R v Berrada 91 Cr App Rep 131

[1989] Lexis Citation 3134

COURT OF APPEAL (CRIMINAL DIVISION)

EnglandandWales

WATKINS LJ, WATERHOUSE, ANTHONY LINCOLN JJ

17 FEBRUARY 1989

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This judgment has been summarised by LexisNexis UK editors.

Criminal law – Trial – Direction to jury – Good character of defendant – Relevance to credibility – Judge omitting to state that good character relevant to credibility – Summing up weighted in favour of prosecution – Whether summing up inadequate.

The appellant was charged with attempted rape, following an incident in which he had allegedly attacked a woman in his flat. At the trial, the defence raised the good character of the appellant. In his summing-up, the judge gave a direction to the jury indicating that they might give the appellant's good character weight, but did not state what matters the appellant's good character was relevant to. The appellant was convicted. He appealed on the ground, inter alia, that the judge's summing-up on the question of the relevance of his good character had not been adequate and that it had been weighted unfavourably against the appellant.

Held: The modern practice was that, when the question of a defendant's good character was raised, it was to be dealt with in the summing-up and, moreover, the direction was to be fair and balanced, stressing the relevance primarily to the defendant's credibility. In the instant case, the appellant was entitled to have put to the jury a correct direction about the relevance of his good character, namely that it was primarily relevant to the question of the appellant's credibility. The judge omitted to state the relevance of the appellant's good character and, accordingly, the summing-up was defective. Further, on the facts of the case, taking the summing-up as a whole, the judge went beyond legitimate bounds in presenting the prosecution case and the summing-up was too heavily weighted against the appellant. Accordingly, the appeal would be allowed.

K Scholz for the Appellant

H Vagg for the Crown

Registrar of Criminal Appeals; Crown Prosecution Service, Isleworth

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