شَيْءٌ، فَلَيْسَ لَهُ أَنْ يَحْسِبَ عَنْهُ بِقَدْرِ مَا ذَهَبَ لَهُ عَلَيْهِ. وَرَخَّصَ فِيهِ بَعْضُ أَهْلِ الْعِلْمِ مِنَ التَّابِعِينَ. وَهُوَ قَوْلُ الثَّوْرِيِّ، وَقَالَ: إِنْ كَانَ لَهُ عَلَيْهِ دَرَاهِمٌ، فَوَقَعَ لَهُ عِنْدَهُ دَنَانِيرٌ، فَلَيْسَ لَهُ أَنْ يَحْسِبَ بِمَكَانِ دَرَاهِمِهِ، إِلَّا أَنْ يَقَعَ عِنْدَهُ لَهُ دَرَاهِمٌ، فَلَهُ حَيْثُ تَبَدَّلَ أَنْ يَحْسِبَ مِنْ دَرَاهِمِهِ بِقَدْرِ مَا لَهُ عَلَيْهِ.

**تخريج:** [إسناده ضعيف] وأخرجه أبو داود، البيوع، باب: في الرجل يأخذ حقه من تحت يده، ح: ٣٥٣٥ من حديث طلق بن غنم به وصححه الحاكم: ٤٦/٢ على شرط مسلم.

**Comments:**

There are different views of different scholars on this issue of *Al-Zafar*. *Al-Zafar* is an issue concerning withholding of money of another person in place of one’s own money or property which he owes him. 1) According to Imām Shāfi‘ī one whose amount has been seized by another person, if by chance he gets his (the second’s) money, he is allowed to deduct equal to his amount from the amount he got by chance. 2) The *Ahnāf* are of the view that if the kind of the thing is same then it is allowed to deduct one’s due share. Imām Shāfi‘ī also approves of this view point. 3) It is not allowed to cut one’s share without judicial verdict. 4) According to Ibn Ḥazm, in any case, one should cut his due share. It is not only his right but if he does not deduct his amount or due share he is a wrong-doer. He must get it or forgive. If he forgives he not only saves himself from a crime but also gets the reward from Allāh. (*Tuhfat Al-Ahwadhī* v.2 p.252.)

**Chapter 39. What Has Been Related About ‘The Borrowed Is To Be Returned’**

(المعجم ٣٩) - بَابُ مَا جَاءَ [فِي] أَنْ الْعَارِيَةِ مُؤَدَّاةٌ (التحفة ٣٩)

**1265.** Abū Umāmah narrated: “During the year of the Farewell Pilgrimage, I heard the Prophet ﷺ saying during the *Khutbah*: ‘The borrowed is to be returned, and the guarantor is responsible, and the debt is to be repaid.’” (*Hasan*)

١٢٦٥ - حَدَّثَنَا هَنَادٌ وَعَلِيُّ بْنُ حُجْرٍ قَالَا: حَدَّثَنَا إِسْمَاعِيلُ بْنُ عِيَّاشٍ عَنْ سُرْحَبِيلِ ابْنِ مُسْلِمِ الْخَوْلَانِيِّ، عَنْ أَبِي أُمَامَةَ قَالَ: سَمِعْتُ النَّبِيَّ ﷺ يَقُولُ فِي خُطْبَتِهِ، عَامَ حَجَّةٍ

[Abū 'Eisā said:] There are narrations on this topic from Samurah, Ṣafwān bin Umayyah, and Anas. [He said:] The *Hadīth* of Abū Umāmah is a *Ḥasan [Gharīb]* *Hadīth*. It has also been reported through other routes besides this, from Abū Umāmah, from the Prophet ﷺ.

الْوَدَاعِ «الْعَارِيَّةُ مُؤَدَّاةٌ، وَالزَّرْعِيمُ غَارِمٌ، وَالذَّيْنُ مَفْضِيٌّ».

[قَالَ أَبُو عَيْسَى:] وَفِي الْبَابِ عَنْ سَمْرَةَ، وَصَفْوَانَ بْنِ أُمَيَّةَ وَأَنْسِ. [قَالَ:] وَ[حَدِيثُ أَبِي أُمَامَةَ حَدِيثٌ حَسَنٌ [عَرِيبٌ]. وَقَدْ رُوِيَ عَنْ أَبِي أُمَامَةَ عَنِ النَّبِيِّ ﷺ أَيْضًا، مِنْ غَيْرِ هَذَا الْوَجْهِ.

**تخریج:** [إسناده حسن] وأخرجه أبو داود، البيهقي، باب: في تضمين العارية، ح: ٣٥٦٥ وابن ماجه، ح: ٢٢٩٥ من حديث إسماعيل به مطولاً ومختصراً، وصححه ابن الجارود، ح: ١٠٢٣ إسماعيل بن عياش صرح بالسماع من الخولاني الشامي \* وفي الباب عن سمرة [يأتي: ١٢٦٦] وصفوان بن أمية [أبو داود، ح: ٣٥٦٢] وأنس [ابن ماجه، ح: ٢٣٩٩].

**Comments:**

This narration proves that it is necessary and essential to return the borrowed things. There should not be any delaying tactics in the payment. Making delay in return is a moral crime. The guarantor must manage and make sure that the debt is paid.

**1266.** Qatādah narrated from Al-Ḥasan, from Samurah, that the Prophet ﷺ said: “Upon the hand is what it took, until it is returned.” Qatādah said: “Then Al-Ḥasan forgot, so he said: ‘It is something you entrusted, he is not liable for it.’” Meaning the borrowed property. (*Da'if*)

١٢٦٦ - حَدَّثَنَا مُحَمَّدُ بْنُ الْمُثَنَّى: حَدَّثَنَا ابْنُ أَبِي عَدِيٍّ عَنْ سَعِيدٍ، عَنْ قَتَادَةَ، عَنِ الْحَسَنِ، عَنْ سَمْرَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «عَلَى الْيَدِ مَا أَخَذْتَ حَتَّى تُؤَدِّيَ». قَالَ قَتَادَةُ: ثُمَّ نَسِيَ الْحَسَنُ فَقَالَ: هُوَ أَمِينُكَ لَا ضَمَانَ عَلَيْهِ، يَعْنِي الْعَارِيَّةَ.

[Abū Isa said:] This *Hadīth* is *Ḥasan Ṣaḥīḥ*. Some of the people of knowledge, among the Companions of the Prophet ﷺ and others, followed this *Hadīth*. They said that the possessor of the borrowed thing is liable. This is the view of Ash-Shāfi'ī and Aḥmad. Some of the people of knowledge among the Companions and others said that the possessor of the borrowed thing is not liable unless there is a dispute. This is the view of Sufyān Ath-Thawrī and the

[قَالَ أَبُو عَيْسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وَقَدْ ذَهَبَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ إِلَى هَذَا، وَقَالُوا: يَضْمَنُ صَاحِبُ الْعَارِيَّةِ. وَهُوَ قَوْلُ الشَّافِعِيِّ وَأَحْمَدَ. وَقَالَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ، لَيْسَ عَلَى صَاحِبِ الْعَارِيَّةِ ضَمَانٌ إِلَّا أَنْ يُخَالَفَ. وَهُوَ قَوْلُ الثَّوْرِيِّ وَأَهْلِ الْكُوفَةِ، وَبِهِ يَقُولُ إِسْحَاقُ.

people of Al-Kūfah, and it is the view of Ishāq.

**تخريج:** [إسناده ضعيف] وأخرجه ابن ماجه، الصدقات، باب العارية، ح: ٢٤٠٠ من حديث محمد بن أبي عدي، وأبو داود، ح: ٣٥٦١ من حديث سعيد بن أبي عروبة به وصححه ابن الجارود، ح: ١٢٤ والحاكم على شرط البخاري: ٤٧/٢ ووافقه الذهبي \* فتادة مدلس عنعن.

**Comments:**

A borrowed thing must be returned even if it is damaged or lost unintentionally. Though there is no legal responsibility of the borrower as he had no intention to damage or loose the borrowed thing. It is his moral duty to return or compensate for it. The *Ahnāf* and *Mālikī* have the same point of view that it must be returned or compensated in any case.

**Chapter 40. What Has Been Related About Hoarding**

**1267.** Muḥammad bin Ibrāhīm narrated from Sa‘eed bin Al-Musayyab, from Ma‘mar bin ‘Abdullāh bin [Naḍlah] who said: “I heard the Messenger of Allāh ﷺ saying: ‘Hoarding is nothing but sin.’” So I (Muḥammad) said to Sa‘eed: “O Abū Muḥammad! You hoard?” He said: “And Ma‘mar would hoard.” (*Ṣaḥīḥ*)

It has only been reported that Sa‘eed bin Al-Musayyab would hoard oil, (camel) fodder, and the like.

[Abū ‘Eisā said:] There are narrations on this topic from ‘Umar, ‘Alī, Abū Umāmah, and Ibn ‘Umar. The *Ḥadīth* of Ma‘mar is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to the people of knowledge, they dislike hoarding food, and some of them make a concession for hoarding things other than food. Ibn Al-Mubārak said: “There is no harm in hoarding cotton, goat pelts and the like.”

(المعجم ٤٠) - بَابُ مَا جَاءَ فِي

الِاخْتِكَارِ (التحفة ٤٠)

١٢٦٧ - حَدَّثَنَا إِسْحَاقُ بْنُ مَنْصُورٍ: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ: حَدَّثَنَا مُحَمَّدُ بْنُ إِسْحَاقَ عَنْ مُحَمَّدِ بْنِ إِبْرَاهِيمَ، عَنْ سَعِيدِ بْنِ الْمُسَيْبِ، عَنْ مَعْمَرِ بْنِ عَبْدِ اللَّهِ بْنِ [نَضْلَةَ]، قَالَ: سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ: «لَا يَخْتَكِرُ إِلَّا خَاطِلٌ»، فَقُلْتُ لِسَعِيدٍ: يَا أَبَا مُحَمَّدٍ إِنَّكَ تَخْتَكِرُ، قَالَ: وَمَعْمَرٌ قَدْ كَانَ يَخْتَكِرُ.

وَإِنَّمَا رُوِيَ عَنْ سَعِيدِ بْنِ الْمُسَيْبِ أَنَّهُ كَانَ يَخْتَكِرُ الزَّيْتِ وَالْحَبَطَ وَنَحْوَ هَذَا.

[قَالَ أَبُو عِيْسَى:] [وَفِي الْبَابِ عَنْ عُمَرَ وَعَلِيٍّ وَأَبِي أُمَامَةَ، وَابْنِ عُمَرَ. وَحَدِيثُ مَعْمَرٍ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ. كَرِهُوا اخْتِكَارَ الطَّعَامِ. وَرَخَّصَ بَعْضُهُمْ فِي الْاخْتِكَارِ فِي غَيْرِ الطَّعَامِ. وَقَالَ ابْنُ الْمُبَارَكِ: لَا بَأْسَ بِالِاخْتِكَارِ فِي الْقُطْنِ وَالسَّخْتِيَانِ وَنَحْوِ ذَلِكَ.]



**تخريج:** [صحيح] وأخرجه ابن ماجه، التجارات، باب الحكرة والجلب، ح: ٢١٥٤ من حديث يزيد بن هارون، ومسلم، ح: ١٦٠٥ من حديث سعيد بن المسيب به \* وفي الباب عن عمر [ابن ماجه، ح: ٢١٥٣، ٣١٥٥] وعلي [ابن أبي شيبة، ح: ١٠٤/٦] وأبي أمامة [رزين كما في المشكاة، ح: ٢٨٩٨ ولم أجده] وابن عمر [أحمد: ٣٣/٢].

**Comments:**

“*Ihtikār*” is hoarding. According to Ḥāfiẓ Ibn Ḥajar it means to store the grains and stop their supply in the market to make the price rise. (*Tuḥfat Al-Aḥwadhī* v. 2. p. 253.) Most of the scholars disapprove of hoarding grains but are not against the hoarding of other things. The narrator of this narration is a Companion of the Prophet ﷺ, Ma‘mar and pupil Sa‘eed bin Al-Musayyab took this very meaning of this narration, and hoarded olive oil and fodder and other items. According to ‘Allāmah Taqī all Four *A‘immah* also have the same view. (*Tuḥfat Al-Aḥwadhī* v.2. p. 257.)

**Chapter 41. What Has Been Related About Selling *Al-Muḥaffalāt* (Animals That Have Not Been Milked)**

(المعجم ٤١) - بَابُ مَا جَاءَ فِي بَيْعِ الْمُحَفَّلَاتِ (التحفة ٤١)

**1268.** Ibn ‘Abbās narrated that the Prophet ﷺ said: “Do not go out to meet the market (caravan), do not leave the animals un-milked (to deceive the buyer), nor out-spend one another.” (*Hasan*)

١٢٦٨ - حَدَّثَنَا هَذَا: حَدَّثَنَا أَبُو الْأَحْوَصِ عَنْ سِمَاكِ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ: أَنَّ النَّبِيَّ ﷺ قَالَ: «لَا تَسْتَقْبِلُوا الشُّوقَ، وَلَا تُحَفِّلُوا، وَلَا يُنْفِقُ بَعْضُكُمْ لِبَعْضٍ».

[Abū ‘Eisā said:] There are narrations on this topic from Ibn Mas‘ūd and Abū Hurairah. The *Ḥadīth* of Ibn ‘Abbās is a *Hasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to the people of knowledge, they dislike selling the *Muḥaffalah*, and it is the *Muṣarrāh* that has not been milked by its owner in days or more than that, so the milk accumulates in its udders to impress the purchaser. This is a type of deceit and misrepresentation.

[قَالَ أَبُو عِيسَى:] وَفِي الْبَابِ عَنِ ابْنِ مَسْعُودٍ وَأَبِي هُرَيْرَةَ وَحَدِيثِ ابْنِ عَبَّاسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ، كَرِهُوا بَيْعَ الْمُحَفَّلَةِ، وَهِيَ الْمُصْرَأَةُ، لَا يَحْلِبُهَا صَاحِبُهَا أَيَّامًا أَوْ نَحْوَ ذَلِكَ، لِيَجْتَمِعَ اللَّبَنُ فِي صَرْعِهَا، فَيَغْتَرَّ بِهَا الْمُشْتَرِي، وَهَذَا ضَرْبٌ مِنَ الْخَدِيعَةِ وَالْعُرْرِ.

**تخريج:** [حسن] وأخرجه أحمد: ٢٥٦/١ من حديث أبي الأحوص به وسنده ضعيف وللحديث شواهد \* وفي الباب عن ابن مسعود [البخاري، ح: ٢١٤٩، ومسلم، ح: ١٥١٨] وأبي هريرة [تقدم: ١٢٥١، ١٢٥٢].

**Chapter 42. What Was Been Related About The False Oath To Deprive The Muslim Of His Wealth**

1269. ‘Abdullāh bin Mas‘ūd narrated that the Messenger of Allāh ﷺ said: “Whoever takes a false oath to deprive a Muslim of his wealth, he will meet Allāh while He is angry with him.”

Al-Ash‘ath bin Qais said: “It is about me, by Allāh! There was a dispute about some land between myself and a man from the Jews who denied my ownership of it, so I took him to the Prophet ﷺ. the Messenger of Allāh ﷺ said to me: ‘Do you have any proof?’ I said: ‘No.’ So he said to the Jew: ‘Take an oath.’ I said: ‘O Messenger of Allāh! If he takes an oath then my property will be gone!’ So Allāh, Most High revealed: Verily those who purchase a small gain at the cost of Allāh’s Covenant and their oaths... until the end of the *Āyah*”<sup>[1]</sup> (*Ṣaḥīḥ*)

[Abū ‘Eīsā said:] There are narrations on this topic from Wā’il bin Ḥujr, Abū Mūsā, Abū Umāmah bin Tha’labah Al-Anṣārī, and ‘Imrān bin Ḥuṣain. The *Hadīth* of Ibn Mas‘ūd is a *Ḥasan Ṣaḥīḥ Hadīth*.

(المعجم ٤٢) - بَابُ مَا جَاءَ فِي الْيَمِينِ  
الْفَاجِرَةُ يُقْتَطَعُ بِهَا مَالُ الْمُسْلِمِ (التحفة ٤٢)

١٢٦٩ - حَدَّثَنَا هَنَادٌ: حَدَّثَنَا أَبُو مُعَاوِيَةَ عَنِ الْأَعْمَشِ، عَنِ شَقِيقِ بْنِ سَلَمَةَ، عَنِ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ، قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «مَنْ حَلَفَ عَلَى يَمِينٍ وَهُوَ فِيهَا فَاجِرٌ، لِيُقْتَطَعَ بِهَا مَالُ امْرِئٍ مُسْلِمٍ، لَقِيَ اللَّهَ وَهُوَ عَلَيْهِ غَضَبَانُ».

فَقَالَ الْأَشْعَثُ بْنُ قَيْسٍ: فِيَّ، وَاللَّهِ لَقَدْ كَانَ ذَلِكَ، كَانَ بَيْنِي وَبَيْنَ رَجُلٍ مِنَ الْيَهُودِ أَرْضٌ فَجَحَدَنِي، فَقَدَّمْتُهُ إِلَى النَّبِيِّ ﷺ. فَقَالَ لِي رَسُولُ اللَّهِ ﷺ: «أَلَاكَ بَيْتَةٌ؟» قُلْتُ: لَا، فَقَالَ لِلْيَهُودِيِّ: «اخْلِفْ» قُلْتُ: يَا رَسُولَ اللَّهِ إِذْنٌ يَحْلِفُ فَيَذْهَبُ بِمَالِي، فَأَنْزَلَ اللَّهُ تَعَالَى: ﴿إِنَّ الَّذِينَ يَشْرُونَ بِعَهْدِ اللَّهِ وَأَيْمَانِهِمْ ثَمَنًا قَلِيلًا﴾ إِلَى آخِرِ الْآيَةِ [آل عمران: ٧٧].

[قَالَ أَبُو عِيْسَى: ] وَفِي الْبَابِ عَنْ وَاثِلِ بْنِ حُجْرٍ، وَأَبِي مُوسَى وَأَبِي أَمَامَةَ بْنِ نَعْلَبَةَ الْأَنْصَارِيِّ وَعُمَرََانَ بْنِ حُصَيْنٍ. وَحَدِيثُ ابْنِ مَسْعُودٍ، حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخریج: متفق عليه، وأخرجه البخاري، المساقاة، باب الخصومة في البئر والقضاء فيها، ح: ٢٣٥٦، ومسلم، ح: ١٣٨، من حديث الأعمش به، وأبو داود، ح: ٣٢٤٣، عن هناد، والبخاري، ح: ٢٤١٦، من حديث أبي معاوية الضرير به \* وفي الباب عن واثل بن حجر [مسلم، ح: ١٣٩] وأبي موسى [لعله يشير إلى الحديث الآتي: ١٨٢٧، وانظر مسند الإمام أحمد: ٤/٣٩٤] وأبي أمامة ابن ثعلبة الأنصاري [مسلم، ح: ١٣٧] وعمران بن حصين [أبو داود، ح: ٣٢٤٢].

[1] *Āl ‘Imrān* 3:77.

**Comments:**

This narration is a proof that if there is a dispute between two persons the claimant has to produce two witnesses in his favor, and if he fails to produce, the respondent will take an oath, and the decision will be given on the oath of the respondent, whether he swore a true oath or false.

**Chapter 43. What Has Been Related About When The Buyer And Seller Disagree**

(المعجم ٤٣) - بَابُ مَا جَاءَ إِذَا اِخْتَلَفَ  
الْبَيْعَانِ (الصفحة ٤٣)

**1270.** Ibn Mas'ūd narrated that the Messenger of Allāh ﷺ said: "When the two parties (in a deal) disagree then the seller's statement is taken as valid, and the purchaser retains the option." (*Hasan*)

١٢٧٠ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا سُفْيَانُ عَنْ  
ابْنِ عَجْلَانَ، عَنْ عَوْنِ بْنِ عَبْدِ اللَّهِ، عَنِ ابْنِ  
مَسْعُودٍ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «إِذَا  
اِخْتَلَفَ الْبَيْعَانِ، فَالْقَوْلُ قَوْلُ الْبَائِعِ، وَالْمُبْتَاعُ  
بِالْخِيَارِ».

[Abū 'Eisā said:] This *Hadīth* is *Mursal*. 'Awn bin 'Abdullāh did not see Ibn Mas'ūd. This *Hadīth* has also been reported from Al-Qāsim bin 'Abdur-Raḥmān, from Ibn Mas'ūd, from the Prophet ﷺ. But that is also *Mursal*.

