

The Ruling on a Bribe Given as a Gift

Darulifta Ahlesunnat (Dawateislami)

Question

What do the scholars of Islam say regarding the following matter: Zayd gave a gift to Bakr as a bribe, but now Zayd has repented for this sin. Is it necessary to take back the gift he gave, or can he forgive it? What will be the ruling if the gift still exists or if it has been lost?

Answer

In Shariah, the person receiving something as a bribe does not become its owner. Instead, the owner remains the person to whom the item originally belonged. Therefore, in the situation mentioned, it is obligatory for Bakr—who took the bribe—to return Zayd's item to him. Zayd also has the right to demand his item back. However, if Zayd has now repented and wants to forgive the item for the person who took it, there are two situations:

1. If Bakr has already destroyed or used up the item, then Zayd can forgive it. Forgiving it would mean that the compensation (payment) that became due on Bakr for destroying the item is now waived and forgiven.
2. If the item still exists with Bakr, then Bakr will not become the owner even if Zayd forgives it. Instead, the item will still belong to Zayd. This is because an actual physical item itself is not "forgiven"; rather, a responsibility due from someone is pardoned. Therefore, if Zayd now wants to give that item into Bakr's ownership, he must gift (hibah) it anew. As soon as Bakr accepts it, the item will then come into Bakr's ownership.

Warning: It should be clear that taking or giving a bribe with the intention of using this method of gifting later will not make the bribe permissible. Instead, the bribe will remain forbidden (haram). This method will not provide an escape from the sin; in fact, in some cases, this gift itself will be called a bribe.

وَاللَّهُ أَعْلَمُ عَزَّ وَجَلَّ وَرَسُولُهُ أَعْلَمُ صَلَّى اللَّهُ تَعَالَى عَلَيْهِ وَآلِهِ وَسَلَّمَ

(Allah Almighty knows best and His Messenger صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ knows best.)

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