

## Speech which contains action within it

## דיבורא דאית ביה מעשה –

### OVERVIEW

The גמרא explains that ר"ה does not mention מוסר since it is a damage that is caused by speaking only, without any action. To which the גמרא challenges that a מוצש"ר also damages by speech only, and nevertheless ר"ה includes it. The גמרא responded that מוצש"ר has an action associated with the דיבור. Our תוספות explains the מעשה which is associated with a מוצש"ר.

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**דבכתובות בפרק נערה (דף מו,א) אמר רבי אליעזר בן יעקב לא נאמרו דברים הללו אלא כשבעל -**  
**For in כתובות in מסכת כתובות** **said, 'these rules regarding a מוצש"ר<sup>1</sup> are**  
**not applicable, unless the accusing husband had relations'** with his accused wife.  
The בעילה is considered the מעשה associated with the דיבור of the מוצש"ר.

**ורבי יהודה אית ליה התם עד שישכור עדים:**

**And ר"י maintains there** that the laws of מוצש"ר do not take effect, **unless** the accusing husband **hired** (false) **witnesses** to testify that his wife committed adultery, while she was an ארוסה. Hiring the עדים is the מעשה associated with the מוצש"ר.

### SUMMARY

The מעשה of the מוצש"ר is; either the בעילה, or the hiring of the false witnesses.

### THINKING IT OVER

1. How can we know that ר"ה agrees to the ruling of either ראב"י or ר"י?
2. According to ר"י that he hired (false) witnesses to support his הוצאת ש"ר, it is understood that there is a מעשה involved in causing the נזק. However, according to ראב"י, the מעשה בעילה does not seem to be part of the מעשה נזק; it is merely a תנאי in the laws of מוצש"ר! Why should the מוצש"ר be considered a מעשה בה מעשה?!
3. What does תוספות want to teach us, when רש"י already explained<sup>2</sup> that the אית בה מעשה is the בעילה?!

<sup>1</sup> If the husband is proved to be lying he (receives מלקות and) must pay one hundred כסף to his father-in-law.

<sup>2</sup> ד"ה דיבורא.