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ مُرْسَلٌ،  
عَوْنُ بْنُ عَبْدِ اللَّهِ لَمْ يُدْرِكْ ابْنَ مَسْعُودٍ. وَقَدْ  
رَوَى عَنِ الْقَاسِمِ بْنِ عَبْدِ الرَّحْمَنِ، عَنِ ابْنِ  
مَسْعُودٍ عَنِ النَّبِيِّ ﷺ هَذَا الْحَدِيثُ أَيْضًا.  
وَهُوَ مُرْسَلٌ أَيْضًا.

[Abū 'Eisā said:] [Ishāq] Ibn Mañşūr said: "I said to Aḥmad: what if when the two parties disagree and there is no proof (what is done)?" He said: "The saying of the owner of the merchandise is taken as valid or they both refuse." And Ishāq said as he did, and that in every case where his saying is taken, he must swear."

[قَالَ أَبُو عِيسَى:] قَالَ [إِسْحَاقُ] بْنُ  
مَنْصُورٍ: قُلْتُ لِأَحْمَدَ: إِذَا اِخْتَلَفَ الْبَيْعَانِ  
وَلَمْ تَكُنْ بَيِّنَةً؟ قَالَ: الْقَوْلُ مَا قَالَ رَبُّ  
السَّلْعَةِ، أَوْ يَتَرَادَانِ. قَالَ إِسْحَاقُ: كَمَا  
قَالَ، وَكُلُّ مَنْ كَانَ الْقَوْلُ قَوْلَهُ، فَعَلَيْهِ  
الْيَمِينُ.

[Abū 'Eisā said:] Similar to this has been reported from some of [the people of knowledge among] the *Tābi'in*, *Shuraih* is among those.

[قَالَ أَبُو عِيسَى:] وَقَدْ رَوَى نَحْوُ هَذَا عَنْ  
بَعْضِ [أَهْلِ الْعِلْمِ مِنْ] التَّابِعِينَ مِنْهُمْ شُرَيْحٌ.

**تخریج:** [حسن] وأخرجه أحمد: ٤٦٦/١ من حديث محمد بن عجلان به وصرح بالسماع، وصححه ابن الجارود، ح: ٦٢٥، والحاكم: ٤٥/٢، والذهبي وحسنه البيهقي: ٣٣٢/٥، ورواه أبو داود، ح: ٣٥١١، والنسائي، ح: ٤٦٥٢، من حديث ابن مسعود به وللحديث شواهد كثيرة عند أبي داود، ح: ٣٥١٢ وغيره.

**Comments:**

The basic cause of dispute is not clear in this narration. Disagreement of the parties was on the commodity itself, or on its price, or on some condition put on it. Many of the scholars generalize the application of this narration. This narration is applicable to all kinds of disputes, and according to ‘Allāmah Ibn Qudāmah, if someone has no witness, then both of the parties will take an oath.

**Chapter 44. What Has Been Related About Selling Surplus Water**

(المعجم ٤٤) - بَابُ مَا جَاءَ فِي بَيْعِ  
فَضْلِ الْمَاءِ (التحفة ٤٤)

1271. Abū Al-Minhāl narrated from Iyās bin ‘Abd Al-Muzanī who said: “The Prophet ﷺ prohibited selling water.” (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Jābir, Buhaisah from her father, Abū Hurairah, ‘Āishah, Anas, and ‘Abdullāh bin ‘Amr.

[Abū ‘Eisā said:] The *Ḥadīth* of Iyās is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to most of the people of knowledge; they dislike selling water. This is the view of Ibn Al-Mubārak, Ash-Shāfi‘ī, Aḥmad and Ishāq. Some of the people of knowledge permitted selling water, Al-Ḥasan Al-Baṣrī is one of them.

١٢٧١ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا دَاوُدُ بْنُ عَبْدِ الرَّحْمَنِ الْعَطَّارُ، عَنْ عَمْرٍو بْنِ دِينَارٍ، عَنْ أَبِي الْمُنْهَالِ، عَنْ إِيَّاسِ بْنِ عَبْدِ الْمُزَنِيِّ قَالَ: نَهَى النَّبِيُّ ﷺ عَنْ بَيْعِ الْمَاءِ.

[قَالَ:] وَفِي الْبَابِ عَنْ جَابِرٍ وَبُهَيْسَةَ، عَنْ أَبِيهَا، وَأَبِي هُرَيْرَةَ وَعَائِشَةَ وَأَنْسٍ وَعَبْدِ اللَّهِ بْنِ عَمْرٍو.

[قَالَ أَبُو عِيسَى:] حَدِيثُ إِيَّاسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ، أَنَّهُمْ كَرَهُوا بَيْعَ الْمَاءِ. وَهُوَ قَوْلُ ابْنِ الْمُبَارَكِ وَالشَّافِعِيِّ وَأَحْمَدَ وَإِسْحَاقَ، وَقَدْ رَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ فِي بَيْعِ الْمَاءِ. مِنْهُمْ الْحَسَنُ الْبَصْرِيُّ.

**تخريج:** [إسناده صحيح] وأخرجه أبو داود، البيهقي، باب: في بيع فضل الماء، ح: ٣٤٧٨ من حديث داود العطار به ورواه النسائي، ح: ٤٦٦٦ عن قتيبة وابن ماجه، ح: ٢٤٧٦ من حديث عمرو بن دينار به وصححه ابن الجارود، ح: ٥٩٤ وابن حبان، ح: ١١١٧ والحاكم: ٦١، ٤٤/٢ \* وفي الباب عن جابر [ابن ماجه، ح: ١٥٣٠] وبهيسة عن أبيها [أبو داود، ح: ١٦٦٩، ٣٤٧٦] وأبي هريرة [يأتي: ١٢٧٢] وعائشة [ابن ماجه، ح: ٢٤٧٩] وأنس [الطبراني في الصغير: ١/٢٤٢] وعبدالله ابن عمرو [أحمد: ٢/١٧٩، ٢٢١ والطبراني في الأوسط، ح: ١٢١٧].

**Comments:**

Some of the scholars, in the context of this narration have taken the word ‘water’ in its entirety to mean water of all kinds, and in all senses, and they have prohibited its sale. According to Ibn Ḥazm and Imām Shawkānī, sale of water is unlawful. The correct sense of the word ‘water’ in this narration

seems to be the water which is free for all, and no one has to toil for bringing it up to the place of use. But the water brought from far off places by rented transport or by other means with an expenditure on it, can be sold. (For details see *Nayl Al-Awtār* v. 5. p. 259.)

**1272.** Abū Hurairah narrated that the Prophet ﷺ said: “Do not withhold surplus water so that it is prevented from the pasture.” (*Ṣaḥīḥ*)

[Abū ‘Eisā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

[Abū Al-Munhāl’s name is ‘Abdur-Raḥmān bin Muṭ‘im, he is from Al-Kūfah, and he is the one that Ḥabīb bin Abī Thābit reports from. Abū Al-Munhāl Sayyār bin Salāmah is from Al-Baṣrah, he is the companion of Abū Barzah Al-Aslamī.]

**تخريج:** متفق عليه، وأخرجه مسلم، المساقاة، باب تحريم بيع فضل الماء الذي يكون بالفلاة... إلخ، ح: ١٥٦٦ عن قتيبة والبخاري، ح: ٢٣٥٣ من حديث أبي الزناد به.

**Comments:**

One who has a well or source of water near a pasture, he is not allowed to put restrictions on his surplus water. He should allow the people to use the water for their animals and domestic needs.

**Chapter 45. What Has Been Related About It Being Disliked To Sell The Sperm Of A Stallion**

**1273.** Ibn ‘Umar narrated: “The Prophet ﷺ prohibited studding the stallion.” (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Abū Hurairah, Anas, and Abū Sa‘eed.

[Abū ‘Eisā said:] The *Ḥadīth* of Ibn ‘Umar is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to some of the people of knowledge.

١٢٧٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ أَبِي الزِّنَادِ، عَنِ الْأَعْرَجِ، عَنِ أَبِي هُرَيْرَةَ: أَنَّ النَّبِيَّ ﷺ قَالَ: «لَا يُمْنَعُ فَضْلُ الْمَاءِ، لِيُمْنَعَ بِهِ الْكَلَاءُ».

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

وَأَبُو الْمِنْهَالِ اسْمُهُ عَبْدُ الرَّحْمَنِ بْنِ مُطْعِمٍ: كُوفِيٌّ، وَهُوَ الَّذِي رَوَى عَنْهُ حَبِيبُ ابْنِ أَبِي ثَابِتٍ، وَأَبُو الْمِنْهَالِ سَيَّارُ بْنُ سَلَامَةَ، بَصْرِيُّ صَاحِبُ أَبِي بَرْزَةَ الْأَسْلَمِيِّ.

(المعجم ٤٥) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ عَسْبِ الْفَحْلِ (التحفة ٤٥)

١٢٧٣ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ وَأَبُو عَمَّارٍ قَالَا: حَدَّثَنَا إِسْمَاعِيلُ بْنُ عَلِيَّةَ [قَالَ]: حَدَّثَنَا عَلِيُّ بْنُ الْحَكَمِ عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، قَالَ: نَهَى النَّبِيُّ ﷺ عَنْ عَسْبِ الْفَحْلِ.

[قَالَ:] وَفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ وَأَنْسِ وَأَبِي سَعِيدٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ عُمَرَ

There are those who made a concession for accepting an honorarium for that.

حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هَذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، وَقَدْ رَخَّصَ قَوْمٌ فِي قَبُولِ الْكِرَامَةِ عَلَى ذَلِكَ.

**تخريج:** وأخرجه البخاري، الإجارة، باب عسب الفحل، ح: ٢٢٨٤ من حديث إسماعيل ابن عليه به \* وفي الباب عن أبي هريرة [النسائي، ح: ٤٦٧٧] وأنس [يأتي: ١٢٧٤] وأبي سعيد [النسائي ٣١١/٧، ح: ٤٦٧٨].

**Comments:**

In the view of Imām Abū Ḥanīfah, Imām Shāfi‘ī and Imām Aḥmad, the owner of the male animal is not allowed to take money or rent it out for mating purposes. In the view of Imām Mālik this is prohibited only because it is against the general welfare of the community. Norms of a civilized society do not allow receiving money for such purposes.

**1274.** Anas bin Mālik narrated: “A man from (the tribe of) Kilāb asked the Messenger of Allāh ﷺ about studding a stallion and he prohibited it. So he said: ‘O Messenger of Allāh! We stud the stallions so that we get honorarium (from the owners of the female horse)!’ So he permitted it for the honorarium.” (*Ṣaḥīḥ*)

[Abū ‘Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*, we do not know of it except as a narration of Ibrāhīm bin Ḥumaid, from Hishām bin ‘Urwah.

١٢٧٤ - حَدَّثَنَا عَبْدُ بَنُ عَبْدِ اللَّهِ الْخَزَاعِيُّ الْبَصْرِيُّ: حَدَّثَنَا يَحْيَى بْنُ أَدَمَ عَنْ إِبْرَاهِيمَ بْنِ حُمَيْدِ الرَّوَّاسِيِّ، عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ مُحَمَّدِ بْنِ إِبْرَاهِيمَ التَّمِيمِيِّ، عَنْ أَنَسِ بْنِ مَالِكٍ: أَنَّ رَجُلًا مِنْ كِلَابٍ سَأَلَ رَسُولَ اللَّهِ ﷺ عَنْ عَسْبِ الْفَحْلِ، فَنَهَاهُ، فَقَالَ: يَا رَسُولَ اللَّهِ إِنَّا نَطْرُقُ الْفَحْلَ فَتُكْرَمُ. فَرَخَّصَ لَهُ فِي الْكِرَامَةِ.

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ غَرِيبٌ، لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ إِبْرَاهِيمَ بْنِ حُمَيْدٍ عَنْ هِشَامِ بْنِ عُرْوَةَ.

**تخريج:** [صحيح] وأخرجه النسائي: ٣/٣١٠، ح: ٤٦٧٦ (اليبوع، باب بيع ضراب الجمل) من حديث يحيى بن آدم به وللحديث شواهد.

**Comments:**

If some gift is given to the owner of the male animal, it can be accepted. Giving a gift is not a compulsion nor is this a fee for the male. This view is considered the correct view.

**Chapter 46. What Has Been Related About The Price Of A Dog**

**1275.** Rāfi‘ bin Khadīj narrated that the Messenger of Allāh ﷺ

(المعجم ٤٦) - بَابُ مَا جَاءَ فِي ثَمَنِ الْكَلْبِ (التحفة ٤٦)

١٢٧٥ - حَدَّثَنَا مُحَمَّدُ بْنُ رَافِعٍ: حَدَّثَنَا

said: "The earnings of the cupper is filth, the earnings of the fornicator (from harlotry) is filth, and the price of a dog is filth." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from 'Umar, [‘Alī], Ibn Mas‘ūd, [Abū Mas‘ūd], Jābir, Abū Hurairah, Ibn ‘Abbās, Ibn ‘Umar, and ‘Abdullāh bin Ja‘far.

[Abū ‘Eisā said:] The *Ḥadīth* of Rāfi‘ is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to most of the people of knowledge, they disliked the price of a dog. This is the view of Ash-Shāfi‘ī, Aḥmad, and Ishāq. Some of the people of knowledge permitted the price of the hunting dog.

عَبْدُ الرَّزَاقِ: حَدَّثَنَا مَعْمَرٌ عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ، عَنْ إِبْرَاهِيمَ بْنِ عَبْدِ اللَّهِ بْنِ قَارِظٍ، عَنِ السَّائِبِ بْنِ يَزِيدٍ، عَنْ رَافِعِ بْنِ خَدِيجٍ أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: «كُنْتُ أَلْحَمَّ حَيْثُ، وَمَهْرُ الْبَيْعِيِّ حَيْثُ، وَتَمَنُّ الْكَلْبِ حَيْثُ».

[قَالَ:] وَفِي الْبَابِ عَنْ عُمَرَ [وَعَلِيِّ] وَابْنِ مَسْعُودٍ [وَأَبِي مَسْعُودٍ] وَجَابِرٍ وَأَبِي هُرَيْرَةَ وَابْنِ عَبَّاسٍ وَابْنِ عُمَرَ وَعَبْدَ اللَّهِ بْنِ جَعْفَرٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ رَافِعٍ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ، كَرِهُوا تَمَنُّ الْكَلْبِ. وَهُوَ قَوْلُ الشَّافِعِيِّ وَأَحْمَدَ وَإِسْحَاقَ. وَقَدْ رَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ فِي تَمَنُّ كَلْبِ الصَّيِّدِ.

**تخريج:** وأخرجه مسلم، المساقاة، باب تحريم ثمن الكلب، وحلوان الكاهن ... الخ، ح: ١٥٦٨ من حديث عبدالرزاق به \* وفي الباب عن عمر [ابن عدي في الكامل: ٧/٧١٦] وعلي وابن مسعود [لم أجده] وأبي مسعود [يأتي: ١٢٧٦] وجابر [مسلم، ح: ١٥٦٩] وأبي هريرة [ابن حبان، ح: ١١١٨ والبيهقي: ٦/٦] وابن عباس [أبو داود، ح: ٣٤٨٢] وابن عمر [الطبراني في الأوسط: ٦/٢٦٢، ح: ٥٥٥٧] وعبدالله بن جعفر [الحاكم: ٣/٥٦٨] وحديث عبدالله بن عمرو عند الحاكم: ٣٣/٢.

**Comments:**

Fornication is one of the greatest sins and the earnings of a fornicator is unanimously agreed upon as unlawful. The earnings of the soothsayer are also unlawful.

**1276.** Abū Mas‘ūd Al-Anṣārī narrated: "The Messenger of Allāh ﷺ prohibited the price of a dog, the earnings of the fornicator (from harlotry), and the news of the fortune-teller."<sup>[1]</sup> (*Ṣaḥīḥ*)

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٢٧٦ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ ابْنِ شِهَابٍ؛ ح: وَحَدَّثَنَا سَعِيدُ بْنُ عَبْدِ الرَّحْمَنِ الْمَخْزُومِيُّ وَغَيْرُ وَاحِدٍ قَالُوا: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنِ الزُّهْرِيِّ، عَنْ أَبِي بَكْرِ ابْنِ عَبْدِ الرَّحْمَنِ، عَنْ أَبِي مَسْعُودٍ

[1] This *Ḥadīth* preceded, no. 1133.

الْأَنْصَارِيِّ، قَالَ: نَهَى رَسُولُ اللَّهِ ﷺ عَنْ ثَمَنِ الْكَلْبِ وَمَهْرِ الْبَغِيِّ وَحُلْوَانِ الْكَاهِنِ. هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخریج: متفق عليه، وأخرجه مسلم، المساقاة، باب تحريم ثمن الكلب، وحلوان الكاهن... إلخ، ح: ١٥٦٧ عن قتبية والبخاري، ح: ٥٣٤٦ من حديث سفيان بن عيينة به.

### Chapter 47. What Has Been Related About The Earnings Of The Cupper

(المعجم ٤٧) - بَابُ مَا جَاءَ فِي كَسْبِ الْحَجَّامِ (التحفة ٤٧)

1277. Ibn Muḥayyṣah of Banū Hārithah narrated from his father, that he sought permission from the Prophet ﷺ to take the wages for cupping and he ﷺ forbade him from it. He continued asking him and seeking his permission until he said: "Use it to give fodder to your water-carrying camels, and to feed your slaves." (*Saḥīḥ*)

١٢٧٧ - حَدَّثَنَا قُتَيْبَةُ عَنْ مَالِكِ بْنِ أَنَسٍ، عَنْ ابْنِ شَهَابٍ، عَنْ ابْنِ مُحَيِّصَةَ أَخِي بَنِي حَارِثَةَ، عَنْ أَبِيهِ، أَنَّهُ اسْتَأْذَنَ النَّبِيَّ ﷺ فِي إِجَارَةِ الْحَجَّامِ فَفَنَاهَا عَنْهَا، فَلَمْ يَزَلْ يَسْأَلُهُ وَيَسْتَأْذِنُهُ حَتَّى قَالَ: «اغْلِفْهُ نَاصِحَكَ، وَأَطْعِمْهُ رِقِيقَكَ».

[He said:] There are narrations on this topic from Rāfi' bin Khadij, Abū Juhaifah, Jābir, and As-Sā'ib [bin Yazid].

[قَالَ:] وَفِي الْبَابِ عَنْ رَافِعِ بْنِ خَدِيجٍ وَأَبِي جُحَيْفَةَ، وَجَابِرٍ، وَالسَّائِبِ [بْنِ يَزِيدَ].  
[قَالَ أَبُو عِيسَى:] حَدِيثُ مُحَيِّصَةَ حَدِيثٌ حَسَنٌ [صَحِيحٌ] وَالْعَمَلُ عَلَى هَذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ. وَقَالَ أَحْمَدُ: إِنْ سَأَلَنِي حَجَّامٌ نَهَيْتُهُ، وَأَخَذُ بِهَذَا الْحَدِيثِ.

[Abū 'Eisā said:] The *Hadīth* of Muḥayyṣah is a *Hasan* [*Saḥīḥ*] *Hadīth*. This is acted upon according to some of the people of knowledge. Aḥmad said: "If I am asked for something by the cupper then I deny him, acting upon this *Hadīth*."

تخریج: [صحيح] وأخرجه أبو داود، البيوع، باب: في كسب الحجام، ح: ٣٤٢٢ من حديث مالك به وهو في الموطأ: ٩٧٤/٢ (يحيى) وصححه ابن حبان، ح: ١١٢١ وللحديث شاهد عند الحميدي، ح: ١٢٩٣ وغيره \* وفي الباب عن رافع بن خديج [تقدم: ١٢٧٥] وأبي جحيفة [البخاري، ح: ٢٠٨٦] وجابر [أحمد: ٣٠٧/٣ والحميدي، ح: ١٢٩٣ (بتحقيقي)] والسائب بن يزيد [ابن أبي حاتم في علل الحديث: ٤٤٤، ح: ٣٩].



**Chapter 48. What Has Been Related About Permitting The Earnings Of A Cupper**

**1278.** Anas narrated: “The Messenger of Allāh ﷺ was cupped; Abū Ṭaibah did the cupping. So he ordered that he be given two *Ṣā'* of food, and he spoke to his masters to reduce his taxes. He said: ‘The most virtuous of what you treat with is cupping.’ Or, he said: ‘The best of your treatments is cupping.’” (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from ‘Alī, Ibn ‘Abbās, and Ibn ‘Umar.

[Abū ‘Eisā said:] The *Ḥadīth* of Anas is a *Ḥasan Ṣaḥīḥ Ḥadīth*. Some of the people of knowledge among the Companions of the Prophet ﷺ, and others permitted paying the cupper. This is the view of Ash-*Shāfi‘ī*.

