



HIGH COURT OF AUSTRALIA

Public Information Officer

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THE QUEEN v SIPAI SOMA

The High Court of Australia today dismissed a prosecution appeal against a decision of the Queensland Court of Appeal, quashing Mr Soma's conviction on the ground that the prosecution had impermissibly split its case at trial and ordering a new trial.

Mr Soma had been charged with rape. He admitted to having had carnal knowledge of the complainant, but claimed that he had acted with the complainant's consent. During an interview with police, which was tape-recorded, Mr Soma gave an account of what happened between him and the complainant on the night of the alleged rape. At trial, when it presented its case, the prosecution did not lead any evidence of Mr Soma's police interview. When Mr Soma then gave evidence in his defence, extracts from the tape-recorded police interview became the subject of cross-examination and the recorded interview was tendered in evidence.

Mr Soma appealed. The Court of Appeal allowed the appeal. The prosecutor then appealed to the High Court, arguing that the Court of Appeal had failed to give proper effect to certain provisions of Queensland's *Evidence Act*.

By majority, the High Court dismissed the appeal, applying the general principle that the prosecution must offer all its proof during the progress of its case. The *Evidence Act* provisions do not modify this general principle.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*