

שבת קודש פרשת במדבר | מסכת כתובות דף ל"ו

לע"נ חנה בת אברהם דוד

IYUN ON THE DAF

By Rabbi Yitzchok Gutterman

The Gemara quotes the Mishnah that says a woman doesn't get a divorce until she asks that of course she doesn't get a divorce since she is a free woman! He answers that the Gemara means that he was her husband when they were still married, prior to the annulment. We know that annulment uproots the marriage retroactively to the extent that they can even marry each other's relatives. If so, it turns out he was a regular unmarried man and you might think he owes the divorce, so the Gemara needs to teach you he doesn't owe it in that case. The Gemara doesn't say why you in fact don't owe it. The Gemara here suggests that we can understand this with the principle of "retroactive annulment" from the halachot of betrothal. At the end of the Gemara, Rav Chaim explains that a woman is only annulled retroactively from the time of her marriage. This of course sounds like a contradiction in terms. What he means is that anything that happened in the past stays as it was. However, for anything that happens in the future, we look at it as if the marriage was uprooted from the beginning. Therefore, if they want to marry each other's relatives now, they can since the marriage was uprooted retroactively. However, if he was her husband in the past, then we don't relitigate the past and say he owes a divorce now.

STORIES OF THE DAF

The Cheskas Kashrus

"יצא לה שם מזנה בעיר לא חוששין לה..."

A Jewish man who claimed to be poor circulated in religious neighborhoods collecting tzedakah. After a period of years, people began to say that he was really well off and had none of the troubles that he claimed. People whispered that it was all contrived and that this man was a fraud who was becoming wealthy on the account of an unsuspecting public.

A baal habayis approached Rav Yitzchak Zilberstein in an attempt to clarify the matter. "Since the number of people who say that this person is a fraud means that the rumor constitutes a 'qol' must we still support this man with our donations?"

Rav Zilberstein replied, "the Chofetz Chaim writes that although there is a proscription against accepting something negative that one has heard about another as true, one may still act with precaution as if it was indeed true. What this means is that one can take steps to prevent incurring any damage, but it does not mean that the other person is himself considered suspicious, since everyone has a 'chashd' (suspicion), and is presumed to be upstanding. Therefore, one is still obligated to bestow on the slandered man all of the good that the Torah commands us to bestow on our fellow Jews. You must take care not to allow slanderous aspersions to color your judgment of this person at all. This is all explained in the Be'er Mayim Chayim there, based on the Gemara in Kesuvos 36b. Chazal taught that one may only suspect a 'qol', a rumor. This means that one may take precautions against the content of the rumor, but not that it actually can put the status of the person himself in doubt. It is for this reason that we find there that we do not even place credence in a 'qol' about a woman which instigated her divorce. The Maharshal, zt"l, explains that every person's 'chashd' cannot be compromised without genuine evidence.

"So in your case," concluded the Rav, "Unless presented with evidence, you must continue to give as if you never heard the rumor at all."

PARSHA CONNECTION

In this week's daf the Gemara discusses a lady about whom people say she was a 'zונה'. The Gemara in this week's parsha uses the same terminology to describe how the Israelites were being unfaithful to the 'קב"ה'. The Gemara says: 'באמכם ריבו כי היא לא אשתי ואנכי לא אישה ותסר זנוניה מפניה ונאפוניה מבין שדיה'. It's a reference to the 'עבודה זרה' that they were engaged in. The Gemara concludes with a promise of an everlasting bond between us and the 'עולם של עולם' like it says (ב', כא-כב) in the posuk: 'ו. ובחסד וברחמים, וארשתין לי באמונה, וידעת את ה: ה'. What does it mean when it says 'לעולם'? Isn't every engagement forever? Also, why does the Gemara repeat the word 'וארשתין' three times? The Gemara explains that the first engagement between us and the 'קב"ה', which took place at Mt. Sinai, was broken when Klal Yisroel made the 'עגל'. Now the Gemara is promising that this engagement will NOT be broken. What assures us that the engagement will be everlasting are the pillars of 'חסד ורחמים' with an overarching 'אמונה'. This is why it repeats the words 'וארשתין' to include the four pillars and concludes 'באמונה' which is our faith in the 'קב"ה'.