**تخريج:** وأخرجه مسلم، المساقاة، باب حل أجرة الحجامة، ح: ١٥٧٧ عن علي بن حجر والبخاري، ح: ٥٦٩٦ من حديث حميد الطويل به \* وفي الباب عن علي [الترمذي في الشمائل، ح: ٣٦٠] وابن عباس [البخاري، ح: ٥٦٩٩ ومسلم، ح: ١٢٠٢ والترمذي في الشمائل، ح: ٣٦١] وابن عمر [الترمذي في الشمائل، ح: ٣٦٢].

**Comments:**

According to Imām Nawawī most of the people of knowledge among the Companions of the Prophet ﷺ and their followers have allowed one to adopt this profession. According to some, a free man should not adopt this profession but a slave is allowed.

**Chapter 49. What Has Been Related About The Price Of A Dog And A Cat**

**1289.** Jābir narrated: “The Messenger of Allāh ﷺ prohibited the price of the dog and the cat.” (*Ṣaḥīḥ*)

(المعجم ٤٨) - بَابُ مَا جَاءَ فِي الرَّخْصَةِ فِي كَسْبِ الْحَجَّامِ (التحفة ٤٨)

١٢٧٨ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ جَعْفَرٍ عَنْ حُمَيْدٍ قَالَ: سُئِلَ أَنَسٌ عَنْ كَسْبِ الْحَجَّامِ؟ فَقَالَ أَنَسٌ: احْتَجَمَ رَسُولُ اللَّهِ ﷺ، وَحَجَمَهُ أَبُو طَيْبَةَ، فَأَمَرَ لَهُ بِصَاعَيْنِ مِنْ طَعَامٍ وَكَلَّمَ أَهْلَهُ فَوَضَعُوا عَنْهُ مِنْ خَرَاجِهِ، وَقَالَ: «إِنَّ أَفْضَلَ مَا تَدَاوَيْتُمْ بِهِ الْحِجَامَةَ» أَوْ «إِنَّ مِنْ أَمْثَلِ دَوَائِكُمْ الْحِجَامَةَ».

[قَالَ:] وَفِي الْبَابِ عَنْ عَلِيٍّ وَابْنِ عَبَّاسٍ وَابْنِ عُمَرَ.

[قَالَ أَبُو عِيْسَى:] حَدِيثُ أَنَسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَقَدْ رَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ فِي كَسْبِ الْحَجَّامِ. وَهُوَ قَوْلُ الشَّافِعِيِّ.

(المعجم ٤٩) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ ثَمَنِ الْكَلْبِ وَالسَّنَّوْرِ (التحفة ٤٩)

١٢٧٩ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ وَعَلِيُّ بْنُ حَشْرَمٍ قَالَا: حَدَّثَنَا عِيْسَى بْنُ يُونُسَ عَنِ

[Abū 'Eisā said:] There is some confusion (*Idṭirāb*) in the chain for this *Hadīth*. [The price of a cat is not correct]. This *Hadīth* has been reported from Al-A'mash, from some of his companions, from Jābir, and they caused some confusion for Al-A'mash in this narration.

There are those among the people of knowledge who disliked the price of a cat, and some of them permitted it. This is the view of Aḥmad and Ishāq. It has been reported from Ibn Al-Fudail, from Al-A'mash, from Abū Ḥazim, from Abū Hurairah from the Prophet ﷺ, through other than this route.

**تخریج:** [صحيح] وأخرجه أبو داود، البيوع، باب: في ثمن السنور، ح: ٣٤٧٩ من حديث عيسى بن يونس به وله طريق آخر عند مسلم، ح: ١٥٦٩ وابن ماجه، ح: ٢١٦١ عن جابر به، وصححه ابن الجارود، ح: ٥٨٠ والحاكم: ٣٤/٢ على شرط مسلم ووافقه الذهبي وللحديث شواهد.

**Comments:**

Some Companions of the Prophet ﷺ and their followers have disapproved of accepting the price of a cat. Most of the scholars and all Four *A'immah* consider this prohibition just a counsel and caution and no more. Taking the price of a cat is allowed but it is against good manners and politeness.

**1280.** Jābir narrated: “The Messenger of Allāh ﷺ prohibited eating the cat and from its price.” (*Ṣaḥīh*)

[Abū 'Eisā said:] This *Hadīth* is *Gharīb*. We do not know of any major (known) narrators who reports from 'Umar bin Zaid (one of the narrators) besides 'Abdur-Razzāq.

الأعمش، عن أبي سفيان، عن جابر قال: نهي رسول الله ﷺ عن ثمن الكلب والسنور. [قال أبو عيسى:] هذا حديث في إسناده اضطراب. [ولا يصح في ثمن السنور] وقد روي هذا الحديث عن الأعمش، عن بعض أصحابه، عن جابر. واضطربوا على الأعمش في رواية هذا الحديث، وقد كره قوم من أهل العلم ثمن الهر، ورخص فيه بعضهم. وهو قول أحمد وإسحاق. وروى ابن فضيل، عن الأعمش، عن أبي حازم، عن أبي هريرة عن النبي ﷺ، من غير هذا الوجه.

١٢٨٠ - حَدَّثَنَا يَحْيَى بْنُ مُوسَى: حَدَّثَنَا عَبْدُ الرَّزَّاقِ: أَخْبَرَنَا عُمَرُ بْنُ زَيْدِ الصَّنَعَانِيِّ عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ، قَالَ: نَهَى رَسُولُ اللَّهِ ﷺ عَنْ أَكْلِ الْهَرِّ وَثَمَنِهِ. [قال أبو عيسى:] هذا حديث غريب وعمر بن زيد، لا تعرف كبير أحد روى عنه، غير عبد الرزاق.

**تخریج:** [صحيح] وأخرجه أبو داود، البيوع، باب: في ثمن السنور، ح: ٣٤٨٠ وابن ماجه، ح: ٣٢٥٠ من حديث عبدالرزاق به وهو في المصنف له، ح: ٨٧٤٩ وسنده ضعيف وللحديث شواهد عند مسلم، ح: ١٥٦٩ (المساقاة: ٩) وغيره \* عمر بن زيد الصنعاني ضعيف.

### Chapter 50. Permission Regarding The Price Of A Hunting Dog

1281. Abū Al-Muhazzim narrated from Abū Hurairah who said: “The price of a dog was prohibited, except for the hunting dog.” (*Daʿīf*)

[Abū ‘Eisā said:] This *Ḥadīth* is not correct from this route. Abū Al-Muhazzim’s name is Yazid bin Sufyān, and Shu‘bah bin Al-Ḥajjāj criticized him [and graded him weak]. Similar to this has been reported from Jābir, from the Prophet ﷺ, but its chain is also not correct.

تخريج: [إسناده ضعيف] \* أبوالمهزم ضعيف جداً متروك، وللحديث شواهد، كلها ضعيفة.

#### Comments:

See the discussion about the weakness of this narration and the person who seconds it. (See *Zād Al-Ma‘ād* v. 5. p. 682-685.)

### Chapter 51. What Has Been Related About It Being Disliked To Sell Singers

1282. Abū Umāmah narrated that the Messenger of Allāh ﷺ said: “Do not sell the (slave) female singers, nor purchase them, nor teach them (to sing). And there is no good in trading in them, and their prices are unlawful. It was about the likes of this that this *Āyah* was revealed: And among mankind is he who purchases idle talk to divert from the way of Allāh.”<sup>[1]</sup> (*Daʿīf*)

[He said:] There is narration about this from ‘Umar bin Al-

(المعجم ٥٠) - بَابُ [الرُّخْصَةِ فِي ثَمَنِ  
كَلْبِ الصَّيْدِ] (التحفة ٥٠)

١٢٨١ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا وَكَيْعٌ  
عَنْ حَمَادِ بْنِ سَلَمَةَ، عَنْ أَبِي الْمُهَزَّمِ، عَنْ  
أَبِي هُرَيْرَةَ قَالَ: نَهَى عَنْ ثَمَنِ الْكَلْبِ، إِلَّا  
كَلْبَ الصَّيْدِ.

[قَالَ أَبُو عِيْسَى:] هَذَا حَدِيثٌ لَا يَصِحُّ  
مِنْ هَذَا الْوَجْهِ. وَأَبُو الْمُهَزَّمِ اسْمُهُ يَزِيدُ بْنُ  
سُفْيَانَ، وَتَكَلَّمَ فِيهِ شُعْبَةُ بْنُ الْحَجَّاجِ  
[وَضَعَفَهُ] وَقَدْ رُوِيَ عَنْ جَابِرٍ عَنِ النَّبِيِّ  
ﷺ، نَحْوُ هَذَا. وَلَا يَصِحُّ إِسْنَادُهُ أَيْضًا.

تخريج: [إسناده ضعيف] \* أبوالمهزم ضعيف جداً متروك، وللحديث شواهد، كلها ضعيفة.

(المعجم ٥١) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ  
بَيْعِ الْمُغَنِّيَاتِ (التحفة ٥١)

١٢٨٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا بَكْرُ بْنُ  
مُضَرَ عَنْ عُبَيْدِ اللَّهِ بْنِ زَحْرٍ، عَنْ عَلِيِّ بْنِ  
يَزِيدَ، عَنِ الْقَاسِمِ، عَنْ أَبِي أُمَامَةَ عَنْ رَسُولِ  
اللَّهِ ﷺ قَالَ: «لَا تَبِيعُوا الْقَيْنَاتِ وَلَا  
تَشْتَرُوهُنَّ، وَلَا تَعْلَمُوهُنَّ، وَلَا خَيْرَ فِي  
بِجَارَةِ فِيهِنَّ، وَتَمْنَهُنَّ حَرَامٌ، فِي مِثْلِ هَذَا  
أَنْزَلْتُ هَذِهِ الْآيَةَ ﴿وَمَنْ آتَايَا مَنِ يَشْتَرِي لَهَا  
الْحَدِيثَ لِيُضِلَّ عَن سَبِيلِ اللَّهِ﴾ إِلَى آخِرِ الْآيَةِ»  
[لقمان ٦].

<sup>[1]</sup> *Luqmān* 31:6.

**Khaṭṭāb.**

[Abū ‘Eisā said:] We only know of the *Hadīth* of Abū Umāmah, like this, from this route. Some of the people of knowledge have criticized ‘Alī bin Yazīd (one of the narrators) and graded him weak, and he is from *Ash-Shām*.

**تخريج:** [إسناده ضعيف] وأخرجه أحمد: ٢٦٤/٥ من حديث بكر بن مضر، وابن ماجه، ح: ٢١٦٨ من حديث أبي أمامة به \* علي بن يزيد متروك \* وفي الباب عن عمر بن الخطاب [الطبراني في الكبير: ٧٣/١، ح: ٨٧].

**Comments:**

‘*Qaynah*’ means female singer. Here it means the slave girl who is a singer. As music and singing is prohibited, therefore, buying and selling a singing slave girl is also prohibited, otherwise the buying or selling of slaves is allowed. (*Tuhfat Al-Ahwadhī*. v.2. p. 259.)

**Chapter 52. What Has Been Related About It Being Disliked To Separate Brothers, And A Mother And Her Child In Sales**

(المعجم ٥٢) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ الْفَرْقِ بَيْنَ الْأَخْوَانِ أَوْ بَيْنَ الْوَالِدَةِ وَوَلَدِهَا فِي الْبَيْعِ (التحفة ٥٢)

**1283.** Abū Ayyūb narrated: “I heard the Messenger of Allāh ﷺ saying: ‘Whoever separates a mother from her child, Allāh separates him and his most beloved on the Day of Judgement.’” (*Hasan*)

١٢٨٣ - حَدَّثَنَا عُمَرُ بْنُ حَفْصِ الشَّيْبَانِيُّ: حَدَّثَنَا عَبْدُ اللَّهِ بْنُ وَهَبٍ [قَالَ]: أَخْبَرَنِي حُيُّ بْنُ عَبْدِ اللَّهِ عَنْ أَبِي عَبْدِ الرَّحْمَنِ [الْحُبَلِيِّ]، عَنْ أَبِي أَيُّوبَ قَالَ: سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ: «مَنْ فَرَّقَ بَيْنَ الْوَالِدَةِ وَوَلَدِهَا، فَرَّقَ اللَّهُ بَيْنَهُ وَبَيْنَ أَحَبِّهِ يَوْمَ الْقِيَامَةِ». [قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ غَرِيبٌ.

[Abū ‘Eisā said:] This *Hadīth* is *Hasan Gharīb*.

**تخريج:** [إسناده حسن] وأخرجه الدارقطني: ٦٧/٣، ح: ٣٠٢٨ من حديث ابن وهب وأحمد: ٤١٢-٤١٤ من حديث حُيي بن عبد الله به وصححه الحاكم: ٥٥/٢ على شرط مسلم، وسيأتي: ١٥٦٦.

**Comments:**

Relatives, like two brothers, a brother and sister, mother and her child; have very deep and strong feelings of love for each other. They are mutually interdependent, so it is not approved to separate them by selling one of them

or giving one of them as a gift. When they are able to live independently, then it is allowed to sell them.

1284. ‘Alī narrated: “The Messenger of Allāh ﷺ gave me two boys who were brothers, so I sold one of them, and the Messenger of Allāh ﷺ said to me: ‘O ‘Alī! What happened to your boy?’ So I informed him, and he said: ‘Return him, return him.’” (Da‘if)

[Abū ‘Eisā said:] This *Hadīth* is *Hasan Gharīb*. Some of the people of knowledge among the Companions of the Prophet ﷺ and others, disliked separating between the captives when selling them.

Some of the people of knowledge permitted separating the children that were born in the land of Islām, but the first view is more correct. It has been related that Ibrāhīm An-Nakha‘ī seperated a mother and her child in a sale, so he was asked about that. He said: “I sought her permission for that and she approved.”

١٢٨٤ - حَدَّثَنَا الْحَسَنُ بْنُ عَرَفَةَ: أَخْبَرَنَا عَبْدُ الرَّحْمَنِ بْنُ مَهْدِيٍّ عَنْ حَمَادِ بْنِ سَلَمَةَ، عَنِ الْحَجَّاجِ، عَنِ الْحَكَمِ، عَنْ مَيْمُونِ بْنِ أَبِي شَيْبٍ، عَنْ عَلِيِّ قَالَ: وَهَبَ لِي رَسُولُ اللَّهِ ﷺ غُلَامَيْنِ أَحْوَيْنِ، فَبِعْتُ أَحَدَهُمَا، فَقَالَ لِي رَسُولُ اللَّهِ ﷺ: «يَا عَلِيُّ! مَا فَعَلَ غُلَامُكَ؟» فَأَخْبَرْتُهُ فَقَالَ: «رُدَّهُ، رُدَّهُ».

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ غَرِيبٌ، وَقَدْ كَرِهَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ، التَّفْرِيقَ بَيْنَ السَّبْيِ فِي الْبَيْعِ.

وَرَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ فِي التَّفْرِيقِ بَيْنَ الْمُؤَلَّدَاتِ الَّذِينَ وُلِدُوا فِي أَرْضِ الْإِسْلَامِ. وَالْقَوْلُ الْأَوَّلُ أَصَحُّ. وَرَوَى عَنْ إِبْرَاهِيمَ [النَّخَعِيِّ] أَنَّهُ فَرَّقَ بَيْنَ وَالِدَةٍ وَوَلَدِهَا فِي الْبَيْعِ، فَقِيلَ لَهُ فِي ذَلِكَ؟ فَقَالَ: إِنِّي قَدْ اسْتَأْذَنْتُهَا فِي ذَلِكَ، فَرَضِيَتْ.

تخریج: [إسناده ضعيف] وأخرجه ابن ماجه، التجارات، باب النهي عن التفريق بين السبي، ح: ٢٢٤٩ من حديث حماد بن سلمة به وصححه الحاكم: ٥٤/٢ ميمون لم يدرك علياً كما قال أبو داود، ح: ٢٦٩٦ وللحديث شواهد ضعيفة عند البيهقي: ١٢٧/٩ وغيره وصححه الحاكم.

**Comments:**

It is correct that a mother and her child or two brothers should not be separated by selling one of them, or giving one of them as gift to someone since they are interdependent. Separation may cause severe problems for them. Some of the scholars say that they can be separated if there is need for it. When they reach the age of maturity they can be separated. (*Tuhfat Al-Ahwadhī* v. 2. p. 259-260.)

**Chapter 53. What Has Been Related About Someone Who Purchases A Slave And He Profited From Him, Then He Found A Defect In Him**

(المعجم ٥٣) - بَابُ مَا جَاءَ فِيْمَنْ يَشْتَرِي الْعَبْدَ وَيَسْتَعْلَهُ ثُمَّ يَجِدُ بِهِ عَيْبًا  
(التحفة ٥٣)

**1285.** ‘Āishah narrated that the Messenger of Allāh ﷺ judged: “The produce is for the responsible one.” (*Hasan*)

[Abū ‘Eisā said:] This *Hadīth* is *Hasan* [*Ṣaḥīḥ*]. This *Hadīth* has been reported through routes other than this, and this is acted upon according to the people of knowledge.

١٢٨٥ - حَدَّثَنَا مُحَمَّدُ بْنُ الْمُثَنَّى: حَدَّثَنَا عُمَانُ بْنُ عُمَرَ وَأَبُو عَامِرٍ الْعَمَدِيُّ عَنِ ابْنِ أَبِي ذَنْبٍ، عَنْ مَخْلَدِ بْنِ خُفَافٍ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ: أَنَّ رَسُولَ اللَّهِ ﷺ قَضَى أَنَّ الْخَرَاجَ بِالضَّمَانِ.

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ [صَحِيحٌ]. وَقَدْ رُوِيَ هَذَا الْحَدِيثُ مِنْ غَيْرِ هَذَا الْوَجْهِ، وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ.

**تخريج:** [إسناده حسن] وأخرجه أبو داود، البيهقي، باب: فيمن اشترى عبداً فاستعمله ثم وجد به عيباً، ح: ٣٥٠٨ والنسائي ٧/٢٥٤، ٢٥٥، ح: ٤٤٩٥ وابن ماجه، ح: ٢٢٤٢ من حديث محمد بن عبدالرحمن بن أبي ذنب به وصححه ابن الجارود، ح: ٦٢٧ وابن حبان، ح: ١١٢٥ وغيرهما.

**1286.** ‘Āishah narrated: “The Prophet ﷺ judged that the produce is for the responsible one.” (*Hasan*)

[He said:] This *Hadīth* is [*Hasan*] *Ṣaḥīḥ*, *Gharib* as a *Hadīth* of Hishām bin ‘Urwah (a narrator).

[Abū ‘Eisā said:] Muslim bin Khālid Az-Zanjī reported this *Hadīth* from Hishām, from ‘Urwah. Jarīr reported it from Hishām as well. It is said that the narration of Jarīr has *Tadlīs* in it, that Jarīr committed the *Tadlīs*; he did not hear it from Hishām bin ‘Urwah.

As for the meaning of “the produce is for the responsible one,” he is the man who purchased the slave then the slave produced

١٢٨٦ - حَدَّثَنَا أَبُو سَلَمَةَ يَحْيَى بْنُ خَالِفٍ: أَخْبَرَنَا عُمَرُ بْنُ عَلِيٍّ [الْمُقَدَّمِيُّ] عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ: أَنَّ النَّبِيَّ ﷺ قَضَى أَنَّ الْخَرَاجَ بِالضَّمَانِ. [قَالَ:] وَهَذَا حَدِيثٌ [حَسَنٌ] صَحِيحٌ، غَرِيبٌ مِنْ حَدِيثِ هِشَامِ بْنِ عُرْوَةَ.

[قَالَ أَبُو عِيسَى:] وَقَدْ رَوَى مُسْلِمٌ بْنُ خَالِدٍ الرَّزَجِيُّ هَذَا الْحَدِيثَ عَنْ هِشَامِ بْنِ عُرْوَةَ. وَرَوَاهُ جَرِيرٌ عَنْ هِشَامٍ أَيْضًا. وَحَدِيثُ جَرِيرٍ يُقَالُ تَدَلَّيْسٌ دَلَّسَ فِيهِ جَرِيرٌ، لَمْ يَسْمَعْهُ مِنْ هِشَامِ بْنِ عُرْوَةَ.

وَتَفْسِيرُ الْخَرَاجِ بِالضَّمَانِ، هُوَ الرَّجُلُ

for him, and he found some defect in him so he returned him to the seller. Then the produce (of his work) is the purchaser's. In cases similar to this, the produce is for the responsible one.

[Abū 'Eisā said:] Muḥammad bin Ismā'il called this *Ḥadīth Gharīb*, as a narration of 'Umar bin 'Alī (one of the narrators). [I said: "Do you think that he committed *Tadlis*?" He said: "No."]

