

דינר say with a בית שמאי

בית שמאי אומרים בדינר –

OVERVIEW

There is a פרק in מסכת עדיות which is devoted to listing all the מחלוקת between ב"ש וב"ה where ב"ש are lenient and ב"ה are stringent (the opposite of what we are accustomed to). Our מחלוקת concerning דינר ופרוטה is also mentioned there as one of the ב"ש וחומרי ב"ה. קולי here discusses the appropriateness of that inclusion.

במסכת עדיות (פרק ד' משנה ז') תני ליה גבי קולי בית שמאי וחומרי בית הלל¹ –

In this משנה is taught among the lenient rulings of ב"ש and the stringent rulings of ב"ה. If a woman received קדושין money valued at a פרוטה or more but less than a דינר, then according to ב"ה she is a married woman and will be liable for the death penalty if she has relations with other men; while according to ב"ש, she is still an unwed woman, and will not receive the death penalty for having relations with other men. This is the reason why it is mentioned as one of the ב"ש וחומרי ב"ה.

anticipates a difficulty:

ואף על גב דאי קבלה קדושין מאחר הוה בית שמאי לחומרא –

And even though if this woman (who already received קדושין [for a פרוטה or more but less than a דינר]), **received** additional קדושין (for a דינר or more) **from another** man besides the first קדושין [and the original מקדש died²], then **ב"ש will be stricter;** for according to ב"ש since the original קדושין were meaningless (since they were less than a דינר), she is now מקודשת לשני [and will be מחויב מיתה if she is מזנה], however according to ב"ה the original קדושין are valid (since they were a פרוטה) and the second קידושין are meaningless (and since the first מקדש died the woman is now a פנויה) and she is not liable מיתה חיוב for זנות. It is therefore possible that ב"ש is לחומרא and מקולי ב"ש ומחומרי ב"ה as מחלוקת this משנה in עדיות consider this מחלוקת as ב"ש?!³

responds:

מיהו לאו להכי מיתשיל –

However the question never arose in regard to this aforementioned situation where מקבל ב"ש וב"ה was in a case where she was מקבל קדושין מאחר; rather the dispute of ב"ש וב"ה was in a case where she was מקבל קדושין from only one person (for the value of a פרוטה or more, but less than a דינר), where

¹ Superficially one might have thought that ב"ש are מחמיר for they require more money for the קדושין to be effective; however the true חומרא וקולא is the status of the woman after receiving קידושין (there is no real חומרא if the woman is not מקודשת). See [however] 'Thinking it over' # 2.

² This is how it is explained in תוספות הרא"ש. See אמ"ה (for additional comments).

³ See: 'Thinking it over' # 1.

