

וניתרי בהו בתוך כדי דבור¹ –

And let us warn them within the time of speaking

Overview

The גמרא asked, why do we say that ע"ז are not susceptible to a warning, but we can warn them immediately after their testimony דיבור, so they have a chance to recant, and if not, they will receive מלקות. Our תוספות clarifies why they can recant.

תוספות asks:

ואם תאמר היכי מצי תו הדרי בהו -

And if you will say; how can they recant their testimony -

והא בהתראה איכא טפי מכדי דבור שהוא כדי שאילת שלום² -

For the warning takes longer that כדי דיבור, which is the time needed for greeting, so after the warning, the time of דיבור כדי has already passed, and they can no longer recant³ –

תוספות answers:

ויש לומר דכל זמן שעסוקים באותו דבר⁴ חשיב הכל תוך כדי דבור -

And one can say; as long as they are still involved in the same matter, this whole time is considered כדי דיבור -

כדאמרינן במכות (דף ו,א) דאפילו מעידין מאה כל אחד תוך כדי דבור של חבירו -

As the גמרא states in מסכת מכות, that even if a hundred people testify, each one within כדי דיבור, of his preceding friend's testimony, all these witnesses -

חשובין כולן תוך כדי דבור של ראשון ואם נמצא אחד מהן קרוב או פסול⁵ עדותן בטילה:

Are considered within the כדי דיבור of the first witness, so therefore if one of these witnesses was found to be a relative or disqualified to testify, the

¹ כדי דיבור means the time it takes to say (ומורי) רבי שלום עליך [see עגב,ב]. Generally, within this time one may retract what he said, but not after this time has elapsed.

² See footnote # 1.

³ Why should they receive מלקות, since the warning is meaningless, for they cannot recant anymore

⁴ In this case it means as long as the ע"ז testify and are immediately warned (not to testify falsely), and they recant immediately after the warning (even though this process [the warning] took more than כדי דיבור, nevertheless) it is considered as if they recanted כדי דיבור of their testimony.

⁵ The rule is that if one of the עדים in a group (כה) is disqualified, the entire עדות of all the members of the group is disqualified. One is part of the group if he testifies within כדי דיבור of the other member(s) of the כה. In this case let us assume that the fifth witness was disqualified. He certainly testified more than a כדי דיבור time lapse from the first עדות, nevertheless they are considered members of the same group and the entire testimony is disallowed. Similarly, here, the התראה process does not violate the כדי דיבור requirement for recanting. See 'Thinking it over'.

testimony of the entire group is voided.

Summary

The תוך כדי דיבור requirement does not begin until the entire process of testifying and being warned is completed.

Thinking it over

תוך כדי דיבור proves from מכות that the התראה time does not interfere with the limit.⁶ However, one can argue that the גמרא in מכות is discussing testimony, therefore it makes sense that all the testimonies are connected as one and the תוך כדי דיבור limit begins at the end of the entire testimony. However, here we are discussing התראה (which is trying to negate the testimony); how do we know that this too does not interfere with the תוך כדי דיבור limit?!

⁶ See footnote # 5.

⁷ See (חידושי בתרא ח' הרשב"א).