**חדא דקא מודה - Firstly, for he admitted**

Overview

The גמרא is discussing a case of an ארוסה who was pregnant. רב יוסף ruled that there is no concern; firstly because the ארוס was מודה and furthermore because she is believed to claim לכשר נבעלתי.

It is not clear whether the issue is the child; if he is כשר or a (ספק) ממזר, or if the issue is the ארוס וארוסה; if they are permitted to rejoin with each other, since she is a ספק אשת איש שזינתה.

It is also not clear what is the meaning of 'ועוד' ‘and furthermore’. Does it mean even if he is not מודה, or does it mean even if his מודה is ineffective. תוספות will be discussing these issues.

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**מצינן לפרש דאיירי לענין לאוסרה על הארוס[[1]](#footnote-1) -**

**It is possible for us to explain that we discussing whether** the ארוסה **is forbidden** to marry **the ארוס.** The issue here is since the ארוסה had a child; therefore it is possible that someone other than the ארוס fathered the child. If that were the case then the ארוסה would be אסורה to the ארוס. She is a married woman who committed adultery and is therefore forbidden to return to her husband (as well as to the adulterer). רב יוסף however ruled that there is no concern and she may return to her ארוס husband.

**והכי פירושו חדא דקא מודה הלכך אינה נאסרת עליו ועוד הא רב יהודה כולי -**

**And this is the explanation** of the ruling; **firstly,** she is permitted to return to the ארוס **for he** **admits** that he had relations with her and he is the father of the child (and no other), **therefore she is not forbidden to** the ארוס; we believe him and assume that she had no relations with anyone else, **and furthermore רב יהודה** stated**, etc.** that she is independently believed.

תוספות will now explain what is meant by 'ועוד', ‘and furthermore’[[2]](#footnote-2) –

**לא קאמר ועוד אפילו לא מודה -**

**The meaning of 'ועוד' is not** to be understood, that **even if** the ארוס **was not מודה,** she is still permitted to him. This is not so –

**דאם אינו מודה פשיטא דנאסרת עליו -**

**For if** the ארוס **is not מודה** that he had relations with her, and she is with child, then **it is obvious that she is prohibited to him.** He is not מודה that he fathered the child; obviously someone else did. This makes her (certainly from the perspective of the ארוס) an adulteress, an אשת איש שזינתה, who is אסורה לבעלה, since שוויה אנפשיה חתיכא דאיסורא.

**אלא כלומר[[3]](#footnote-3) אפילו ליכא טעמא דמודה -**

**But rather** we are to understand the 'ועוד'[[4]](#footnote-4) **as if it was stated, even if the reason of מודה is not** effective; it is not sufficient cause to permit her to rejoin the ארוס –

תוספות continues to explain why 'מודה' may not be sufficient cause to believe him –

**כגון לאביי דסוף פרק אלמנה מדאפקרה נפשה לגבי ארוס מפקרה נפשה נמי לגבי עלמא -**

**for instance according to אביי** mentioned **in the end of פרק אלמנה, [[5]](#footnote-5)** who maintains (according to רב) that even if we know that the ארוס וארוסה had relations the child is still a ממזר, **for since she was wanton with the ארוס, she was** also **wanton with anyone** else and the child is a ממזר. Similarly מודה itself would not be a sufficient cause to permit her to the ארוס[[6]](#footnote-6) –

**אפילו הכי אינה נאסרת עליו משום דנאמנת כרבן גמליאל כן פירש לנו רבינו יצחק -**

**Nevertheless she is not forbidden to** the ארוס **because she is believed** that she had relations exclusively with the ארוס; **as ר"ג** maintains that a woman is believed to claim לכשר נבעלתי. This is how we could have interpreted the גמרא, and **this is how the ר"י** actually **explained** this גמרא **to us.**

In Summation; the פי' ר"י is that 'ועוד' means even if we agree with אביי (אליבא דרב) that the admission of the ארוס (that he had relations with the ארוסה) in insufficient (for מדאפקרה וכו'), nevertheless, since she also maintains that she had relations only with the ארוס she will be believed since the הלכה is like ר"ג. It would then turn out that if the woman maintains she was not מזנה, she is believed even according to אביי (אליבא דרב). (See footnote # 7.)

