

They will not do two wrongs

תרתי לא עבדי –

OVERVIEW

אשי resolved the contradiction between our משנה where her שפחה is believed that she was not defiled, and the משנה of עמו לא תתייחד where her שפחה is not believed (by her silence) that there was no intimacy, because a שפחה is generally quiet, so regarding לא תתייחד we are concerned that she will be quiet (even if something untoward happened), however by שבויה when she states that לא נטמאה she would not openly lie. The גמרא supported this view of ר"א from the story of מרי where רב said that the עדים will not do two wrongs. תוספות explains the comparison.¹

תוספות explains that the two wrongs are; one -

ששתקו² ולא יעידו האמת ועוד שיאמרו שקר וכן גבי שפחה:

That they remain silent and not testify to the truth that he is the brother of מרי, **and secondly that they will lie** and testify that he is not the brother, **and similarly regarding the maidservant** that she will remain silent regarding the טומאה and in addition lie that her mistress was נטמאה; לא נטמאה; this she will not do.

SUMMARY

It is easier to be passively wrong than actively wrong.

THINKING IT OVER

Would the same thinking of ר"ה apply if רמי were to bring different עדים; would we also believe them because תרתי לא עבדי, or is it only regarding the same עדים who were initially silent?

¹ Seemingly the cases of מרי and שפחה are not similar. By מרי the silence of the עדים (by not saying the truth) causes the brother a loss; however by the שפחה (where we want to say that she will not lie and say לא נטמאה, if indeed it was נטמאה, because she will not do two wrong things, she will only do one wrong thing and that is, not to testify that she was נטמאה; however) her not testifying that the שבויה was נטמאה is irrelevant since her mistress is אסורה regardless. See ריטב"א.

² תוספות may be saying that the תרתי לא עבדי does not mean they will not do two wrong things to hurt someone (for by שפחה her silence does not hurt anyone) but rather, a person may feel comfortable in not doing what is right (by being silent and passive), however they will not go so far as to do something actively wrong, such as testifying falsely. See תוס' שאנ"ץ for a seemingly different explanation.