

87838 - You have to return the money to its owners

the question

My maternal aunt died and she did not have any children, but she had two sisters, my mother and my other aunt, who had a dispute with her. I am the one who looked after her until she died, and she left me a cheque and told me not to give them anything directly. After she died, my cousin made a complaint about me to the police, accusing me of forging the cheque, and without any investigation, I was arrested and imprisoned for nine months, and nearly all of that money has been spent on prison expenses. When I came out of prison, I left my country and my work because of them and migrated. Now they are still threatening to send me back to prison if I do not give the money back to them, but I am not able to do that. Please advise me, may Allaah reward you with good. Have I sinned? If the answer is yes, will I not be forgiven because of going to prison and suffering there?.

Detailed answer

If your aunt left the money to you, and she told you not to give any of it to her sisters, this means that she willed the entire estate to you, and that is not permissible. Rather the will should be applied to one-third of the estate only, and the rest of the estate should be divided among the heirs in accordance with the shares prescribed in sharee'ah. So your mother and maternal aunt get two-thirds, to be divided equally between them, and the rest of the estate goes to her male relatives if there are any, such as her paternal uncles or paternal cousins (males only). If there are no male relatives, then it goes back to your mother and aunt, to be shared equally between them.

Based on this:

If the amount that you took after your aunt's death was one third of the estate or less, then it is rightfully yours and you do not have to return it to the heirs.

If it was more than one third, then you must return to the heirs whatever was more than one third.

You have to acknowledge their rights and return what is rightfully theirs. If you do not have any money then it is a debt that you owe until you are able to pay it off.

Secondly:

The fact that you went to prison does not mean that the duty to return the money to its owners is waived, because the one who takes something that rightfully belongs to his brother is obliged to return it, and the fact that the authorities punish him does not mean that this duty to return it is waived. Similarly, if a thief steals something and the hadd punishment as stipulated in sharee'ah is carried out on him, that does not mean that the duty to return the stolen property to its owner is waived.

Al-Mughni (12/453).

Now you have to give the money to them. If you are unable to return it, then it is a debt that you owe, until you are able to pay it off. It is not waived because of your having been in prison or because you have suffered harm because of them.

Allaah says (interpretation of the meaning):

“Verily, Allaah commands that you should render back the trusts to those, to whom they are due”

[al-Nisa' 4:58]

And the Prophet (peace and blessings of Allaah be upon him) said: “The hand that takes is responsible for what it has taken until it returns it.” Narrated by Ahmad (20098), Abu Dawood (3561), al-Tirmidhi (1266) and Ibn Maajah (2400). Shu'ayb al-Arna'oot said, commenting on its isnaad: It is hasan li ghayrihi (hasan because of corroborating evidence).

It is not permissible for you to take the matter of paying off this money lightly, because taking that which rightfully belongs to others is a serious matter, and the punishment for it is severe;

we ask Allaah to keep us safe and sound.

The Prophet (peace and blessings of Allaah be upon him) said: “Whoever has wronged his brother, let him set matters straight, for there is no dinar or dirham but it will be taken from his good deeds, and if he does not have any good deeds, some of his brother’s bad deeds will be taken and placed on him.” Narrated by al-Bukhaari (6534).

You should tell them that you are serious about paying it off, and ask them to give you some respite. If your mother decides to give up her right, she may do that.

We ask Allaah to help and guide us and you.

And Allaah knows best.