

G.R. No. L-8569

[ G.R. No. L-8569. May 24, 1957 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PABLO POSADAS AND TRANQUILINO DRYLON, DEFENDANTS, PABLO POSADAS, DEFENDANT-APPELLANT.**

## **D E C I S I O N**

### **CONCEPCION, J.:**

On April 1, 1949, at about 9:30 p.m., three men, armed with guns, entered the dwelling of Pedro Rodriguez in the barrio of Santa Cruz, municipality of San Antonio, province of Nueva Ecija, by forcibly opening the kitchen door of his house. After taking, by force and intimidation, a flash light costing P3.50, two (2) wallets (each worth P0.80) containing the aggregate sum of P6.00 and a fountain pen worth P1.80, one of the malefactors ravished Elena Dayao, the wife of Pedro Rodriguez, and the other two assaulted criminally, one after the other, Irene Rodriguez, the 17-year old daughter of said spouses. Shortly afterwards, Feliciano de la Rosa, Pablo Posadas and Tranquilino Drylon, all members of the Constabulary force stationed in said municipality, were accused of said crime of robbery with rape. Having pleaded guilty to the charge, De la Rosa was sentenced accordingly. Meanwhile, Drylon had escaped and could not be located. Hence, the case was heard as regards, only, defendant Pablo Posadas, who, after due trial was convicted as charged, and sentenced to life imprisonment, with the accessory penalties provided by law, to return to the offended parties the stolen articles, or pay its value, aggregating P11.30, apart from indemnifying Irene Rodriguez in the sum of P10,000.00, and paying the costs. Hence, this appeal taken by said defendant Pablo Posadas.

The only question for determination before us is whether appellant has been sufficiently identified as one of the authors of the crime described above, the commission of which is not disputed. Posadas denied any participation therein, and set up an alibi. He would have us believe that on April 1, 1949, from 7:00 to 11:00 p.m., he was in the guardhouse of the PC barracks in San Antonio, Nueva Ecija, where he was detailed as corporal of the guards; and

that at 11:00 p.m., he assumed his guard duty post, which he left at 1:00 a.m., only to return to the guardhouse and sleep there until day-break. Although he said that this is borne out by the records of the Constabulary, such records were not produced by him. He did not even explain the reason for this omission. At any rate considering that Posadas was not actually on guard duty post from 7:00 to 11:00 p.m., it was not difficult for him to be, at 9:30 p.m., in the house of Pedro Rodriguez, barely one (1) kilometer away from said Constabulary barracks.

Apart from this, his identity as one of the culprits, has been established beyond reasonable doubt, by the testimony of his co-accused, Feliciano de la Rosa, who pleaded guilty to the charge, was already serving his sentence and had no motive to falsely implicate him. De la Rosa was, in turn, corroborated by Iluminada Algas, in whose store, according to his testimony, he, Posadas and Drylon went on April 1, 1949, at 7:00 p.m. and drank wine before committing the crime charged. Iluminada confirmed this fact and stated that she over-heard the defendants say, before leaving her store, that they were going to the barrio of Santa Cruz, where the house of Rodriguez is. Besides, Posadas was positively identified by Irene Rodriguez and Elena Dayao, both of whom knew him by face, having seen him several times before the evening in question.

The veracity of these witnesses for the prosecution is assailed upon the ground that neither Elena nor Irene had named Posadas in the sworn statements made by them shortly after the occurrence. This omission has, however been explained satisfactorily, for said witnesses did not know him by name. Besides, Posadas and his co-defendants were members of the Constabulary, to which the investigators belonged. Indeed, the conduct of the latter was such that the lower court observed, in the decision appealed from, that "there seems to be an effort on the part of the Constabulary authorities to conceal the identities<sup>11</sup> of the culprits. Thus, for instance, although, immediately after the occurrence, De la Rosa was apprehended near the house of Pedro Rodriguez after a brief chase, when he ran away from under said house, as local policemen and a detail of the Constabulary approached It - instead of taking him up to said house for identification by Rodriguez and the members of his family, Lt. Esquivel of the PC, who commanded said detail, brought him immediately to the Constabulary barracks. Again, the bloodstained drawers of Irene Rodriguez and the wallets stolen by the malefactors which were later found empty in the school yard of San. Antonio - disappeared after delivery thereof, "by the local chief of police, to a Lt. Amante of the PC, who secured possession of said articles upon the representation that he would "take charge of the prosecution of the culprits.

The prosecution recommends that the decision appealed from be so modified as to sentence appellant Pablo Posadas to acknowledge the offspring of Irene Rodriguez, whom he ravished, should there be any. But Irene took the witness stand on July 26, 1950, or over a year since the occurrence, and she appeared to have had no issue in the consequence of the criminal assault visited upon her. Hence, the aforementioned modification is unnecessary.

WHEREFORE, the decision appealed from is hereby affirmed, with. costs against the appellant.

IT IS SO ORDERED.

*Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Reyes, J.B.L., Endencia, and Felix, JJ., concur.*

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