2491 - A father puts the condition that he should get something for himself in addition to the mahr which is agreed to for his daughter at the time of the wedding contract (nikaah)

the question

There is a custom in some societies for the father to put the condition that he should get something for himself in addition to the mahr which is agreed to for his daughter when she gets married. Does he have the right to this or not?

Detailed answer

Praise be to Allah.

Ibn Qudaamah (may Allaah have mercy on him) said: ‘Issue: if she gets married on the condition that she will get one thousand and her father will get one thousand, this is permissible, and if she is divorced before the marriage is consummated … the conclusion is that the father of the woman is allowed to put the condition that he will get some part of his daughter’s dowry for himself. This is the opinion of Ishaaq, and it was reported that when Masrooq married his daughter off, he put a condition that he would get ten thousand for himself, which he spent on Hajj and on the poor, then he said to the husband: “Provide your wife with what she needs [e.g., buy her clothes and furnish a house for her].” Something similar was reported from ‘Ali ibn al-Husayn.’

‘Ataa’, Tawoos, ‘Ikrimah, ‘Umar ibn ‘Abd al-‘Azeez, al-Thawri and Abu ‘Ubayd said: ‘All of the mahr is for the woman… because the mahr must not be given to anyone but the wife, as a compensation for intimacy with her…

Our evidence for this is the words of Allaah in the story of Shu’ayb, upon whom be peace (interpretation of the meaning): “He said: ‘I intend to wed one of these two daughters of mine to you, on condition that you serve me for eight years…’” [al-Qasas 28:27] Here the father, Shu’ayb, made his employing Moosa to look after his sheep his dowry, which was a condition that he would

get something for himself. Moreover, a father has the right to take from the wealth of his child, on the basis of the Prophet's words, "You and your wealth belong to your father," and "Your children are among the best of your earnings, so consume from their wealth." (Reported by Abu Dawood; a similar report narrated by al-Tirmidhi, who said, a hasan hadeeth). If a father puts the condition that he will get something for himself from the dowry, this means that he will be taking something from his daughter's wealth, and he has the right to do this… A father has the right to take whatever he wants and leave whatever he wants, and he could take it with this condition or without it… This is provided that he is not unfair in his taking from his daughter's wealth; if he is being unfair, then the condition is not valid, and the entire dowry belongs to the bride.'

He also said (may Allaah have mercy on him): 'Section: If any guardian other than the father, such as the grandfather, brother or (paternal) uncle puts such a condition, it is invalid. This is the opinion of Ahmad, and all the mahr agreed upon belongs to the bride.'