يَشْتَرِي الْعَبْدَ فَيَسْتَعْلُهُ ثُمَّ يَجِدُ بِهِ عَيْبًا فَيَرُدُّهُ عَلَى الْبَائِعِ، فَالْعَلَّةُ لِلْمُشْتَرِي، لِأَنَّ الْعَبْدَ لَوْ هَلَكَ، هَلَكَ مِنْ مَالِ الْمُشْتَرِي، وَنَحْوُ هَذَا مِنَ الْمَسَائِلِ، يَكُونُ فِيهِ الْخَرَاجُ بِالضَّمَانِ.  
[قَالَ أَبُو عَيْسَى:] وَاسْتَعْرَبَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ هَذَا الْحَدِيثَ، مِنْ حَدِيثِ عُمَرَ بْنِ عَلِيٍّ [قُلْتُ: تَرَاهُ تَدْلِيسًا؟ قَالَ: لَا]

تخریج: [حسن] وأخرجه أبو داود، أيضًا، ح: ٣٥١٠ وابن ماجه، ح: ٢٢٤٣ من حديث هشام به وصححه ابن الجارود، ح: ٦٢٦ وابن حبان، ح: ١١٢٦ والحاكم: ١٥/٢، والذهبي، والحديث السابق شاهد له \* حديث مسلم بن خالد الزنجي، أخرجه ابن ماجه، ح: ٢٢٤٣ وأبو داود، ح: ٣٥١٠.

#### Chapter 54. What Has Been Related About The Permission For Eating Fruit For The Passerby

1287. Ibn 'Umar narrated that the Prophet ﷺ said: "Whoever enters an orchard then let him eat, but not take any in his garment." (*Da'if*)

[He said:] There are narrations on this topic from 'Abdullāh bin 'Amr, 'Abbād bin Shurahbīl, Rāfi' bin 'Amr, 'Umair the freed slave of 'Abi Al-Laḥm, and Abū Hurairah.

[Abū 'Eisā said:] The *Ḥadīth* of Ibn 'Umar is a *Gharīb Ḥadīth*. We do not know of it from this route except from Yaḥya bin Sulaim. Some of the people of knowledge have permitted the wayfarer to eat from the fruits, and some of them disliked it without paying.

#### (المعجم ٥٤) - بَابُ مَا جَاءَ فِي الرُّخْصَةِ فِي أَكْلِ الثَّمَرَةِ لِلْمَارِّ بِهَا (التحفة ٥٤)

١٢٨٧ - حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ الْمَلِكِ بْنِ أَبِي الشَّوَارِبِ: حَدَّثَنَا يَحْيَى بْنُ سُلَيْمٍ عَنْ عُبَيْدِ اللَّهِ بْنِ عُمَرَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ دَخَلَ حَائِطًا فَلْيَأْكُلْ وَلَا يَتَّخِذْ حُبْنَةً».

[قَالَ:] وَفِي الْبَابِ عَنْ عَبْدِ اللَّهِ بْنِ عَمْرٍو وَعَبَادِ بْنِ شُرْحَبِيلَ وَرَافِعِ بْنِ عَمْرٍو وَعُمَيْرِ مَوْلَى أَبِي اللَّحْمِ وَأَبِي هُرَيْرَةَ.

[قَالَ أَبُو عَيْسَى:] حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ غَرِيبٌ، لَا نَعْرِفُهُ مِنْ هَذَا الْوَجْهِ إِلَّا مِنْ حَدِيثِ يَحْيَى بْنِ سُلَيْمٍ. وَقَدْ رَخَّصَ فِيهِ بَعْضُ أَهْلِ الْعِلْمِ لِابْنِ السَّبِيلِ فِي أَكْلِ الثَّمَارِ، وَكَرِهَهُ بَعْضُهُمْ إِلَّا بِالْتَمَنِ.

**تخريج:** [إسناده ضعيف] وأخرجه ابن ماجه، التجارات، باب من مر على ماشية قوم أو حائط، هل يصيب منه؟، ح: ٢٣٠١ من حديث يحيى بن سليم الطائفي به وسنده ضعيف وللحديث شواهد، وأخرج البيهقي: ٣٥٩/٩ بإسناد حسن عن عمر قال: "من مر منكم بحائط فليأكل في بطنه ولا يتخذ خبنة" \* وفي الباب عن عبدالله بن عمرو [يأتي: ١٢٨٩] وعباد بن شرحبيل [أبو داود، ح: ٢٦٢٠، ٢٦٢١ وابن ماجه، ح: ٢٢٩٨] ورافع بن عمرو [يأتي: ١٢٨٨] وعمير مولى أبي اللحم [أحمد: ٥/٢٢٣] وأبي هريرة [ابن ماجه، ح: ٢٣٠٣].

**Comments:**

It depends on the custom of the area. In some areas, the owner of a garden allows the passerby to eat the fruit of his garden that has fallen from the trees, and in case someone is hungry, he is allowed to pick from the tree and eat. In some areas it is strictly prohibited by the owners. No one can have anything from the garden. In the areas where it is prohibited, first one should seek permission, and then take some fruit to eat. If the fruit is taken and eaten without prior permission, it is necessary to pay for it. According to Imām Aḥmad if there is no fence around the garden it is permitted to take the fruit from there. (*Tuhfat Al-Aḥwadhī* v. 2. p.261.)

**1288.** Rāfi' bin 'Amr said: "I was throwing stones at a date-palm belonging to some of the *Anṣār*.<sup>[1]</sup> They took me along with them to the Prophet ﷺ. He said: 'O Rāfi'! Why were you throwing stones at their date-palm?' He said: "I said: 'Out of hunger, O Messenger of Allāh!' He said: 'Do not throw stones at them, eat what falls. May Allāh fill you and quench your thirst.'" (*Da'if*)

This *Ḥadīth* is *Ḥasan Gharīb Ṣaḥīḥ*.

١٢٨٨ - حَدَّثَنَا أَبُو عَمَّارٍ الْحُسَيْنُ بْنُ حُرَيْبٍ الْخَزَاعِيُّ: حَدَّثَنَا الْفَضْلُ بْنُ مُوسَى عَنْ صَالِحِ بْنِ أَبِي جُبَيْرٍ، عَنْ أَبِيهِ، عَنْ رَافِعِ بْنِ عَمْرٍو، قَالَ: كُنْتُ أُرْمِي نَخْلَ الْأَنْصَارِ، فَأَخَذُونِي فَذَهَبُوا بِي إِلَى النَّبِيِّ ﷺ. فَقَالَ: يَا رَافِعُ لِمَ تَرْمِي نَخْلَهُمْ؟ قَالَ: قُلْتُ: يَا رَسُولَ اللَّهِ! الْجُوعُ، قَالَ: «لَا تَرْمِ، وَكُلْ مَا وَقَعَ، أَشْبَعَكَ اللَّهُ وَأَرْوَاكَ». هَذَا حَدِيثٌ حَسَنٌ غَرِيبٌ صَحِيحٌ.

**تخريج:** [إسناده ضعيف] وأخرجه البيهقي: ١٢/١٠ من حديث الفضل بن موسى به \* أبو جبير لم يوثقه غير الترمذي وله شاهد ضعيف عند أبي داود، ح: ٢٦٢٢ وابن ماجه، ح: ٢٢٩٩ وغيرهما.

**Comments:**

It appears from this narration that a hungry person should be allowed to eat the fallen fruit from the garden, and in case of severe hunger he should be allowed to pick from the trees as is clear from the next narration.

[1] He was throwing stones at it to get its fruits to fall so he could eat them. See *'Awn Al-Ma'būd* by Al-'Azīmābādī.



**1289.** ‘Amr bin Shu‘aib narrated from his father, from his grandfather, that the Prophet ﷺ was asked about hanging fruits (on the trees), so he said: “Whoever is in need and picks some of it without taking any in his garment, then there is no sin upon him.”

(*Hasan*)

[Abū ‘Eisā said:] This *Hadīth* is *Hasan Ṣaḥīḥ*.

تخریج: [إسناده حسن] وأخرجه أبو داود، اللقطة، باب التعريف باللقطة، ح: ۱۷۱۰ والنسائي، ح: ۹۶۱ عن قتيبة به وصححه ابن الجارود، ح: ۸۲۷ وابن خزيمة، ح: ۲۳۲۷، ۲۳۲۸.

### Chapter 55. What Has Been Related About The Prohibition From Making Exceptions

**1290.** Jābir narrated: “The Messenger of Allāh ﷺ prohibited *Al-Muḥāqalah*, *Al-Muzābanah*, *Al-Mukhābarah*, and making an exception (in a sale) unless it is made known.” (*Ṣaḥīḥ*)

[Abū ‘Eisā said:] This *Hadīth* is *Hasan Ṣaḥīḥ*, *Gharīb* from this route as a narration of Yūnus bin ‘Ubaid, from ‘Aṭā’, from Jābir.

تخریج: [صحيح] وأخرجه النسائي: ۲۹۶/۷، ح: ۴۶۳۷ (اليوبع، باب النهي عن بيع الثنيا حتى تعلم) عن زياد بن أيوب، والبخاري، ح: ۲۳۸۱، ومسلم، ح: ۸۱/۱۵۳۶ من حديث عطاء به.

### Comments:

“*Al-Muḥāqalah*” is selling un-harvested grain in the field in exchange for harvested grain like wheat. “*Al-Muzābanah*” is selling an estimated amount of fresh dates on the tree for dried dates that are measured, or the same for grapes. “*Al-Mukhābarah*” is renting land in exchange for a portion of its produce. Making an exception in a sale means to make an exception for one item among those purchased, without telling the purchaser that seller did not include that item, or the like.

۱۲۸۹ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ ابْنِ عَجَلَانَ، عَنْ عَمْرٍو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ أَنَّ النَّبِيَّ ﷺ سُئِلَ عَنِ الشَّمْرِ الْمُعَلَّقِ، فَقَالَ: «مَنْ أَصَابَ مِنْهُ مِنْ ذِي حَاجَةٍ، غَيْرَ مُتَّحِذٍ خُبْنَهُ، فَلَا شَيْءَ عَلَيْهِ». [قَالَ أَبُو عَيْسَى: هَذَا حَدِيثٌ حَسَنٌ.]

(المعجم ۵۵) - بَابُ مَا جَاءَ فِي النَّهْيِ عَنِ الثَّنْيَا (التحفة ۵۵)

۱۲۹۰ - حَدَّثَنَا زِيَادُ بْنُ أَبِي ثَوْبٍ الْبَغْدَادِيُّ: حَدَّثَنَا عَبْدُ بْنُ الْعَوَّامِ [قَالَ]: أَخْبَرَنِي سُفْيَانُ ابْنُ حُسَيْنٍ عَنْ يُونُسَ بْنِ عُبَيْدٍ، عَنْ عَطَاءٍ، عَنْ جَابِرٍ: أَنَّ رَسُولَ اللَّهِ ﷺ نَهَى عَنِ الْمُحَاقَلَةِ وَالْمُزَابَنَةِ وَالْمُخَابَرَةِ وَالثَّنْيَا، إِلَّا أَنْ تُعْلَمَ. [قَالَ أَبُو عَيْسَى: هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، غَرِيبٌ مِنْ هَذَا الْوَجْهِ، مِنْ حَدِيثِ يُونُسَ بْنِ عُبَيْدٍ عَنْ عَطَاءٍ، عَنْ جَابِرٍ.]

**Chapter 56. What Has Been Related About It Being Disliked To Sell Food Until It Has Been Acquired**

1291. Ibn ‘Abbās narrated that the Prophet ﷺ said: “Whoever buys food, then he is not to sell it until he takes possession of it.” Ibn ‘Abbās said: “All things are considered the same (in this regard).” (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Jābir, Ibn ‘Umar [and Abū Hurairah].

[Abū ‘Eīsā said:] The *Hadīth* of Ibn ‘Abbās is a *Ḥasan Ṣaḥīḥ Hadīth*.

(المعجم ٥٦) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ بَيْعِ الطَّعَامِ حَتَّى يَسْتَوْفِيَهُ (التحفة ٥٦)

١٢٩١ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا حَمَادُ بْنُ زَيْدٍ عَنْ عَمْرِو بْنِ دِينَارٍ، عَنْ طَاوُسٍ، عَنِ ابْنِ عَبَّاسٍ أَنَّ النَّبِيَّ ﷺ قَالَ: «مَنْ ابْتَعَ طَعَامًا فَلَا يَبِيعُهُ حَتَّى يَسْتَوْفِيَهُ».

قَالَ ابْنُ عَبَّاسٍ: وَأَحْسَبُ كُلَّ شَيْءٍ مِثْلَهُ [قَالَ:] وَفِي الْبَابِ عَنْ جَابِرٍ وَابْنِ عُمَرَ [وَأَبِي هُرَيْرَةَ].

[قَالَ أَبُو عِيْسَى:] حَدِيثُ ابْنِ عَبَّاسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ، كَرَهُوا بَيْعَ الطَّعَامِ حَتَّى يَقْبِضَهُ الْمُشْتَرِي. وَقَدْ رَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ فِي مَنْ ابْتَعَ شَيْئًا مِمَّا لَا يُكَالُ وَلَا يُوزَنُ، مِمَّا لَا يُؤْكَلُ وَلَا يُشْرَبُ، أَنْ يَبِيعَهُ قَبْلَ أَنْ يَسْتَوْفِيَهُ، وَإِنَّمَا التَّشْدِيدُ عِنْدَ أَهْلِ الْعِلْمِ، فِي الطَّعَامِ. وَهُوَ قَوْلُ أَحْمَدَ وَإِسْحَاقَ.

تخريج: متفق عليه، وأخرجه مسلم، البيوع، باب بطلان بيع المبيع قبل القبض، ح: ١٥٢٥ عن قتيبة والبخاري، ح: ٢١٣٥ من حديث عمرو بن دينار به \* وفي الباب عن جابر [مسلم، ح: ١٥٢٩] وابن عمر [البخاري، ح: ٢١٣٦ ومسلم، ح: ١٥٢٦] وأبي هريرة [مسلم، ح: ١٥٢٨].

**Comments:**

Some *Ṣaḥīḥ* narrations also support the view of Ibn ‘Abbās, that until and unless the complete possession of a thing is obtained it should not be sold. So this is a correct view that the thing should be sold only when the complete possession is obtained.

**Chapter 57. What Has Been Related About The Prohibition Of Selling Over The Sale Of One's Brother**

1292. Ibn 'Umar narrated that the Messenger of Allāh ﷺ said: "None of you is to sell over the sale of others, nor to propose over the proposal of others." (*Ṣaḥīḥ*)

[He said:] There are narration on this topic from Abū Hurairah and Samurah.

[Abū 'Eisā said:] The *Hadīth* of Ibn 'Umar is a *Ḥasan Ṣaḥīḥ Hadīth*.

And it has been reported from the Prophet ﷺ that he said: "Do not haggle in competition with your brother's haggling." And the meaning of sale in this *Hadīth* of the Prophet ﷺ, according to some of the people of knowledge is to haggle.

تخریج: متفق علیه، وأخرجه مسلم، النکاح، باب تحريم الخطبة على خطبة أخيه حتى ياذن أو يترك، ح: ١٤١٢ من حديث الليث بن سعد والبخاري، ح: ٢١٦٥ من حديث نافع به \* وفي الباب عن أبي هريرة [أحمد: ٣١١/٢، وسمره [أحمد: ١١/٥].

**Comments:**

When two parties have reached an agreement on price of a commodity, the third one should not enter the deal to offer less or more. Similarly, in the case of proposals of betrothals, it is not allowed to propose over the proposal of others. (*Tuḥfat Al-Aḥwadhī* v. 2. p. 306-307.)

**Chapter 58. What Has Been Related About The Sale Of Wine And The Prohibition Of That**

1293. Anas narrated from Abū Ṭalḥah that he said: "O Prophet of Allāh! I had purchased some wine for the orphans under my care. He said: 'Spill out the wine, and break the jugs.'" (*Ṣaḥīḥ*)

(المعجم ٥٧) - بَابُ مَا جَاءَ فِي النَّهْيِ عَنِ النَّبِيِّ ﷺ عَلَى بَيْعِ أَخِيهِ (التحفة ٥٧)

١٢٩٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ نَافِعٍ، عَنْ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ قَالَ: «لَا يَبِيعُ بَعْضُكُمْ عَلَى بَيْعِ بَعْضٍ، وَلَا يَخْطُبُ بَعْضُكُمْ عَلَى خِطْبَةِ بَعْضٍ.» [قَالَ:] وَفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ وَسَمُرَةَ. [قَالَ أَبُو عِيْسَى:] حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ.

و[قَدْ] رَوَى عَنِ النَّبِيِّ ﷺ أَنَّهُ قَالَ: «لَا يَسُومُ الرَّجُلُ عَلَى سَوْمِ أَخِيهِ» وَمَعْنَى النَّبِيِّ ﷺ فِي هَذَا الْحَدِيثِ عَنِ النَّبِيِّ ﷺ، عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، هُوَ السَّوْمُ.

(المعجم ٥٨) - بَابُ مَا جَاءَ فِي بَيْعِ الْخَمْرِ وَالنَّهْيِ عَنِ ذَلِكَ (التحفة ٥٨)

١٢٩٣ - حَدَّثَنَا حُمَيْدُ بْنُ مَسْعَدَةَ: حَدَّثَنَا الْمُعْتَمِرُ بْنُ سُلَيْمَانَ قَالَ: سَمِعْتُ لَيْثًا يُحَدِّثُ عَنْ يَحْيَى بْنِ عَبَّادٍ، عَنْ أَنَسٍ، عَنْ أَبِي طَلْحَةَ، أَنَّهُ قَالَ: يَا نَبِيَّ اللَّهِ! إِنِّي اشْتَرَيْتُ

[He said:] There are narrations on this topic from Jābir, ‘Āishah, Abū Sa‘eed, Ibn Mas‘ūd, Ibn ‘Umar, and Anas.

[Abū ‘Eisā said:] The *Hadīth* of Abū Ṭalḥah, Ath-Thawrī reported this *Hadīth* from As-Suddī, from Yaḥya bin ‘Abbād, from Anas: “That Abū Ṭalḥah was with him” and this is more correct than the narration of Al-Laith (no. 1293).

خَمْرًا لِأَيْتَامٍ فِي حِجْرِي، قَالَ: «أَهْرَقِ  
الْخَمْرَ وَالْحَمِيرَ الدَّنَانِ».

[قَالَ:] وَفِي الْبَابِ عَنْ جَابِرٍ وَعَائِشَةَ  
وَأَبِي سَعِيدٍ وَابْنِ مَسْعُودٍ وَابْنِ عُمَرَ وَأَنْسٍ.

[قَالَ أَبُو عِيْسَى:] حَدِيثُ أَبِي طَلْحَةَ،  
رَوَى الثَّوْرِيُّ هَذَا الْحَدِيثَ عَنِ السُّدِّيِّ، عَنْ  
يَحْيَى بْنِ عَبَّادٍ، عَنْ أَنْسٍ أَنَّ أَبَا طَلْحَةَ كَانَ  
عِنْدَهُ، وَهَذَا أَصَحُّ مِنْ حَدِيثِ اللَّيْثِ.

تخريج: [صحيح] وأخرجه مسلم، الأشربة، باب تحريم تخليل الخمر، ح: ١٩٨٣ مختصراً وأبو داود، ح: ٣٦٧٥ من حديث يحيى بن عباد به \* وفي الباب عن جابر [يأتي: ١٢٩٧] وعائشة [البخاري، ح: ٢٠٨٤ ومسلم، ح: ١٥٨٠] وأبي سعيد [تقدم: ١٢٦٣] وابن مسعود [الطبراني في الكبير: ١٠/١١٣، ح: ١٠٠٥٦] وابن عمر [أبو داود، ح: ٣٦٧٤] وأنس [يأتي: ١٢٩٤، ١٢٩٥].

**Comments:**

Manufacturing, selling and purchasing and dealing in wine in any form is unlawful. It is unanimously agreed upon. According to Imām Abū Ḥanīfah business of wine through a *Dhimmī* disbeliever is approved, but this is not the correct view. (*Al-Mughni* v. 6. p.320)

**Chapter 59. The Prohibition To Use Wine To Make Vinegar**

(المعجم ٥٩) - [بَابُ النَّهْيِ أَنْ يُتَّخَذَ  
الْخَمْرُ خَلًّا] (التحفة ٥٩)

1294. Anas bin Mālik narrated: “I asked the Messenger of Allāh ﷺ: ‘Can wine be used for vinegar?’ He said: ‘No.’” (*Ṣaḥīh*)

١٢٩٤ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا  
يَحْيَى بْنُ سَعِيدٍ: حَدَّثَنَا سُفْيَانُ عَنِ السُّدِّيِّ،  
عَنْ يَحْيَى بْنِ عَبَّادٍ، عَنْ أَنْسِ بْنِ مَالِكٍ قَالَ:  
سُئِلَ رَسُولُ اللَّهِ ﷺ: أَيْتَّخَذُ الْخَمْرُ خَلًّا؟  
قَالَ: «لَا».

