

## FATWAS ACCORDING TO THE SHAFI'IS - A COMPARATIVE JURISPRUDENTIAL STUDY OF ISSUES FROM THE BOOK OF PURITY

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### **Abstract**

*This is a summary of our research, asking God Almighty for success and payment. Our research included two topics, the first of which dealt with an aspect of the biography of Imam Al-Shafi'i and the origins and terminology of his school of thought, as it was built on foundations based on the Book and the Sunnah, then the consensus on what is not in the Book or the Sunnah, then that some of the companions of the Prophet, may God's prayers and peace be upon him, say and we do not know of him opposing them, then the analogy is based on Some layers, and nothing becomes to it other than the Book and the Sunnah, and they exist, but knowledge is taken from above." Then we give preference according to the strongest and most correct evidence, with an indication of the approval of the weighting of the fatwa saying or not. This lies the importance of the issues that we study and we intend to collect them in one place.*

**Keywords:** Mufti, Shafi'i, jurisprudence, comparison, book of purity

### **Introduction**

Praise be to God, enough, and may God's prayers and peace be upon His Prophet, the Chosen One, and His chosen Messenger, our master Muhammad, and upon his family, companions, and whoever follows in his footsteps. Now to the matter: When the fatwa is one of the most important things that are taken care of, and the last fruit is plucked and reaped; Because it is one of the obligations of the sufficiency, and because it is not dispensed with at any time, and the prominent scholars are still muftis, recording what happens to them of questions and answers and collecting, and whoever writes what happened to him in his nights and days, he wrote a book to whoever comes after him with the events of his life and years, and whoever records What he saw and witnessed in his times and his time, he witnessed the conditions of his era for those who were not in his era, and the past before us informed us of the news, and informed us of what was covered and remained of the effects, so we saw what we did not see with sight, and surrounded us with what we did not comprehend news of the news, and for this reason some of them were raised above Some degrees, and that is nothing but a bounty from the Generous, Exalted, Exalted Lord, He gives it to whomever He wills of His servants and clothes it in the garment of reverence, and the scholars have taken great care in all the facts, and they have striven to memorize them so that people can benefit from them after them, until they have

become many books that are referred to, and unique collections that depend on On it, and abundant proofs that he clings to, because of what it contains of rare conditions and stray branches, there is hardly a ruler except on the role, so we preferred to write in such a way about others for the honor of the position and the highness of the position, and what increased it beauty and majesty when this science stuck to the name of the glory of his time and the crown of his peers, the divine scholar with Good and wise opinion Why the unique, useful saying, and praiseworthy lineage in front of us, and the pride of our ancestors, Imam Al-Shafi'i, may God Almighty have mercy on him, and made his knowledge in the balance of his good deeds.

This is a study drawn from a doctoral dissertation in which I was assigned to write a doctoral degree in the College of Islamic Sciences - Department of Jurisprudence and its Principles. The place does not allow for narration and elaboration, then I spoke in the second topic about some jurisprudential issues that are fatwas according to the Shafi'is from the book of purity and the statement of the opinions of those who agree and disagree from inside and outside the school, so that it becomes clear after presenting the opinions and evidence the most correct opinion and then a statement of its agreement with the saying of the fatwa with it or not, then I concluded the research with the most important results Which I reached, asking God for success and payment. May God's blessings and peace be upon our master Muhammad and his family and companions, and peace be upon him a lot.

### **Literature review**

The first topic: the life of Imam Al-Shafi'i and the origins and terminology of his doctrine

It has four requirements:

The first topic: the life of Imam Shafi'i

It has three branches:

The first branch: his name, birth and upbringing

First: His name and lineage: He is Muhammad ibn Idris ibn al-Abbas ibn Uthman ibn Shafi' ibn al-Sa'ib ibn Ubaid ibn Abd Yazid ibn Hashim ibn al-Muttalib ibn Abd Manaf ibn Qusai ibn Kilab ibn Murrah ibn Ka'b ibn Lu'ay ibn Ghalib ibn Fahr ibn Malik ibn al-Nadr, and he is Quraysh ibn Kinana bin Khuzaymah bin Mudraka bin Elias bin Mudar bin Nizar bin Maad bin Adnan Abu Abdullah Al-Shafi'i Al-Muttalib Al-Qurashi. (1).

