

דאסהידו ביה תרי בחד ותרי בחד –

That two testified against one, and two against one

Overview

The גמרא offered a case where עדים זוממין is not a חידוש; where there were two עדים who were מזים one of the עדים זוממין, and another two עדים who were מזים the other עדים. ¹ Our תוספות disagrees with this interpretation.

משמע לפי שיש שני מזימים על כל אחד ואחד לא הוי חידוש² -

It seems that since there are two מזימים for each one of the ע"ז, it is not a חידוש that we believe the מזימין, but not the מזומין.

תוספות asks:

ותימה מה בכך הרי תרי כמאה הוי³ -

And it is astounding! What of it that there are four against two, but two עדים are like a hundred עדים, so why is it not a חידוש if there are four against two?!

תוספות offers his interpretation:

ונראה לפרש דאסהידו ביה תרי בחד כגון שאין הניזומין מסייע אחד לחבירו -

And תוספות prefers to explain this which the גמרא answered that two people testified against one, it is for instance where the ניזומין are not assisting each other; meaning -

שאין האחד יודע כלום בעדותו של חבירו שראה אחד מחלון זה ואחד מחלון זה⁴ -

That one, is not aware of his friend's testimony, where for instance **one witness observed (the murder) from this window, and the other witness observed it from another window**; each עד was not aware of the other עד at all -

או בהודאה אחר הודאה⁵ -

¹ See רש"י ד"ה תרי. In this case it is two against one, so the two should be believed.

² See footnote # 1.

³ Let us (even) assume the following. The two עדים (זוממין) testified that they saw the murder take place in טבריה, on ר"ח חשון. Two עדים testify that on ר"ח חשון one of the ע"ז was in צפת, another two עדים testify that the second ע"ז was in ירושלים. Nevertheless, it is not different than any other case of ע"ז. The two ע"ז maintain that they both were in טבריה; four other עדים maintain they were not in טבריה, so it is two against four which is the same as two against two; it is a חידוש that we accept the מזימין and reject the מזומין.

⁴ In this case the two ע"ז are not testifying that they were both there, since they could not see each other, so they cannot testify about the other עד. It is the word of one עד against two עדים therefore the הומה is not a חידוש.

⁵ One ע"ז testified that the לוי admitted to him (on ר"ח חשון) that he owes the מלוה money. The other ע"ז testified that the לוי admitted to him (on ב' חשון) that he owes the מלוה money. These two testimonies are combined and accepted.

Or in a case of one admittance after another admittance -

ואלו שנים מזימים את שניהם שכך שוים אלו כמו אחרים⁶ -

And these same two עדים can be מזים both ע"ז, since it is the same whether one set of עדים are מזים both ע"ז, or another set of עדים are מזים the second עד -

ולא נקט האי לישנא' אלא משום דמשתמע מיניה שאין המוזמין מסייעין זה את זה:

And the גמרא did not utilize this expression of תרי בחד ותרי בחד to mean that we require two sets of מזימים one for each ע"ז, but rather because from this expression of תרי בחד ותרי בחד, we can infer that the מוזמין (the ע"ז) are not assisting each other in their testimony.

Summary

The two ע"ז are not supporting each other as to the time and place of their testimony.

Thinking it over

According to תוספות the גמרא should have said בסהדותא דהאי (that one כגון דלא ידעי האי בסהדותא דהאי), then it would be clear; why make a statement of עד was not aware of the other עד), then it would be clear; why make a statement of תרי בחד ותרי בחד, which can easily be interpreted differently?!

Then עדים came and were מזים both the ע"ז, each one on the day he claimed to hear the admission from the לזה. Here too it is not תרי בחד since each עד knows nothing about the other עד. It is two against one.

⁶ It is always two against one since the מוזמין (the ע"ז) are not testifying for each other.

⁷ תוספות is replying to the anticipated difficulty, since according to תוספות one set of two עדים can be מזים both ע"ז, why does the גמרא state תרי בחד ותרי בחד, indicating that we require two sets of עדים to be מזים the ע"ז. See 'Thinking it over'.