[Abū ‘Eisā said:] This *Hadīth* is *Hasan Ṣaḥīh*.

[قَالَ أَبُو عِيْسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، الأشربة، باب تحريم تخليل الخمر، ح: ١٩٨٣ من حديث سفيان الثوري به ورواه أبو داود، ح: ٣٦٧٥ مطولاً.

**Comments:**

In view of the three *A‘immah* and most of the scholars, it is not allowed to prepare vinegar from wine by some artificial methods, but if wine becomes vinegar by itself naturally it will be lawful and can be used. According to

Imām Abū Ḥanīfah and Imām Awzā'ī and Laith preparing vinegar from wine by an artificial method is approved. We have not found any *Ṣaḥīh* narration infavor of this view.

**1295.** Anas bin Mālik narrated: "The Messenger of Allāh ﷺ cursed ten involved with wine: The one who presses it, the one who has it pressed, its drinker, its carrier, and the one it is carried to, its server, its seller, the consumption of its price, the one who purchases it and the one it was purchased for." (*Ḥasan*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb* as a narration of Anas. Similar to this has been reported from Ibn 'Abbās, Ibn Mas'ūd, and Ibn 'Umar, from the Prophet ﷺ.

١٢٩٥ - حَدَّثَنَا عَبْدُ اللَّهِ بْنُ مُنِيرٍ قَالَ: سَمِعْتُ أَبَا عَاصِمٍ عَنْ شَيْبِ بْنِ بَشِيرٍ، عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ: لَعَنَ رَسُولُ اللَّهِ ﷺ فِي الْخَمْرِ عَشْرَةَ: عَاصِرَهَا وَمُعْتَصِرَهَا وَشَارِبَهَا وَحَامِلَهَا وَالْمَحْمُولَةَ إِلَيْهِ وَسَاقِيَهَا وَبَائِعَهَا وَآكِلَ ثَمَنِهَا وَالْمُشْتَرِيَ لَهَا وَالْمُشْتَرَاةَ لَهُ. [قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ غَرِيبٌ مِنْ حَدِيثِ أَنَسٍ. وَقَدْ رُوِيَ نَحْوُ هَذَا عَنْ ابْنِ عَبَّاسٍ وَابْنِ مَسْعُودٍ وَابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ.

**تخریج:** [إسناده حسن] وأخرجه ابن ماجه، الأشربة، باب: لعنت الخمر على عشرة أوجه، ح: ٣٣٨١ من حديث أبي عاصم النبيل به وانظر تسهيل الحاجة، ح: ٢٧٧٥ لحال شيبب، وللحديث شواهد كثيرة جدًا \* وروى عن ابن عباس، [أحمد: ٣١٦/١ وابن حبان، ح: ١٣٧٤ والحاكم: ٤/١٤٥ وابن مسعود [الطبراني في الكبير: ١/١١٣، ح: ١٠٠٥٦] وابن عمر [أبو داود، ح: ٣٦٧٤].

### Comments:

This narration proves that the wine and its related business, and any kind of involvement in this business, is strictly disapproved. Verse no. 2 of *Sūrat Al-Mā'idah* "...Do not help one another in sin and transgression." is a another proof of the disapproval and unlawfulness.

### Chapter 60. What Has Been Related About Milking Livestock Without Permission Of The Owners

**1296.** Samurah bin Jundab narrated that the Prophet ﷺ said: "When one of you comes upon livestock, if its owner is with it then seek his permission. If he permits him then let him milk it and drink. If there is no one with it then call out three times, if someone answers then seek his permission.

(المعجم ٦٠) - بَابُ مَا جَاءَ فِي احْتِلَابِ الْمَوَاشِي بِغَيْرِ إِذْنِ الْأَرْبَابِ (التحفة ٦٠)

١٢٩٦ - حَدَّثَنَا أَبُو سَلَمَةَ يَحْيَى بْنُ خَلْفٍ: حَدَّثَنَا عَبْدُ الْأَعْلَى عَنْ سَعِيدٍ، عَنْ قَتَادَةَ، عَنِ الْحَسَنِ، عَنْ سَمُرَةَ بْنِ جُنْدَبٍ، أَنَّ النَّبِيَّ ﷺ قَالَ: «إِذَا أَتَى أَحَدُكُمْ عَلَى مَاشِيَةٍ، فَإِنْ كَانَ فِيهَا صَاحِبُهَا فَلْيَسْتَأْذِنْهُ، فَإِنْ أَذِنَ لَهُ فَلْيَحْتَلِبْ وَلْيَشْرَبْ، وَإِنْ لَمْ يَكُنْ فِيهَا

If no one answers then let him milk it and drink without carrying (any of it away).” (*Da'if*)

[He said:] There are narrations on this topic from [Ibn] ‘Umar and Abū Sa‘eed.

[Abū ‘Eīsā said:] The *Ḥadīth* of Samurah is a *Ḥasan Gharīb Ṣaḥīḥ Ḥadīth*. This is acted upon according to some of the people of knowledge, and it is the view of Aḥmad and Ishāq.

[Abū ‘Eīsā said:] ‘Alī bin Al-Madīnī said: “It is correct that Al-Ḥasan heard this from Samurah.” Some of the people of *Ḥadīth* criticized the narrations of Al-Ḥasan from Samurah, they said that he only narrated from a writing of Samurah.

**تخریج:** [إسناده ضعيف] وأخرجه أبو داود، الجهاد، باب: في ابن السبيل يأكل من التمر ويشرب من اللبن، ح: ٢٦١٩ من حديث عبدالأعلى بن عبدالأعلى به سعيد بن أبي عروبة وقتادة: عننا، ومع ذلك صححه الحافظ في الفتح: ٨٩/٥، وله شاهد عند أحمد وسنده ضعيف \* وفي الباب عن ابن عمر [تقدم: ١٢٨٧] وأبي سعيد [ابن ماجه، ح: ٢٣٠٠].

**Comments:**

This kind of practice depends on the customary norms of the area. If according to the practice of the area it is allowed, then one can drink the milk of the animal in the absence of the owner, but in view of most of the scholars if the practice of the area does not allow that, then one can use the milk but he will pay for it. In the view of Imām Aḥmad and Ishāq, there is no need to pay the price if three calls have been uttered aloud. (*Tuḥfat Al-Aḥwadhī* v. 2. p.264.)

**Chapter 61. What Has Been Related About Selling Skins Of Dead Animals And Idols**

**1297.** Jābir bin ‘Abdullāh narrated that during the Year of the Conquest, while he was in Makkah, he heard the Messenger of Allāh ﷺ saying: “Indeed Allāh and His

أَحَدٌ فَلْيَصَوِّثْ ثَلَاثًا، فَإِنْ أَجَابَهُ أَحَدٌ فَلْيَسْتَأْذِنْهُ، فَإِنْ لَمْ يُجِبْهُ أَحَدٌ فَلْيَحْتَلِبْ وَلْيَشْرَبْ وَلَا يَحْمِلْ».

[قَالَ:] وفي البابِ عَنِ [ابْنِ] عُمَرَ وَأَبِي سَعِيدٍ.

[قَالَ أَبُو عِيْسَى:] حَدِيثُ سَمُرَةَ حَدِيثٌ حَسَنٌ غَرِيبٌ صَحِيحٌ، وَالْعَمَلُ عَلَى هَذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ. وَبِهِ يَقُولُ أَحْمَدُ وَإِسْحَاقُ.

[قَالَ أَبُو عِيْسَى:] وَقَالَ عَلِيُّ بْنُ الْمَدِينِيِّ: سَمِعَ الْحَسَنَ مِنْ سَمُرَةَ صَحِيحٌ. وَقَدْ تَكَلَّمَ بَعْضُ أَهْلِ الْحَدِيثِ فِي رِوَايَةِ الْحَسَنِ، عَنْ سَمُرَةَ، وَقَالُوا: إِنَّمَا يُحَدِّثُ عَنْ صَحِيفَةِ سَمُرَةَ.

(المعجم ٦١) - بَابُ مَا جَاءَ فِي بَيْعِ جُلُودِ الْمَيْتَةِ وَالْأَصْنَامِ (التحفة ٦١)

١٢٩٧ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ زَيْدِ بْنِ أَبِي حَبِيبٍ، عَنْ عَطَاءِ بْنِ أَبِي رَبَاحٍ، عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ، أَنَّهُ سَمِعَ رَسُولَ اللَّهِ ﷺ، عَامَ الْفَتْحِ وَهُوَ بِمَكَّةَ،

Messenger made unlawful the sale of wine, dead carcasses, the pig, and idols.” They said: “O Messenger of Allāh! What about the fat of carcasses? For indeed it is used to coat the ships, skins are oiled with it, and people use it for lamps?” He said: “No. It is unlawful.” Then, with that, the Messenger of Allāh ﷺ said: “May Allāh fight (curse) the Jews! Indeed Allāh made the fat unlawful for them, they melted it, sold it, and consumed its price.” (*Ṣaḥīh*)

[He said:] There are narrations on this topic from ‘Umar and Ibn ‘Abbās.

[Abū ‘Eisā said:] The *Ḥadīth* of Jābir is a *Ḥasan Ṣaḥīh Ḥadīth*. This is acted upon according to the people of knowledge.

تخریج: متفق علیه، وأخرجه البخاري، البيوع، باب بيع المتية والأصنام، ح: ٢٢٣٦ ومسلم، ح: ١٥٨١ عن قتبية به وفي الباب عن عمر [البخاري، ح: ٢٢٢٣ ومسلم، ح: ١٥٨٢] وابن عباس [أبو داود، ح: ٣٤٨٨].

**Comments:**

Unlawfulness of the sale of dead carcasses, pigs and idols is unanimously agreed upon. According to three *A‘immah* Mālik, Aḥmad, and Shāfi‘ī dead carcasses and wine are unlawful due to their filthiness; therefore, the sale of anything filthy is unlawful and strictly prohibited.

**Chapter 62. What Has Been Related About It Being Disliked To Take Back One’s Gift**

1298. Ibn ‘Abbās, [may Allāh be pleased with them], narrated that the Messenger of Allāh ﷺ said: “Ours is not a bad example: The one who takes back his gift is like the dog who takes back his vomit.” (*Ṣaḥīh*)

[He said:] On this topic, there is the narration from Ibn ‘Umar from

يَقُولُ: «إِنَّ اللَّهَ وَرَسُولَهُ حَرَّمَ بَيْعَ الْخَمْرِ وَالْمَيْتَةِ وَالْجَنْزِيرِ وَالْأَصْنَامِ» فَقِيلَ: يَا رَسُولَ اللَّهِ! أَرَأَيْتَ شُحُومَ الْمَيْتَةِ؟ فَإِنَّهُ يُطْلَى بِهَا الشُّفْنُ وَيُدْهَنُ بِهَا الْجُلُودُ وَيَسْتَضْبِحُ بِهَا النَّاسُ؟ قَالَ: «لَا، هُوَ حَرَامٌ».

ثُمَّ قَالَ رَسُولُ اللَّهِ ﷺ عِنْدَ ذَلِكَ: «قَاتَلَ اللَّهُ الْيَهُودَ، إِنَّ اللَّهَ حَرَّمَ عَلَيْهِمُ الشُّحُومَ فَأَجْمَلُوهُ ثُمَّ بَاعُوهُ فَأَكَلُوا ثَمَنَهُ».

[قَالَ] وَفِي الْبَابِ عَنْ عُمَرَ وَابْنِ عَبَّاسٍ. [قَالَ أَبُو عِيْسَى]: حَدِيثُ جَابِرٍ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ.

(المعجم ٦٢) - بَابُ مَا جَاءَ فِي كِرَاهِيَةِ الرَّجُوعِ فِي الْهَبَةِ (التحفة ٦٢)

١٢٩٨ - حَدَّثَنَا أَحْمَدُ بْنُ عَبْدِ الصَّبِيِّ: حَدَّثَنَا عَبْدُ الْوَهَّابِ الثَّقَفِيُّ: حَدَّثَنَا أَبُو بَرٍّ عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ [رَضِيَ اللَّهُ عَنْهُمَا]، أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: «لَيْسَ لَنَا مَثَلُ السُّوءِ، الْعَائِدُ فِي هَبَّتِهِ كَالْكَلْبِ يَعُودُ فِي قَيْتِهِ».

the Prophet ﷺ that he said: "It is not lawful for anyone that has given a gift to take it back, except for a father who gives something to his son."

[قَالَ:] وَفِي الْبَابِ عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ أَنَّهُ قَالَ: «لَا يَجِلُّ لِأَحَدٍ أَنْ يُعْطِيَ عَطِيَّةً فَيَرْجِعَ فِيهَا، إِلَّا الْوَالِدُ فِيمَا يُعْطِي وَكَدَّهُ».

تخریج: وأخرجه البخاري، الهبة وفضلها والتحرير عليها، باب: لا يحل لأحد أن يرجع في هبته وصدقته، ح: ٢٦٢٢ من حديث أيوب السخيتاني به ورواه مسلم، ح: ١٦٢٢ من حديث ابن عباس \* وفي الباب عن ابن عمر [يأتي بعده: ١٢٩٩].

1299. 'Amr bin Shu'aib narrated that he heard Tāwus narrating from Ibn 'Umar and Ibn 'Abbās, and they both narrated this Hadīth from the Prophet ﷺ. (a Hadīth similar to no. 1298) (Sahīh)

[Abū 'Eisā said:] The Hadīth of Ibn 'Abbās, [may Allāh be pleased with them], is a Hasan Ṣahīh Hadīth. This Hadīth is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ. They said whoever gives a gift to a closely related relative, then he is not to take back his gift. And whoever gives a gift to someone other than a close relative, then he may take it back as long as it has not been reciprocated. This is the view of Ath-Thawrī. Ash-Shāfi'ī said: "It is not lawful for any that has given a gift to take it back except for what the father gave to his son." Ash-Shāfi'ī argued with the Hadīth of 'Abdullāh bin 'Umar from the Prophet ﷺ: "It is not lawful for anyone that has given a gift to take it back, except for a father who gives something to his son."

١٢٩٩ - حَدَّثَنَا بِذَلِكَ مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا ابْنُ أَبِي عَدِيٍّ عَنْ حُسَيْنِ الْمُعَلَّمِ، عَنْ عَمْرٍو بْنِ شُعَيْبٍ أَنَّهُ سَمِعَ طَاوُوسًا يُحَدِّثُ عَنِ ابْنِ عُمَرَ وَابْنِ عَبَّاسٍ، يَرْفَعَانِ الْحَدِيثَ إِلَى النَّبِيِّ ﷺ، بِهَذَا الْحَدِيثِ.

[قَالَ أَبُو عَمِيْرٍ:] حَدِيثُ ابْنِ عَبَّاسٍ [رَضِيَ اللَّهُ عَنْهُمَا] حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هَذَا الْحَدِيثِ عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَعَمِيرِهِمْ. قَالُوا: مَنْ وَهَبَ هِبَةً لِذِي رَحِمٍ مَحْرَمٍ فَلَيْسَ لَهُ أَنْ يَرْجِعَ فِي هَيْبَتِهِ، وَمَنْ وَهَبَ هِبَةً لِغَيْرِ ذِي رَحِمٍ مَحْرَمٍ فَلَهُ أَنْ يَرْجِعَ فِيهَا، مَا لَمْ يُثَبِّ مِنْهَا، وَهُوَ قَوْلُ الثَّوْرِيِّ. وَقَالَ الشَّافِعِيُّ: لَا يَجِلُّ لِأَحَدٍ أَنْ يُعْطِيَ عَطِيَّةً فَيَرْجِعَ فِيهَا إِلَّا الْوَالِدُ فِيمَا يُعْطِي وَكَدَّهُ. وَاحْتَجَّ الشَّافِعِيُّ بِحَدِيثِ عَبْدِ اللَّهِ بْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ قَالَ: «لَا يَجِلُّ لِأَحَدٍ أَنْ يُعْطِيَ عَطِيَّةً فَيَرْجِعَ فِيهَا، إِلَّا الْوَالِدُ فِيمَا يُعْطِي وَكَدَّهُ».



**تخريج:** [إسناده صحيح] وأخرجه ابن ماجه، الهبات، باب من أعطى ولده ثم رجع فيه، ح: ٢٣٧٧ عن محمد بن بشار به وصححه ابن حبان، ح: ١١٤٨ وابن الجارود، ح: ٩٩٤ والحاكم: ٤٦/٢ وواقفه الذهبي وسيأتي مطولاً: ٢١٣١.

**Chapter 63. What Has Been Related About *Al-'Arāyā* And the Permission For That**

(المعجم ٦٣) - **بَابُ مَا جَاءَ فِي الْعَرَايَا وَالرَّخْصَةِ فِي ذَلِكَ** (التحفة ٦٣)

**1300.** Ibn 'Umar narrated from Zaid bin Thābit that the Prophet ﷺ prohibited *Al-Muhāqalah* and *Al-Muzābanah*, except that he permitted those who practice *Al-'Arāyā* to sell it for a like estimation. (*Sahih*)

١٣٠٠ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا عَبْدُهُ عَنْ مُحَمَّدِ بْنِ إِسْحَاقَ: عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، عَنْ زَيْدِ بْنِ ثَابِتٍ أَنَّ النَّبِيَّ ﷺ نَهَى عَنِ الْمُحَاقَلَةِ وَالْمُزَابَنَةِ، إِلَّا أَنَّهُ قَدْ أُذِنَ لِأَهْلِ الْعَرَايَا أَنْ يَبِيعُوهَا بِمِثْلِ خَرْصِهَا.

[He said:] There are narrations on this topic from Abū Hurairah and Jābir.

[قَالَ:] وَفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ وَجَابِرٍ.

[Abū 'Eisā said:] The *Hadīth* of Zaid bin Thābit: This is how Muḥammad bin Ishāq reported this *Hadīth*. Ayyūb, 'Ubaidullāh bin 'Umar, and Mālik bin Anas reported it [from Nāfi'], from Ibn 'Umar: "The Prophet ﷺ prohibited *Al-Muhāqalah* and *Al-Muzābanah*." With this chain of narration, it has been reported from Ibn 'Umar, from Zaid bin Thābit, from the Prophet ﷺ that he permitted *Al-'Arāyā* in cases less than five *Wasq*. This is more correct than the narration of Muḥammad bin Ishāq.

[قَالَ أَبُو عِيسَى:] حَدِيثُ زَيْدِ بْنِ ثَابِتٍ هَكَذَا. رَوَى مُحَمَّدُ بْنُ إِسْحَاقَ هَذَا الْحَدِيثَ، وَرَوَى أَبُو بَرٍّ وَعُبَيْدُ اللَّهِ بْنُ عُمَرَ وَمَالِكُ بْنُ أَنَسٍ [عَنْ نَافِعٍ]، عَنِ ابْنِ عُمَرَ أَنَّ النَّبِيَّ ﷺ نَهَى عَنِ الْمُحَاقَلَةِ وَالْمُزَابَنَةِ وَبِهَذَا الْإِسْنَادِ، عَنِ ابْنِ عُمَرَ، عَنْ زَيْدِ بْنِ ثَابِتٍ عَنِ النَّبِيِّ ﷺ أَنَّهُ رَخَّصَ فِي الْعَرَايَا فِيمَا دُونَ خَمْسَةِ أَوْسُقٍ، وَهَذَا أَصَحُّ مِنْ حَدِيثِ مُحَمَّدِ بْنِ إِسْحَاقَ.

**تخريج:** [صحيح] وأخرجه أحمد: ١٨٥/٥، ١٩٠ من حديث ابن إسحاق به وصرح بالسماع فالسند حسن وله طرق عند البخاري، ح: ٢١٧٢، ٢١٧٣، ومسلم، ح: ١٥٣٩ عن نافع به \* وفي الباب عن أبي هريرة [يأتي: ١٣٠١] وجابر [مسلم، ح: ٩٧/١٥٣٦ وأبو داود، ح: ١٦٦٢ وغيرهما].

**1301.** Abū Hurairah narrated that the Messenger of Allāh ﷺ permitted *Al-'Arāyā* in cases less than five *Wasq*. Or similar. (*Ṣaḥīḥ*)

Similar was narrated to us by (another chain). This *Ḥadīth* has been related from Mālik: "The Prophet ﷺ permitted *Al-'Arāyā* in cases of five *Wasq*, or for what was less than five *Wasq*."

