Selling Gold Jewellery On Credit In Islam

Darulifta Ahlesunnat

(Dawateislami)

Question

What do the scholars of Islam say about the following issue: If someone sells gold jewellery which has been specified in exchange for currency notes on credit, in such a way that the duration and value are agreed upon, but neither is the jewellery handed over to the buyer nor is the money received in the same gathering of the transaction, and said gathering came to an end; will this contract be considered valid, sinful, or something else?

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِيْمِ

اَلْجَوَابُ بِعَوْنِ الْمَلِكِ الْوَهَّابِ اَللّٰهُمَّ هِدَايَةَ الْحَقِّ وَالصَّوَابِ

Selling in the manner described in the question is permissible in Islamic law, and there is no objection to it. The explanation is as follows:

There is a difference between gold and silver coins, and gold and silver jewellery. Dinars and dirhams are not specified in the agreement, and they are a liability upon the parties involved. Whilst purchasing, if someone asks to purchase a certain thing in exchange for this dinar, he can later give another dinar in place of the first one, as the particular dinar is not specified. Yet, when it comes to gold and silver jewellery, it is not a matter of being in one's liability. Rather, this is specified in the agreement. As a result, the exact item mentioned in the agreement must be handed over.

According to this explanation, when exchanging dinars and dirhams with currency notes, since both are not specified in the agreement but are liabilities instead, it becomes necessary for at least one side to give possession before the parties separate. Failure to do so would lead to both parties being indebted to each other, and in this situation, it would necessitate بیع الکالئ بالکالئ or افتراق عن دین بدین, both of which have been prohibited in hadith.

If gold and silver jewellery are exchanged with currency notes, then even if there is no possession from either side, it would not result in بیع الکالئ بالکالئ or افتراق عن دین بدین, because although the currency notes will be a debt, the jewellery will not be as it is specified. This will be considered افتراق عن دین بعین, i.e. to separate from the gathering while specifying one thing and leaving a debt on the other side, which is Islamically permissible.

It is narrated from the Companion ʿAbdullāh b. ʿUmar رَضِیَ اللّٰہُ عَنْہُ:

أن النبی صلی اللہ علیہ وسلم نهی عن بیع الکالئ بالکالئ

The Prophet صَلَّی اللّٰہُ عَلَیْہِ وَاٰلِہٖ وَسَلَّم forbade transacting a debt in exchange for a debt."[1]

The leading scholar, Imam Sarkhasī رَحْمَۃُ اللّٰہِ عَلَیْہ writes:[2]

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[1] *Sunan Daraqutni, vol. 4, p. 40, Muassasat al-Risala, Beirut*

[2] *Mubsut lil al- Sarkhasī, vol. 14, pp. 24-25, Dar al-Ma'rifah, Beirut*

وإذا اشترى الرجل فلوسا بدراهم ونقد الثمن، ولم تكن الفلوس عند البائع فالبيع جائز، لأن الفلوس الرائجة ثمن كالنقود.....وبيع الفلوس بالدراهم ليس بصرف، وكذلك لو افترقا بعد قبض الفلوس قبل قبض الدراهم،.....فالفلوس الرائجة بمنزلة الأثمان، لاصطلاح الناس على كونها ثمنا للأشياء فإنما يتعلق العقد بالقدر المسمى منها في الذمة، ويكون ثمنا، عين أو لم يعين كما في الدراهم والدنانير، وإن لم يتقابضا حتى افترقا بطل العقد، لأنه دين بدين، والدين بالدين لا يكون عقدا بعد الافتراق.....وإن اشترى خاتم فضة أو خاتم ذهب فيه فص، أو ليس فيه فص بكذا فلسا، وليست الفلوس عنده فهو جائز إن تقابضا قبل التفرق أو لم يتقابضا، لأن هذا بيع، وليس بصرف فإنما افترقا عن عين بدين؛ لأن الخاتم يتعين بالتعين بخلاف ما سبق فإن الدراهم والدنانير لا تتعين بالتعيين؛ فلهذا شرط هناك قبض أحد البدلين في المجلس، ولم يشترط هنا

It is mentioned in *Al-Muḥīṭ al-Burhānī*:[3]

ولو باع تبر فضة بعينه بفلوس بغير أعيانها وتفرقا قبل أن يتقابضا فهو جائز، لأن التبر هاهنا بمنزلة العروض، فكأنه باع عرضاً بفلوس بغير أعيانها، وهناك لا يشترط التقابض كذا هاهنا وان لم يكن التبر عنده لم يجز بمنزلة ما لو باع عرضاً ليس عنده بفلوس

It is stated in *Baḥr al-Rāʾiq*, *Fatḥ al-Qadīr* and other books:[4]

المصوغ بسبب ما اتصل به من الصنعة لم يبق ثمنا صريحا، ولهذا يتعين في العقد

In *Baḥr al-Rāʾiq* it is mentioned:[5]

ودخل المصوغ من الذهب والفضة كالآنية تحت القيميات فتتعين بالتعيين للصفة

Imām Aḥmad Razā Khan رَحْمَةُ اللّٰهِ عَلَيْه writes:

المصوغ من الججرين ایضا لا یثبت دینا فی الذمة بل یتعین فی العقود کما تقدم عن البحر" ترجمہ: چاندی سونے کی گھڑی ہوئی چیز (مثلاً برتن یا گہنا) یہ بھی ذمہ پر دَین نہیں ہوتے بلکہ عقد میں متعین ہوجاتے ہیں، جیسا کہ بحر الرائق سے گزرا۔ (ت)

A silver- and gold-plated item (e.g., a vessel or jewellery) is also not a debt in one's liability. Rather, it is specified in the contract.[6]

Note (1): It should be clear that the question asked is related to the buying and selling of specific gold jewellery. However, there are many instances when specific gold jewellery is not being sold, but an agreement for the purchase and sale of unspecified gold is made. For example, a seller sells a gold chain, specifying the quality and weight, but the exact chain is not designated, and no handover is made in the gathering of the transaction from either side. The transaction instead remains on credit either side. This scenario is بیع الکالئ بالکالئ, which is unlawful and sinful, and has been prohibited in hadith. In this situation, due to افتراق عن دَین بدَین, i.e., separation of both parties without handover, such a contract becomes invalid, as is clear from the principles stated above.

Note (2): It should also be clear that in our society, there is a common practice where a person who wants to purchase a gold set or any other item goes to a goldsmith, and the latter shows them a sample of the jewellery. If the customer likes it, they ask the goldsmith to make the set according to a specific weight, and after a few days, he makes it accordingly and hands it over to them. This situation is different from the one described in the question and is related to بیع استصناع (purchase order contract), the details and conditions of which are

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[3] *Al-Muḥīṭ al-Burhānī, vol. 10, p. 412, Idarah al-Quran wa al-ʿUlūm al-Islamiyah*

[4] *Baḥr al-Rāʾiq, vol. 5, p. 257, Dar al-Kitab al-Islami*

[5] *Baḥr al-Rāʾiq, vol. 5, p. 299, Dar al-Kitab al-Islami*

[6] *Fatāwā al-Razawiyyah, vol. 17, p. 405, Raza Foundation, Lahore*

mentioned in another fatwa issued by Dar al-Ifta Ahl al-Sunnah. The link to that fatwa is provided below:

https://www.daruliftaahlesunnat.net/fatawa_tasheer/ur/970

وَاللہُ اَعْلَمُ عَزَّوَجَلَّ وَرَسُوْلُہ اَعْلَم صَلَّی اللہُ تَعَالٰی عَلَیْہِ وَاٰلِہٖ وَسَلَّم

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