Secondly: His birth: Imam Al-Shafi'i, may God have mercy on him, was born in Gaza in the Levant in the year 150 AH, and according to this the opinion of the majority of the historians of the jurists and the writers of their classes agreed. But there were those who said that he was born in Ashkelon, near Gaza (2).

Third: His upbringing: Imam Al-Shafi'i, may God have mercy on him, grew up in a poor family that used to live in Palestine. His father died when he was young, so his mother moved him to Mecca for fear that he would lose his honorable lineage, so that he might reside among his relatives and learn about their culture. Imam Al-Shafi'i, may God have mercy on him, lived in Mecca the life of poor orphans, although his lineage was high and honorable, but he lived the life of the poor until his return was straightened, and this had a great impact on his life and morals. Al-Shafi'i, may God have mercy on him, memorized the Noble Qur'an when he was

seven years old, then he turned to memorizing the hadith of the Prophet, so he memorized the Muwatta' of Imam Malik. Al-Shafi'i said: "I memorized the Qur'an when I was seven years old, and I memorized the Muwatta' when I was ten years old." (3).

The second branch: His sheikhs, his students, the scholars' praise for him, and his death

First: His sheikhs: Al-Shafi'i took knowledge from the sheikhs of Makkah, the sheikhs of Medina, the sheikhs of Yemen, and the sheikhs of Iraq, and his sheikhs from whom many narrated, but the famous among them and those who were among the people of jurisprudence and fatwa, we mention some of them.

1. Sufyan bin Uyaynah bin Abi Imran al-Hilali, he was born in the year one hundred and seven, on the night of mid- Sha'ban.
2. Malik bin Anas bin Malik bin Abi Aamer bin Amr bin Al-Harith Al-Asbahi Al-Madani. Malik was born in the year ninety-three or ninety-four, and he died in the year 179 AH. (5).
3. Muhammad ibn al-Hasan ibn Farqad al-Shaibani al-Hanafi, the companion of Abu Hanifa and the imam of the people of opinion. His father came to Iraq, so Muhammad was born in Wasit, and grew up in Kufa. He died in Rayy, and was buried there. (6).
4. Hammad bin Osama bin Zaid, Abu Osama al-Kufi, mawla of al-Hasan bin Sa'd, mawla of al-Hasan bin Ali bin Abi Talib al-Kufi. Obaidullah bin Umar, al-Amash and al-Thawri heard al-Madini and Ishaq bin Ibrahim al-Hanzali narrate from him. He died in 201 AH. From this context, it can be understood that Imam al-Shafi'i, may God have mercy on him, received knowledge from a number of sheikhs of different schools of thought, and thus he would have received the jurisprudence of most of the schools that emerged in his era, so the jurisprudence of Mecca, Medina, the Levant, Egypt and Iraq gathered for him (7).

Second: His students: He was a student at the hands of Imam Al-Shafi'i, may God have mercy on him. Many of them were:

1. Al-Hamidi, he is Abdullah bin Al-Zubayr bin Isa Abu Bakr Al-Qurashi, known as Al-Hamidi, from the people of Makkah, who died in the year 219 AH
2. Ahmad bin Muhammad bin Hanbal bin Hilal bin Asad Abu Abd Allah, the imam of the hadith scholars of Marouzi origin, his mother came to Baghdad while she was pregnant with him, so she gave birth to him and he grew up with her, and he sought knowledge and heard the hadith from her sheikhs, then he moved to Kufa, Basra, Mecca, Medina, Yemen and the Levant And Al-Jazeera, so he wrote about the scholars of that era. He died on a Friday in Rabi' al-Awwal in the year 241 AH. (8).

Third: Scholars' praise for him:

Imam Al-Shafi'i, may God have mercy on him, had a high position among the scholars, so they used to praise him and describe him with the highest and most respectful descriptions, because he was knowledgeable about all kinds of knowledge and knowledge.

I will mention some of the sayings of scholars about it:

1. On the authority of Suwayd bin Said that he said: We were with Sufyan bin Uyaynah in Makkah, and Al-Shafi'i came and Ibn Uyaynah looked at him and said, "This is the best youth of the people of his time".

- Shafi'i, I hear you making many supplications for him?

