

she becomes clean after her menstruation, and if her pregnancy becomes apparent, she will be regarded as divorced irrevocably.

And Al-Ḥasan said: If a man says to his wife, "Go to your family," then his intention is to be taken into consideration.

And Ibn 'Abbās said: Divorce is only to be resorted to when it is very essential. But the manumission of slaves is recommended whenever it is meant for Allāh's sake.

And Az-Zuhrī said: If a man says (to his wife), "You are not my wife," then the verdict is to be given according to his intention, i.e. if he has intended a divorce, then it will be according to what he has intended.

And 'Ali said: Don't you know that the pen is raised from three (are exempted from the accounts): - an insane person till he becomes sane; a child till he reaches the age of puberty; and a sleeping person till he wakes up? 'Ali also said: All divorces are legally valid except that of a person who has no intelligence (e.g., insane or drunk).

5269. Narrated Abū Hurairah رَضِيَ اللهُ عَنْهُ: The Prophet ﷺ said, "Allāh has forgiven my followers the evil thoughts that occur to their minds, as long as such thoughts are not put into action or uttered."

And Qatāda said: If someone divorces his wife just in his mind, such an unuttered divorce has no effect.

5270. Narrated Jābir: A man from the tribe of Banī Aslam came to the Prophet ﷺ while he was in the mosque and said, "I have committed illegal sexual intercourse." The Prophet ﷺ turned his face to the other side. The man turned towards the side towards

أَلَمْ تَعْلَمَ أَنَّ الْقَلَمَ رُفِعَ عَنْ ثَلَاثَةٍ: عَنِ الْمَجْنُونِ حَتَّى يُفِيقَ، وَعَنِ الصَّبِيِّ حَتَّى يُدْرِكَ، وَعَنِ النَّائِمِ حَتَّى يَسْتَيْقِظَ. وَقَالَ عَلِيٌّ: وَكُلُّ طَلَاقٍ جَائِزٌ، إِلَّا طَلَاقَ الْمَعْتُوهِ.

٥٢٦٩ - حَدَّثَنَا مُسْلِمٌ: حَدَّثَنَا هِشَامٌ: حَدَّثَنَا قَتَادَةُ، عَنْ زُرَّارَةَ بْنِ أَوْفَى، عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللهُ عَنْهُ عَنِ النَّبِيِّ ﷺ قَالَ: «إِنَّ اللَّهَ تَجَاوَزَ عَنِ أُمَّتِي مَا حَدَّثَتْ بِهِ أَنْفُسُهَا مَا لَمْ تَعْمَلْ أَوْ تَتَكَلَّمْ».

وَقَالَ قَتَادَةُ: إِذَا طَلَّقَ فِي نَفْسِهِ فَلَيْسَ بِشَيْءٍ. [راجع: ٢٥٢٨]

٥٢٧٠ - حَدَّثَنَا أَصْبَغُ: أَخْبَرَنِي ابْنُ وَهْبٍ، عَنْ يُونُسَ، عَنِ ابْنِ شِهَابٍ قَالَ: أَخْبَرَنِي أَبُو سَلَمَةَ بْنُ عَبْدِ الرَّحْمَنِ، عَنْ جَابِرٍ: أَنَّ رَجُلًا

which the Prophet ﷺ had turned his face, and gave four witnesses against himself. On that the Prophet ﷺ called him and said, "Are you insane?" (He added), "Are you married?" The man said, "Yes." On that the Prophet ﷺ ordered him to be stoned to the death in the *Muṣallā*. When the stones hit him with their sharp edges, he fled, but he was caught at Al-Ḥarra and then killed.

مِنْ أَسْلَمَ أَتَى النَّبِيَّ ﷺ وَهُوَ فِي الْمَسْجِدِ فَقَالَ إِنَّهُ قَدْ زَنَى، فَأَعْرَضَ عَنْهُ، فَتَنَحَّى لِشِقِّهِ الَّذِي أَعْرَضَ فَشَهِدَ عَلَى نَفْسِهِ أَرْبَعَ شَهَادَاتٍ. فَدَعَاهُ فَقَالَ: «هَلْ بِكَ جُنُونٌ؟... هَلْ أُحْصِنْتَ؟» قَالَ: نَعَمْ، فَأَمَرَ بِهِ أَنْ يُرْجَمَ بِالْمُصَلَّى. فَلَمَّا أَذْلَقْتَهُ الْحِجَارَةَ جَمَزَ حَتَّى أُدْرِكَ بِالْحَرَّةِ فَقُتِلَ. [انظر: ٥٢٧٢، ٦٨١٤، ٦٨١٦، ٦٨٢٠، ٦٨٢٦،

[٧١٦٨

5271. Narrated Abū Hurairah رَضِيَ اللهُ عَنْهُ: A man from Banī Aslam came to Allāh's Messenger ﷺ while he was in the mosque and called (the Prophet ﷺ) saying, "O Allāh's Messenger! I have committed illegal sexual intercourse." On that the Prophet ﷺ turned his face from him to the other side, whereupon the man moved to the side towards which the Prophet ﷺ had turned his face, and said, "O Allāh's Messenger! I have committed illegal sexual intercourse." The Prophet ﷺ turned his face (from him) to the other side whereupon the man moved to the side towards which the Prophet ﷺ had turned his face, and repeated his statement. The Prophet ﷺ turned his face (from him) to the other side again. The man moved again (and repeated his statement) for the fourth time. So when the man had given witness four times against himself, the Prophet ﷺ called him and said, "Are you insane?" He replied, "No." The Prophet ﷺ then said (to his Companions), "Go and stone him to death." The man was a married one.

