

## היוצאת משום שם רע בת סקילה היא –

### One who leaves because of a bad name is subject to stoning

#### Overview

The **ברייתא** taught previously<sup>1</sup> that a woman who was **יוצאת משום שם רע** has no **קנס** and no **פתי**. The **גמרא** assumed that we are discussing the classical case of a **יוצאת** **היוצאת**.<sup>2</sup> The **גמרא** asked, the **ברייתא** cannot be discussing this woman, for **היוצאת** **היא** **משום שם רע** בת סקילה היא! Our **תוספות** explains what exactly is the **גמרא**'s question.

ופשיטא דלאו בת קנס היא דהא בעולה ודאי היא<sup>3</sup> -

And it is obvious that she does not receive **קנס**, for she is certainly a **בעולה**; the payment of **קנס** is only to a **בתולה**, so there is no need for the **ברייתא** to teach this ruling –

**תוספות** rejects an alternate explanation:<sup>4</sup>

אבל אין לפרש הואיל ויש חיוב סקילה לבא עליה<sup>5</sup> -

However, one is not to explain that since there is a **סקילה** punishment to the one who comes upon her, so -

פשיטא דאין לה קנס דקם ליה בדרכה מיניה -

So, it is obvious that she receives no **קנס** from him, for **קלב"מ** and there is no need to teach us this ruling; this is an incorrect explanation -

דהא קתני במתניתין<sup>6</sup> הבא על בתו ולעיל<sup>7</sup> נמי קתני<sup>8</sup> עריות בברייתא:

For the **משנה** taught, ‘one who came upon his daughter’, and previously in the **ברייתא** it also taught that there is no **קנס** for one who is **על העריות**, **בא**, since it is a case of **קלב"מ**.

<sup>1</sup> לה, ב.

<sup>2</sup> This refers to a woman who was found to have been **מזונה** while she was an **ארוסה**. She must leave her husband and her punishment is **סקילה**.

<sup>3</sup> The reason she is **יוצאת** is because there are **עדים** that she was **מזונה**. If the **עדים** are believed to the extent that she receives **סקילה** they are certainly believed that she is a **בעולה**.

<sup>4</sup> The advantage of the following explanation (that **תוספות** needs to negate it) is because the **גמרא** asks, **בת סקילה היא**; according to the previous explanation the **גמרא** should have said, **והא בעולה היא**; however, according to the following explanation, the question **בת סקילה היא** is more readily understood.

<sup>5</sup> This woman who is **סקילה** is still a married woman, and any man who lives with her is **חייב מיתה**. The meaning of **בת סקילה** will need to be reinterpreted to mean that she is causing him to be **מיתה**.

<sup>6</sup> Shortly on this **עמוד**.

<sup>7</sup> לה, ב.

<sup>8</sup> We see that both the **משנה** and the **ברייתא** do teach us the **קנס** of **פטור** on account of **קלב"מ**. Therefore, there would (seemingly) nothing be wrong if the **ברייתא** would also teach us that **קנס** is on account of **קלב"מ**. See ‘Thinking it over’.

### **Summary**

בעולה for she is a קנס certainly does not receive משום שם רע

### **Thinking it over**

Why cannot we say that the question of היא בת סקילה means (like the לפרש אין wants to explain it) that it is a case of מ"קלב, and since we already know the exemption of מ"קלב from the רישא of the ברייתא,<sup>9</sup> which mentions עריות, so why repeat it again?<sup>10</sup>

---

<sup>9</sup> See footnote # 8.

<sup>10</sup> See תוספות ישנים.