**تحريج:** متفق عليه، وأخرجه البخاري، البيهقي، باب بيع الثمر على رؤوس النخل بالذهب أو الفضة، ح: ٢١٩٠ ومسلم، ح: ١٥٤١ من حديث مالك به وهو في الموطأ: ٦٢٠/٢.

**1302.** Ibn 'Umar narrated from Zaid bin Thābit that the Messenger of Allāh ﷺ permitted selling in *Al-'Arāyā* by estimating it. (*Ṣaḥīḥ*)

[Abū 'Eisā said:] this *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. The *Ḥadīth* of Abū Hurairah is *Ḥasan Ṣaḥīḥ*. And this is acted upon according to some of the people of knowledge. Among them Ash-Shāfi'i, Aḥmad and Ishāq. They said *Al-'Arāyā* is an exception from the general scope of the prohibition of the Prophet ﷺ when he prohibited *Al-Muḥāqalah* and *Al-Muzābanah*. They argued using the *Ḥadīth* of Zaid bin Thābit and the *Ḥadīth* of Abū Hurairah. They said that he may buy what is less than five *Wasq*.

According to some of the people of knowledge, this means that the Prophet ﷺ wanted to make less restriction for them on this matter

١٣٠١ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا زَيْدُ بْنُ حُبَابٍ عَنْ مَالِكِ [بْنِ أَنَسٍ]، عَنْ دَاوُدَ بْنِ الْحَصِينِ، عَنْ أَبِي سُفْيَانَ مَوْلَى ابْنِ أَبِي أَحْمَدَ، عَنْ أَبِي هُرَيْرَةَ أَنَّ رَسُولَ اللَّهِ ﷺ أَرَحَصَ فِي بَيْعِ الْعَرَايَا فِيمَا دُونَ خَمْسَةِ أَوْسُقٍ، أَوْ كَذَا. حَدَّثَنَا قُتَيْبَةُ عَنْ مَالِكٍ، عَنْ دَاوُدَ بْنِ حُصَيْنٍ، نَحْوَهُ. وَرَوَى هَذَا الْحَدِيثُ عَنْ مَالِكٍ، أَنَّ النَّبِيَّ ﷺ أَرَحَصَ فِي بَيْعِ الْعَرَايَا فِي خَمْسَةِ أَوْسُقٍ، أَوْ فِيمَا دُونَ خَمْسَةِ أَوْسُقٍ.

١٣٠٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا حَمَادُ بْنُ زَيْدٍ عَنْ أَيُّوبَ، عَنْ نَافِعٍ، عَنْ ابْنِ عُمَرَ، عَنْ زَيْدِ بْنِ ثَابِتٍ أَنَّ رَسُولَ اللَّهِ ﷺ أَرَحَصَ فِي بَيْعِ الْعَرَايَا بِحَرْصِهَا. [قَالَ أَبُو عِيْسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وَحَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَيْهِ عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْهُمْ الشَّافِعِيُّ وَأَحْمَدُ وَإِسْحَاقُ. وَقَالُوا: إِنَّ الْعَرَايَا مُسْتَثْنَاءٌ مِنْ جُمْلَةِ نَهْيِ النَّبِيِّ ﷺ. إِذْ نَهَى عَنِ الْمُحَاقَلَةِ وَالْمُزَابَنَةِ، وَاحْتَجُّوا بِحَدِيثِ زَيْدِ بْنِ ثَابِتٍ وَحَدِيثِ أَبِي هُرَيْرَةَ، وَقَالُوا: لَهُ أَنْ يَشْتَرِيَ مَا دُونَ خَمْسَةِ أَوْسُقٍ. وَمَعْنَى هَذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ: أَنَّ النَّبِيَّ ﷺ أَرَادَ التَّوَسُّعَةَ عَلَيْهِمْ فِي هَذَا، لِأَنَّهُمْ شَكَّوْا إِلَيْهِ وَقَالُوا: لَا نَجِدُ مَا نَشْتَرِي مِنَ الثَّمْرِ [إِلَّا] بِالْثَمْرِ، فَرَحَّصَ لَهُمْ فِيمَا دُونَ

خَمْسَةَ أَوْسُقٍ أَنْ يَسْتَرَوْهَا، فَيَأْكُلُوهَا رُطْبًا.

because they complained to him saying: "We don't buy anything with dried dates except fruit." So he permitted them to buy less than five *Wasq* worth so they could eat fresh dates.

تخريج: متفق عليه، وأخرجه البخاري، البيهقي، باب بيع الزبيب والطعام بالطعام، ح: ٢١٧٢، ٢١٧٣ من حديث حماد بن زيد ومسلم، ح: ١٥٣٩ من حديث نافع به.

**Comments:**

Different *A'imma* have different points of view regarding the explanation of *Al-Arāyā* — to sell something with estimation. 1) In view of Imām Mālik if the owner of the garden makes a gift of the fruit of one or more trees to some — one, and later on finds that his presence or his visits to the garden hinders the privacy of his family, in this situation he can barter fresh fruit with dried dates. 2) In the view of Imām Aṣḥ-Shāfi'ī, *Al-Arāyā* is to buy the fresh dates still on the tree from the owner of the garden by estimation in exchange of dried dates. 3) According to Imām Aḥmad, *Al-Arāyā* means if someone gets less than five *Wasq* of fresh dates which are still on the trees he is allowed to barter these fresh dates with someone in exchange of dried dates.

**Chapter 64. Something Else About That**

(المعجم ٦٤) - [باب منه] (التحفة ٦٤)

**1303.** *Buṣhair* bin *Yasār* the freed slave of *Banū Ḥārithah* narrated that *Rāfi' bin Khadij* and *Sahl bin Abī Ḥathmah* narrated to him that the Messenger of Allāh ﷺ prohibited *Al-Muzābanah* sales, (buying) fruits with dried dates, except for those who practice *Al-Arāyā* — for he permitted it for them — and from buying grapes with raisins, and from every fruit by its estimation. (*Ṣaḥīḥ*)

١٣٠٣ - حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ [الْخُلَوَانِيُّ] الْخَلَّالُ: حَدَّثَنَا أَبُو أُسَامَةَ عَنِ الْوَلِيدِ بْنِ كَثِيرٍ: حَدَّثَنَا بَشِيرُ بْنُ يَسَارٍ مَوْلَى بَنِي حَارِثَةَ أَنَّ رَافِعَ بْنَ خَدِيجٍ وَسَهْلُ بْنُ أَبِي حَكْمَةَ حَدَّثَاهُ أَنَّ رَسُولَ اللَّهِ ﷺ نَهَى عَنْ بَيْعِ الْمُرَابَنَةِ، التَّمْرِ بِالتَّمْرِ، إِلَّا لِأَصْحَابِ الْعَرَايَا، فَإِنَّهُ قَدْ أذِنَ لَهُمْ، وَعَنْ بَيْعِ الْعِنَبِ بِالزَّبِيبِ وَعَنْ كُلِّ تَمْرٍ يَخْرُصَهَا.

[Abū 'Eisā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb* from this route.

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، غَرِيبٌ مِنْ هَذَا الْوَجْهِ.

تخريج: متفق عليه، وأخرجه مسلم، البيهقي، باب تحريم بيع الرطب بالتمر إلا في العرايا، ح: ١٥٤٠ عن الحسن بن علي والبخاري، ح: ٢٣٨٣، ٢٣٨٤ من حديث أبي أسامة به.

**Chapter 65. What Has Been Related About *An-Najsh* Being Disliked (In Sales)**

(المعجم ٦٥) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ النَّجْشِ [فِي الْبَيْعِ] (التحفة ٦٥)

**1304.** Abū Hurairah narrated that the Messenger of Allāh ﷺ said: “Do not practice *An-Najsh*.” (Ṣaḥīḥ)

[He said:] There are narrations on this topic from Ibn ‘Umar and Anas.

[Abū ‘Eisā said:] The *Hadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Hadīth*. This is acted upon according to the people of knowledge, they disliked *An-Najsh*.

[Abū ‘Eisā said:] *An-Najsh* is when a man who knows about the goods comes to the owner of the goods to offer him more than what it is worth, doing so in the presence of a buyer. He intends to seduce the buyer while he himself does not want to buy it, rather he only wants to deceive the buyer with his offer. And this is a type of deceit.

Ash-Shāfi‘ī said: “If a man commits *An-Najsh* then he has sinned due to what he has done, but the sale is permissible, because the buyer did not commit *An-Najsh*.”

١٣٠٤ - حَدَّثَنَا قُتَيْبَةُ وَأَحْمَدُ بْنُ مَنِيعٍ قَالَا: حَدَّثَنَا سُفْيَانُ عَنِ الزُّهْرِيِّ، عَنْ سَعِيدِ ابْنِ الْمُسَيْبِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: وَقَالَ قُتَيْبَةُ يُبْلَغُ بِهِ النَّبِيُّ ﷺ قَالَ: «لَا تَنَاجَشُوا».

[قَالَ:] وَفِي الْبَابِ عَنِ ابْنِ عُمَرَ وَأَنْسٍ. [قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ، كَرِهُوا النَّجْشَ.

[قَالَ أَبُو عِيسَى:] وَالنَّجْشُ أَنْ يَأْتِيَ الرَّجُلُ الَّذِي يُبْصِرُ السَّلْعَةَ إِلَى صَاحِبِ السَّلْعَةِ فَيَسْتَأْمُ بِأَكْثَرِ مِمَّا تَسَوَّى، وَذَلِكَ عِنْدَمَا يَحْضُرُهُ الْمُشْتَرِي، يُرِيدُ أَنْ يَغْتَرَّ الْمُشْتَرِي بِهِ، وَلَيْسَ مِنْ رَأْيِهِ الشَّرَى. إِنَّمَا يُرِيدُ أَنْ يَنْخَلِعَ الْمُشْتَرِي بِمَا يَسْتَأْمُ، وَهَذَا ضَرْبٌ مِنَ الْخَدِيعَةِ.

قَالَ الشَّافِعِيُّ: وَإِنْ نَجَشَ رَجُلٌ، فَالِنَّاجِشُ أَثِمٌ فِيمَا يَصْنَعُ، وَالْبَيْعُ جَائِزٌ، لِأَنَّ الْبَائِعَ غَيْرَ النَّاجِشِ.

**تخريج:** وأخرجه البخاري، البيوع، باب: لا يبيع على بيع أخيه، ولا يسوم على سوم أخيه حتى يأذن له أو يترك، ح: ٢١٤٠ من حديث سفيان بن عيينة به ورواه مسلم، ح: ١٥١٥ من حديث أبي هريرة \* وفي الباب عن ابن عمر [البخاري، ح: ٢١٦٢ ومسلم، ح: ١٥١٦] وأنس [البيهقي: ٣١٩/٥ وأبو يعلى: ١٥٥/٥، ح: ٢٧٦٧].

**Comments:**

The literal meaning of ‘*An-Najsh*’ is to drive away the wild animals, but in the *Sharī‘ah* it means to seduce the buyer by offering higher price of the thing, and posing as he is also a buyer, but actually he does not want to buy the thing. So the offer of the higher price is just to seduce the buyer.

**Chapter 66. What Has Been Related About Giving More In Weights**

(المعجم ٦٦) - بَابُ مَا جَاءَ فِي الرَّجْحَانِ فِي الْوَزْنِ (التحفة ٦٦)

**1305.** Suwaid bin Qais narrated: “Makhrifah Al-‘Abdī and I brought linens from Hajar.<sup>[1]</sup> The Prophet ﷺ came to us to bargain with us with some pants. There was someone with me who weighed (the goods) to determine the value. So the Prophet ﷺ said to the one weighing: ‘Weigh and add more.’” (*Ṣaḥīḥ*)

١٣٠٥ - حَدَّثَنَا هَنَادٌ وَمَحْمُودُ بْنُ غَيْلَانَ قَالَا: حَدَّثَنَا وَكَيْعٌ عَنْ سُفْيَانَ، عَنْ سِمَاكِ بْنِ حَرْبٍ، عَنْ سُؤَيْدِ بْنِ قَيْسٍ قَالَ: جَلَبْتُ أَنَا وَمَعْرِفَةُ الْعَبْدِيِّ بَرًّا مِنْ هَجَرَ، فَجَاءَنَا النَّبِيُّ ﷺ فَسَاوَمَنَا بِسَرَاوِيلٍ. وَعِنْدِي وَزَانٌ يَرُنُّ بِالْأَجْرِ. فَقَالَ النَّبِيُّ ﷺ لِلْوَزَانِ: «رِنُّ وَأَرْجِحْ».

[قَالَ:] وَفِي الْبَابِ عَنْ جَابِرٍ وَأَبِي هُرَيْرَةَ.

[He said:] There are narrations on this topic from Jābir and Abū Hurairah.

[Abū ‘Eisā said:] The *Ḥadīth* of Suwaid is a *Ḥasan Ṣaḥīḥ Ḥadīth*. The people of knowledge consider it recommended to add more when weighing.

[قَالَ أَبُو عِيْسَى:] حَدِيثُ سُؤَيْدٍ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَأَهْلُ الْعِلْمِ يَسْتَحِبُّونَ الرَّجْحَانَ فِي الْوَزْنِ.

Shu‘bah reported this *Ḥadīth* from Simāk, so he said: “From Abū Ṣafwān” and he mentioned the narration.

وَرَوَى شُعْبَةُ هَذَا الْحَدِيثَ، عَنْ سِمَاكِ، فَقَالَ: عَنْ أَبِي صَفْوَانَ. وَذَكَرَ الْحَدِيثَ.

**تخريج:** [صحيح] وأخرجه ابن ماجه، التجارات، باب الرجحان في الوزن، ح: ٢٢٢٠ من حديث وكيع، وأبو داود، ح: ٣٣٣٦ وغيره من حديث سفیان الثوري به وتابعه قيس بن الربيع وله شاهد عند أبي داود، ح: ٣٣٣٧ وغيره، والحديث صححه ابن حبان، ح: ١٤٤٤ وابن الجارود، ح: ٥٥٩ \* وفي الباب عن جابر بن سمرة [ابن ماجه، ح: ٢٢٢٢] وأبي هريرة [أبو يعلى: ٢٤/١١، ح: ٦١٦٢].

**Comments:**

This narration proves that measure and weight should always be a little extra in favor of the buyer. A person who works as a professional for measuring and weighing can fix his wages for his work.

[1] There are many places with this name, one of which is a village close to Al-Madīnah.

**Chapter 67. What Has Been Related About Giving Respite To The Indigent And Being Kind To Him**

**1306.** Abū Hurairah narrated that the Messenger of Allāh ﷺ said: “Whoever grants respite to an indigent or alleviates it for him, Allāh will shade him on the Day of Judgement under the shade of His Throne, a Day in which there is no shade except His shade.” (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Abū Al-Yasar, Abū Qatādah, Ḥudhaifah, [Abū] Mas‘ūd, ‘Ubādah, and Jābir.

[Abū ‘Eisā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Gharīb Ḥadīth* from this route.

**تخریج:** [إسناده صحيح] وأخرجه أحمد: ۳۵۹/۲ عن إسحاق بن سليمان به وللحديث شواهد كثيرة جداً \* وفي الباب عن أبي اليسر [مسلم، ح: ۳۰۰۶ ضمن حديث طويل] وأبي قتادة [مسلم، ح: ۱۵۶۳] وحنيفة [البخاري، ح: ۲۳۹۱] ومسلم، ح: ۱۵۶۰] وأبي مسعود [يأتي: ۱۳۰۷] وعبادة [لم أجده] وجابر [لعله يشير إلى حديث مسلم، ح: ۳۰۰۶].

**Comments:**

In the Qur’ān it has been commanded to Muslims to be gentle and kind with a debtor who is in difficulty. It is better to forgive his debt. *Sūrat Al-Baqarah* Verse no. 280 says “If the debtor is in a difficulty grant him time till it is easy for him to repay, but if you remit by way of charity that is the best for you, if you know.” In this narration the reward of a virtuous deed has been mentioned. On the Day of Judgement, which will be a very hard day, and when there will be no shade at all except the Shade of Allāh, doers of virtuous deeds will get a place under this Shade.

**1307.** Abū Mas‘ūd narrated that the Messenger of Allāh ﷺ said: “A man among those before you was called to reckon and nothing of good was found with him. Except that he was a wealthy man so he used to mix with the people and he would tell his servants to be lenient

(المعجم ۶۷) - بَابُ مَا جَاءَ فِي إِنْظَارِ الْمُعْسِرِ وَالرَّفْقِ بِهِ (التحفة ۶۷)

۱۳۰۶ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا إِسْحَاقُ بْنُ سُلَيْمَانَ الرَّازِي عَنْ دَاوُدَ بْنِ قَيْسٍ، عَنْ زَيْدِ بْنِ أَسْلَمَ، عَنْ أَبِي صَالِحٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «مَنْ أَنْظَرَ مُعْسِرًا أَوْ وَصَحَ لَهُ، أَظَلَّهُ اللَّهُ يَوْمَ الْقِيَامَةِ تَحْتَ ظِلِّ عَرْشِهِ، يَوْمَ لَا ظِلَّ إِلَّا ظِلُّهُ».

[قَالَ:] وَفِي الْبَابِ عَنْ أَبِي الْيَسْرِ وَأَبِي قَتَادَةَ وَحُنَيْفَةَ [وَأَبِي] مَسْعُودٍ وَعُبَادَةَ [وَجَابِرٍ].

[قَالَ أَبُو عِيْسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ، غَرِيبٌ مِنْ هَذَا الْوَجْهِ.

**تخریج:** [إسناده صحيح] وأخرجه أحمد: ۳۵۹/۲ عن إسحاق بن سليمان به وللحديث شواهد كثيرة جداً \* وفي الباب عن أبي اليسر [مسلم، ح: ۳۰۰۶ ضمن حديث طويل] وأبي قتادة [مسلم، ح: ۱۵۶۳] وحنيفة [البخاري، ح: ۲۳۹۱] ومسلم، ح: ۱۵۶۰] وأبي مسعود [يأتي: ۱۳۰۷] وعبادة [لم أجده] وجابر [لعله يشير إلى حديث مسلم، ح: ۳۰۰۶].

۱۳۰۷ - حَدَّثَنَا هَنَادٌ: حَدَّثَنَا أَبُو مُعَاوِيَةَ عَنِ الْأَعْمَشِ، عَنْ شَقِيقٍ، عَنْ أَبِي مَسْعُودٍ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «حُوسِبَ رَجُلٌ يَمُنُّ كَانَ قَبْلَكُمْ، فَلَمْ يُوجَدْ لَهُ مِنَ الْخَيْرِ شَيْءٌ، إِلَّا أَنَّهُ كَانَ رَجُلًا مُوسِرًا، فَكَانَ يُخَالِطُ النَّاسَ، فَكَانَ يَأْمُرُ غُلَمَانَهُ أَنْ

with the insolvent. So Allāh, Mighty and Sublime is He, said: 'We are more worthy of that than him, so be lenient with him.'"

(*Ṣaḥīḥ*)

[Abū 'Eisā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. [Abū Al-Yasar is Ka'b bin 'Amr.]

تخریج: وأخرجه مسلم، المساقاة، باب فضل إنظار المعسر والتجاوز في الاقتضاء من الموسر والمعسر، ح: ١٥٦١ من حديث أبي معاوية الضرير به.

**Comments:**

In the light of this narration it is suggested to the well-off persons of the society and the business community to deal with kindness with poor debtors, and to give them time to repay their debts, and if possible, they should remit their debits. Allāh will give them good reward in the Hereafter.

**Chapter 68. What Has Been Related About The Rich Person's Procrastination (Paying Debt) Is Oppression**

**1308.** Abū Hurairah narrated that the Prophet ﷺ said: "Procrastination (in paying a debt) by a rich person is oppression. So if your debt is transferred from your debtor to a rich debtor, you should agree." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Ibn 'Umar, and Ash-Sharīd [bin Suwaid Ath-Thaqafi].

تخریج: [صحیح] وأخرجه ابن ماجه، الصدقات، باب الحوالة، ح: ٢٤٠٣ وغيره من حديث سفيان الثوري، والبخاري، ح: ٢٢٨٧ ومسلم، ح: ١٥٦٤ من حديث أبي الزناد به \* وفي الباب عن ابن عمر [يأتي: ١٣٠٩] والشريد بن سويد الثقفي [أبو داود، ح: ٣٦٢٨].

**1309.** [Ibn 'Umar narrated that the Prophet ﷺ said: "Procrastination (in paying a debt) by a rich person is oppression. So if your debt is transferred from your debtor you

يَتَجَاوَزُوا عَنِ الْمُعْسِرِ، فَقَالَ اللَّهُ عَزَّ وَجَلَّ: نَحْنُ أَحَقُّ بِذَلِكَ مِنْهُ تَجَاوَزُوا عَنْهُ».