٥٢٧١ - حَدَّثَنَا أَبُو الْيَمَانِ: أَخْبَرَنَا شُعَيْبٌ، عَنِ الزُّهْرِيِّ قَالَ: أَخْبَرَنِي أَبُو سَلَمَةَ بْنُ عَبْدِ الرَّحْمَنِ وَسَعِيدُ بْنُ الْمُسَيَّبِ: أَنَّ أَبَا هُرَيْرَةَ قَالَ: أَتَى رَجُلٌ مِنْ أَسْلَمَ رَسُولَ اللَّهِ ﷺ وَهُوَ فِي الْمَسْجِدِ فَنَادَاهُ، فَقَالَ: يَا رَسُولَ اللَّهِ، إِنَّ الْآخِرَ قَدْ زَنَى، يَعْنِي نَفْسَهُ. فَأَعْرَضَ عَنْهُ، فَتَنَحَّى لِشِقِّ وَجْهِهِ الَّذِي أَعْرَضَ قِبَلَهُ. فَقَالَ: يَا رَسُولَ اللَّهِ، إِنَّ الْآخِرَ قَدْ زَنَى، فَأَعْرَضَ عَنْهُ. فَتَنَحَّى لِشِقِّ وَجْهِهِ الَّذِي أَعْرَضَ قِبَلَهُ فَقَالَ لَهُ ذَلِكَ. فَأَعْرَضَ عَنْهُ فَتَنَحَّى لَهُ الرَّابِعَةَ. فَلَمَّا شَهِدَ عَلَى نَفْسِهِ أَرْبَعَ شَهَادَاتٍ دَعَاهُ فَقَالَ: «هَلْ بِكَ جُنُونٌ؟» قَالَ: لَا، فَقَالَ النَّبِيُّ ﷺ: «ادْهَبُوا بِهِ فَارْجُمُوهُ»، وَكَانَ قَدْ أُحْصِنَ. [انظر:

[٧١٦٧، ٦٨٢٥، ٦٨١٥

5272. Jābir bin ‘Abdullāh Al-Anṣārī added: I was one of those who stoned him. We stoned him at the *Muṣalla* in Al-Madīna. When the stones hit him with their sharp edges, he fled, but we caught him at Al-Ḥarra and stoned him till he died. (See H. 5270)

٥٢٧٢ - وَعَنِ الرَّهْرِيِّ قَالَ: فَأَخْبَرَنِي مَنْ سَمِعَ جَابِرَ بْنَ عَبْدِ اللَّهِ الْأَنْصَارِيَّ قَالَ: كُنْتُ فِيمَنْ رَجَمَهُ فَرَجَمْنَاهُ بِالْمُصَلَّى بِالْمَدِينَةِ، فَلَمَّا أَدْلَقْتُهُ الْحِجَارَةَ جَمَرَ حَتَّى أَدْرَكْنَاهُ بِالْحَرَّةِ فَرَجَمْنَاهُ حَتَّى مَاتَ. [راجع: ٥٢٧٠]

(12) CHAPTER. *Al-Khul'*<sup>(1)</sup> and how a divorce is given according to it. And the Statement of Allāh عزَّ وجلَّ: "It is not lawful for you (men) to take back (from your wives) any of your *Mahr*, which you have given them, except when both parties fear that they would be unable to keep the limits ordained by Allāh." (V.2:229)

(١٢) بَابُ الْخُلْعِ وَكَيْفَ الطَّلَاقِ فِيهِ. وَقَوْلُهُ عَزَّ وَجَلَّ: ﴿وَلَا يَحِلُّ لَكُمْ أَنْ تَأْخُذُوا بِمَا آتَيْتُمُوهُنَّ سِتْرًا إِلَّا أَنْ يَخَافَا أَلَّا يُفْسِدَا حُدُودَ اللَّهِ﴾ [البقرة: ٢٢٩]

‘Umar allowed *Al-Khul'* even without taking the permission of the authorities. And ‘Uthmān permitted the husband in the case of *Khul'* to take from his wife everything other than the ribbon of her hair.

وَأَجَازَ عُمَرُ الْخُلْعَ دُونَ السُّلْطَانِ، وَأَجَازَ عُثْمَانُ الْخُلْعَ دُونَ عِقَاصِ رَأْسِهَا. وَقَالَ طَاوُسٌ: ﴿إِلَّا أَنْ يَخَافَا أَلَّا يُفْسِدَا حُدُودَ اللَّهِ﴾ فِيمَا اقْتَرَضَ لِكُلِّ وَاحِدٍ مِنْهُمَا عَلَى صَاحِبِهِ فِي الْعِشْرَةِ وَالصُّحْبَةِ، وَلَمْ يَقُلْ قَوْلَ السُّفَهَاءِ: لَا يَحِلُّ حَتَّى تَقُولَ: لَا أُغْتَسِلُ لَكَ مِنْ جَنَابِيَةِ.

