אי פשיטא לך דאנפשות קאתי –

If you are certain that he is coming prepared for murder

OVERVIEW

The גמרא interprets the פסוק סלאור יקום וגו' to mean as follows; if you are sure that the robber intends to kill you, then you may kill him¹; however if you are in doubt (whether he intends to kill), you may not kill him². The question of א seems to be, why one may not kill the intruder (even) if he is not sure of his intention. Seemingly it is a case of ספק פיקוח נפש of the homeowner; why should he not be permitted to protect himself if there is a possibility that the intruder will kill him?! מלרפפות addresses this issue.



אומר רבינו יצחק ורבינו יצחק בן אשר³ דהאי קרא באב על הבן מיירי

The ריב" and the ריב" maintain that this פסוק of 'לאור יקום רוצה (according to this לאור יקום רוצה) is discussing a case where the father is conspiring against his son to rob him, and therefore in order for the son⁴ to be permitted to kill his father it is necessary to be certain that the father is prepared to murder (the son). Otherwise if the son is unsure of his father's plans he may not kill him. The reason is -

- דסתם אב מרחם על הבן ולא יהרגנו אם יעמוד נגדו להציל ממונו Because generally a father has mercy on his son and the father will not kill his son (even) if the son will resist his father in order to protect his money -

ולכך לא ניתן להצילו בנפשו אלא כשיודע בברור שלהורגו בא – And therefore in a case of באב הבא על הבן the son is not permitted to protect himself by taking the life of his father, unless he knows with certainty that his father intends to kill him if the son will resist.

תוספות intends to prove his point that the requirement of פשיטא לך דאנפשות is limited to a case of אב על הבן:

כדמוכח בפרק בן סורר (דף עב,ב ושם) דמוקי הברייתא – כדמוכח

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¹ In this case the robber has the דודף אהר הבירו להרגו and anyone is permitted to kill the רודף in order to protect the נרדף (if there is no other option [except killing him]).

ב"י בד"ה הכי explains the גמרא as follows. The case of 'אי פשיטא 'refers to all situations (except אב על הבן [וכיוצא 'refers to the situation of אב על הבן אב על הבן 'refers to the situation of אב על הבן.

³ עיין שם הגדולים להחיד"א בערכו.

⁴ It is not necessarily limited to the son. Anyone is permitted to take the life of the דודף to protect the גרדף.

⁵ The גמרא there (on עב,א) cites two ברייתות which contradict each other: ת"ר אין לו דמים אם זרחה השמש עליו וכי השמש עליו דמים לו עליו בלבד זרחה אלא אם ברור לך הדבר כשמש שאין לו שלום עמך הרגהו ואם לאו אל תהרגהו תניא אידך אם זרחה השמש עליו דמים לו

As this is evident in פרק בן סורר where the גמרא establishes this following ברייתא ברייתא דתניא אם זרחה עליו השמש וכי עליו בלבד זרחה

Which we learnt; it says in the תורה, 'if the sun shone upon him' (upon the intruder); the ברייתא asks, did the sun shine only on him?! The ברייתא responds:

אלא אם ברור לך כשמש שאין לו שלום עמך הרגהו ואם לאו אל תהרגהו – אלא אם ברור לך כשמש שאין לו שלום עמך הרגהו ואם לאו אלא מדי But rather the meaning of the פסוק is as follows, if it is clear to you like the sun that the intruder is not at peace with you, then you may kill him, however if it is not clear to you (you are in doubt), then you may not kill him. This concludes the ברייתא there establishes this ברייתא is discussing a case -

באב על הבן –

where a father is intruding into the house of his son. Therefore the son may kill the father only if he is certain that his father will kill him if he resists. Otherwise even if he is not sure whether or not his father will kill him, he may not kill his father since the assumption is that generally a father will not kill his son.

וההיא דתניא אם ברור לך שיש לו שלום עמך אל תהרגהו מוקי בבן על האב:

And the ממרא establishes the other ברייתא which states 'if you are certain that the intruder is at peace with you do not kill him', this ברייתא is discussing the case where the son is intruding against the father. In this situation the father may kill the son (and certainly strangers); unless he is certain that his son (or the stranger) will not kill him.

SUMMARY

If there is doubt whether the intruder will kill, then באב על הבן, he may not be killed; however by בן על האב (and anyone else) the intruder may be killed.

THINKING IT OVER

רש"י is interpreted by many to mean that אי פשיטא לד is a general assumption (not a particular or individual knowledge)⁷ that an intruder kills (except by אב על הבן), and is the general assumption by אב על הבן (which is [seemingly] similar to ruling)⁸. Why does תוספות not accept רש"י' interpretation?⁹

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וכי השמש עליו בלבד זרחה אלא אם ברור לך כשמש שיש לו שלום עמך אל תהרגהו ואם לאו הרגהו.

⁶ שמות כב,ב.

⁷ Our ברייתא (as opposed to the סנהדרין in ברייתות) seems to be addressing a third party (not the נרדף) observing the incident (who may not have particular knowledge concerning the intimate relationship between the robber and the homeowner). Therefore we follow the general assumption.

⁸ There is seemingly an advantage in תוספות חוספות. According to ברייתא our ברייתא here is (merely) a repetition of the (first) מברייתא (discussing only אב על הבן). However, according to ברייתא is a more general ברייתא, which covers all cases. See (also) previous footnote # 7.

 $^{^{9}}$ See ועוד 57 הערה (מכון אופק) עודי הרא"ש.