

או מתרה רואה אותן מצטרפין – Or the warner sees them; they are combined

OVERVIEW

רבא stated that if the two (separate) עדים saw the מתרה or the מתרה saw them, the two עדים are combined and become a valid עדות (and are able to convict the accused). תוספות questions the case where the מתרה saw them.

פירוש¹ על פיהם נהרג דלא חשיבא עדות מיוחדת -

The explanation (of מצטרפין) is that he is executed by their testimony, for it is not considered an individual עדות.

תוספות asks:

ואם תאמר והיכי מהימני ליה למתרה לומר שראה אותן להרוג את זה -

And if you will say; but how can we believe the מתרה to say that he saw both עדים, in order to kill the accused -

דבשלמא כשרואין המתרה הרי הן שנים² אבל מתרה רואה אותן קשיא -

For it is understood in the case where the עדים say they say the מתרה, they are believed since they are two עדים, however there is a difficulty in the case where the מתרה claims that he saw the עדים, how is he believed to the extent that the accused will be executed based on the testimony of an אחד עד.

תוספות answers:

ויש לומר דמיירי שיש עדים שמעידין שהמתרה רואה אותן אך לא ראו המעשה³ אותן העדים:

And one can say that רבא is discussing a case where there are other עדים who testify that the מתרה saw the עדים who saw the act, however these עדים who saw that the מתרה saw the testifying עדים; they did not see the act.

SUMMARY

There are (outside) witnesses that the מתרה saw the עדים (otherwise the מתרה would not be believed).

THINKING IT OVER

תוספות states that it is understood in the case where the עדים saw the מתרה that they are believed since there are two עדים.⁴ However each עד only saw that the מתרה saw him (not the other עד for they are not זא"ז and are by different windows), so each עד should be considered an ע"א, and should not be believed to kill the accused.

¹ Perhaps the 'פירוש' of תוספות is negating the view of the מפרשים that רבא is referencing the משנה and מצטרפין is relating to הזמה or מהן קרוב וכו', נמצא א' מהן קרוב וכו', therefore תוספות states that the two single עדים are מצטרף to kill the accused.

² See 'Thinking it over',

³ If those עדים saw the act we would carry out the ruling based on their testimony; we would not need the צירוף.

⁴ See footnote # 1.