תוספות takes issue with the above interpretation:

**ואי אפשר להעמידה דלפי דבריו אם כן הא דאמר אביי מדאפקרה נפשה -**

**And it is impossible to sustain** this interpretation, **for according to** the sר"י' **words it would therefore follow that when אביי** (אליבא דרב) **stated that since she was wanton** with the ארוס, she was wanton with others as well –

**היינו בשלא בדקו את אמו וזה אינו -**

**that is limited** to a case **where the mother was not investigated**; for if the mother was asked and she replied I had relations only with the ארוס she is believed,[[7]](#footnote-7) **and this is not so**; אביי (אליבא דרב) cannot maintain that if the ארוסה claims that the child is from the ארוס, that she is believed –

**דהא אפלוגתא דרב ושמואל קאי דמוקמי בקדושין מאי שתוקי בדוקי -**

**For** אביי (in מסכת יבמות) **is referring to the dispute between רב ושמואל, which is established in** מסכת קדושין that **what** שמואל meant when he said that the child is a **שתוקי**, is that he is a **בדוקי;** meaning that we question the mother and accept her claim that the child is from the ארוס. This implies that רב (who argues with שמואל) maintains that the child (even a בדוקי) is a ממזר. [[8]](#footnote-8)

תוספות qualifies his difficulty with the פירש ר"י:

**ולמאי דגרסינן[[9]](#footnote-9) בקדושין ארוסה שעיברה לא קשה מידי -**

**However, according to our reading of the text in** מסכת **קדושין**, which is, ‘**an ארוסה who became pregnant’** (indicating that we are not certain that the ארוס וארוסה had relations)**;** and not הבא על ארוסתו (which indicates that we know that the ארוס וארוסה had relations), **there is no difficulty at all.** According to this גירסא the only time אביי maintains (according to רב) that the child is a ממזר even if בדקו את אמו is when we are not aware that the ארוס וארוסה had relations. However in our סוגיא where the ארוס is מודה, everyone will agree that her claim combined with his מודה is sufficient to believe them. However according to the other text, that רב ושמואל are disputing (even) in a case of הבא על ארוסתו, then the 'ועוד' is difficult to understand.

תוספות offers an alternate explanation:

**על כן צריך לפרש דהכא לא איירי לאוסרה עליו אלא להכשיר את הולד -**

**Therefore it is necessary to explain that we are not discussing here** whether **to prohibit** the ארוסה **from the** ארוס, **but rather to validate the child**; that he is not a ממזר but a כשר לישראל –

**והשתא הוי ועוד כפשוטו[[10]](#footnote-10) ועוד דאפילו לא יודה -**

**And now the 'ועוד'** assumes **the obvious** interpretation; firstly that the ארוס was מודה, **and ‘furthermore’,** meaning, **that even if he was not מודה;** תוספות immediately interjects to explain what is meant by the statement ‘he was not מודה’ –

**ולאו דקאמר דלא מיניה דבהא לא מכשיר רבן גמליאל כיון דהוי ברי וברי - [[11]](#footnote-11)**

**And** 'לא מודה' certainly **does not mean that he claims** the child is **not from him**, since he had no relations with the ארוסה. It cannot mean that; **for in such** a case (where the ארוס contradicts the ארוסה) **ר"ג does not maintain** that the child is **כשר, since** it is a case of a **ברי** (of the ארוס who claims he did not father the child)which contradicts a **ברי** (of the ארוסה who claims that the ארוס fathered the child); in a case of ברי וברי then even ר"ג agrees that we do not believe her –

**כדאמר בריש פרק ב'[[12]](#footnote-12) -**

**as the** גמרא **states in the beginning of the second פרק,** therefore אינו מודה cannot mean that he is denying the relationship –

**אלא כגון שמת או דליתיה קמן דלישייליה -**

**But rather** אינו מודה means **for instance if** the ארוס **died or that he is not present before us that he can be asked.** That is what רב יוסף states 'ועוד' that even if the ארוס does not corroborate that he fathered the child, nevertheless the child is כשר according to ר"ג, since she claims that the ארוס is the father (and there is no ברי to contradict her).[[13]](#footnote-13)

תוספות anticipates a difficulty:

**והא דחשיב ליה בסמוך דיעבד -**

**And** the reason the גמרא **shortly considers this** to be case of **דיעבד** (that it already happened). Seemingly this is a case of לכתחילה; we are deciding whether this child may marry a ישראלית, it is not a case of בדיעבד, where he already married and we want to know if they can remain married (as it is according to the [[14]](#footnote-14)פירש ר"י).

תוספות responds:

**לפי שלא היה יכול הולד להינשא לבת ישראל –**

**For the child may not be permitted to** ever **marry a Jewess** (if he is a ספק ממזר) -

**ואפילו לממזרת אסור דמדאורייתא כשר הוא -**

**And he is even forbidden** to marry a **ממזרת, for מן התורה he is a** ולד **כשר** (we are not certain whether he is a ממזר or not **–**

**דהאי הוי כדיעבד[[15]](#footnote-15) הלכה כרבן גמליאל[[16]](#footnote-16)]:**

**Therefore in such** a case (where the child may not be able to ever marry anyone), it is **considered as a בדיעבד**, where **the ruling is according to ר"ג** that she is נאמנת.

