101859 - He gave her gifts to marry him; can he ask for the gifts to be returned if she refuses to marry him?

the question

I was engaged and my fincee gave me gifts and an amount of money to buy gold and the rest for going out (he is not from my country). Then I refused to marry him and asked to break the engagement, but he insisted on continuing. After all he asked for all what he gave me. Am I obliged to return the gold only, or all the gifts? Considering that I didn't ask him for these, and some of them is no longer in my possession. Also, must I return the money he gave me, although he used it with me?.

Detailed answer

Praise be to Allah.

If a man proposes marriage to a woman and offers her gifts to marry him, then she refuses to marry him, he has the right to ask her to give back the gifts that he gave her.

Shaykh al-Islam Ibn Taymiyah (may Allaah have mercy on him) said in al-Fataawa al-Kubra (5/472): Even if the gifts were given before the marriage contract (nikaah) and they had promised marriage but then they gave the girl in marriage to someone else, he may take them back. End quote.

Al-Mardaawi (may Allaah have mercy on him) said in al-Insaaf (8/296), after quoting the words of Shaykh al-Islam: I say: This is something concerning which there is no doubt.

The great scholar al-Zarkashi al-Shaafa'i said in his book al-Manthoor fi'l-Qawaa'id al-Fiqhiyyah (3/269): If he proposes marriage to a woman and she accepts, and he brings them a gift then she does not marry him, then he may take back what he gave to her, because he only gave it on the basis that they were going to give her to him in marriage, and that did not happen. End quote.

Thus it is clear that the sister who is asking this question has to give back to this man everything that he gave to her, so long as she is the one who refused to marry him. Whatever of his gifts is still present should be returned and whatever has been used up or damaged should be replaced, or its value should be given.

The great scholar al-Jamal al-Shaafa'i said in his commentary on Sharh Manhaj al-Tullaab (4/129): It should be returned to him if it is still present and it should be replaced if it has been used up or damaged. End quote.

The great scholar al-San'aani said in Subul al-Salaam (2/220): That which was given before the marriage contract is permissible and he may take it back if it is still present; this applies to items that are usually given to be used up. But with regard to items that are not usually used up, he may ask for their value if they are damaged, unless they refuse to go ahead with the marriage, in which case he has the right to ask for its value in both scenarios. End quote.

i.e., if they refused to give her to him in marriage, he may take back the value if they have used up what they took from him, whether the items that he gave were consumable or not. This applies to items that the sister has consumed. But what he consumed himself he has no right to ask her for its value.

It should be noted that the man is a stranger to his fiancée and it is not permissible for him to be alone with her or to shake hands with her or go out with her.

And Allaah knows best.