

What is the ruling of Stipulating Punctuality in Salah as Mahr?

Darulifta Ahlesunnat (Dawateislami)

Question

What do the noble scholars and jurists of Islamic law say about the following: In place of mahr, can it be stipulated that the husband must remain punctual in his salah till he is alive and he can never miss a salah?

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
الْجَوَابُ بِعَوْنِ الْمَلِكِ الْوَهَّابِ اللَّهُمَّ هِدَايَةَ الْحَقِّ وَالصَّوَابِ

It is necessary for the mahr to be 'Mal Mutaqawwim' (things with monetary value). That which isn't Mal Mutaqawwim cannot be mahr. Therefore, it is invalid to mention remaining punctual in salah and not missing any salah as the mahr as this isn't Mal, let alone being Mutaqawwim. Furthermore, if a mahr was stipulated and it was at least 10 dirhams i.e. 2 tola 7.5 mashah of silver or its price was more than this and along with it, the matter of salah was also mentioned, in this case the mahr will be the monetary amount which was decided. If no mahr was decided at all, or what was decided is less than the value of 10 dirhams, in this case 'Mahr Misl' is wajib upon the man. Mahr Misl refers that the mahr which was decided for the women on the bride's father's side who are like her, such as her sister, aunt (father's sister), cousins (paternal uncle's daughters). The mahr decided for them will be the Mahr Misl for this woman.

It should be clear that it is fard upon every Muslim to be punctual in offering their salah and leaving it purposefully or offering it after its stipulated time is impermissible and a sin.

Allah Almighty states:

﴿وَأَحِلَّ لَكُمْ مَا وَرَاءَ ذَلِكَ أَنْ تَبْتَغُوا بِأَمْوَالِكُمْ مُحْصِنِينَ غَيْرَ مُسْفِحِينَ فَمَا اسْتَمْتَعْتُمْ بِهِ مِنْهُنَّ فَآتُوهُنَّ أُجُورَهُنَّ فَرِيضَةً﴾

Translation (Kanz-Ul-'Irfan): And apart from them (prohibited women mentioned above), lawful for you are the women that you seek to marry with your wealth, not to fornicate with them. So, the

women you desire to marry, give them their specified bridal gift (mahr). (Para 5, Surah Al-Nisa', Verse 24)

It is stated in Tafsirat Ahmadiyah and Tafsir Nasafi in the explanation of this verse:

فيه دليل على ان النكاح لا يكون الا بمهر وان لم يسم وان غير المال لا يصلح مهرا

Translation: This verse proves that nikah occurs only with mahr and mahr will become wajib even if it isn't discussed. Non-wealth isn't eligible to become a mahr. (Tafsir Nasafi, Vol. 1, p. 348, Publ. Beirut)

It is stated in Al-Mabsoot:

اشترط صفة المالية في الصداق ثابت بالنص وهو قوله تعالى: ﴿أَنْ تَبْتَغُوا بِأَمْوَالِكُمْ﴾

(Al-Mabsoot, Vol. 5, p. 106, Publ. Beirut)

It is stated in Durar Al-Hukkam:

أن المشروع هو الابتغاء بالمال المتقوم والتعليم ليس بمال فضلا عن التقوم

(Durar Al-Hukkam, Vol. 1, p. 342, Publ. Beirut)

It is stated in Fatawa Alamgiri regarding the amount of mahr:

اقل المهر عشرة دراهم مضروبة او غير مضروبة -- وغير الدراهم يقوم مقامها باعتبار القيمة وقت العقد في ظاهر الرواية

(Fatawa 'Alamgiri, Vol. 1, p. 302, Publ. Beirut)

Faqeeh-e-Millat, Mufti Jalal-Uddin Amjadi رحمه الله تعالى عليه states:

دس درہم چاندی دو تولہ ساڑھے سات ماشہ کے برابر ہوتی ہے، لہذا اتنی چاندی نکاح کے وقت بازار میں جتنے کی ملے کم سے کم اتنے روپے کا مہر ہو سکتا ہے، اس سے کم نہیں ہو سکتا۔

Translation: 10 dirhams of silver is equivalent to 2 tola and 7.5 mashah. Therefore, the minimum of mahr can be the amount for which this much silver is available in the market at the time of nikah, no less than this. (Fatawa Faiz-Ur-Rasool, Vol. 1, p. 712, Publ. Shabir Brothers, Lahore)

It is stated in Radd Al-Muhtar:

يجب مهر المثل فيما لوتز وجها على ان يعلمها القرآن او نحوه من الطاعات لان المسمى ليس بمال

(Radd Al-Muhtar, Vol. 3, p. 107, Publ. Beirut)

Sadr al-Shari'ah, Mufti Muhammad Amjad Ali A'zami رحمه الله تعالى عليه states:

جو چیز مالِ متقوم نہیں وہ مہر نہیں ہو سکتی اور مہرِ مثل واجب ہوگا، مثلاً: مہر یہ ٹھہرا کہ آزاد شوہر عورت کی سال بھر خدمت کرے گا یا یہ کہ اسے قرآن مجید یا علمِ دین پڑھا دے گا یا حج و عمرہ کرا دے گا۔

Translation: That which isn't Mal Mutaqawwim cannot become mahr and mahr misl will become wajib. For example, if it was decided that a free man will serve the wife for a year, he will teach her Qur'an or Islamic knowledge or have her offer hajj or 'umrah.

(Bahar-e-Shari'at, Vol. 2, p. 65, Publ. Maktaba-Tul-Madinah, Karachi)

Sadr Al-Shari'ah رحمۃ اللہ تعالیٰ علیہ further states about mahr misl:

عورت کے خاندان کی اُس جیسی عورت کا جو مہر ہو، وہ اُس کے لیے مہرِ مثل ہے، مثلاً: اس کی بہن، پھوپھی، چچا کی بیٹی وغیرہ کا مہر۔

Translation: The mahr of the women like her from her family will become her mahr misl. Such as the mahr of her sister, aunt (father's sister), cousin (paternal uncle's daughter), etc. (Bahar-e-Shari'at, Vol. 2, p. 71, Publ. Maktaba-Tul-Madinah, Karachi)

وَاللّٰهُ اَعْلَمُ عَزَّوَجَلَّ وَرَسُوْلُهُ اَعْلَمُ صَلَّى اللّٰهُ تَعَالٰی عَلَیْهِ وَاٰلِهٖ وَسَلَّم

(Allah Almighty knows best and His Messenger صَلَّى اللّٰهُ عَلَیْهِ وَاٰلِهٖ وَسَلَّم knows best.)

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