

14.2.4

18b (משנה ג) → 19b (אפשיטי דספרא)

Note: our סוגיא refers to the rule עצמו רשע – to wit, a person is not believed if he testifies against himself. The 1st instance of this rule in our סוגיא is when witnesses claim that they accepted a bribe to falsify written testimony – this claim isn't accepted as per אאמע"ר

1. והתודו את חטאתם אשר עשו והשיב את אשמו בראשו וְחִמִּישְׁתּוּ יֶסֶף עָלָיו וְנָתַן לְאִשָּׁר אָשָׁם לוֹ: במדבר פרק ה פסוק ז
 2. אם אָן בְּיָד הַרְחִיקוּהוּ וְאֵל תִּשְׁכַּן בְּאֶהְלֶיךָ עוֹלָה: איוב פרק יא פסוק יד

- I. Another example of פה שאטר – in re: witnesses validating their own signature
 - a. If witnesses validate their own signature but testify that their testimony was invalid:
 - i. “we were coerced”
 - ii. “we were minors”
 - iii. “we were invalid witnesses (at the time)”
 - b. ...their caveat is accepted and the שטר is not supported
 - c. If there is independent testimony validating their signatures – they are not believed
- II. חמא’s exception:
 - a. Version 1: invalidity (with witnesses) only if their claim was “financially coerced”; if they claim “threatened with harm”, they are still believed
 - i. Challenge: violation of rule כיון שהגיד שוב אינו חוזר ומגיד (recanting testimony)
 - ii. Block: rule only applies to oral testimony
 - iii. Rejection: ר"ל – עדים on a שטר are considered as if they were investigated and testified in ב"ד
 - b. Version 2: validity (without witnesses) only if their claim was “threatened”; not “financial coercion”
 - i. Reason: אין אדם משים עצמו רשע (see note)
- III. Dissent: ר"מ maintains that the witnesses aren't believed to invalidate the שטר
 - a. Reason:
 - i. If they claim פסולי עדות because the מלוה is careful to get valid witnesses
 - ii. If they claim קטנים היינו again, the מלוה is careful to only sign גדולים
 - iii. If they claim אנוסים ר"מ holds that one must give his life before signing a שטר falsely (ר' חסדא)
 - 1. challenge: (רבא) only ע"ז ג"ע ש"ד stand in the way of נפש
 - 2. rather: (רבא) follows רב – if a לווה admits that he ordered the שטר, no need for קיום
 - a. assumption: in our case, the לווה admits he ordered it written
 - 3. note: (ר' נחמן) – רב הלכה against – ר' נחמן) and we require קיום השטר in any case
- IV. שטר אמנה (anticipatory שטר):
 - a. רב: if “he” claims a שטר to be אמנה, he isn't believed
 - b. identify of “he”
 - i. can't be לווה – we certainly wouldn't believe him
 - ii. If it's מלוה – he should be blessed (and we'd believe him)
 - iii. If it is the witnesses:
 - 1. if their signatures are confirmed - not believed in any case
 - 2. if their signatures aren't otherwise confirmed – should be believed
 - c. rather:
 - i. (רבא) could be לווה following רב vis-à-vis השטר (above)
 - ii. (אביי) could be מלוה where he owes another who is now losing (following נתן דר' – v. 1)
 - iii. (רב אשי) could be witnesses: their signatures are unconfirmed, but follows the ruling that a person isn't allowed to hold onto a שטר אמנה as per v. 2
 - 1. →if witnesses claim about their signatures “we were testifying to אמנה – not believed
 - d. related ruling: (ריב"ל) a person may not keep a paid-up שטר in his house (v. 2)
 - i. version: 1st half of v. 1 refers to שטר אמנה and שטר פסים (שטר written to make the purported buyer seem wealthy); 2nd half refers to a paid-up שטר
 - 1. note: if we disapprove of שטר פרוע (which was once a valid debt) certainly we disapprove of שטר אמנה; not he inverse, for the מלוה may be holding it until the scribes' fee is paid (by the לווה)