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. [وَأَبُو الْيَسْرِ كَعْبُ بْنُ عَمْرٍو].

(المعجم ٦٨) - بَابُ مَا جَاءَ فِي مَطْلٍ الْغَنِيِّ [أَنَّهُ] ظَلَمٌ (التحفة ٦٨)

١٣٠٨ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ مَهْدِيٍّ: حَدَّثَنَا سُفْيَانُ عَنْ أَبِي الزِّنَادِ، عَنِ الْأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «مَطْلُ الْغَنِيِّ ظَلْمٌ، وَإِذَا أُتْبِعَ أَحَدُكُمْ عَلَى مَلِيٍّ فَلْيَتَّبِعْ».

[قَالَ:] وَفِي الْبَابِ عَنِ ابْنِ عُمَرَ وَالشَّرِيدِ [ابن سُوَيْدِ الثَّقَفِيِّ].

١٣٠٩ - [حَدَّثَنَا إِبْرَاهِيمُ بْنُ عَبْدِ اللَّهِ الْهَرَوِيُّ قَالَ: حَدَّثَنَا هُشَيْمٌ قَالَ: حَدَّثَنَا يُونُسُ بْنُ عُبَيْدٍ عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ عَنِ

should agree, and do not make two sales in one sale.” (*Ṣaḥīḥ*)

[Abū ‘Eisā said:] The *Ḥadīth* of Abū Hurairah (no. 1308) is a *Ḥasan Ṣaḥīḥ Ḥadīth*. And its meaning is that when the debt of one of you is transferred then agree. Some of the people of knowledge said when a man is offered to transfer his debt to a rich man and he does so, then the transferor is free of it, he is not to seek its return from the transferor. This is the view of Ash-Shāfi‘ī, Aḥmad, and Ishāq. Some of the people of knowledge said: “When this wealth could not be collected due to bankruptcy of the one it was transferred to, then he may seek its return to the first one.” They argue for this view with the saying of ‘Uthmān and others, when they said: “There is nothing due on a Muslim’s wealth that is lost.” Ishāq said: “The meaning of this *Ḥadīth*: ‘There is nothing due on a Muslim’s wealth that is lost’ this is when a man transfers it to another whom he thinks is wealthy, then he becomes bankrupt, so there is nothing due on the Muslim’s wealth that is lost.”

النَّبِيِّ ﷺ قَالَ: «مَطْلُ الْغَنِيِّ ظُلْمٌ وَإِذَا أُحِلَّتْ عَلَى مَلِيٍّ فَاتَّبِعْهُ وَلَا تَبِعْ بَيْعَتَيْنِ فِي بَيْعَةٍ».

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَمَعْنَاهُ: أَنَّهُ إِذَا أُحِيلَ أَحَدُكُمْ عَلَى مَلِيٍّ فَلْيَتَّبِعْ. وَقَالَ بَعْضُ أَهْلِ الْعِلْمِ: إِذَا أُحِيلَ الرَّجُلُ عَلَى مَلِيٍّ فَاحْتَالَهُ فَقَدْ بَرِيَءَ الْمُحِيلِ وَلَيْسَ لَهُ أَنْ يَرْجِعَ عَلَى الْمُحِيلِ. وَهُوَ قَوْلُ الشَّافِعِيِّ وَأَحْمَدَ وَإِسْحَاقَ. وَقَالَ بَعْضُ أَهْلِ الْعِلْمِ: إِذَا تَوَى مَالٌ هَذَا بِإِفْلَاسِ الْمُحَالِ عَلَيْهِ، فَلَهُ أَنْ يَرْجِعَ عَلَى الْأَوَّلِ. وَاحْتَجُّوا بِقَوْلِ عُمَانَ وَغَيْرِهِ حِينَ قَالُوا: لَيْسَ عَلَى مَالِ مُسْلِمٍ تَوَى. وَقَالَ إِسْحَاقُ: مَعْنَى هَذَا الْحَدِيثِ: «لَيْسَ عَلَى مَالِ مُسْلِمٍ تَوَى». هَذَا إِذَا أُحِيلَ الرَّجُلُ عَلَى آخَرَ، وَهُوَ يَرَى أَنَّهُ مَلِيٌّ، فَإِذَا هُوَ مُعْدِمٌ، فَلَيْسَ عَلَى مَالِ مُسْلِمٍ تَوَى.

تخريج: [صحيح] وأخرجه ابن ماجه، الصدقات، باب الحوالة، ح: ٢٤٠٤ من حديث هشيم به ويونس لم يسمع من نافع وللحديث شواهد صحيحة.

### Comments:

In this narration, ‘rich person’ means a person who has the ability to repay the debt. If the rich person procrastinates in the repayment of the debt, it is oppression. If the debtor refers the lender to another rich person who has the ability to pay the amount, he should accept this reference. He should demand his amount from him, and if he refuses to pay he can demand his amount from the debtor.



**Chapter 69. What Has Been Related About *Al-Munābadhah* And *Al-Mulāmasah***

(المعجم ٦٩) - بَابُ مَا جَاءَ فِي  
الْمُنَابَذَةِ وَالْمُلَامَسَةِ (التحفة ٦٩)

**1310.** Abū Hurairah narrated: “The Messenger of Allāh ﷺ prohibited sales of *Al-Munābadhah* and *Al-Mulāmasah*.” (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Abū Sa‘eed and Ibn ‘Umar.

[Abū ‘Eisā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Ḥadīth*. And the meaning of (*Munābadhah* in) this *Ḥadīth* is when it is said: “When I throw something to you then the sale between you and I is concluded.” And *Al-Mulāmasah* is that he says: “When you touch something then the sale is concluded.” Even if he did not see it at all, like if it was inside of a bag or something else. These are merely sales practices of the people of *Jāhiliyyah* so they were prohibited.

١٣١٠ - حَدَّثَنَا أَبُو كُرَيْبٍ وَمَحْمُودُ بْنُ غِيْلَانَ قَالَا: حَدَّثَنَا وَكَيْعٌ عَنْ سُفْيَانَ، عَنْ أَبِي الزُّنَادِ، عَنِ الْأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: نَهَى رَسُولُ اللَّهِ ﷺ عَنْ بَيْعِ الْمُنَابَذَةِ وَالْمُلَامَسَةِ.

[قَالَ:] وَفِي الْبَابِ عَنْ أَبِي سَعِيدٍ وَابْنِ عُمَرَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ وَمَعْنَى هَذَا الْحَدِيثِ أَنْ يَقُولَ: إِذَا نَبَذْتُ إِلَيْكَ بِالشَّيْءِ فَقَدْ وَجَبَ الْبَيْعُ بَيْنِي وَبَيْنَكَ. وَالْمُلَامَسَةُ أَنْ يَقُولَ: إِذَا لَمَسْتُ الشَّيْءَ فَقَدْ وَجَبَ الْبَيْعُ، وَإِنْ كَانَ لَا يَرَى مِنْهُ شَيْئًا، مِثْلَ مَا يَكُونُ فِي الْجِرَابِ أَوْ غَيْرِ ذَلِكَ، وَإِنَّمَا كَانَ هَذَا مِنْ بُيُوعِ أَهْلِ الْجَاهِلِيَّةِ. فَتَنَى عَنْ ذَلِكَ.

**تخريج:** متفق عليه، وأخرجه مسلم، البيوع، باب إبطال بيع الملامسة والمناذة، ح: ١٥١١ عن أبي كريب والبخاري، ح: ٢١٤٦ من حديث أبي الزناد به \* وفي الباب عن أبي سعيد [البخاري، ح: ٥٨٢٠ ومسلم، ح: ١٥١٢] وابن عمر [النسائي، ح: ٤٥٢٠].

**Comments:**

According to the Islamic *Shari‘ah*, all kinds of transactions and commercial deals which are fraudulent, dishonest and treacherous are prohibited. *Al-Munābadhah* and *Al-Mulāmasah* are also of the same category, since the buyer has no choice to examine the commodity.

**Chapter 70. What Has Been Related About Payment In Advance For Food And Fruits**

(المعجم ٧٠) - بَابُ مَا جَاءَ فِي السَّلْفِ فِي الطَّعَامِ وَالثَّمَرِ (التحفة ٧٠)

**1311.** Ibn ‘Abbās narrated: “When the Prophet ﷺ arrived in Al-

١٣١١ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا سُفْيَانُ عَنِ ابْنِ أَبِي نَجِيحٍ، عَنْ عَبْدِ اللَّهِ بْنِ

Madīnah, they were paying in advance for fruits. So he said: 'Whoever pays in advance, then let him pay in advance for known measurements (of dates), and known weights for a specified period of time.'" (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Ibn Abī Awfā and 'Abdur-Raḥmān bin Abzā.

[Abū 'Eīsā said:] The *Hadīth* of Ibn 'Abbās is a *Ḥasan Ṣaḥīḥ Hadīth*. This is acted upon according to the people of knowledge among the Companions of the Prophet ﷺ and others. They allow for advanced payments on food, garments and other things in which the limits and description are known. They differed over delay in delivery of animals. Some of the people of knowledge among the Companions of the Prophet ﷺ and others thought that delay in delivery of animals is allowed. This is the view of *Ash-Shāfi'ī*, *Aḥmad* and *Ishāq*. Some of the people of knowledge among the Companions of the Prophet ﷺ and others, disliked delay in delivery of animals. This is the saying of *Sufyān* and the people of *Al-Kūfah*. [And Abū *Al-Minhāl*'s (a narrator) name is 'Abdur-Raḥmān bin Muṭ'im].

كثير، عَنْ أَبِي الْمُنْهَالِ، عَنِ ابْنِ عَبَّاسٍ قَالَ: قَدِمَ رَسُولُ اللَّهِ ﷺ الْمَدِينَةَ وَهُمْ يُسَلِّفُونَ فِي الثَّمَرِ فَقَالَ: «مَنْ أَسْلَفَ فَلْيُسَلِّفْ فِي كَيْلٍ مَعْلُومٍ، وَوَزْنٍ مَعْلُومٍ إِلَى أَجَلٍ مَعْلُومٍ».

[قَالَ:] وَفِي الْبَابِ عَنِ ابْنِ أَبِي أَوْفَى وَعَبْدِ الرَّحْمَنِ بْنِ أَبْزَى.

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ عَبَّاسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ. أَجَازُوا السَّلْفَ فِي الطَّعَامِ وَالنِّبَاتِ وَغَيْرِ ذَلِكَ، مِمَّا يُعْرَفُ حَدُّهُ وَصِفَتُهُ، وَاخْتَلَفُوا فِي السَّلْمِ فِي الْحَيَوَانِ. فَرَأَى بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ السَّلْمَ فِي الْحَيَوَانِ جَائِزًا، وَهُوَ قَوْلُ الشَّافِعِيِّ وَأَحْمَدَ وَإِسْحَاقَ. وَكَرِهَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ - السَّلْمَ فِي الْحَيَوَانِ. وَهُوَ قَوْلُ سُفْيَانَ وَأَهْلِ الْكُوفَةِ [أَبُو الْمِنْهَالِ اسْمُهُ عَبْدُ الرَّحْمَنِ بْنُ مُطْعِمٍ].

**تخریج:** متفق عليه، وأخرجه البخاري، السلم، باب السلم في وزن معلوم، ح: ٢٢٤٠ ومسلم، ح: ١٦٠٤ من حديث سفيان بن عيينة به \* وفي الباب عن ابن أبي أوفى [البخاري، ح: ٢٢٤٢، ٢٢٤٣] وعبدالرحمن بن أبزى [البخاري، ح: ٢٢٤٢، ٢٢٤٣].

**Comments:**

“*Salam*” or “*Salaf*” sale is to make the payment of fruits or edibles in advance. The people of *Hijāz* called it *Salam* sale and the people of *‘Irāq*

named it *Salaf* sale. In this sale the price of the thing purchased is paid in advance according to its measurement or weight, as required, and the date and period of delivery is also fixed. All terms and conditions of the deal are clear beforehand to avoid the dispute that can arise later on. It is assured that nothing remains ambiguous. If the deal is about an animal, its gender, age and all related things are made clear.

### Chapter 71. What Has Been Related About The Land That Is Owned By Partners When One Of Them Wants To Sell His Share

1312. Jābir bin ‘Abdullāh narrated that Allāh’s Prophet ﷺ said: “Whoever has a partner in an orchard, then he is not to sell his share of that until he proposes that to his partner.” (*Ṣaḥīḥ*)

[Abū ‘Eīsā said:] The chain of this *Hadīth* is not connected. I heard Muḥammad bin Ismā‘īl saying: It is said that “Sulaimān Al-Yashkurī: died during the lifetime of Jābir bin ‘Abdullāh.” He said: “And Qatādah did not hear from him, nor did Abū Bishr.” Muḥammad said: “We do not know of any of them hearing from Sulaimān Al-Yashkurī, except that ‘Amr bin Dīnār possibly heard from him during the lifetime of Jābir bin ‘Abdullāh.” He said: “Qatādah only narrated from a writing of Sulaimān Al-Yashkurī, and he had a book from Jābir bin ‘Abdullāh.”

Abū Bakr Al-‘Aṭṭār ‘Abdul-Quddūs narrated to us, he said: “Alī bin Al-Madīnī said: ‘Yaḥya bin Sa‘eed said: “Sulaimān At-Taymī said: ‘They went with the book of Jābir bin ‘Abdullāh to Al-Ḥasan Al-Baṣrī and he took it’ – or

(المعجم ٧١) - بَابُ مَا جَاءَ فِي أَرْضِ  
الْمُشْتَرِكِ يُرِيدُ بَعْضُهُمْ بَيْعَ نَصِيبِهِ  
(التحفة ٧١)

١٣١٢ - حَدَّثَنَا عَلِيُّ بْنُ خَشْرَمٍ: حَدَّثَنَا  
عَيْسَى بْنُ يُونُسَ عَنْ سَعِيدٍ، عَنْ قَتَادَةَ، عَنْ  
سُلَيْمَانَ الْيَشْكُرِيِّ، عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ أَنَّ  
نَبِيَّ اللَّهِ ﷺ قَالَ: «مَنْ كَانَ لَهُ شَرِيكٌ فِي  
حَائِطٍ، فَلَا يَبِيعُ نَصِيبَهُ مِنْ ذَلِكَ حَتَّى يَعْرِضَهُ  
عَلَى شَرِيكِهِ».

[قَالَ أَبُو عَيْسَى:] هَذَا حَدِيثٌ إِسْنَادُهُ  
لَيْسَ بِمُتَّصِلٍ سَمِعْتُ مُحَمَّدًا يَقُولُ: سُلَيْمَانُ  
الْيَشْكُرِيُّ، يُقَالُ: إِنَّهُ مَاتَ فِي حَيَاةِ جَابِرِ بْنِ  
عَبْدِ اللَّهِ. قَالَ: وَلَمْ يَسْمَعْ مِنْهُ قَتَادَةُ وَلَا أَبُو  
بِشْرٍ. قَالَ مُحَمَّدٌ: وَلَا نَعْرِفُ لِأَحَدٍ مِنْهُمْ  
سَمَاعًا مِنْ سُلَيْمَانَ الْيَشْكُرِيِّ، إِلَّا أَنْ يَكُونَ  
عَمْرُو بْنُ دِينَارٍ، فَلَعَلَّهُ سَمِعَ مِنْهُ فِي حَيَاةِ  
جَابِرِ بْنِ عَبْدِ اللَّهِ قَالَ: وَإِنَّمَا يَحْدُثُ قَتَادَةُ  
عَنْ صَحِيفَةِ سُلَيْمَانَ الْيَشْكُرِيِّ. وَكَانَ لَهُ  
كِتَابٌ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ.

حَدَّثَنَا أَبُو بَكْرِ الْعَطَّارُ عَبْدُ الْقُدُّوسِ قَالَ:  
قَالَ عَلِيُّ بْنُ الْمَدِينِيِّ: قَالَ يَحْيَى بْنُ سَعِيدٍ:  
قَالَ سُلَيْمَانُ التَّيْمِيُّ: ذَهَبُوا بِصَحِيفَةِ جَابِرِ بْنِ  
عَبْدِ اللَّهِ إِلَى الْحَسَنِ الْبَصْرِيِّ فَأَخَذَهَا، أَوْ

he said - ‘and they reported it. Then they took it to Qatādah and reported it, so they gave it to me but I did not report it [he said: ‘I refused it’]. This was narrated to us by Abū Bakr Al-‘Aṭṭār from ‘Alī bin Al-Madīnī.

قَالَ فَرَوَاهَا، وَذَهَبُوا بِهَا إِلَى قَتَادَةَ فَرَوَاهَا،  
وَأَتُونِي بِهَا فَلَمْ أَرَوْهَا [يَقُولُ: رَدَدْتُهَا].  
حَدَّثَنَا بِذَلِكَ أَبُو بَكْرٍ الْعَطَّارُ عَنْ عَلِيِّ بْنِ  
الْمَدِينِيِّ.

تخريج: [صحيح] وأخرجه أحمد: ٣/٣٥٧ من حديث سعيد بن أبي عروبة به ورواه مسلم، ح: ١٦٠٨ من حديث جابر بن عبد الله به وصححه الحاكم: ٥٦/٢ ووافقه الذهبي \* قول سليمان التيمي: سنده صحيح.

**Comments:**

It is proven by this narration that a share holder in a property cannot sell his share until he consults his co-share holder regarding this issue. If the share is sold out without the consent of co-shareholder, he keeps the right of preemption.

**Chapter 72. What Has Been Related About *Al-Mukhābarah* And *Al-Mu‘āwamah***

(المعجم ٧٢) - بَابُ مَا جَاءَ فِي  
الْمُخَابَرَةِ وَالْمُعَاوَمَةِ (التحفة ٧٢)

1313. Abū Az-Zubair narrated from Jābir that the Prophet ﷺ prohibited *Al-Muḥāqalah*, *Al-Muzābanah*, *Al-Mukhābarah*, and *Al-Mu‘āwamah*, and he permitted it in the case of *Al-‘Arāyā*. (*Ṣaḥīḥ*)

١٣١٣ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا  
عَبْدُ الْوَهَّابِ الثَّقَفِيُّ: حَدَّثَنَا أَيُّوبُ عَنْ أَبِي  
الرُّبَيْرِ، عَنْ جَابِرٍ: أَنَّ النَّبِيَّ ﷺ نَهَى عَنِ  
الْمُحَاقَلَةِ وَالْمُزَابَنَةِ وَالْمُخَابَرَةِ وَالْمُعَاوَمَةِ،  
وَرَخَّصَ فِي الْعَرَايَا.

[Abū ‘Eīsā said:] This *Hadīth* is *Hasan Ṣaḥīḥ*.

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، البيوع، باب النهي عن المحاقلة والمزابنة... إلخ، ح: ٨٥/١٥٣٦ من حديث أيوب السختياني به ورواه البخاري، ح: ٢٣٨١ من حديث جابر.

**Comments:**

“*Al-Muḥāqalah*” is selling un-harvested grain in the field in exchange for harvested grain like wheat. “*Al-Muzābanah*” is selling an estimated amount of fresh dates on the tree for dried dates that are measured, or the same for grapes. “*Al-Mukhābarah*” is renting land in exchange for a portion of its produce. Making an exception in a sale means to make an exception for one item among those purchased without telling the purchaser that seller did not include that item, or the like. *Mu‘āwamah* is selling two or three years worth of produce in advance. In “*Al-Muḥāqalah*” and “*Al-Muzābanah*” there is a chance of ending up with less or more of the produce which comes under *Ribā*, so it is unlawful. In the form of *Mukhābarah* and *Mu‘āwamah*, deceiving and cheating are involved so it is also unlawful. See *Tuḥfat Al-Aḥwadhī* and *An-Nihāyah*.

