

V THE SEXUAL ASSAULT ALLEGATIONS

(a) THE OPPOSING CASES AT TRIAL

90. The way in which her Honour left this matter to the jury was the subject of a specific ground of appeal to the Court of Criminal Appeal in 1993 (Ground 7) asserting that her Honour erred in "directing that the trial be conducted upon the basis that the truth of the children's allegations that the witness Mr Catt had assaulted them sexually was not a matter for the jury to determine". This Ground was held to be without substance: *R v Roseanne Catt* (op cif at p214)..

91. Her Honour directed the jury that allegations made by the children of being sexual assaulted by Mr Catt were relevant to the Crown's case in three respects. Firstly, as a means allegedly used by Ms Catt to enlist support against Mr Catt in relation to Counts 6, 7 and 8 in particular, and also to isolate him generally from friends and associates. Secondly, as constituting a backdrop or context in which Ms Catt allegedly made statements to a number of people as to her own attitude towards Mr Catt, this being relevant to the question of motive. Thirdly, as relevant to the suggestion made in the Crown's case through some witnesses that Ms Catt was attempting, at the very least, to bolster the sexual assault case against Mr Catt and possibly that she had engineered it entirely as part of her ongoing campaign to get rid of him.

92. As to the defence case, her Honour directed the jury "finally, and most importantly", that the evidence of what Mr Catt was said to have done to the children became inextricably involved in the question of the credibility of the three children who gave evidence. Tony Catt was not called as a witness at the trial.

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93. Her Honour directed the jury that in the context of enlisting the support of others against Mr Catt "the truth or falsity of their allegations against Mr Catt has nothing to do with that matter" but that the "accused's belief might have something to do with it". Similarly, in the context of the alleged attempts to isolate Mr Catt from friends or supporters, the truth or otherwise of whether Mr Catt did assault his children "is entirely immaterial".

94. Her Honour told the jury that what did matter was whether the

accused genuinely believed what she was saying to those other people, "If she did then you would be entitled to treat all this as displaying nothing more than a natural concern and horror on her part as to what she had learned had been happening between her husband and the children".

95. Her Honour directed the jury that it was for this reason that evidence was admitted of Ms Catt's knowledge of what medical practitioners had found on examining the children after the making of the allegations, and of what Ms Catt was told by counsellors who had interviewed the children.

(b) THE SEXUAL ASSAULT TRIAL OF MR BARRY CATT

96. On 12 December 1990, Mr Catt was acquitted on all charges of sexually assaulting all four of his children. The charges included allegations of vaginal and anal penetration.

(c) AFTERMATH OF THE SEXUAL ASSAULT TRIAL

97. The trial judge, Wood J (as he then was), in discharging the jury after verdict, said that he would give consideration to whether Ms Catt and the four children or any of them should be prosecuted for perjury.

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98. His Honour referred to the Crown giving consideration to other possible charges. His Honour directed that at the conclusion of pending trials, which obviously included the trial of Roseanne Catt, the question of perjury charges should be listed before him when the attendance of Ms Catt and the children would be required.

99. There is no evidence of any action being taken to implement his Honour's direction.

100. Nor is it clear to me whether the Catt children or any of them heard his Honour's remarks or had the substance of those remarks brought to their attention.

101. In my view, however, it is reasonable to assume that they did know of the view implicit in his Honour's remarks as to the value of their evidence given at Barry Catt's trial before they gave evidence in the trial of Roseanne Catt, and of the danger which repetition might have.

102. Notwithstanding his Honour's directions, three of the Catt children gave evidence substantially along the lines of that given by them in Barry Catt's trial, to the effect that they had been subjected to serious sexual interference by Mr Catt and a number of others.

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