

Daf Notes

Insights into the Daily Daf
Yevamos Daf 25

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Highlights

The Mishna had stated: If one was accused of cohabitating with a married woman, and Beis Din forced her husband to divorce her; if he (*accused adulterer*) subsequently marries her, he is required to divorce her (*because she is Biblically forbidden to him*).

Rav said: The Mishna is referring to a case where there were two witnesses that the adulterer committed the alleged act (*and that is when he would be compelled to divorce her*).

Rav Sheishes said: It would seem that Rav said this when he was drifting off to sleep (*for otherwise, he would never have said it*). Because it was taught in a braisa: If one was accused of cohabitating with a married woman, and Beis Din forced her husband to divorce her; she subsequently married another man and was later divorced from him; if the accused adulterer marries her, we do not force him to divorce her. The Gemora analyzes the case; if there were witnesses who observed the adultery, why should it make a difference that there was a marriage in between and the rumors had ceased, she is still forbidden to the adulterer? If there were no witnesses, and the

reason that she is permitted to remain married to him is because of the marriage in between; we can infer from here that if she didn't get married beforehand, we would require the adulterer to divorce her even though there were no witnesses. This is inconsistent with Rav's opinion.

The Gemora answers: The halacha would be the same even without the marriage in between; if there are no witnesses, we do not force him to divorce her. The braisa is teaching us that even after the marriage to another, the adulterer is still forbidden l'chatchila to marry her.

The Gemora asks on Rav from another braisa: The accused adulterer must divorce the woman if she didn't have children from the first marriage, but if she did have children, we do not force him to divorce her (*because the divorce will give credibility to the original rumor and this will cause her children to be considered mamzeirim*); however, if there were witnesses that observed the adultery, he must divorce her even if there are children from the first marriage. We can infer from this braisa that if there are no witnesses and there

are no children, the adulterer is required to divorce her. This is inconsistent with Rav's opinion.

The Gemora answers: Rav understands our Mishna to be referring to a case where there are children and there are witnesses, the adulterer would be required to divorce her. However, Rav would agree that if there are no children, he will be required to divorce her even in the absence of witnesses.

Alternatively, the Gemora answers that the braisos mentioned above are following the opinion of Rebbe; Rav disagrees. It was taught in a braisa: Rebbe said: If a perfume peddler is leaving a house and the wife is found tying on her undergarments, her husband is required to divorce her since the incident indicates that adultery was committed. If a perfume peddler is leaving a house and saliva is found on top of the bed, her husband is required to divorce her since the incident indicates that adultery was committed. If a perfume peddler is leaving a house and overturned shoes are found under the bed, her husband is required to divorce her since the incident indicates that adultery was committed. *(It emerges from the braisa that Rebbe holds that the husband is required to divorce his wife on the basis of a rumor, and the braisa which rules that the adulterer must divorce her even when there are no witnesses is in accordance with Rebbe.)*

The Gemora rules that the halacha follows the opinion of Rav and the halacha follows the opinion of Rebbe.

The Gemora asks: How can we rule like Rav and Rebbe; these rulings contradict each other?

The Gemora answers: We rule in accordance with Rebbe in a case where there is a continuous rumor even though there are no witnesses; he is required to divorce her. We rule in accordance with Rav in a case where the rumor ceased (*because of a counter-rumor*); he is required to divorce her if there are witnesses.

The Gemora asks: How long must a rumor persist in order for it to be taken seriously?

Abaye answers: My mother (*nursemaid*) told me: A day and a half.

The Gemora qualifies this statement: This is only if the rumor persists throughout the first day and a half; if there was a counter-rumor which quieted the first rumor during that time, the first rumor is not regarded as viable.

A counter-rumor negates the original rumor only if the counter-rumor did not come about on account of fear (*due to the adulterer*), but if it came about because of fear, it does not negate the original rumor.

If the woman or the accused adulterer has enemies, we can disregard the rumor. (24b – 25a)

The Mishna states: If an agent brings a bill of divorce from overseas, and he said: "In my presence it was written, and in my presence it was signed," he may not marry his wife. *(Since the validity of the divorce depends upon his testimony, it will appear suspicious if he marries her.)*

If one would testify that the man died or that he killed him or that we killed him, he may not marry his wife. Rabbi Yehudah said: If he said "I killed him," the woman may not remarry at

all (*a testimony that establishes himself as a sinner is not valid*). If he said that we killed him, she may remarry. (25a)

The Gemora infers from the Mishna that if the agent would come from Eretz Yisroel, he would be permitted to marry her even if he said: “In my presence it was written, and in my presence it was signed.” (*His testimony is not required when the get is from Eretz Yisroel.*)

The Gemora asks: But in the case where he testified that the husband died, he may not marry her even though it is not his testimony that is allowing the wife to remarry; for we have learned that it is the woman’s careful investigation that we rely upon, and nevertheless, we rule that the witness cannot marry her?