Fourth: His death:

Al-Razi said, "My father told us, he said, Yunus bin Abd Al-A'la told me, he said: "We have not seen anyone suffer from the disease what Al-Shafi'i had. So I recited it to him, and when I wanted to get up, he said: Do not neglect me, for I am distressed." Yunus said: Al-Shafi'i meant in my reading after the twenty and one hundred, what the Prophet, may God's prayers and peace be upon him and his companions, or the like met. Muhammad bin Abdullah bin Abdul-Hakam Al-Masry said He said: Al-Shafi'i was born in the year one hundred and fifty, and he died on the last day of Rajab, in the year two hundred and four. He lived fifty-four years. (10).

The second requirement: the origins and terminology of the Shafi'i school of thought, and it has two branches.

The first section: the origins of the Shafi'i school of thought

Two people do not differ in that Imam al-Shafi'i, may God have mercy on him, was the first to develop the science of fundamentals, and he was the first to write and lay down its rules and methodology. So his followers sufficed the burden borne by others by deriving the foundations of their doctrines from their branches. Something is permissible or forbidden except from the point of view of knowledge. The point of knowledge is the news: in the book, the Sunnah, consensus, or analogy. Or the saying of some of the companions of the Messenger of God, may God's prayers and peace be upon him, or the consensus of the people." Then he, may God have mercy on him, said: "Knowledge has various layers. The Prophet, may God's prayers and peace be upon him, and we do not know of him who differed from them, and the fourth: the disagreement of the Companions of the Prophet, may God's prayers and peace be upon him, in that. Al-Shafi'i, in fact, we study the fundamentals of the doctrine with which he was known and his students were affiliated with, and it is a statement of the branches of the doctrine that branched out from the origins of which the For my intercessor. (11).

The following is a quick look at the foundations of his doctrine, may God Almighty have mercy on him:

First Origin: The Holy Qur'an:

The Holy Qur'an, according to Imam Al-Shafi'i, is the origin of religion and the first source of legislation. He said: "There is no such thing that descends upon any of the people of God's religion except that there is evidence in the Book of God for the path of guidance in it." He also said clarifying: "No one is commanded to judge with a right except that he knows the truth, and the truth is not known except from God as a text, or an indication from God. And the book indicates it in text or in a sentence." (12).

The second origin: the year

Imam al-Shafi'i, may God have mercy on him, stated in the letter that the Sunnah is revealed like the Qur'an, citing the Almighty's saying: {And remember what is recited in your homes of

God's signs and wisdom}. So he mentioned the Sunnah with the wording of recitation, like the Qur'an, and He made it clear that He gave him along with the book other than the book, which is what he enacted on his tongue, which he did not mention in it. That is why he, may God's prayers and peace be upon him, said (Indeed, I have been given the Book and the like of it with it). And every obligation imposed by God Almighty in His book, such as Hajj, prayer, and zakat, had it not been for the Prophet's statement, we would not have known how to perform it, and we would not have been able to perform any of the acts of worship.

The third principle: unanimity in matters that are neither in the Book nor in the Sunnah:

Imam Al-Shafi'i said: "And whoever says what the Muslim community says, then he has adhered to their group, and whoever contradicts what the Muslim community says has violated their group, which he commanded to stick to. ". The consensus is a legitimate argument for all scholars, and only the system and the Imamiyyah disagreed with it (14).

The fourth principle: the saying of a companion if no one is known to contradict it:

Imam Al-Shafi'i said, "As long as the Book and the Sunnah existed, then the excuse for those who heard them is cut off except by following them. We did not find an indication in the difference that indicates the closest difference from the Book and the Sunnah, so the saying that has the evidence should be followed. (15).

Fifth Principle: Measurement:

Imam al-Haramayn al-Juwayni said: "Qiyas is the source of ijtiḥad and the origin of opinion, from which jurisprudence and the methods of Shari'a branch out. On the authority of the scholars of the hurricanes, the status of single news is revealed, and it is, in general, finite, and we know with certainty that the events that are expected to occur are endless." (16).

The second section: the terminology of the Shafi'i school

Shafi'i scholars used many terms in their works, and the meanings of the most prominent ones follow.

