

185673 - He was late in delivering the money to the charity, and the money was stolen; is he liable?

the question

I have a friend who works in the Emirates, and he sent me a large amount of money to deliver it to a charity to sponsor orphans. Due to circumstances beyond my control I was late in delivering the money to the charity by several weeks, and I was keeping it separate from my money, in a safe place in my house. Then my house was burgled and the thief took this money and some of my wife's jewellery, but by the grace of Allah he did not find my own money and the rest of my wife's gold.

My question is: am I liable for this money, and am I obliged to pay the same amount to the charity from my own money? Was I sinning by delaying and keeping the money with me even though I had the intention of delivering it quickly?

Detailed answer

The scholars (may Allah have mercy on them) stated that if wealth is with a person with the permission of the Lawgiver or the owner, then it is a trust (amaanah).

The trustee is not liable for what is lost or destroyed when it is in his possession, unless he transgresses or is negligent.

Shaykh Ibn 'Uthaymeen (may Allah have mercy on him) said: The words "if it is lost from among his wealth (but his wealth was not lost) but he did not transgress and was not negligent, he is not liable", so if it is lost along with his own wealth, this is even more applicable. "If it is lost" means if the item that was left as a trust with him is lost "from among his wealth" such as if it was burned or damaged by rain or stolen by a thief without that happening to his own wealth, then the one who was entrusted with it is not liable, because he was a trustee who took the wealth with the permission of the owner who entrusted it to him, and anyone who takes possession of the wealth of another with that person's permission or with the permission of the Lawgiver, then he is in the position of a trustee, and the basic principle concerning the trustee is that he is

not liable for anything that is lost when in his possession unless he transgresses or is negligent, based on the verse in which Allah, may He be exalted, says (interpretation of the meaning): “No ground (of complaint) can there be against the Muhsinoon (good-doers)” [at-Tawbah 9:91]. The one who is entrusted with something is a good-doer, and if he is a good-doer then he is not liable. But if he transgresses or is negligent, then he is liable.

The difference between transgression and negligence in general terms is that transgression is doing something that is not permissible, whereas negligence is omitting to do something that is obligatory. If the item that has been entrusted to him is food, and the one who is entrusted with it eats it, then this is transgression; if it is food and he leaves it outside on a winter night and it is destroyed, then this is negligence, because he failed to do what he was obliged to do.

If someone were to say: Why does the author say “from among his wealth” and not “if it is lost and he did not transgress and was not negligent then he is not liable”?

We say:

He said that referring to the view of some of the scholars, that “if it is lost from among his wealth (but his wealth was not lost), then he is definitely liable,” because the fact that it was lost from among his wealth is indicative of a kind of negligence, otherwise what caused it to be lost and not his wealth?

But the correct view is what the author said: That the person to whom it was entrusted is not liable unless he transgressed or was negligent.

End quote from ash-Sharh al-Mumti‘ (10/68)

Based on that, you should look at the issue that caused the delay; if it was a real impediment for which a person may be excused, then you are not liable, but if there was no real impediment for which the delay could be excused, and the delay only occurred because of laziness or carelessness on your part, then you are liable, because you were negligent.

What is meant by liability is that you should give that charity the same amount as the donation that was given to you

And Allah knows best.