

## One says in the second hour

## אחד אומר בשתי שעות –

### OVERVIEW

The משנה (cited in the גמרא) states that if one witness testifies that the incident took place on the second hour of the day<sup>1</sup>, while the other witness testifies that it took place on the third hour, their testimony is upheld [for people are prone to make this type of a mistake (of one hour)]. שתי תוספות will initially argue that the inference of שתי (the second hour) may indicate a total different time (before sunrise) than the third hour (after sunrise).



asks: תוספות

ואם תאמר אמאי עדותן קיימת –

And if you will say; why is their testimony upheld -

אילו דייקנן בהני סהדי הא דקאמר שנים בתחילת שנים –

For if we would scrutinize these witnesses we may realize that when the עד said in the second hour he meant at the beginning of the second hour of the day -

והוא ליה קודם הנץ החמה<sup>2</sup> ועדותן בטלה<sup>3</sup> כדאמר לקמן<sup>4</sup> –

Which would make the alleged time of the incident before sunrise, and therefore their testimony is nullified as רב שימי בר אשי states later.

explains why the עד who claims בשנים (if we assume it means בתחלת שנים) is testifying that it took place before הנץ החמה:

דתחילת שעה שניה קודם הנץ החמה הוא דמהלך אדם ביום<sup>5</sup> עשר פרסה שהן מ' מילין<sup>6</sup> –

For the beginning of the second hour of the day is before sunrise, since a person walks ten פרסה in a day which is forty מילין –

ומעלות השחר עד הנץ החמה מהלך ה' מילין<sup>7</sup> כדאמר במי שהיה טמא<sup>8</sup> (לקמן צג, ב) –

<sup>1</sup> The (twelve hour) day begins at עלות השחר and ends at הכוכבים. This time frame is divided into twelve equal parts; each which is considered an hour (שעה זמניות). הנץ החמה would mean after slightly more than a twelfth of this time span has passed.

<sup>2</sup> תוספות will immediately explain this.

<sup>3</sup> The עד who says בשנים (assuming that he may mean בתחלת שנים) is testifying (by inference) that it took place קודם הנץ החמה and the one who says בשלש is testifying that it took place after הנץ החמה.

<sup>4</sup> דף יב, ב. If one testifies that the incident took place before הנץ החמה and the other that it took place after הנץ החמה, since people do not mistake before the נץ and after the נץ; one must be lying.

<sup>5</sup> This would be referring to a day of twelve full (sixty minute) hours.

<sup>6</sup> A פרסה is (obviously) four מילין.

<sup>7</sup> Five מילין (the time between עלות השחר and נץ) is an eighth of forty מילין (the full twelve hours). An eighth of twelve hours (or twelve divided by eight) is one and one half (hours).

<sup>8</sup> Actually the גמרא there (on צד, א) refutes this view and maintains that the time מעלות השחר until נץ is four מילין [a tenth of

**And the duration from עלות השחר till הנץ החמה is the time it takes to walk a distance of five מילין as the גמרא states in טמא - פרק מי שהיה טמא -**

**וזה עולה לשעה ומחצה –**

**And this time (the מילין ה' מילין from עלות to נץ) comes to an hour and one half.**

The נץ החמה is one and a half hours after the day began (at עלות). Therefore when one says בתחלת שתיים which means after slightly more than one hour passed it, is still before הנץ החמה (which takes place an hour and a half after עלות). And the one who says בשלש (the earliest it can be) is (at least) one half hour after the נץ. It would seem that these two witnesses are possibly contradicting each other whether the incident took place before הנץ החמה or after הנץ החמה. Why therefore is עדותן קיימת; let us scrutinize the one who claimed בשתיים as to what he meant?!

answers that there is a difference between our case where one says בשתיים and the other אחר הנץ לפני הנץ and the case where one says אחר הנץ לפני הנץ, בשלש,

**ויש לומר כשזה אומר קודם הנץ החמה וזה אומר לאחר הנץ החמה –**

**And one can say; that when this עד testifies before הנץ החמה and the other עד testifies after הנץ החמה -**

**דמדקדקין בהנץ לא טעו אינשי –**

**Where they are emphasizing the נץ, people do not err;** this one means specifically before נץ and the other after נץ; there is no room for error. Obviously therefore they contradict each other

**אבל הני לא דקדקו אלא בשעות ואין בני אדם בקיאים בשעות –**

**However in this case these witnesses did not emphasize sunrise but rather only the hours, and people are not well versed in hours -**

**וסבורין שהשנייה התחילה אחר הנץ החמה<sup>9</sup>:**

**And (some) people assume that the second hour of the day begins after הנץ<sup>10</sup>.** When he said in the (beginning of the) second hour he may mean after הנץ החמה.

## **SUMMARY**

The נץ החמה takes place one and a half hours after עלות השחר. Nevertheless people may assume that the second hour begins after הנץ החמה. When a person testifies that an incident took place in the beginning of the second hour we cannot infer that he means it took place before הנץ החמה.

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the day]; making it an hour and a fifth (or seventy-two minutes) [a tenth of twelve hours is one and two tenths or one and a fifth]. However (even according to this view) בתחלת שתיים is still before the נץ.

<sup>9</sup> Even if we would ask him and ascertain that he meant בתחלת שתיים that would be no indication that he meant לפני הנץ, for in his mind the נץ was before תחלת שתיים, since people are mistaken as to the exactness of time.

<sup>10</sup> See 'Thinking it over' # 1.

### **THINKING IT OVER**

1. Why do we not question this עד whether it was before of after החמה?<sup>11</sup>
2. What would be if one עד says בראשונה and the other בשלש?<sup>12</sup>

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<sup>11</sup> See ח"ב אות קי"ג and אור החמה [See also תוספות הרשב"א לקמן יב,א ד"ה מתחילת].

<sup>12</sup> See מהרש"א א.