200189 - Ruling on disposing of stolen property by selling it and the like, how to repent from that, and how to rid oneself of that liability

the question

I am owed a debt of about forty thousand Syrian pounds by someone who buys and sells stolen goods, and this man refuses to pay the debt he owes. I told him that I would never return to him his personal laptop that is in my possession, until he pays me back the money, and he said: I don't want it.
Is it permissible for me to sell this laptop and take my money from the price?
Please note that its price is less than the debt that is owed. Please note also that this laptop is also one of the stolen goods, and I do not know who its owner is, because he is in another country.

Detailed answer

Praise be to Allah.

It is not permissible to buy stolen goods or to help anyone else to sell them or market them, or to accept them as a gift, and so on. They come under the heading of wealth that is prohibited in and of itself, and it is not permissible for anyone to take possession of them, even by permissible means such as buying, receiving a gift or inheritance.

If a person knows that this thing that he is going to acquire by means of a purchase or as a gift is something that has been stolen, he should denounce the thief and tell him to repent to Allah, may He be exalted, from stealing. He should also tell him to return the item to its owner, and he himself should try to return the item to its owner or his heirs, if that is possible and he knows who they are, or he should tell them of the location of their stolen goods, or tell the authorities about that.

If a person buys an item knowing that it is stolen, he has committed a sin, and part of his repentance is to return the item to its owner, and take back the price from the one who sold it to

him, because buying from a thief comes under the heading of cooperating with him in sin and transgression, and it encourages him to carry on with his sin. It also involves failing to denounce evil. One of the conditions of a transaction being valid is that the seller should own whatever he sells, but if the seller is a thief, then he is not the owner, which means that the transaction is invalid. This issue has been discussed in detail, quoting the words of the scholars concerning it, in fatwa no. 93031

Undoubtedly what this person did of taking your wealth and insisting on not returning it is a crime that will be added to his record of evil deeds, and it is a major sin that will be added to the list of his evil deeds that could lead to his doom. The basic principle is that whoever is owed something and is not able to get it back by judicial means and the like, it is permissible for him to take that property or its equivalent, if he is able to do that and is safe from the consequences, in the sense that his action will not result in greater harm, such as him being labelled a thief and the like. This issue is known as “having the opportunity (to regain one’s rights)”. The faqeeh Muhammad ibn ‘Abdullah al-Khorashi al-Maaliki (may Allah have mercy on him) said:

This issue is known as “having the opportunity (to regain one’s rights)”. What is meant is that if a person is owed something by someone else, and he has the opportunity to take it, or to take something of equivalent value from the property of that other person, then it is permissible for him to take that from him, whether it is of the same nature as his property or is different, according to the well-known view, and whether the one who owes it to him is aware of that or not, and he does not have to refer the matter to the ruler. It is permissible for him to take it, subject to two conditions:

1. that what is due to him is not by way of punishment, otherwise it is essential to refer the matter to the authorities. The same applies in the case of h@add punishments; no one can carry them out except the judge.

2. There should be no danger of fitnah (turmoil) as a result of him taking his due, such as fighting or bloodshed, and there should be no danger of his being labelled an evildoer and the like, such as his being accused of taking something by force, and the like. If there is any such danger, then it is

not permissible for him to take it.

End quote from Sharh Mukhtasar Khaleel (7/235)

Al-‘Izz ibn ‘Abd as-Salaam (may Allah have mercy on him) said: If a person has the opportunity to get something like what he is owed from the wealth of the one who wronged him, then he may take it. But if it is not of the same nature as what he is owed, then it is permissible for him to take it and sell it, then take his due in full from the price.

End quote from Qawaa‘id al-Ahkaam (2/176)

Based on that, it would basically be prescribed for you to take back your property from this laptop, if it were not stolen. But because it is stolen, then it does not belong to that man, so it is not permissible for you to take it in return for what is owed to you. Rather what you must do is try hard to return it to its owner or his heirs, if its owner has died. If it is not possible for you to do that, then you must hand it over to the ruler, if there is in your country a trustworthy, just, Muslim ruler who adheres to the commands of Allah, may He be glorified, and rules according to His laws. If there is no such ruler, but there is a group of Muslims of good character who gather to judge between people and examine their affairs in accordance with the laws of Allah, then you should give it to them, and they will dispose of it in accordance with the laws of sharia. This is so because the group of Muslims of good character take the place of the ruler in cases where there is no Muslim ruler, or in cases where the ruler is unjust and does not adhere to the commands of Allah, may He be glorified.

It says in Mawaahib al-Jaleel fi Sharh Mukhtasar Khaleel (2/386), commenting on a hadith about proving that the month of Ramadan has begun: The role of the qaadi (judge) may be played by a group of Muslims who examine the matter as he would. End quote.

In the same book (4/199) it says:

If the people are faced with a problem because there are no judges, or because the judges are not fair and just, then the Muslim community should be able to come together to find the right ruling

and judgement with regard to all the issues mentioned above, and all other issues. So the people of religious commitment and virtue should play the role of judge in setting time limits (for ‘iddah and other issues), talaaq, and the like. Al-Burzuli said: I say: It is already established that the Muslim community takes the place of the judge if there is no judge, except in some specific cases, as mentioned above. End quote.

If there is no just Muslim ruler or judge, and no Muslims of knowledge and sound character, then sell it yourself and give its price in charity – on behalf of its owners – to one or more poor Muslims.

However it should be noted that if you hand it over to a ruler who is an evildoer or a disbeliever, or a Muslim who is not of good character, then you have not discharged your duty by doing that, and you are still liable.

It says in al-Majmoo‘ Sharh al-Muhadhdhab (9/351):

Al-Ghazaali said: If he has haraam wealth and he wants to repent and rid himself of it, if that wealth has a particular owner, he must give it to him or to his deputy. If the owner has died, then he must give it to his heirs. If it belongs to someone whom he does not know and he thinks that it is not possible to find out who he is, then he should spend it on the public interests of the Muslims, such as building bridges, border posts, and mosques, or on maintaining the road to Makkah and other things of common interest to the Muslims. Otherwise, he may give it in charity to one or more poor persons, and that should be done by the judge if he is a man of integrity. If he is not a man of integrity, it is not permissible to hand it over to him, and if he does hand it over to him, then the one who hands it over to him is still liable. In fact he should refer the matter to man in that country who is known for his religious commitment and knowledge, because that is better than making a decision by himself. If he is not able to do that, he should take care of the matter himself, because the point is to dispose of it in this manner. If he gives it to a poor person, then it is not haraam for him; rather it is lawful and good. End quote.

And Allah knows best.