1. The old saying: It is what Imam Al-Shafi'i said in Baghdad before he moved to Egypt.
2. The New Saying: It is what Imam Al-Shafi'i said after he came to Egypt.
3. Sayings: What is meant by them is the jurisprudence of Imam al-Shafi'i, may God have mercy on him, whether they are old or new.
4. The famous: It is the most correct opinion of the two sayings, or the sayings of Imam Shafi'i.
5. The Companions: They are the Shafi'i jurists who have reached a great extent in knowledge until they had their own jurisprudential jurisprudence that they extracted on the origins of Imam Shafi'i and derived it through the application of his rules, and in that they are affiliated with Imam Shafi'i and his school of thought.
6. Madhhab: What is meant by it is the most correct opinion in the story of the madhhab when the companions differ in its story.
7. The text: It is the saying that is stipulated in the books of Imam Al-Shafi'i, and it corresponds to the saying that comes out. (17).

Notable terminology: In their works, the Shafi'i jurists use some titles and nicknames for a

number of their senior figures, with the intention of brevity. Among the most famous of these releases are:

Imam: They want the imam of the Two Holy Mosques al-Juwayni (T: 478 AH).

Al-Qadi: They want it at the time of divorce, Al-Qadi Hussain (d.: 462 AH).

The two judges: They want them at the time of the divorce.

Al-Rabea: They want it at launch, Al-Rabee bin Suleiman Al-Muradi, the student of Imam Al-Shafi'i (T: 270 AH).

The two sheikhs: they mean al-Nawawi (d. 676 AH) and al-Rafi'i (d. 623 AH).

The sheikhs: They mean al-Nawawi, al-Rafi'i, and Taqi al-Din al-Subki (d.: 756 AH). (18).

The second topic: from the issues of purity that are fatwas according to the Shaafa'is

The first issue

Begin by washing the tips of the fingers and toes in ablution

The jurists unanimously agreed that washing the hands in ablution is one of its obligatory duties. No act of worship can be based on an ablution that has not been washed by the person who has washed his hands, unless he has an excuse. The majority of scholars agreed that washing the feet is one of the obligations of ablution. Is it from the elbows and the heels or from the tips of the fingers according to two sayings: (19).

The first saying: It is Sunnah to start washing his hands and feet from the tips of his fingers.

This is the fatwa according to the Shaafa'is:

Ibn Zakariyya al-Ansari, may God have mercy on him, said: "It is Sunnah for him to start washing his hands and feet from the tips of his fingers, so the water runs over his hand, and he turns his other palm over it, bringing water with it to his elbow, and he runs it on his leg, and turns his palm over it, bringing the water with it to his heels, and it is not enough for the water to flow with it by nature." Al-Saymari and Al-Mawardi, if something else was poured on him, he started with the elbow and with the heel. Imam Al-Shafi'i stipulated this by saying: "It is not sufficient to wash the hands at all unless it is applied to what is between the tips of the fingers until the elbows are washed." This is what the Hanafis went to, and it was said by most of the Shafi'is, and it was chosen by al-Nawawi. (20).

They are given the following:

1. On the authority of Naeem bin Abdullah, that he saw Abu Hurairah, may God be pleased with him, performing ablution, so he washed his face and hands until he almost reached the shoulders, then washed his feet until he was raised to the shins, then he said: I heard the Messenger of God, may God bless him and grant him peace, say: "My nation will come on the Day of Resurrection with radiant eyes. From the effect of ablution, so whoever of you is able to make his bangs long, let him do so. They said: We only started from the front of the man. Because God Almighty made the heels a target, and likewise in washing the hands, it starts from the tips of the fingers, because God Almighty made the elbow a destination. (21).

The second saying: If he is the one who pours water on himself, he starts from the tips of his fingers to his elbow, and if someone else pours water on him, he starts with the elbow and the

heel.

And it was said by Al-Saymari, Al-Mawardi, Al-Dumairy Abu Al-Baqa, and Ibn Al-Rifa'a. I did not find evidence for them to be used as evidence. It agrees with the principles approved by the Shafi'is, may God Almighty have mercy on them. (22).

Second issue

The amount of two

Scientists have several opinions about water mixed with impurity. Some of them said that if the water reaches two qulals, it does not carry the impurity and does not affect it.

The first saying: The two qulta are three hundred mann, that is, they are six hundred pounds.

Imam al-Nawawi said: "Our Khorasani companions mentioned three aspects of the two qallatayn. It is the choice of al-Qaffal and al-Zubayri, and it is supported by the words of al-Ghazali: "The fairest is what al-Qaffal and the author of al-Kafi accepted, and it is three hundred, then he said: The correct view is that this is an approximation, not a limitation, so most of them said this." (23).