The Gemora answers: There is a clear distinction between the two cases. When he testifies that the husband died, there is no document attesting to that fact. His testimony supports the woman’s investigation and therefore he cannot marry her. However, when the agent brings the get from Eretz Yisroel, there is a written document. His testimony is completely superfluous and therefore he may marry the woman. (25a)

The Mishna had stated: If one would testify that the man died or that he killed him or that we killed him, he may not marry his wife. We can infer from there that his testimony is valid and others may marry her.

The Gemora asks: How can his testimony be valid when he said that he killed him; isn’t it written [Shmos 23:1]: *Do not place your hand with the wicked to be an unrighteous witness*; this verse teaches us that a sinner is forbidden from being a witness? We cannot accept his

testimony that he killed the husband since that would result in his becoming a sinner and that would disqualify him from being a valid witness.

The Gemora proposes an answer: Perhaps we can say that the Rabbis were lenient in regards to testimony permitting a woman to remarry.

The Gemora rejects this possibility for Rav Menashe says: The Rabbis are lenient for this testimony only to allow a thief by Rabbinic law to testify, but a thief by Biblical law is disqualified from testifying even in testimony that would enable a woman to remarry. One who testifies that he killed the husband is transgressing a Biblical law and would thus be ineligible from testifying.

The Gemora proposes that Rav Menashe is ruling according to Rabbi Yehudah (*who disqualified this testimony, but the Rabbis would allow a thief by Biblical law to testify in regards to the woman remarrying*).

The Gemora objects to this and states that Rav Menashe would maintain his ruling even according to the Rabbis; the reason the Rabbis permit the woman to remarry is based on Rava’s dictum. Rava states that a person is related to himself and therefore he cannot make himself into a sinner. (*It emerges that we accept his testimony that the husband is dead, but we do not accept the fact that he himself killed him.*)

Rav Yosef maintains that testimony which would establish the witness as a sinner is not accepted altogether; however, by testimony permitting a woman to remarry the Rabbis were lenient and ruled that this type of testimony will be accepted. (25a – 25b)

The Mishna states: If a sage prohibited a wife to her husband on account of a vow (*she vowed not to derive any pleasure from her husband and the sage did not annul the vow for her, which resulted in the husband divorcing her*), he may not marry her.

If she refused (*A girl whose father had died could be given in marriage while still a minor (under the age of twelve) by her mother or older brother. This marriage is only valid Rabbinically. As long as she has not attained the age of twelve, she may nullify the marriage by refusing to live with her husband. This act of refusal, referred to as mi'un nullifies the marriage retroactively.*) or if she performed *chalitzah* in front of the sage, he may marry her, because he is part of the Beis Din.

INSIGHTS TO THE DAF

RI FROM ORLEANS

Rabbi Gil Student has an interesting discussion regarding one of the baalei haTosfos, the Ri from Orleans.

An occasional name we find in the Tosafos commentary on the Talmud is R. Yosef (Ri) from Orleans. He was a twelfth century student of R. Ya'akov (Rabbenu Tam) and is mentioned in Tosafos to the tractates Shabbos, Yevamos, Bava Basra, Zevachim and Hullin. However, on two occasions we find something quite unusual happening. In Tosafos to Yevamos 25b (top), an explanation is given in the name of the Ri from Orleans. In Tosafos to Makkos 6a (sv. nirva), the same answer is attributed to R. Yosef Bekhor Shor. Similarly, the same explanation is given in Tosafos to Hullin 112b (sv. ve-dagim) by Ri from Orleans

and in Semak (no. 205) by R. Yosef Bekhor Shor.

Because of this, Victor Aptowitzer ([Mavo Le-Ra'avayah](#), ch. 8 sv. R. Yosi br' Yitzhak pp. 351-352 n. 2) cites scholars who debate whether R. Yosef Bekhor Shor was the same person as R. Yosef (Ri) from Orleans. Aptowitzer himself argued that they were different people, but remained uncertain on this point. In support of distinguishing between the two, the Pane'ah Raza is cited who quoted contradictory comments from both Ri of Orleans and R. Yosef Bekhor Shor, strongly implying that they are two different people.

Ephraim Urbach, who has generally become the final authority on these matters, concludes that they were the same person (Ba'alei Ha-Tosafos, vol. 1 p. 134). Among his proofs was an incident that occurred regarding a man who semi-married (mekadesh) a nursing woman, attributed to Ri from Orleans in Tosafos to Yevamos 36b (sv. ve-lo) and R. Yosef Bekhor Shor in Tosafos Shantz to Sotah 24a (and elsewhere).

Yehoshafat Nevo, in his introduction to the Mossad Ha-Rav Kook edition of the Bekhor Shor's commentary on the Torah, states that the Pane'ah Raza is frequently imprecise in his attribution of sources. Therefore, he suggests, the Pane'ah Raza's differentiating between Ri from Orleans and R. Yosef Bekhor is unreliable.