124773 - Can we rely on tracking (qiyaafah) to find criminals?

the question

There is a man who practices qiyaafah (tracking and looking for places and clues). Just by looking at tracks on the ground he can describe the one who left the tracks in great detail; he can determine the gender, build and tribe, and in most cases he gets it right. They are of great use in finding criminals. What is your ruling and the ruling on seeking their help?.

Detailed answer

Praise be to Allah.

In Arabic, al-qaa'if (the tracker) refers to the one who follows tracks and recognises them, and he recognises similarities between a man and his brother and father. The shar'i terminology does not differ from the linguistic meaning that has to do with following tracks and recognising similarities. See: al-Mawsoo'ah al-Fiqhiyyah (34/92).

Qiyaafah or following tracks is something that is well known, and some tribes are famous for it, such as Banu Madlaj in the past and the al-Murrah tribe today.

Getting it right depends on instinct, intuition and experience. Hence the tracker may mention very precise matters and get them right.

Shaykh Muhammad ibn Ibraaheem Aal al-Shaykh (may Allaah have mercy on him) said: Tracking is not limited to Banu Murrah and Banu Madlaj. Banu Madlaj were famous in the Hijaz and those who are famous for it now are the people of Murrah, who are not from Banu Madlaj, but they are famous for that and seem to be becoming more so. But experience in tracking is to be found in others, both city dwellers and desert dwellers. Among city dwellers are people who are known for it. Those who are most famous are the people of Murrah, as stated above, who have great skill in that field as is well known. Some of them confirmed concise details which have been proven to be true. But some of them are skilled in finding out thieves, and not everything they say is based on

the skill of tracking. Just as they base their skill on tracking, their skill also involves intuition; if a person shows some fear, they persist in putting pressure on him until he admits it.

Finding things out has to do with tracking, but it should not be used in disputes having to do with proving lineage, because that is something else. But if there is a need to look at their footprints on the ground, that is fine, but similarities in the face and so on are more accurate than anything else.

The second matter [the first is using tracking to prove lineage] is: that which has to do with finding out the offender in the case of theft or murder or accusation. This is based on examination and skill, and is based on smartness, because many of these cases are examined not on the basis of tracking but rather by means of skill and experience, and they may get confused at times but this occasional confusion should not lead us to disregard what they say, because regular evidence may lead to wrong conclusions. The tracker should be of sound character as is required in the case of the witness, judge and ruler. Experience is essential. End quote from Fataawa al-Shaykh Muhammad ibn Ibraaheem (9/31).

With regard to relying on them, the fuqaha' have said that trackers may be relied on with regard to proving unknown lineage, such as a child who results from a marriage that was not done properly, or a foundling, and so on.

They differed concerning relying on their views to determine the identity of the criminal or thief.

Shaykh Ibn 'Uthaymeen (may Allaah have mercy on him) said: The opinion of the tracker with regard to lineage carries weight, but does the opinion of the tracker carry weight with regard to wealth? - in the sense that if the tracker sees the footprints of the thief and says, This is So and so the son of So and so, is that to be relied upon or do we say that this is circumstantial and that the man has to be brought and questioned, and if he admits it (then he is to be punished), otherwise he is to be declared innocent? There is a difference of opinion among the scholars concerning this. Some of them say that if the tracker is known for accuracy, based on his track record, then his opinion is to be accepted, and as we have mentioned, these trackers may offer testimony that this

is the foot of So and so, and they have no doubt concerning that, so it is circumstantial evidence. In the case of Dawood and Sulaymaan (peace be upon him) it says (interpretation of the meaning):

“And (remember) Dawood (David) and Sulaymaan (Solomon), when they gave judgement in the case of the field in which the sheep of certain people had pastured at night; and We were witness to their judgement.

79. And We made Sulaymaan (Solomon) to understand (the case)”

[al-Anbiya’ 21:78, 79].

From the effects he found out the one who caused the effect. End quote from al-Sharh al-Mumti’ (10/399).

Shaykh al-Islam Ibn Taymiyah (may Allaah have mercy on him) was of the view that the opinion of the tracker carries weight in business transactions and criminal offences. He mentioned as an example of that one who claims that he has lost some of his wealth and proves that, then the tracker follows the footprints from one place to another. The testimony of the tracker that the wealth entered this place implies one of two things: either to base the ruling on that or to base the ruling on that if the claimant swears an oath, which is more likely to be correct, because these signs make the claim stronger, and swearing an oath is prescribed for the one whose case is stronger. See: al-Fataawa al-Kubra (5/508).

In all these cases, whether tracking is to be relied on is something to be decided by the judge and what he sees fit, and depends on fulfilment of the conditions of good character and experience with regard to the tracker; it also depends on there being no evidence that is contrary to what the tracker is saying.

And Allaah knows best.