Regarding the Verse:

"Except when both parties fear that they would be unable to keep the limits ordained by Allāh." (V.2:229)

Tāwūs said: That is what Allāh has ordained to be the right of each of them on the other regarding their family relationship and friendly companionship. And Tāwūs did not say as the ignorant people say: *Al-Khul'* is not permissible unless the woman says to her husband, "I will not clean myself from *Janāba* (i.e. I will not have sexual relations with you)."

5273. Narrated Ibn ‘Abbās رضي الله عنهما: The wife of Thābit bin Qais came to the

٥٢٧٣ - حَدَّثَنَا أَرْهَرُ بْنُ جَمِيلٍ: حَدَّثَنَا عَبْدُ الْوَهَّابِ الثَّقَفِيُّ: حَدَّثَنَا

(1) (Chap. 12) '*Al-Khul'*' means the parting of a wife from her husband by giving him a certain compensation.

Prophet ﷺ and said, "O Allāh's Messenger! I do not blame Thābit for defects in his character or his religion, but I, being a Muslim, dislike to behave in an un-Islāmic manner (if I remain with him)." On that Allāh's Messenger ﷺ said (to her), "Will you give back the garden which your husband has given you (as *Mahr*)?" She said, "Yes." Then the Prophet ﷺ said to Thābit, "O Thābit! Accept your garden, and divorce her once."

خَالِدٌ، عَنْ عِكْرِمَةَ، عَنْ ابْنِ عَبَّاسٍ: أَنَّ امْرَأَةَ ثَابِتِ بْنِ قَيْسِ أُمِّ التَّيْبِ رَضِيَ اللَّهُ عَنْهَا قَالَتْ: يَا رَسُولَ اللَّهِ، ثَابِتٌ بَنِي قَيْسٍ مَا أُعْتِبَ عَلَيْهِ فِي خُلُقٍ وَلَا دِينٍ، وَلَكِنِّي أَكْرَهُ الْكُفْرَ فِي الْإِسْلَامِ، فَقَالَ رَسُولُ اللَّهِ ﷺ: «أَتُرَدِّينَ عَلَيْهِ حَدِيثَهُ؟» قَالَتْ: نَعَمْ، قَالَ رَسُولُ اللَّهِ ﷺ: «اقْبَلِي الْحَدِيثَ وَطَلِّقِيهَا تَطْلِيقًا». قَالَ أَبُو عَبْدِ اللَّهِ: لَا يُتَابَعُ فِيهِ عَنِ ابْنِ عَبَّاسٍ. [انظر: ٥٢٧٤، ٥٢٧٦، ٥٢٧٧، ٥٢٧٤]

5274. Narrated 'Ikrima: The sister of 'Abdullāh bin Ubayy narrated (the above narration, 5273) with the addition that the Prophet ﷺ said to Thābit's wife, "Will you return his garden?" She said, "Yes," and returned it, and (then) the Prophet ﷺ ordered Thābit to divorce her.

٥٢٧٤ - حَدَّثَنِي إِسْحَاقُ الْوَائِسِيُّ: حَدَّثَنَا خَالِدٌ، عَنْ خَالِدِ الْحَدَّاءِ، عَنْ عِكْرِمَةَ: أَنَّ أُخْتَ عَبْدِ اللَّهِ بْنِ أَبِي بَهَذَا. وَقَالَ: «تُرَدِّينَ حَدِيثَهُ؟» قَالَتْ: نَعَمْ، فَرَدَّيْتُهَا وَأَمَرَهُ يُطَلِّقُهَا.

وَقَالَ إِبْرَاهِيمُ بْنُ طَهْمَانَ، عَنْ خَالِدٍ، عَنْ عِكْرِمَةَ عَنِ النَّبِيِّ ﷺ: «وَطَلِّقُهَا». [راجع: ٥٢٧٣]

5275. Narrated Ibn 'Abbās: The wife of Thābit bin Qais came to Allāh's Messenger ﷺ and said, "O Allāh's Messenger! I do not blame Thābit for any defects in his character or his religion, but I cannot endure to live with him." On that Allāh's Messenger ﷺ said, "Will you return his garden to him?" She said, "Yes."

