27068 - Should he take what he entitled to without the one who wronged him knowing?

the question

I am always follow halal and avoid haram.I work in a shop it belongs to a ju(yahooth)and he seems as a munafik.He had a lot of shops and he closed it suddenly to claim the money from the government and he sack the people without paying their wages.and he keep 5 people (including me) and open another branch.he didn't pay the wages for the previous month.after he paid some amount less than wages a month ago,but he didn't pay for the previous a big amount.and now shop taking is alright but he doesn't pay us and saying no money.now we face difficulies without our wages and this the only income to us.one my colleques is also a muslim he and another person said will take our wages every day from sales if he pay our wages properly and whole amount then we can put it back to the till and they follow it.But I am affraid to do it as whether it will be haram or not.I am finding difficulties and I heard he wants to send us also.then we will never get our wages.so please clear my dout and guide me according to islam.again I want to mention I work honestly,but he is realy munafik (israel).

Detailed answer

Praise be to Allah.

The scholars call this issue “the issue of settling scores”, concerning which there is a dispute among the scholars. Some of them say that it is not allowed to take what one is entitled to from a wrongdoer, and some say that it is allowed subject to the condition that he does not take more than he is entitled to and that there is no risk of being found out and punished. The latter is the correct view.

Shaykh al-Shanqeeti (may Allah have mercy on him) said:

If someone wrongs you and takes something of yours in an unlawful manner, and you cannot prove it, but you are able to do something similar to the way in which he wronged you, with no risk of being found out or punished, do you have the right to take what you are entitled to or not?

The more correct of the two scholarly opinions, and the one which seems closest to the apparent meaning of the texts and is based on the more sound analogy, is that you may take that to which you are entitled, and no more, because Allah says (interpretation of the meaning):

“then punish them with the like of that with which you were afflicted” [al-Nahl 16:126]

“Then whoever transgresses the prohibition against you, you transgress likewise against him” [al-Baqarah 2:194]

Among the scholars who were of this view are: Ibn Sireen, Ibraaheem al-Nakha’i, Sufyaan and others.

A number of scholars – including Maalik – said that this was not permitted. This is the view of Khaleel ibn Ishaaq al-Maaliki in his Mukhtasar, where he said concerning goods placed with a person for safekeeping: He does not have the right to take anything from them because that person wronged him. Those who held this view quoted as evidence the hadeeth: “Render back trusts to the one who entrusted it to you, and do not betray the one who betrays you.”

This hadeeth – even if we assume that it is saheeh – cannot be taken as evidence in this context, because the one who takes as much as he is entitled to, and no more, is not betraying the one who betrayed him, rather he is settling the score fairly with the one who wronged him.

Adwa’ al-Bayaan, 3/353

This is also the view of al-Bukhaari and al-Shaafa’i, as narrated by Abu Zar’ah al-‘Iraaqi in Tarh al-Tathreeb, 8/226. Al-Tirmidh narrated that it was the view of some of the Taabi’een, among whom he mentioned Sufyaan al-Thawri.

The hadeeth quoted by those who do not allow it is the hadeeth of Abu Hurayrah who said: The

Prophet (S) said: “Render back trusts to the one who entrusted it to you, and do not betray the one who betrays you.” Narrated by al-Tirmidhi, 1264; Abu Dawood, 3535; classed as saheeh by al-Albaani in al-Silsilah al-Saheehah, 423.

So you can take what you are entitled to from this Jew who owns the workplace, provided that you do not take more than what you are entitled to, and provided that there is no risk of being found out, which may damage the image of Islam, because you cannot prove your rights to people. If he gives you what you are entitled to after that, in whole or in part, then you have to return what you took from him that is surplus to what you are entitled to.

And Allah knows best.