### Chapter 73. What Has Been Related About Price Fixing<sup>[1]</sup>

1314. Anas narrated: “Prices became excessive during the time of the Messenger of Allāh ﷺ, so they said: ‘O Messenger of Allāh! Set prices for us!’ So he said: ‘Indeed Allāh is *Al-Musa‘ir*,<sup>[2]</sup> *Al-Qābid*, *Al-Bāsiṭ*,<sup>[3]</sup> *Ar-Razzāq*. And I am hopeful that I meet my Lord and none of you are seeking (recompense from) me for an injustice involving blood or wealth.’” (*Ṣaḥīḥ*)

[Abū ‘Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

(المعجم ٧٣) - بَابُ [مَا جَاءَ فِي

التَّسْعِيرِ] (التحفة ٧٣)

١٣١٤ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا الْحَجَّاجُ بْنُ مِنْهَالٍ: حَدَّثَنَا حَمَادُ بْنُ سَلَمَةَ عَنْ قَتَادَةَ. وَثَابِتٍ وَحُمَيْدٍ عَنْ أَنَسٍ، قَالَ: عَلَا السُّعْرُ عَلَى عَهْدِ رَسُولِ اللَّهِ ﷺ، فَقَالُوا: يَا رَسُولَ اللَّهِ! سَعَّرَ لَنَا فَقَالَ: «إِنَّ اللَّهَ هُوَ الْمُسَعِّرُ الْقَابِضُ الْبَاسِطُ الرَّزَّاقُ، وَإِنِّي لَأَرْجُو أَنْ أَلْقَى رَبِّي وَلاَ يَسْأَلُنِي أَحَدٌ مِنْكُمْ بِطُلُبِي بِمَظْلَمَةٍ فِي دَمٍ وَلاَ مَالٍ».

[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ حَسَنٌ

صَحِيحٌ.

تخريج: [إسناده صحيح] وأخرجه ابن ماجه، التجارات، باب من كره أن يسعر، ح: ٢٢٠٠ من حديث الحجاج بن منهل، وأبو داود، ح: ٣٤٥١ من حديث حماد بن سلمة به، وصححه ابن حبان (الإحسان): ٤٩١٤ وأورده الضياء في المختارة: ٢٨/٥، ٢٩، ح: ١٦٣١، ١٦٣٢.

#### Comments:

Rates of the market depend on demand and supply. If the required commodity is in surplus and freely available in the market the rate will drop. It is the duty of the buyer to be careful and observant and he should not buy more than his need, and it is better if the purchase of the item at the period of scarcity is avoided. This kind of behaviour of the customers can keep the price at a reasonable level. Deciding and fixing the rates of the commodities by the government is not the solution of the issue of high rates. Most of the scholars, in the light of various *Ṣaḥīḥ* narrations, disapproved the fixing of rates. (*Tuḥfat Al-Aḥwadhī*. v. 2. p272.)

[1] That is when the authorities set a price limit on goods. See *Tuḥfat Al-Aḥwadhī*.

[2] In *An-Nihāyah* he said: ‘It is that He is the One who makes things inexpensive and expensive, He cannot be opposed by anyone. So because of that, it is not allowed to fix prices.’ (*Tuḥfat Al-Aḥwadhī*).

[3] Meaning: He restricts sustenance and other than that from whom He wills, regarding what He wills, and how He wills, and He makes it unrestricted. (*Tuḥfat Al-Aḥwadhī*).

### Chapter 74. What Has Been Related About Cheating In Sales Is Disliked

1315. Abū Hurairah narrated that the Messenger of Allāh ﷺ passed by a pile of food. He put his fingers in it and felt wetness. He said: 'O owner of the food! What is this?' He replied: 'It was rained upon O Messenger of Allāh.' He said: 'Why not put it on top of the food so the people can see it?' Then he said: 'Whoever cheats, he is not one of us.'" (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Ibn 'Umar, Abū Al-Ḥamrā', Ibn 'Abbās, Buraidah, Abū Burdah bin Niyār, and Ḥudhaifah bin Al-Yamān.

[Abū 'Eisā said:] The *Hadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Hadīth*. This is acted upon according to the people of knowledge. They dislike cheating and they say that cheating is unlawful.

(المعجم ٧٤) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ  
الْغِشِّ فِي الْبَيْعِ (التحفة ٧٤)

١٣١٥ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا  
إِسْمَاعِيلُ بْنُ جَعْفَرٍ عَنِ الْعَلَاءِ بْنِ عَبْدِ  
الرَّحْمَنِ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ: أَنَّ  
رَسُولَ اللَّهِ ﷺ مَرَّ عَلَى صُبْرَةٍ مِنْ طَعَامٍ،  
فَأَذْخَلَ يَدَهُ فِيهَا، فَتَأَلَّتْ أَصَابِعُهُ بَلَلًا. فَقَالَ:  
«يَا صَاحِبَ الطَّعَامِ مَا هَذَا؟!» قَالَ: أَصَابَتْهُ  
السَّمَاءُ، يَا رَسُولَ اللَّهِ! قَالَ: «أَفَلَا جَعَلْتَهُ  
فَوْقَ الطَّعَامِ حَتَّى يَرَاهُ النَّاسُ؟» ثُمَّ قَالَ: «مَنْ  
غَشَّ فَلَيْسَ مِنَّا».

[قَالَ:] وَفِي الْبَابِ عَنِ ابْنِ عُمَرَ وَأَبِي  
الْحَمْرَاءِ وَابْنِ عَبَّاسٍ وَبُرَيْدَةَ وَأَبِي بُرْدَةَ بْنِ  
نِيَّارٍ وَحُدَيْفَةَ بْنِ الْيَمَانِ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ  
حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هَذَا عِنْدَ  
أَهْلِ الْعِلْمِ كَرِهُوا الْغِشَّ، وَقَالُوا: الْغِشُّ  
حَرَامٌ.

تخريج: وأخرجه مسلم، الإيمان، باب قول النبي ﷺ: "من غشنا فليس منا"، ح: ١٠٢ عن علي بن حجر به \* وفي الباب عن ابن عمر [أحمد: ٥٠/٣] وأبي الحمراء [ابن ماجه، ح: ٢٢٢٥] وابن عباس [الطبراني في الكبير: ٢٢١/١١]، ح: ١١٥٥٣] وبريدة [حارث بن أبي أسامة/المطالب العالية: ٧١/٣، ح: ٢٩٠٥] وأبي بردة بن دينار [أحمد: ٤٦٦/٣، ٤٥/٤] وحذيفة بن اليمان [الطبراني في الأوسط: ٥٢٩/١، ح: ٩٩٧].

#### Comments:

Cheating, deceiving and breaching the trust is against the faith, well being, and trust of the society. Therefore, the one who hides the defects and drawbacks of sale commodities acts against the norms of Islam. That is why the Prophet ﷺ said, "He is not from us."

### Chapter 75. What Has Been Related About Taking A Camel Or Other Animals On Loan

**1316.** Abū Hurairah narrated: "The Messenger of Allāh ﷺ took a camel of a particular age on loan. He gave back to him a camel of a better age than the one he was given. He said: 'The best among you is the best in repaying.'" (*Ṣaḥīḥ*)

[He said:] There is something on this topic from Abū Rāfi'.

[Abū 'Eisā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Ḥadīth*. *Shu'bah* and *Sufyān* reported it from *Salamah*.

This is acted upon according to some of the people of knowledge, they saw no harm in taking a camel of a particular age as a loan. This is the view of *Ash-Shāfi'i*, *Aḥmad*, and *Ishāq*. But some of them disliked that.

**تخریج:** متفق علیه، وأخرجه مسلم، المساقاة، باب جواز اقتراض الحيوان واستحباب توفيته خيراً مما عليه، ح: ١٦٠١ عن أبي كريب والبخاري، ح: ٢٣٠٥ من حديث سلمة بن كهيل به \* وفي الباب عن أبي رافع [يأتي: ١٣١٨].

#### Comments:

Obtaining an animal on the condition that it will be returned in the form of an animal is lawful, and returning a better animal without any prior commitment is also approved. Most of the scholars and *Imām Shāfi'i*, *Mālik* and *Aḥmad* approve of this deal in the light of the *Ṣaḥīḥ* narration.

**1317.** Abū Hurairah narrated: "A man behaved in a rude manner while trying to collect a debt from the Messenger of Allāh ﷺ. So his Companions were about to harm him. The Messenger of Allāh ﷺ

(المعجم ٧٥) - بَابُ مَا جَاءَ فِي اسْتِقْرَاضِ الْبَعِيرِ أَوْ الشَّيْءِ مِنْ الْحَيَوَانِ [أَوْ السِّنِّ] (التحفة ٧٥)

١٣١٦ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا وَكَيْعٌ عَنْ عَلِيِّ بْنِ صَالِحٍ، عَنْ سَلْمَةَ بْنِ كَهَيْلٍ، عَنْ أَبِي سَلْمَةَ، عَنْ أَبِي هُرَيْرَةَ قَالَ: اسْتَقْرَضَ رَسُولُ اللَّهِ ﷺ سِنًا فَأَعْطَاهُ سِنًا خَيْرًا مِنْ سِنِّهِ وَقَالَ: «خِيَارُكُمْ أَحَاسِنُكُمْ قَضَاءً».

[قَالَ:] وَفِي الْبَابِ عَنْ أَبِي رَافِعٍ.  
[قَالَ أَبُو عِيْسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَقَدْ رَوَاهُ شُعْبَةُ وَسُفْيَانُ عَنْ سَلْمَةَ. وَالْعَمَلُ عَلَى هَذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، لَمْ يَرَوْا بِاسْتِقْرَاضِ السِّنِّ بَأْسًا مِنَ الْإِبْلِ. وَهُوَ قَوْلُ الشَّافِعِيِّ وَأَحْمَدَ وَإِسْحَاقَ. وَكَرِهَ بَعْضُهُمْ ذَلِكَ.

١٣١٧ - حَدَّثَنَا مُحَمَّدُ بْنُ الْمُثَنَّى: حَدَّثَنَا وَهْبُ بْنُ جَرِيرٍ: حَدَّثَنَا شُعْبَةُ عَنْ سَلْمَةَ بْنِ كَهَيْلٍ، عَنْ أَبِي سَلْمَةَ، عَنْ أَبِي هُرَيْرَةَ: أَنَّ رَجُلًا تَقَاضَى رَسُولَ اللَّهِ ﷺ فَأَعْلَطَ لَهُ، فَهَمَّ

said: 'Leave him, for indeed the owner of the right has the right to speak.' Then he said: 'Purchase a camel for him and give it to him.' So they searched but they did not find a camel but of a better age than his camel. So he said: 'Buy it and give it to him. For indeed the best of you is the best in repaying.'" (*Ṣaḥīḥ*)

(Another chain of narration with similar meaning)

[Abū 'Eisā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

تخریج: متفق عليه، وأخرجه البخاري، الوكالة، باب الوكالة في قضاء الديون، ح: ٢٣٠٦، ومسلم، ح: ١٦٠١ من حديث شعبة به.

### Comments:

A creditor has the right to ask for the return of his debt. In this connection, if the debtor has the ability to return the amount but he makes lame excuses and delays the payment, the lender has the right to press him through society, and can take him to court. In the context of this narration, the lender had no genuine reason to utter harsh words to the Prophet ﷺ, but as the occasion arose, the Prophet ﷺ explained the details of the issue, and the behaviour of the Muslims as it ought to be in such situations.

**1318.** Abū Rāfi', the freed slave of the Messenger of Allāh ﷺ narrated: "The Messenger of Allāh got a camel on advance. Some camels came from the charity." Abū Rāfi' said: "So the Messenger of Allāh ﷺ told me to pay the man back for his camel. I said: 'I did not find among the camels but a superior selection of *Rabā'*".<sup>[1]</sup> the Messenger of Allāh ﷺ said: 'Give it to him, for indeed the best of people is the best of them in repaying.'" (*Ṣaḥīḥ*)

[Abū 'Eisā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

بِهِ أَصْحَابُهُ. فَقَالَ رَسُولُ اللَّهِ ﷺ: «دَعُوهُ، فَإِنَّ لِصَاحِبِ الْحَقِّ مَقَالًا» ثُمَّ قَالَ: «اشْتَرُوا لَهُ بَعِيرًا، فَأَعْطُوهُ إِيَّاهُ» فَطَلَبُوهُ فَلَمْ يَجِدُوا إِلَّا سَيْنًا أَفْضَلَ مِنْ سِينِهِ. فَقَالَ: «اشْتَرُوهُ فَأَعْطُوهُ إِيَّاهُ، فَإِنَّ خَيْرَكُمْ أَحْسَنُكُمْ قَضَاءً».

حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ: حَدَّثَنَا شُعْبَةُ عَنْ سَلَمَةَ بْنِ كُهَيْلٍ، نَحْوَهُ. [قَالَ أَبُو عِيْسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

١٣١٨ - حَدَّثَنَا عَبْدُ بْنُ حُمَيْدٍ: حَدَّثَنَا رَوْحُ بْنُ عُبَادَةَ: حَدَّثَنَا مَالِكُ بْنُ أَنَسٍ عَنْ زَيْدِ ابْنِ أَسْلَمَ، عَنْ عَطَاءِ بْنِ يَسَارٍ، عَنْ أَبِي رَافِعٍ مَوْلَى رَسُولِ اللَّهِ ﷺ قَالَ: اسْتَسَلَفَ رَسُولُ اللَّهِ ﷺ بَكْرًا. فَجَاءَتْهُ إِبِلٌ مِنَ الصَّدَقَةِ. قَالَ أَبُو رَافِعٍ: فَأَمَرَنِي رَسُولُ اللَّهِ ﷺ أَنْ أَقْضِيَ الرَّجُلَ بَكْرَهُ. فَقُلْتُ: لَا أَحِذُ فِي الْإِبِلِ إِلَّا جَمَلًا خَيْرًا رَبَاعِيًّا، فَقَالَ رَسُولُ اللَّهِ ﷺ: «أَعْطِهِ إِيَّاهُ، فَإِنَّ خَيْرَ النَّاسِ أَحْسَنُهُمْ قَضَاءً».

[قَالَ أَبُو عِيْسَى:] هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

[1] A camel that has entered its seventh year. See *Tuhfat Al-Ahwadhī* and *An-Nihāyah*.



**تخریج:** وأخرجه مسلم، المساقاة، باب جواز اقتراض الحيوان واستحباب توفيته خيراً مما عليه، ح: ١٦٠٠ من حديث مالك به وهو في الموطأ: ٦٨٠/٢.

**Comments:**

If the Prophet ﷺ had borrowed the camel for his personal need, he returned it after purchase, from the camels of charity, as it is clear from the narration of Abū Hurairah. If he borrowed it for fulfilling the needs of Muslims, a better camel was returned to him from the camels of the charity.

**Chapter (...)** What Has Been Related About Tolerance In Selling, Buying, And Repaying

(المعجم...) **بَابُ [مَا جَاءَ فِي سَمَحِ الْبَيْعِ وَالشِّرَاءِ وَالْقَضَاءِ]** (التحفة ٧٦)

**1319.** Abū Hurairah narrated that the Messenger of Allāh ﷺ said: “Indeed Allāh loves tolerance in selling, tolerance in buying, and tolerance with repaying.” (*Da‘if*)

١٣١٩ - أَخْبَرَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا إِسْحَاقُ بْنُ سَلِيمَانَ [الرَّازِيُّ] عَنْ مُعِينَةَ بْنِ مُسْلِمٍ، عَنْ يُونُسَ، عَنِ الْحَسَنِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: «إِنَّ اللَّهَ يُحِبُّ سَمَحَ الْبَيْعِ، سَمَحَ الشِّرَاءِ، سَمَحَ الْقَضَاءِ». [قَالَ: وَفِي الْبَابِ عَنْ جَابِرٍ].  
[قَالَ أَبُو عِيسَى:] هَذَا حَدِيثٌ غَرِيبٌ. وَقَدْ رَوَى بَعْضُهُمْ هَذَا الْحَدِيثَ، عَنْ يُونُسَ، عَنْ سَعِيدِ الْمُقْبَرِيِّ، عَنْ أَبِي هُرَيْرَةَ.

[He said: There is something on this topic from Jābir.]

[Abū ‘Eisā said:] This *Hadīth* is *Gharīb*. Some of them reported this *Hadīth* from Yūnus, from Sa‘eed Al-Maqburī, from Abū Hurairah.

**تخریج:** [إسناده ضعيف] \* يونس بن عبيد مدلس وعنن وللحديث لون آخر ضعيف عند الحاكم: ٥٦/٢ وصححه ووافقه الذهبي \* وفي الباب عن جابر [يأتي: ١٣٢٠] يغني عنه.

**Comments:**

In the light of this narration, a Muslim’s behavior as a buyer, seller, and in mutual dealings has been described. It is required to be tolerant in all kinds of commercial dealings. One should be truthful, easy and kind to the other party. Defects and drawbacks as well as good quality of the sale commodity should be made clear before the sale. Measure and weight should always be in favor of the customer. The lender is required to be easy and kind with the poor and needy debtor. He should be given time for repayment.

**1320.** Jābir narrated that the Messenger of Allāh ﷺ said: “Allāh forgave a man who was before you: He was tolerant when selling, tolerant when purchasing, and tolerant when repaying.” (*Hasan*)

١٣٢٠ - حَدَّثَنِي عَبَّاسُ بْنُ مُحَمَّدٍ الدُّورِيُّ: حَدَّثَنَا عَبْدُ الْوَهَّابِ بْنُ عَطَاءٍ: حَدَّثَنَا إِسْرَائِيلُ عَنْ زَيْدِ بْنِ عَطَاءِ بْنِ السَّائِبِ، عَنْ مُحَمَّدِ بْنِ الْمُكَدِّرِ، عَنْ جَابِرِ

[He said:] This *Hadīth* is *Gharīb Ṣaḥīḥ Ḥasan* from this route.

قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «غَفَرَ اللَّهُ لِرَجُلٍ كَانَتْ قَبْلَكُمْ، كَانَ سَهْلًا إِذَا بَاعَ، سَهْلًا إِذَا اشْتَرَى، سَهْلًا إِذَا اقْتَضَى».

[قَالَ:] هَذَا حَدِيثٌ غَرِيبٌ صَحِيحٌ حَسَنٌ مِنْ هَذَا الْوَجْهِ.

تخريج: [إسناده حسن] وأخرجه أحمد: ٣/٣٤٠ عن عبد الوهاب به ورواه البخاري، ح: ٢٠٧٦ من حديث محمد بن المنكدر به.

**Comments:**

It appears from a unanimously agreed upon *Ṣaḥīḥ* narration, that one should be tolerant in buying, tolerant in selling and tolerant in repayment. His behaviour with people should be commendable, he must give time to people for repayment, and he must remit the debts of poor and needy.

**Chapter 76. The Prohibition Of Selling In The Masjid**

(المعجم ٧٦) - بَابُ التَّهْيِ عَنِ الْبَيْعِ فِي الْمَسْجِدِ (التحفة ٧٧)

1321. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: “When you see someone selling or buying in the *Masjid* then say: ‘May Allāh not profit your business.’ And when you see someone announcing about something lost then say: ‘May Allāh not return it to you.’” (*Ṣaḥīḥ*)

The *Hadīth* of Abū Hurairah is *Ḥasan Gharīb*. This is acted upon according to some of the people of knowledge. They dislike selling and buying in the *Masjid*. This is the view of Aḥmad and Ishāq. Some of the people of knowledge permitted selling and buying in the *Masjid*.

١٣٢١ - حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا عَارِمٌ: حَدَّثَنَا عَبْدُ الْعَزِيزِ بْنُ مُحَمَّدٍ: أَخْبَرَنَا يَزِيدُ بْنُ خُصَيْفَةَ عَنْ مُحَمَّدِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ ثَوْبَانَ، عَنْ أَبِي هُرَيْرَةَ أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: «إِذَا رَأَيْتُمْ مَنْ يَبِيعُ أَوْ يَتَّاعُ فِي الْمَسْجِدِ، فَقُولُوا: لَا أَرَبَّحَ اللَّهُ تِجَارَتَكَ، وَإِذَا رَأَيْتُمْ مَنْ يَنْشُدُ فِيهِ ضَالَّةً فَقُولُوا: لَا رَدَّ اللَّهُ عَلَيْكَ».

حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ غَرِيبٌ، وَالْعَمَلُ عَلَى هَذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، كَرَهُوا الْبَيْعَ وَالشِّرَاءَ فِي الْمَسْجِدِ. وَهُوَ قَوْلُ أَحْمَدَ وَإِسْحَاقَ. وَقَدْ رَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ، فِي الْبَيْعِ وَالشِّرَاءِ فِي الْمَسْجِدِ.

تخريج: [إسناده صحيح] وأخرجه النسائي في عمل اليوم والليلة، ح: ١٧٦ من حديث عبدالعزیز الدرادردي به وصححه ابن خزيمة، ح: ١٣٠٥ وابن حبان، ح: ٣١٣ والحاكم على شرط مسلم: ٥٦/٢ ووافقه الذهبي ورواه مسلم، ح: ٥٦٨ من حديث أبي هريرة.

**Comments:**

Mosques are Houses of Allāh, people go to mosques for performing obligatory prayers, remembrance of Allāh and recitation of the Qur'ān. If the dealings of the worldly affairs were permitted in the mosques, the real purpose of mosques would have suffered, therefore, it is not allowed in the mosques.