

*Case Name:*  
**R. v. M.L.M.**

**Her Majesty The Queen, Appellant;**  
**v.**  
**M.L.M., Respondent, and**  
**Women's Legal Education and Action Fund, Intervener.**

**[1994] S.C.J. No. 34**

**[1994] A.C.S. no 34**

**[1994] 2 S.C.R. 3**

**[1994] 2 R.C.S. 3**

**166 N.R. 241**

**J.E. 94-903**

**131 N.S.R. (2d) 79**

**89 C.C.C. (3d) 96**

**30 C.R. (4th) 153**

**23 W.C.B. (2d) 274**

**1994 CanLII 77**

File No.: 23385.

Supreme Court of Canada

1994: May 3.

**Present: Lamer C.J. and La Forest, L'Heureux-Dubé,  
Sopinka, Gonthier, Cory, McLachlin, Iacobucci and Major JJ.**

ON APPEAL FROM THE NOVA SCOTIA SUPREME COURT, APPEAL DIVISION

*Criminal law -- Sexual offences -- Sexual assault -- Consent -- Accused convicted of sexually assaulting his 16-year-old stepdaughter -- Court of Appeal allowing accused's appeal and entering acquittal -- Court of Appeal erring in holding that victim required to offer some minimal word or gesture of objection and that lack of resistance must be equated with consent -- Conviction restored.*

APPEAL from a judgment of the Nova Scotia Supreme Court, Appeal Division (1992), 117 N.S.R. (2d) 74, 324 A.P.R. 74, 78 C.C.C. (3d) 318, allowing the accused's appeal from his conviction for sexual assault. Appeal allowed.

Robert C. Hagell and William Delaney, for the appellant. M. Jane McClure and M. Jean Beeler, for the respondent. Chantal Tie and Jean Whalen, for the intervener. Solicitor for the appellant: The Attorney General of Nova Scotia, Halifax. Solicitors for the respondent: Weldon, Beeler, Mont & Dexter, Dartmouth. Solicitors for the intervener: Chantal Tie, Ottawa; Jean Whalen, Dartmouth.

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The judgment of the Court was delivered orally by

- 1 Lamer C.J.** -- The appeal is allowed, the order of the Court of Appeal is set aside and the conviction is restored. Mr. Justice Sopinka will give the reasons of the Court.
- 2 Sopinka J.** -- The Court of Appeal allowed the appeal from conviction on the ground that the decision of the trial judge was unreasonable and could not be supported by the evidence. In our opinion, taking into account all of the circumstances including the evidence of the complainant which was accepted by the trial judge, we are of the view that there was evidence upon which a jury, properly instructed and acting judicially, could reasonably convict. The trial judge was in the same position. The majority of the Court of Appeal was in error in holding that a victim is required to offer some minimal word or gesture of objection and that lack of resistance must be equated with consent.

---- End of Request ----

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