٥٢٧٥ - وَعَنْ أَيُّوبَ بْنِ أَبِي تَمِيمَةَ، عَنْ عِكْرِمَةَ، عَنْ ابْنِ عَبَّاسٍ أَنَّهُ قَالَ: جَاءَتِ امْرَأَةُ ثَابِتِ بْنِ قَيْسٍ إِلَى رَسُولِ اللَّهِ ﷺ فَقَالَتْ: يَا رَسُولَ اللَّهِ، إِنِّي لَا أُعْتِبُ عَلَى ثَابِتٍ فِي دِينٍ وَلَا خُلُقٍ، وَلَكِنِّي لَا أُطِيقُهُ. فَقَالَ رَسُولُ اللَّهِ ﷺ: «فَتُرَدِّينَ عَلَيْهِ حَدِيثَهُ؟» قَالَتْ: نَعَمْ. [راجع: ٥٢٧٣]

5276. Narrated Ibn 'Abbās رضي الله عنهما: The wife of Thābit bin Qais bin Shammās came to the Prophet ﷺ and said, "O Allāh's Messenger! I do not blame Thābit for any defects in his character or his religion, but I am afraid that I (being a Muslim) may become unthankful for Allāh's Blessings." On that Allāh's Messenger ﷺ said (to her), "Will you return his garden to him?" She said, "Yes." So she returned his garden to him and the Prophet ﷺ told him to divorce her.

5277. Narrated 'Ikrima that Jamila... Then he related the whole *Hadīth*, (i.e. 5276).

(13) CHAPTER. *Ash-Shiqāq* (the breach between the man and his wife). Is *Khul'* to be recommended if necessary?

قال تعالى: *نمالي*

"If you fear breach between them twain (the man and his wife)..." (V.4:35)

5278. Narrated Al-Miswar bin Makhrama Az-Zuhri: I heard the Prophet ﷺ saying, "Banū Al-Mughhira have asked my leave to let 'Alī marry their daughter, but I give no leave to this effect."

(14) CHAPTER. Selling a female slave does not necessarily lead to her divorce.

5279. Narrated 'Aishah رضي الله عنها, the wife of the Prophet ﷺ: Three traditions were

٥٢٧٦ - حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ

اللهِ ابْنِ الْمُبَارِكِ الْمُحَرَّمِيُّ: حَدَّثَنَا قُرَادٌ أَبُو نُوحٍ: حَدَّثَنَا جَرِيرٌ بْنُ حَازِمٍ، عَنْ أَيُّوبَ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ رَضِيَ اللهُ عَنْهُمَا قَالَ:

جَاءَتْ امْرَأَةٌ ثَابِتِ بْنِ قَيْسِ بْنِ شَمَّاسٍ إِلَى النَّبِيِّ ﷺ فَقَالَتْ: يَا رَسُولَ اللهِ، مَا أَنْقَمُ عَلَيَّ ثَابِتٍ فِي دِينٍ وَلَا خُلُقٍ، إِلَّا أَنِّي أَخَافُ الْكُفْرَ، فَقَالَ رَسُولُ اللهِ ﷺ: «فَتَرُدِّينَ عَلَيْهِ حَدِيثَهُ؟» قَالَتْ: نَعَمْ، فَوَدَّتْ عَلَيْهِ وَأَمْرَهُ فَفَارَقَهَا. [راجع: ٥٢٧٣]

٥٢٧٧ - حَدَّثَنَا سُلَيْمَانُ: حَدَّثَنَا

حَمَّادٌ، عَنْ أَيُّوبَ، عَنْ عِكْرِمَةَ: أَنَّ جَمِيلَةَ، فَذَكَرَ الْحَدِيثَ. [راجع: ٥٢٧٣]

(١٣) بَابُ الشَّقَاقِ، وَهَلْ يُشِيرُ بِالْخُلْعِ عِنْدَ الصَّرْوَةِ؟ وَقَوْلُهُ تَعَالَى:

﴿وَإِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا﴾ الْآيَةُ [النساء: ٣٥]

٥٢٧٨ - حَدَّثَنَا أَبُو الْوَلِيدِ:

حَدَّثَنَا اللَّيْثُ، عَنِ ابْنِ أَبِي مُلَيْكَةَ، عَنِ الْمِسْوَرِ ابْنِ مَخْرَمَةَ (الزُّهْرِيِّ) قَالَ: سَمِعْتُ النَّبِيَّ ﷺ يَقُولُ: «إِنَّ بَنِي الْمُغِيرَةِ اسْتَأْذَنُوا فِي أَنْ يَنْكَحَ عَلِيُّ ابْنَتَهُمْ، فَلَا آذَنَ».

(١٤) بَابُ: لَا يَكُونُ بَيْعُ الْأَمَةِ طَلَاقًا

٥٢٧٩ - حَدَّثَنَا إِسْمَاعِيلُ بْنُ عَبْدِ

established concerning that in which Barīra was involved: When she was manumitted, she was given the option to keep her husband or leave him; Allāh's Messenger ﷺ said, "Al-Walā<sup>(1)</sup> is for the one who manumits." Once Allāh's Messenger ﷺ entered the house while some meat was being cooked in a pot, but only bread and some soup of the house were placed before him. He said, "Don't I see the pot containing meat?" They said, "Yes, but that meat was given to Barīra in charity (by someone), and you do not eat what is given in charity." The Prophet ﷺ said, "That meat is a charity for her, but for us it is a present." (See H. 5430)

