The hand is not to be cut off for taking fruit or Kathar (the pith of the palm-tree)

Muhammad ibn Yahya ibn Hibbān reported: A slave stole a plant of a palm-tree from the orchard of a man and planted it in the orchard of his master. The owner of the plant went out in search of the plant and found it. He sought help against the slave from Marwān ibn al-Hakam, who was the Governor of Madīnah at that time. Marwān confined the slave and intended to cut off his hand. The slave's master went to Rāfi‘ ibn Khadīj and asked him about that case. Rāfi‘ told him that he had heard the Messenger of Allah (may Allah's peace and blessings be upon him) say: "The hand is not to be cut off for taking fruit or Kathar (the pith of the palm-tree)." The man then said: "Marwān has seized my slave and wants to cut off his hand. I wish you would go with me to him and tell him what you have heard from the Messenger of Allah (may Allah’s peace and blessings be upon him)." Rāfi‘ ibn Khadīj went with him to Marwān ibn al-Hakam. Rāfi‘ said to him: "I heard the Messenger of Allah (may Allah’s peace and blessings be upon him) say: ‘The hand is not to be cut off for taking fruit or Kathar.'" So Marwān gave orders to release the slave, and he was released.

[Authentic hadith] [Narrated by Ibn Majah]

A slave owned by a man stole a small palm-tree from the orchard of another man and planted it in the orchard of his master. When the owner of the stolen palm trees learned about theft, he wanted to take the slave to Marwān ibn al-Hakam, who was the Governor of Madīnah at that time, in order to have his hand cut off. However, upon the request of the slave's owner, Rāfi‘ ibn Khadīj (may Allah be pleased with him) told Marwān that the Prophet (may Allah's peace and blessings be upon him) mentioned that the hand is not to be cut off for taking fruit or pith of the palm-tree (a tissue in the stems of palm trees). Upon hearing that ruling which was authentically attributed to the Prophet (may Allah's peace and blessings be upon him) Marwān released the slave. This Hadīth proves that the hand of a thief is not to be cut off for taking fruits from an orchard or so, because the stolen item is not kept in a safe place.


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