

She was a person of low intelligence and peculiar temper, but she understood the deaf and dumb language. The Court decided that she was not mentally incapacitated from acquiring an industrial settlement. Had this question arisen for the first time in the present case, I should have been prepared to have adhered to the Sheriff-Substitute's interlocutor, but I consider the point settled by the case of *Ross*, which is a *fortiori* of the present.

LORD ADAM was absent on circuit.

The Court refused the appeal.

Counsel for Lesmahagow—Guthrie Smith—Dundas. Agents—Melville & Lindesay, W.S.

Counsel for Carstairs—Cheyne—Gillespie. Agents—Mackenzie & Kermack, W.S.

Counsel for Lanark—Mackintosh—Low. Agents—Mackenzie, Innes, & Logan, W.S.

Monday, June 25.

SECOND DIVISION.

[Lord M'Laren, Ordinary.

MACKIN v. NORTH BRITISH RAILWAY COMPANY.

Process—Jury Trial—Notice of Trial at Circuit Court—Motion to Change Place of Trial.

John Mackin, a mason, was run over by one of the North British Railway Company's trains at a level-crossing near Stirling, and seriously injured. He raised an action of damages in the Court of Session against the railway company. Issues were adjusted, and the pursuer gave notice for trial at the next Circuit Court at Stirling. The Lord Ordinary (M'LAREN) reported the case to the Second Division on the motion of the defenders that the case should be tried in Edinburgh, on the grounds of convenience and saving of expense. It depended, they argued, on the duration of the criminal work at Circuit how long the witnesses might be kept waiting till the cause came on for hearing. There was, too, a danger of getting a biased jury at Stirling, and a question of right-of-way at the place where the accident happened might arise. The pursuer opposed the motion on the ground that he was a poor man, and resident in Stirling, where also the witnesses lived and the accident happened. He argued that no ground had been shown for having the case tried in Edinburgh.

The Court refused the motion on the ground that no cause had been shown for granting it, and the pursuer was only exercising his legal right in giving notice for trial at the Circuit Court.

Counsel for Pursuer—M'Kechnie—M'Lennan. Agent—James M'Caul, S.S.C.

Counsel for Defenders—J. P. B. Robertson—Jameson. Agents—Millar, Robson, & Innes, S.S.C.

Friday, June 26.

FIRST DIVISION.

[Sheriff of Lanarkshire.

PATERSON AND ANOTHER v. HASSAN.

Reparation—Slander—Making Erroneous Accusation in Good Faith to Police—Privilege—Malice and Want of Probable Cause.

A lady observing on the street a man whom she believed to have defrauded her of money a few days before, charged him in presence of the persons then in his company with having done so, and in a few minutes thereafter, having procured a policeman, gave him into custody. It was proved that she was entirely mistaken as to his identity, and he was liberated. *Held*, in an action of damages by him, that the charge to the police not having been malicious, and without probable cause, was privileged, and did not infer liability in damages; (2) that the charge made before the police were procured was not to be looked on as a separate accusation, but as part of the same *res gestæ*, and therefore could not of itself infer liability. The Court therefore *assolized* the defender.

John Hassan, head-master of St Francis Roman Catholic School, Glasgow, was on his way to the Broomielaw, Glasgow, to catch the four o'clock steamer to Dunoon, on the afternoon of the 23rd July 1884. He was accompanied by his mother and sister, and was near the corner of Jamaica Street and Union Street when he was stopped by a lady, who accused him of being a person who had called at her house on the previous day and obtained money by false pretences. After repeating the expression the lady left Hassan, and in a very few minutes afterwards she again came to him, accompanied by two police-constables, to whom she gave him in charge, stating that he had obtained money from her on false pretences, and Hassan was taken into custody and conveyed to the Central Police-station. Here he was examined by the officer on duty, and was ultimately discharged, as the officer on duty was satisfied that the lady was mistaken.

This was an action by Hassan against Mrs Rachel Paterson (the lady who had falsely accused him), and her husband Walter Paterson as her administrator-in-law. The action was raised in the Sheriff Court of Lanarkshire at Glasgow, and concluded for payment of £200 as damages.

The pursuer averred that when he was accosted by the defender and constables in Jamaica Street he explained who he was, and warned the defender that she was mistaken, and that she should be careful of the serious charge she was making against him; that the defender most positively reiterated the charge of fraud at the police office, and that he was subjected to a close examination for two hours as to his movements on the previous day before he was liberated; that he was in Dunoon all the previous day, to which the charge applied, and that the charge made against him was false and malicious, and without any just or probable cause; that he had suffered great injury to his feelings and reputation by the charge