They inferred the following:

They said: Because the few camels carry them, and the Arabs' brooms were small. They do not carry more than a wasq, which is sixty saa', so it will be one hundred and sixty manna, and the two qalts are three hundred and twenty manna, so the vessel and the ropes go twenty manna, and the pure water remains three hundred manna. (24).

The second saying: The two qaltan are five hundred manna, that is, they are a thousand pounds. It is the saying of Al-Qaffal, and the choice of Al-Masoudi, and this is narrated on the authority of Abi Zaid Muhammad bin Ahmed bin Abdullah bin Muhammad Al-Marwazi, and he is the sheikh of Al-Qaffal Al-Marwazi. (25).

They inferred the following:

Because the most of the capacity of the skins is two hundred pounds, and because the few is a name for what the camel carries, and the camel is independent with two hundred and fifty manna.

The third saying: Two hundred and fifty pounds, or five hundred pounds. Al-Ruyani said: "It is the saying of the majority, and this is more correct." It is a narration from Imam Ahmad, and the majority of his companions are upon it. (26).

They inferred the following:

1. On the authority of Nafi', on the authority of Ibn Omar, may God be pleased with them both; He said: The Messenger of God, may God's prayers and peace be upon him, said: "If the water is two drops of water, it does not carry impurity".
2. On the authority of Ibn Juraij, with a chain of narrators whose mention is not mentioned by me, that the Messenger of God, may God's prayers and peace be upon him, said: "If the water is two qultains, it does not carry impurity." Ibn Juraij said: "I have seen a few hajar bags, so the few are nine of two tablets, or two tablets and something".

Evidence: Al-Shafi'i, may God have mercy on him, said: Precaution is to make a thing half, because when the Arabs mentioned a number or something, they meant by something half, or less than that, so the two qalaba are five qirbs, and each qiblah is fifty of us, so its total is two

hundred and fifty of us. (27).

And they are answered:

The people of the hadith have two aspects: one of them: turbulence, and that is from two aspects, one of them is in the chain of transmission, and the second is in the text. As for the first: where it was narrated by Al-Walid bin Katheer, sometimes on the authority of Muhammad bin Abbad bin Jaafar, and sometimes on the authority of Muhammad bin Jaafar bin Al-Zubair. And where it was narrated sometimes on the authority of (Ubayd Allah) bin Abdullah bin Omar bin Al-Khattab, and sometimes on the authority of Abdullah bin Abdullah bin Omar bin Al-Khattab. As for the second aspect: it is that it was narrated in it: "If the water is the amount of two or three quls, nothing makes it najis." ". It was narrated by Imam Ahmad. And in a narration by al-Daraqutni: "If the water reaches two or three qults, nothing makes it najis." And in a narration by Ibn Uday, al-Aqili, and al-Daraqutni: "If the water reaches forty gulps, then it does not carry filth." It was answered from two sides: the first: About this, this is not a disorder, but it was narrated by Muhammad bin Abbad and Muhammad bin Jaafar, who are well-known and trustworthy. (And it was narrated) - also - by Ubaid Allah, and Abdullah, the two sons of Abdullah bin Omar bin Al-Khattab (may God be pleased with them and make them pleased), and they are - also - trustworthy, and this is not from confusion. (28).

And it is answered to them: The two sayings did not depend on the fact that they were conveyed in a proven narration, and there is no consensus. And I answer: What is meant is that the two sayings are two sayings with a few left, as narrated by Imam Al-Shafi'i, may God have mercy on him. On his authority, which is established in "Al-Sahihain", that the Messenger of God - may God's prayers and peace be upon him - told them on the Night of the Night Journey, and he said: "The Sidrat al-Muntaha was raised to me, and if its leaf is like the ears of elephants, and if we pour it out like a necklace of desert." Know this: that the necklace with them is known, well-known. And how does he think that the Prophet, may God's prayers and peace be upon him, specifies for them, or represents to them what they do not know, and they are not guided to. The fourth saying: Two qaltan are four hundred pounds in Iraqi, and it is a narration from Imam Ahmad. (29).

And they inferred the following: It was narrated on the authority of Ibn Juraij and Yahya bin Aqil: that the few take two qiblahs, and the large hijaz qiblah, each of which is 100 pounds, so the two qalaba with these introductions became four hundred pounds. Thor said that the two qultayn are five nearnesses, neither the largest nor the smallest. And Abd al-Rahman bin Mahdi, Waki`, and Yahya bin Adam said that the few are the jar. (30).