الله قال: حَدَّثَنِي مَالِكٌ، عَنْ رَيْبَعَةَ بْنِ أَبِي عَبْدِ الرَّحْمَنِ، عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ، عَنْ عَائِشَةَ رَضِيَ اللهُ عَنْهَا زَوْجَ النَّبِيِّ ﷺ قَالَتْ: كَانَ فِي بَرِيرَةَ ثَلَاثُ سُنَنٍ، إِحْدَى السُّنَنِ: أَنَّهَا أُعْطِمَتْ فَخُحِرَتْ فِي زَوْجِهَا. وَقَالَ رَسُولُ اللهِ ﷺ: «الْوَلَاءُ لِمَنْ أُعْتِقَ». وَدَخَلَ رَسُولُ اللهِ ﷺ وَالْبُرْمَةُ تَفُورُ بِلَحْمٍ قَرَّبَ إِلَيْهِ خُبْزٌ وَأُدْمٌ مِنْ أُدْمِ الْبَيْتِ فَقَالَ: «أَلَمْ أَرِ الْبُرْمَةَ فِيهَا لَحْمٌ؟» قَالُوا: بَلَى، وَلَكِنْ ذَاكَ لَحْمٌ تُصَدَّقُ بِهِ عَلَى بَرِيرَةَ، وَأَنْتَ لَا تَأْكُلُ الصَّدَقَةَ. قَالَ: «عَلَيْهَا صَدَقَةٌ وَلَنَا هَدِيَّةٌ». [راجع: ٤٥٦]

(15) CHAPTER. A female slave, whose husband is a slave, has the option to keep him or leave him (when she is manumitted).

(١٥) بَابُ خِيَارِ الْأَمَةِ تَحْتَ الْعَبْدِ

5280. Narrated Ibn 'Abbās رضي الله عنهما: I saw him as a slave, (namely, Barīra's husband).

٥٢٨٠ - حَدَّثَنَا أَبُو الْوَلِيدِ: حَدَّثَنَا شُعْبَةُ وَهَمَّامٌ، عَنْ قَتَادَةَ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ قَالَ: رَأَيْتُهُ عَبْدًا، يَعْنِي زَوْجَ بَرِيرَةَ. [انظر: ٥٢٨١، ٥٢٨٢، ٥٢٨٣]

5281. Narrated Ibn 'Abbās رضي الله عنهما: That was Mughith, the slave of Banī so-and-so, i.e., Barīra's husband - as if I am now looking at him following her (Barīra) along the streets of Al-Madina.

٥٢٨١ - حَدَّثَنَا عَبْدُ الْأَعْلَى بْنُ حَمَّادٍ: حَدَّثَنَا وَهَيْبٌ: حَدَّثَنَا أَيُّوبُ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ قَالَ: ذَاكَ مُغِيثٌ عَبْدُ بَنِي فُلَانٍ - يَعْنِي زَوْجَ بَرِيرَةَ - كَأَنِّي أَنْظُرُ إِلَيْهِ يَتْبَعُهَا فِي سِكَكِ الْمَدِينَةِ يَبْكِي عَلَيْهَا.

[راجع: ٥٢٨٠]

(1) (H. 5279) Walā': See the glossary.

5282. Narrated Ibn ‘Abbās رضي الله عنهما: Barīra’s husband was a black slave called Mughīth, the slave of Banī so-and-so - as if I am seeing him now, walking behind her along the streets of Al-Madīna.

٥٢٨٢ - حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ: حَدَّثَنَا عَبْدُ الْوَهَّابِ، عَنْ أَيُّوبَ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا قَالَ: كَانَ زَوْجُ بَرِيرَةَ عَبْدًا أَسْوَدًا، يُقَالُ لَهُ: مُغِيثٌ، عَبْدًا لِيَنِي فُلَانٍ، كَأَنِّي أَنْظُرُ إِلَيْهِ يَطُوفُ وَرَاءَهَا فِي سِكَكِ الْمَدِينَةِ. [راجع: ٥٢٨٠]

(16) CHAPTER. The intercession of the Prophet ﷺ for Barīra’s husband.

(١٦) بَابُ شَفَاعَةِ النَّبِيِّ ﷺ فِي زَوْجِ بَرِيرَةَ

5283. Narrated Ibn ‘Abbās رضي الله عنهما: Barīra’s husband was a slave called Mughīth - as if I am seeing him now, going behind Barīra and weeping with his tears flowing down his beard. The Prophet ﷺ said to ‘Abbās, “O ‘Abbās! are you not astonished at the love of Mughīth for Barīra and the hatred of Barīra for Mughīth?” The Prophet ﷺ then said to Barīra, “Why don’t you return to him?” She said, “O Allāh’s Messenger! Do you order me to do so?” He said, “No, I only intercede for him.” She said, “I am not in need of him.”

