

**Why is it so by פיו, – מה לפיו שכן מחייבו קרבן תאמר בעדים כולי –
because פיו obligates him in a קרבן; can you say so by עדים, etc.**

OVERVIEW

Initially there is a ק"ו that if פיו which is (weaker than עדים, for it is) not מחייב and nevertheless it is מחייב שבועה, then עדים which is (stronger than פיו, for it is) should certainly be מחייב שבועה. The גמרא attempts to refute this ק"ו by proving that פיו (concerning a קרבן) is stronger than עדים; for פיו is a קרבן, while עדים cannot be מחייב a קרבן. Our תוספות clarifies in which circumstances פיו a קרבן and (correspondingly) עדים are not מחייב a קרבן.

פירוש¹ שכן מחייבו קרבן אפילו העדים מכחישים אותו –

The explanation of the refutation (מה לפיו וכו' תאמר בעדים) is that פיו indeed obligates himself to bring a קרבן even if the witnesses contradict him -

ואומרים לאו חלב הוא אלא שומן² –

And testify that it was not suet which you ate but rather fat.

explains that it is necessary to understand that פיו is [even] discussing a case where עדים contradict him -

דאי אין העדים מכחישים אותו היכי קאמר תאמר בעדים כולי –

For if פיו is discussing only a case where the פירכא of קרבן מחייבו קרבן of פירכא the עדים do not contradict him; how can the גמרא conclude the פירכא by saying (can you say the same by עדים, etc.), for indeed we can say -

עדים נמי מחייבין אותו קרבן אם אינו מכחיש³ –

That עדים also obligate him to bring a קרבן if he does not contradict them; in fact -

ואפילו עד אחד אם אינו מכחישו מחייבו קרבן –

Even an ע"א obligates him to bring a קרבן if he does not contradict the ע"א.

Therefore (since we assume that פיו is מחייב a קרבן and עדים [in similar circumstances] are not מחייב a קרבן), we must assume that פיו is מחייב a קרבן even when he contradicts the

¹ The word 'פירוש' is used in תוספות when he is negating another (simpler) explanation. Superficially one may assume that פיו מחייבו קרבן means that פיו is מחייב a קרבן when there are no contradictory עדים. [See footnote # 7 that תוספות (may be using the term פירוש to show that he) disagrees with פירש"י.]

² חלב refers to the forbidden fat in an animal (around the kidneys, etc) which is called suet, while שומן refers to the permitted fat (which is attached to the meat).

³ If עדים testify that he ate חלב and he does not contradict them; he is required to bring a קרבן, and the same applies if an ע"א testified that he ate חלב as תוספות continues.

⁴ Otherwise if we would assume that פיו is מחייב a קרבן when he contradicts the עדים; however עדים cannot be מחייב a קרבן only when he is not contradicting עדים, then עדים obviously are also מחייב him a קרבן when he does not contradict them, so what is the פירכא of מה לפיו וכו' תאמר בעדים וכו'.

פירושו continues with the consequence of his תוספות:

וזאת הסוגיא סוברת כלישנא דפרק אמרו לו ⁶ (כריתות דף יב,א ושם) –

מה לפיו שכן of פירכא with פיו ק"ו (which refutes the סוגיא **And this פרק אמרו לו agrees with the opinion in** (מחייבו קרבן תאמר בעדים וכו' –

דמפרש טעמייהו דרבנן דלקמן דאמרו לו אכלת חלב והוא אומר לא אכלתי דפטור –

Who explain the reason of the רבנן who are cited shortly, and maintain that if **said to him, you ate חלב** and he says, **I did not eat; he is פטור** from a קרבן. This לשון explains that he is פטור –

משום דאדם נאמן על עצמו יותר ממאה איש ⁷ –

because a person is believed, concerning himself, more than a hundred people. Therefore if he claims that he is not obligated to bring a קרבן, he is believed. Based on that גמרא we can surmise that conversely when he says he is obligated to bring a קרבן and the עדים contradict him, he brings a קרבן.

ולכך פיו מחייבו קרבן אפילו עדים מכחישינ אותו ⁸ –

And therefore, in conclusion; קרבן obligates him with a עדים; even if contradict him and testify that he did not eat חלב –

ועדים אין מחייבין אותו קרבן אם מכחישינ –

However עדים do not obligate him with a קרבן if he contradicts them and claims I did not eat חלב [at all]. This is in accordance with the פירכא in our גמרא.

לשון explains that we must assume that our סוגיא follows the aforementioned תוספות:

דלאידך לישנא דמפרש טעמייהו דרבנן דמתרץ דיבוריה –

For according to the other לשון, which interprets the reason of the רבנן that he is פטור מקרבן is, for we interpret his statement; that when he said לא

⁴ He claims he ate חלב and the עדים claim he did not eat חלב (rather he ate שומן).

