

**אבל זורק מאי פטור ליפלוג וליתני בדידה - But what is by throwing; he is exempt; let him differentiate and teach in this itself**

### Overview

The גמרא is establishing the הגונב כיס that he is חייב because this is according to מהלך כעומד דמי that בן עזאי to distinguish between הגבהה (where he is חייב) and מגרר (where he is פטור), which is a different case; let us distinguish between הגבהה (where he is חייב because of מהלך כעומד) and זריקה (where he is פטור), which is a more similar type of case. תוספות will explain why זורק is more similar to מוציא than מגרר is to מוציא.<sup>1</sup>

-----  
תוספות explains:

**משום הכי חשיב זורק בדידה טפי ממגרר -**

**It is on account of the following that the גמרא considers זורק more similar to מוציא than מגרר is similar to מוציא**

**משום דבמוציא ובזורק בשניהם בא בהגבהה הקנין קודם שיבא חיוב הוצאה<sup>2</sup> -**

**Since by מוציא (picking it up and carrying it outside) and by throwing it into the כיס, in both these cases, the קנין (גניבה) comes with the lifting of the רה"ר, before the חיוב הוצאה comes -**

**אבל במגרר ההוצאה והקנין באין כאחד:**

**However by dragging it into the רה"ר, the הוצאה and the קנין come simultaneously.**

### Summary

By both זורק and מוציא, the הגבהה preceded the הוצאה, but not by מגרר.

### Thinking it over

תוספות finds it necessary to explain why זורק is more בדידה of מוציא than מגרר. Is there any reason why one might assume that מגרר is more בדידה of מוציא than זורק?

---

<sup>1</sup> When distinguishing between two cases it is best to cite cases which are as similar as possible, thereby showing that even though these two cases are so similar, nevertheless they have different rulings; however if the two cases are less similar, then there is not that much of a novelty that their rules are different. (We can distinguish between two different cars that one has a greater speed, but we will not contrast the speed of a car with that of a bicycle.)

<sup>2</sup> Therefore there is a greater חידוש by זורק that even though the הגבהה/עקירה came before the חיוב הוצאה (just like by מוציא), nevertheless he is פטור for the גניבה, since הגבהה צורך הוצאה (as opposed to מוציא according to בן עזאי).

<sup>3</sup> Therefore the difference (between מגרר and מוציא) is great, and subsequently the חידוש that he is פטור is minimal.