٥٢٨٣ - حَدَّثَنِي مُحَمَّدٌ: حَدَّثَنَا عَبْدُ الْوَهَّابِ: حَدَّثَنَا خَالِدٌ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ: أَنَّ زَوْجَ بَرِيرَةَ كَانَ عَبْدًا يُقَالُ لَهُ: مُغِيثٌ، كَأَنِّي أَنْظُرُ إِلَيْهِ يَطُوفُ خَلْفَهَا يَبْكِي وَدُمُوعُهُ تَسِيلُ عَلَى لِحْيَتِهِ. فَقَالَ النَّبِيُّ ﷺ لِعَبَّاسٍ: «يَا عَبَّاسُ، أَلَا تَعْجَبُ مِنْ حُبِّ مُغِيثِ بَرِيرَةَ، وَمِنْ بُغْضِ بَرِيرَةَ مُغِيثًا؟» فَقَالَ النَّبِيُّ ﷺ: «لَوْ رَاجَعْتَنِي؟» قَالَتْ: يَا رَسُولَ اللَّهِ، تَأْمُرْنِي؟ قَالَ: «إِنَّمَا أَنَا أَشْفَعُ»، قَالَتْ: فَلَا حَاجَةَ لِي فِيهِ.

[راجع: ٥٢٨٠]

(١٧) بَابُ:

(17) CHAPTER:

5284. Narrated Al-Aswad: ‘Āishah رضي الله عنها intended to buy Barīra, but her masters stipulated that her Walā<sup>(1)</sup> would be for them. ‘Āishah رضي الله عنها mentioned that to the Prophet ﷺ who said (to ‘Āishah), “Buy and manumit her, for Al-Walā’ is for the one

٥٢٨٤ - حَدَّثَنَا عَبْدُ اللَّهِ بْنُ رَجَاءٍ: أَخْبَرَنَا شُعْبَةُ، عَنِ الْحَكَمِ، عَنْ إِبْرَاهِيمَ، عَنِ الْأَسْوَدِ: أَنَّ عَائِشَةَ أَرَادَتْ أَنْ تَشْتَرِيَ بَرِيرَةَ، فَأَبَى مَوَالِيهَا

(1) (H. 5284) Walā’: See the glossary.

who manumits.” Once some meat was brought to the Prophet ﷺ and it was said, “This meat was given in charity to Barīra.” The Prophet ﷺ said, “It is an object of charity for Barīra and a present for us.”

Narrated Ādam : Shu'ba related the same Hādūh and added : Barīra was given the option regarding her husband . (See H. 5430)

إِلَّا أَنْ يَشْتَرِطُوا الْوَلَاءَ . فَذَكَرَتْ ذَلِكَ لِلنَّبِيِّ ﷺ ، فَقَالَ : « اشْتَرَيْهَا وَأَعْتَقِيهَا فَإِنَّمَا الْوَلَاءُ لِمَنْ أَعْتَقَ » . وَأَتَى النَّبِيَّ ﷺ بِلَحْمٍ : فَقِيلَ : إِنَّ هَذَا مَا تُصَدَّقُ عَلَى بَرِيرَةَ ، فَقَالَ : « هُوَ لَهَا صَدَقَةٌ وَلَنَا هَدِيَّةٌ » . [راجع : ٤٥٦ ]  
 حَدَّثَنَا آدَمُ : حَدَّثَنَا شُعْبَةُ ، وَزَادَ : فَخَيْرَتْ مِنْ زَوْجِهَا .

(18) CHAPTER. The Statement of Allāh تعالى : “Do not marry *Al-Mushrikāt* (idolatresses) till they believe (i.e. worship Allāh Alone). And indeed a slave woman who believes is better than a (free) *Mushrikah* (idolatress) even though she pleases you.” (V.2:221)

5285. Narrated Nāfi' : Whenever Ibn 'Umar was asked about marrying a Christian lady or a Jewess, he would say : “Allāh has made it unlawful for the believers to marry *Al-Mushrikāt* (ladies who ascribe partners in worship to Allāh), and I do not know of a greater thing, as regards to ascribing partners in worship, etc. to Allāh, than that a lady should say that Jesus is her Lord although he is just a slave from the slaves of Allāh”.

(١٨) بَابُ قَوْلِ اللَّهِ تَعَالَى : « وَلَا تَنْكِحُوا الْمُشْرِكَاتِ حَتَّى يُؤْمِنَنَّ وَلَا مُمْسِكَةٌ بِحَبْلِ مِنْ مُشْرِكَةٍ وَلَوْ أَحَبَبْتُمْ » [البقرة : ٢٢١]

٥٢٨٥ - حَدَّثَنَا قُتَيْبَةُ : حَدَّثَنَا اللَّيْثُ ، عَنْ نَافِعٍ : أَنَّ ابْنَ عُمَرَ كَانَ إِذَا سُئِلَ عَنْ نِكَاحِ النَّصْرَانِيَّةِ وَالْيَهُودِيَّةِ قَالَ : إِنَّ اللَّهَ حَرَّمَ الْمُشْرِكَاتِ عَلَى الْمُؤْمِنِينَ ، وَلَا أَعْلَمُ مِنَ الْإِشْرَاكِ شَيْئًا أَكْبَرَ مِنْ أَنْ تَقُولَ الْمَرْأَةُ رَبُّهَا عِيسَى ، وَهُوَ عَبْدٌ مِنَ عِبَادِ اللَّهِ .

(19) CHAPTER. Marrying *Al-Mushrikāt* (pagan ladies) who had embraced Islām ; and their *Idda* .