The most correct saying: After presenting the sayings of the jurists in the madhhab and comparing them, it becomes clear, and God knows best, that the most correct saying is contrary to what is in the fatwa in the Shafi'i school of thought, because the fatwa contradicts the principles of the school. This is due to the large number of those who believe in it in the school of thought, in addition to the strength of the evidence that they used as evidence. Here we should point out that the issue of estimating the two sayings is due to the custom that prevailed at that time, so the jurists' views differed in the issue of estimation according to the prevailing custom.



## Conclusion

Praise is to God for completeness, and prayers and peace be upon the conclusion of our Master Muhammad, and upon his family and companions.

1. The origins of the Shafi'i school of thought are based on the Book and the Sunnah if they are proven, then there is consensus on what is not in the Book or the Sunnah, then that some of the companions of the Prophet, may God's prayers and peace be upon him, say, and we do not know any of them opposing him, then the analogy is based on some layers, and nothing becomes other than the Book and the Sunnah, and they are present. Knowledge is taken from above".
2. Among the most famous terms of the Shafi'i school: the old saying, the new saying, the sayings, the famous, the companions, the doctrine, the text.
3. It is Sunnah for those who want to perform ablution to start by washing their hands and feet from the tips of their fingers, for the correct evidence that is used as evidence for them, which is the fatwa in the madhhab and agrees with the Shafi'i principles, may God Almighty have mercy on them.
4. The two qalta are two hundred and fifty manna, i.e. five hundred pounds; This is due to the large number of those who believe in it in the school of thought, in addition to the strength of the evidence that they used as evidence. It should also be noted that the issue of estimating the two qalata is due to the custom that was prevalent at that time, so the jurists' views differed in the issue of estimation according to the prevailing custom.

In conclusion, I pray and greet the envoy as a mercy to the worlds, our master Muhammad and his family and companions.

## Margins

1. The history of baghdad: 2/392, manazel al-faraba al-imaam: 1/198.
2. Manaqib al-shafi'i: 1/71.
3. Manaqib al-shafi'i: 1/71
4. The houses of the four imams: 1/205, sir a'lam al-nubala': 1/206, al-shafi'i his life and his era: 2/ 17.
5. Famous scholars of al-amsar: 1/235-236.
6. Famous scholars of al-amsar: 1/223.
7. Baghdad history: 2/561.
8. Tabaqat al-shafi'i: 1/139, sir a'lam al-nubala': 10/7, al-shafi'i, his life and time: 41-42.
9. Baghdad history: 6/90.
10. Selection in the virtues of the three imams jurists: 1/75.
11. Etiquette and virtues of al-shafi'i: 1/22.
12. Mother: 8/764.
13. Mother: 9/69.
14. Al-bahr al-muheet: 3/238.
15. Al-bahr al-muheet: 2/490.
16. Mother: 8/ 763-764.

17. Al-burhan in usul al-fiqh: 2/3.
18. Mughni al-muhtaaj: 1/106, hashita qalyubi and amira: 1/13.
19. End of the requirement: 173-175.
20. Total: 1/426, al-gharar al-bahia: 1/110, asna al-matalib: 1/43.
21. Demonstrative circumference: 1/48.
22. Al-hawi al-kabir: 1/113, al-bayan in the doctrine of imam al-shafi'i: 1/132, umdat al-salik: 1/41.
23. Kifayat al-nabih: 1/ 316.
24. Manna by opening the meme on the weight of the stick, an old criterion that was measured or weighed is a pound and its double is a noun. Because it is carried by the hands, that is, it is carried, and from it is the almighty's saying: {until it carries heavy clouds} and this name falls on the large and small, and the manna: a measure whose capacity is two iraqi pounds, or forty asters = 39, 815 grams. Jurists: 1/460.
25. The mediator in the madhhab: 1/170-172.
26. The commentary by judge hussain: 1/ 483; al-aziz sharh al-wajeez: 1/47.
27. Al-aziz sharh al-wajeez: 1/47.
28. The commentary by judge hussain: 1/ 483; kifayat al-nabih: 1/177.
29. Bahr al-madhhab: 1/ 260.
30. Equity: 1/ 120.

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