⁵ The עדים claim he ate חלב and he claims he did not eat חלב (rather he ate שומן).

⁶ Our גמרא (shortly) cites a משנה in which the חכמים maintain that if two עדים testify that he ate חלב and he claims 'I did not eat', he is not obligated to bring a קרבן (while ר"מ maintains that his is מחויב בקרבן). The גמרא in כריתות offers two explanations for the view of the חכמים. One is that we interpret his לא אכלתי (not to contradict the עדים, but) to mean, I did not eat in בשוגג but rather במזיד, which exempts him from a קרבן. The other explanation is that a person (concerning bringing his own קרבן) is believed more than עדים מאה.

⁷ From **לשון דיבוריה** of לישנא סוגיא it seems that רש"י maintains that our סוגיא is according to the **לשון דיבוריה** of רש"י. It would seem therefore that if he claims אכלתי and the עדים testify that he did not eat; he would not be believed since he has no מיגו (and we can't be דיבוריה). Our תוספות disagrees with פירש"י (see footnote # 1). See also **מה אם** תוס' ד"ה מה אם # 1).

⁸ See 'Thinking it over' # 1.

- he meant אכלתי

ואמר דלא אכלתי שוגג אלא מזיד –

To say, I did not eat the חלב בשוגג but rather I ate it במזיד.

According to this לשון we are required to add -

ומיירי דכשאמר לא אכלתי לא בדקנו אותו היאך היה דעתו⁹ –

That the situation is that when he said לא אכלתי we did not cross-examine him immediately what his intent was (whether he meant לא אכלתי כלל or לא אכלתי שוגג אלא מזיד), that is why he is מקרבן.

continues that according to this לשון, he is believed only because we interpret his words as to not contradict the עדים -

אבל להכחיש העדים אינו נאמן –

However he is not believed to contradict the עדים. Our סוגיא cannot follow this לשון for -

אם כן חשיבי עדים מפיו שכן חייבוהו קרבן אפילו מכחישן –

According to this לשון we see that עדים are superior to פיו, for the עדים can be מחייב him a קרבן even if he contradicts them and says לא אכלתי כלל - והוא לא מחייב עצמו קרבן אם היו מכחישין אותו -

However, he cannot be מחייב himself a קרבן if the עדים contradicted him.

concludes that according to the 'אידך לישנא' that עדים are stronger than פיו -

ואתי רבי חייא אפילו כרבנן:¹⁰

Then ר"ה can even follow the view of the רבנן, for we cannot refute the ק"ו; we do not find that פיו is stronger than עדים (only that פיו is weaker than עדים).

SUMMARY

Our סוגיא follows the לישנא that the חכמים exempt him from a קרבן because מחייב פיו more than עדים both to be מחייב אדם נאמן ע"ע יותר ממאה איש a קרבן and to exempt from bringing a קרבן. Therefore פיו is stronger than עדים. However according to the לישנא that we are מתרץ דיבוריה, then עדים is stronger than פיו (when they contradict each other), and ר"ה can agree with the חכמים.

⁹ For if we asked him immediately what he means by לא אכלתי and he would have answered כלל לא אכלתי we would not believe him (according to this לישנא) and we would obligate him to bring a קרבן. However, since we asked him later, then it is irrelevant how he explains himself, because לא אכלתי שוגג we are not obligated to accept whatever he tells us. Therefore we can interpret his לא אכלתי to mean לא אכלתי שוגג.

¹⁰ It is not necessary (according to this לישנא) to maintain that ר"ה כר"מ סבירא ליה in order not to refute the ק"ו, for the רבנן also agree that עדים is stronger than פיו. See 'Thinking it over' # 2.

THINKING IT OVER

1. Tosfos states (based on the first לשון in כריתות) that if he claims he is obligated to bring a קרבן and the עדים contradict him, nevertheless he is obligated to bring a קרבן.¹¹ Seemingly how can he bring a קרבן if עדים contradict him; he may be bringing לעזרה חולין, and there is even a greater difficulty how the כהנים can offer his קרבן, they could be transgressing the איסור of חולין בעזרה.¹²

2. Tosfos states that according to the אידיך לישנא (which maintains the reason of מתרץ דיבוריה) ר"ח can agree with the חכמים, for according to this view עדים is stronger than פיו, and therefore the ק"ו cannot be refuted.¹³ If this is indeed so, then why does the גמרא answer that ר"ח agrees with ר"מ, the גמרא should have answered that ר"ח follows the לישנא אידיך, and the ק"ו cannot be refuted?!¹⁴

¹¹ See footnote # 8.

¹² See בל"י אות עה-עו and נה"מ.

¹³ See footnote # 10.

¹⁴ See #185 אמ"ה and תוס' ד"ה מה אם on מהרש"א.