5286. Narrated Ibn 'Abbās رضي الله عنهما : *Al-Mushrikāt*<sup>(1)</sup> were of two kinds as regards their relationship to the Prophet ﷺ and the believers. Some of them were those with whom the Prophet ﷺ was at war and used to fight against, and they used to fight him ; the others were those with whom the Prophet ﷺ

(١٩) بَابُ نِكَاحِ مَنْ أَسْلَمَ مِنَ الْمُشْرِكَاتِ وَعِدَّتِهِنَّ  
 ٥٢٨٦ - حَدَّثَنِي إِبْرَاهِيمُ بْنُ مُوسَى : أَنبَأَنَا هِشَامٌ ، عَنْ ابْنِ جُرَيْجٍ . وَقَالَ عَطَاءٌ ، عَنْ ابْنِ عَبَّاسٍ : كَانَ الْمُشْرِكُونَ عَلَى مَنْزِلَتَيْنِ مِنَ النَّبِيِّ ﷺ وَالْمُؤْمِنِينَ : كَانُوا مُشْرِكِي أَهْلِ

(1) (H. 5286) *Al-Mushrikāt* : polytheists, pagans, idolaters, and disbelievers in the Oneness of Allāh and in His Messenger Muhammad ﷺ .

had a treaty, and neither did the Prophet ﷺ fight them, nor did they fight him. If a lady from the first group of *Al-Mushrikūn*<sup>(1)</sup> emigrated towards the Muslims, her hand would not be asked in marriage unless she got the menses and then became clean. When she became clean, it would be lawful for her to get married, and if her husband emigrated too before she got married, then she would be returned to him. If any slave or female slave emigrated from them to the Muslims, then they would be considered free persons (not slaves) and they would have the same rights as given to other emigrants. The narrator then mentioned about *Al-Mushrikūn*<sup>(1)</sup> involved with the Muslims in a treaty, the same as occurs in Mujāhid's narration. If a male slave or a female slave emigrated from such *Al-Mushrikūn*<sup>(1)</sup> as had made a treaty with the Muslims, they would not be returned, but their prices would be paid (to *Al-Mushrikūn*<sup>(1)</sup>).

5287. Narrated Ibn 'Abbās رضي الله عنهما: Qarība, the daughter of Abī Umaiyya, was the wife of 'Umar bin Al-Khaṭṭāb. 'Umar divorced her and then Mu'āwiya bin Abī Sufyān married her. Similarly, Umm Al-Ḥakam, the daughter of Abī Sufyān was the wife of 'Iyād bin Ghanm Al-Fihri. He divorced her and then 'Abdullāh bin 'Uthmān Ath-Thaqafī married her.

(20) CHAPTER. (What) if an idolatress (*Al-Mushrikah*) or a Christian woman becomes a Muslim while she is the wife of a *Dhimmi* (i.e., a non-Muslim under the protection of a Muslim government), or a *Mushrik* at war with the Muslims?

Ibn 'Abbās رضي الله عنهما said: If a Christian

حَرْبٍ يُقَاتِلُهُمْ وَيُقَاتِلُونَهُ. وَمُشْرِكِي  
أَهْلِ عَهْدٍ لَا يُقَاتِلُهُمْ وَلَا يُقَاتِلُونَهُ،  
فَكَانَ إِذَا هَاجَرَتِ امْرَأَةٌ مِنْ أَهْلِ  
الْحَرْبِ لَمْ تُحْطَبْ حَتَّى تَحِيضَ  
وَتَطْهَرَ. فَإِذَا طَهَّرَتْ حَلَّ لَهَا النِّكَاحُ.  
فَإِنْ هَاجَرَ زَوْجُهَا قَبْلَ أَنْ تَنْكِحَ رُدَّتْ  
إِلَيْهِ. وَإِنْ هَاجَرَ عَبْدٌ مِنْهُمْ أَوْ أَمَةٌ،  
فَهُمَا حُرَّانِ، وَلَهُمَا مَا لِلْمُهَاجِرِينَ -  
ثُمَّ ذَكَرَ مِنْ أَهْلِ الْعَهْدِ مِثْلَ حَدِيثِ  
مُجَاهِدٍ - وَإِنْ هَاجَرَ عَبْدٌ أَوْ أَمَةٌ  
لِلْمُشْرِكِينَ أَهْلَ الْعَهْدِ لَمْ يُرَدُّوا،  
وَرُدَّتْ أُنْمَانُهُمْ.

٥٢٨٧ - وَقَالَ عَطَاءٌ عَنْ ابْنِ  
عَبَّاسٍ: كَانَتْ قَرِيبَةً ابْنَةُ أَبِي أُمَيَّةَ عِنْدَ  
عُمَرَ بْنِ الْخَطَّابِ، فَطَلَّقَهَا فَتَزَوَّجَهَا  
مُعَاوِيَةُ بْنُ أَبِي سُفْيَانَ، وَكَانَتْ أُمُّ  
الْحَكَمِ بِنْتُ أَبِي سُفْيَانَ تَحْتَ عِيَاضِ  
بْنِ عَنَمِ الْفُهْرِيِّ، فَطَلَّقَهَا فَتَزَوَّجَهَا  
عَبْدُ اللَّهِ بْنُ عُثْمَانَ التَّقْفِيُّ.