Summary

According to the ר"י the issue at hand is whether the ארוס וארוסה are permitted to rejoin. The 'ועוד' means even if we maintain that his מודה is ineffective. תוספות maintains that the issue is whether the child is כשר לישראל and the ועוד means even if the ארוס is not present to corroborate what the ארוסה claimed.

Thinking it over

תוספות questions the ר"י. If the ועוד refers to אביי, then the fact the she is testifying is meaningless, for according to אביי the ולד is a ממזר (according to רב) even if the mother testified.

The 'ועוד' however is according to שמואל (not according to רב)[[17]](#footnote-17) and indeed according to שמואל the child is כשר (even according to אביי) if the mother testifies, and if not he is a שתוקי. [[18]](#footnote-18)

1. The reason this interpretation is chosen (despite some difficulties) may become apparent at the conclusion of this תוספות. See footnote # 14. [↑](#footnote-ref-1)
2. The term 'ועוד', ‘furthermore’ (generally) means that even if this is not so, nevertheless the ruling is valid. [↑](#footnote-ref-2)
3. The term כלומר supplants the simple meaning (that even if he was not מודה, etc.) with a more complicated meaning (that even if מודה is not effective, etc.). See footnote # 10. [↑](#footnote-ref-3)
4. See footnote # 13. [↑](#footnote-ref-4)
5. יבמות סט,ב; see previous two תוספות ד"ה ההוא וד"ה חדא (הא'). [↑](#footnote-ref-5)
6. אביי utilizes the סברא of מדאפקרה to explain שיטת רב, why the ולד is a ממזר. Therefore here too (even though the ארוס וארוסה are already married to each other, nevertheless) the סברא of מדאפקרה implies that she was ודאי זינתה and therefore (הולד ממזר and) אסורה לארוס. However according to שמואל even if we assume that the ולד is a שתוקי (before the בדיקה) it is not because we assume positively מדאפקרה, but rather it is a ספק, which can make the child into a שתוקי; however it will not be able to prevent the ארוס וארוסה from rejoining. The 'ועוד', therefore is for אביי according to רב only. See: ‘Thinking it over’. [↑](#footnote-ref-6)
7. The point of the 'ועוד' according to the פירוש ר"י is that even according to אביי that the מודה is ineffective nevertheless her testimony is effective; this is tantamount to saying that according to אביי she is believed. [↑](#footnote-ref-7)
8. The point of the 'ועוד' according to the פירש ר"י is that even according to אביי who maintains that מודה is insufficient (since מדאפקרה נפשה לגבי ארוס וכו'), nevertheless if she corroborates his מודה they are believed. אביי does not accept the 'מודה' (only) according to רב (who maintains that the child is a ממזר). According to רב, however, the child is a ממזר even if the ארוסה corroborates the testimony of the ארוס. This is the מחלוקת between רב ושמואל when we assume that the מאי שתוקי (of שמואל) is a בדוקי, and nevertheless רב argues and maintains that he is a ממזר. There seems to be no point in the 'ועוד'. See: ‘Thinking it over’. [↑](#footnote-ref-8)
9. See previous תוספות יג,ב ד"ה ההוא. [↑](#footnote-ref-9)
10. See footnote # 3. [↑](#footnote-ref-10)
11. תוספות does not say here as he did previously פשיטא דנאסרת עליו; for there (according to the פר"י) we were discussing the איסור of the ארוס וארוסה, therefore since he is not מודה, she is certainly אסורה עליו for שוויה אנפשיה חתיכא דאיסורא. However here we are discussing the ולד, where there is no סברא of שוייה אנפשיה וכו', nevertheless the ולד will not be כשר, since she is not נאמנת in a case of ברי וברי. [↑](#footnote-ref-11)
12. לקמן טז,א. [↑](#footnote-ref-12)
13. We obviously cannot have this interpretation of 'ועוד' according to the פירוש ר"י, where we are discussing if she is מותרת לארוס. The ארוס is obviously present. We can ask him whether they had relations or not. That is why the ר"י was forced to interpret the 'ועוד' in the manner he did (that it means according to אביי). [↑](#footnote-ref-13)
14. See footnote # 1. [↑](#footnote-ref-14)
15. In the תוה"ר it reads; דהא בדיעבד הלכה כר"ג. [↑](#footnote-ref-15)
16. As mentioned previously, the last three תוספות beginning with ההוא ארוס are bracketed and are an addendum to the original תוספות. [↑](#footnote-ref-16)
17. רב יוסף stated ועוד הא אמר ר"י אמר שמואל וכו'. [↑](#footnote-ref-17)
18. See בית יעקב וסוכ"ד אות לט. Alternately see footnote # 6. [↑](#footnote-ref-18)