

Green v HM Advocate

1983 SCCR 42

Court: HC of Justiciary (Sc)

Judgment Date: 28/01/1983

Catchwords & Digest

CRIMINAL LAW, EVIDENCE AND PROCEDURE - APPEAL - FRESH EVIDENCE - RAPE - FRESH EVIDENCE AS TO COMPLAINER'S CREDIBILITY - WHETHER MISCARRIAGE OF JUSTICE - CRIMINAL PROCEDURE (SCOTLAND) ACT 1975 (C.21) SS.228(2), 252(B) - CRIMINAL JUSTICE (SCOTLAND) ACT 1980 (C.62), SCHED.2, PARAS 1, 16

The appellants were convicted of rape. Their defence had been one of consent and there was evidence that the complainer had been sniffing glue just before the incident. They appealed and sought to lead evidence that the complainer had made previous false allegations of rape and was suffering from a psychiatric disturbance which caused her to fantasise and have delusions, and also that she had told someone that she had not been raped by the appellants. The High Court allowed fresh evidence to be led, and evidence to the effect indicated was heard by Lord Cameron who reported thereon to the court.

Held - that the verdict of the jury having been reached in ignorance of evidence of quality which was highly relevant to the credibility of the complainer and the defence of consent, the conviction of the appellants must be regarded as a miscarriage of justice; and convictions quashed.

Cases referring to this case

Annotations: All Cases **Court:** ALL COURTS

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Document information

Court

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