HALACHA HIGHLIGHT

The Credibility of Rumors

יצא לה שם מזנה בעיר אין חוששין לה

If a woman has a rumor circulate the she was promiscuous it is ignored

Shulchan Aruch¹ ruled that a chazzan is not removed from his position unless he is found to be unfit (מצא בו פסול). Rema² adds that he is not removed based merely on rumors that he committed severe transgressions but if witnesses step forward to testify against him he should be removed from his position. Mishnah Berurah³ infers from Magen Avrohom that if there was an uninterrupted rumor regarding a transgression an individual would have the right to protest to have him removed from his position. Biur Halacha⁴ cites the commentary of the Gra who points to our Gemara as the source for this halacha. Since our Gemara does not draw a distinction between an interrupted rumor and an uninterrupted rumor, it must be that for these matters it is not a valid distinction.

The Chasam Sofer⁵ wrote at length on this topic and arrived at the following conclusions. If there is an uninterrupted rumor but the chazzan remains acceptable to the community they are permitted to allow him to retain his position. If, however, even one person protests he must be removed from his position. There are times that even if there is no one who protests against retaining the chazzan it is necessary to remove him from his position. For example, if there is a rumor that the chazzan behaved in an unseemly fashion in the presence of witnesses but the alleged witnesses are abroad, the chazzan should be removed.

The Gemara Yevamos⁶ indicates that the definition of an uninterrupted rumor is if the residents in town are discussing the rumor for a day and a half and the person named in the rumor does not have enemies who would falsely start a rumor. Maharik⁷ adds that in order to qualify as an uninterrupted rumor the alleged incident must be one that the residents in town believe to be true, because we assume that the rumor must have some validity. In contrast, if it is known that the rumor was started by one person and people kept repeating the story it is not considered an uninterrupted rumor.

1. שו"ע או"ח סי' נ"ג סעי' כ"ה
2. רמ"א שם
3. מ"ב שם ס"ק ע"ה
4. ביה"ל שם ד"ה אם
5. שו"ת חת"ס או"ח סי' י"א
6. גמ' יבמות כ"ה
7. מובא דבריו בבית"ל הנ"ל

MUSSAR FROM THE DAF

Speak for the Speechless

כיון דאמר רבן גמליאל מהימנא, כגון זו "פתח פיק לאלם" הוא

The Gemara tells us that in a case where the a husband of a בתולה or חרשת claims that his wife wasn't a Bais Din can make a claim on her account by claiming she was forced after אירוסיין. The Gemara then brings a source for this concept from the פסוק in Mishlei (31,8) "פיק לאלם" "Open your mouth for the mute."

Tosafos asks on Rashi that it is hard to understand how we can be based on this seemingly weak claim. We see from this Gemara that there are times when somebody can't make a claim on their own, that Bais Din can and will speak for that person. There is a great lesson to be learned here. In society, there are people who have "no voice." There are people that society may not value and listen to their pleas. The Klal however must advocate for them. We must be their voice and stand up for them. And at times we have to be מוציא ממוון in order to lobby for the plight of these people. Every person is created בצלם אלקים and deserves an opportunity to succeed.

POINT TO PONDER

שטר רב פפא says that a שטר which is rumored to be no good cannot be used to collect. The גמרא explains that we heard him soliciting false witnesses. What happens to שטרות which he issued in the past (before this one), are they now suspect as well?

Response to last week's Point to Ponder:

The גמרא describes a case where a person tore a garment while hitting someone. Did the torn garment belong to the person that was hit?

The words of the גמרא seem to say that it was the same person's clothing, which would indicate that if it was someone else's garment he would be חייב. This would support the opinions that לזה וללקות לזה is חייב to pay. (See ברכת אברהם).

For more points to ponder by Rabbi Yechiel Grunhaus, or insights by Rabbi Yitzchok Gutterman, please visit our website, dafaweek.org, or download the app

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