

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JERRY VELASCO Y CABAUG, DEFENDANT-APPELLANT.

G.R. NO. L-28081. January 21, 1974

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Upon the sworn complaint of complaining witness Maria Loreto Mas, the accused Jerry Velasco y Cabahug, after trial, was convicted of rape and sentenced to life imprisonment, to indemnify the offended party in the amount of P3,000.00 and to pay the costs in a decision dated July 24, 1957, from which he appealed. After the appellant and the prosecution had filed their respective briefs, this case was deemed submitted for decision on September 10, 1968.

In a manifestation and motion dated and filed on December 15, 1973, Atty. Manuel R. Guerrero, counsel for appellant, but now acting as counsel for both appellant and complainant, prayed that this criminal action be terminated and that the bail bond for the provisional liberty of appellant be ordered cancelled on the ground that the appellant and the complainant were married on December 22, 1970 before judge Jesus P. Morfe of the Manila Court of First Instance, attaching thereto as Annex "A" a xerox copy of the marriage contract duly certified by the assistant local civil registrar of Manila. Said manifestation and motion was duly verified and sworn to by the complainant, who signed the said verification as Maria Loreto M. Velasco.

Considering that under paragraph 4 of Article 344 of the Revised Penal Code, the marriage of the offender with the offended party extinguishes the criminal action for rape (*Laceste vs. Santos*, 56 Phil. 472) and that there is no indication that the marriage was entered into in bad faith, this criminal case has, as a consequence, become moot and academic.

WHEREFORE, this criminal case is hereby dismissed, and the bail bond for the provisional liberty of accused-appellant Jerry Velasco y Cabahug is hereby ordered cancelled, without costs.

Makalintal, C.J., Ruiz Castro, Teehankee, Esguerra, and Muñoz Palma, JJ., concur.

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