(٢٠) بَابُ: إِذَا أَسْلَمَتِ الْمُشْرِكَةُ أَوْ  
النَّصْرَانِيَّةُ تَحْتَ الذَّمِّيِّ أَوْ الْحَرْبِيِّ،

وَقَالَ عَبْدُ الْوَارِثِ، عَنْ خَالِدٍ،

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woman embraces Islām before her husband by a short while, she will by no means remain as his wife legally.

'Aṭā was asked about a woman from *Al-Mushrikūn* who had a treaty with the Muslims: She embraced Islām, and during her 'Idda, her husband embraced Islām too? Could he retain her as his wife? 'Aṭā said: No, unless she is willing to re-marry him with a new marriage and a new *Mahr*.

Mujāhid said: If the husband embraces Islām during the 'Idda (of his wife), he can marry her.

And Allāh تعالى said:

"They are not lawful (wives) for the disbelievers, nor are the disbelievers lawful (husbands) for them." (V.60:10)

Al-Ḥasan and Qatāda said regarding a Magian couple who embraced Islām: Their marriage remains valid, but if one of them becomes a Muslim and the other refuses to become a Muslim, the wife is regarded as divorced, and the husband has no right to keep her as a wife.

Ibn Juraij said: I asked 'Aṭā, "If a *Mushrikah* comes to the Muslims (i.e., embraces Islām), will the husband be compensated for losing her as is indicated by the Statement of Allāh:

'But give the disbelievers that (amount of money) which they have spent (as their *Mahr*)?" (V.60:10)

'Aṭā replied, "No, for this was valid only between the Prophet ﷺ and those *Al-Mushrikūn* who made a treaty with him."

And Mujāhid said: All this was valid in a treaty between the Prophet ﷺ and the Quraish.

5288. Narrated 'Āishah رَضِيَ اللهُ عَنْهَا, the wife of the Prophet ﷺ: Whenever believing women came to the Prophet ﷺ as emigrants, he used to test them in accordance with the Order of Allāh تعالى:

عَنْ عِكْرَمَةَ، عَنِ ابْنِ عَبَّاسٍ: إِذَا أَسْلَمَتِ النَّصْرَانِيَّةُ قَبْلَ زَوْجِهَا بِسَاعَةٍ حَرَمْتُ عَلَيْهِ. وَقَالَ دَاوُدُ عَنْ إِبْرَاهِيمَ الصَّائِغِ: سُئِلَ عَطَاءٌ عَنِ امْرَأَةٍ مِنْ أَهْلِ الْعَهْدِ أَسْلَمَتْ ثُمَّ أَسْلَمَ زَوْجُهَا فِي الْعِدَّةِ، أَهِيَ امْرَأَتُهُ؟ قَالَ: لَا، إِلَّا أَنْ تَشَاءَ هِيَ بِنِكَاحٍ جَدِيدٍ وَصِدَاقٍ. وَقَالَ مُجَاهِدٌ: إِذَا أَسْلَمَ فِي الْعِدَّةِ يَتَزَوَّجُهَا، وَقَالَ اللَّهُ تَعَالَى: ﴿لَا هُنَّ حِلٌّ لَكُمْ وَلَا كُنتُمْ حِلًّا لِهُنَّ﴾ [المتحنة: ١٠].

وَقَالَ الْحَسَنُ وَقَتَادَةُ فِي مَجُوسِيَّينَ أَسْلَمَا: هُمَا عَلَى نِكَاحِهِمَا، فَإِذَا سَبَقَ أَحَدُهُمَا صَاحِبُهُ وَأَبَى الْآخَرُ بَانَتْ، لَا سَبِيلَ لَهُ عَلَيْهَا. وَقَالَ ابْنُ جُرَيْجٍ: قُلْتُ لِعَطَاءٍ: امْرَأَةٌ مِنَ الْمُشْرِكِيْنَ جَاءَتْ إِلَى الْمُسْلِمِيْنَ، أَيْعَاوُضُ زَوْجِهَا مِنْهَا لِقَوْلِهِ تَعَالَى ﴿وَمَا أَوْلَاهُمْ مَا أَنْفَقُوا﴾ [المتحنة: ١٠]؟ قَالَ: لَا، إِنَّمَا كَانَ ذَلِكَ بَيْنَ النَّبِيِّ ﷺ وَبَيْنَ أَهْلِ الْعَهْدِ. وَقَالَ مُجَاهِدٌ: هَذَا كُلُّهُ فِي صَلْحٍ بَيْنَ النَّبِيِّ ﷺ وَبَيْنَ قُرَيْشٍ.

٥٢٨٨ - حَدَّثَنَا يحيى بْنُ بُكَيْرٍ: حَدَّثَنَا اللَّيْثُ، عَنْ عَقِيلٍ، عَنِ ابْنِ شِهَابٍ، وَقَالَ إِبْرَاهِيمُ بْنُ الْمُنْذِرِ: