

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ADULFO TERROBIAS, DEFENDANT-APPELLANT.***G.R. No. L-48944. February 26, 1981*

Ponente: DE CASTRO, J.

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This is an appeal from the decision of the Court of First Instance of Catanduanes convicting the accused, Adolfo Terrobias, of the crime of rape and sentencing him to suffer the penalty of reclusion perpetua; to acknowledge the offspring of Delia Bonion as his natural child with all the rights granted her by law; and to indemnify the victim, Delia C. Bonion, in the sum of P10,000.00 as actual, moral and exemplary damages, and to pay the costs.[1]

To the charge of rape, appellant interposed the defense of alibi. He does not, therefore, deny the truth of the testimony of the complainant, the 17-year old Delia C. Bonion, as to her sexual experience except only to disclaim any participation therein with his assertion of never having had sexual intercourse with her. The testimony of the complainant on how she was sexually assaulted, and the events that intervened thereafter, may, therefore, be quoted from the appealed decision which set forth the said testimony as follows:

"x x x Complainant Delia C. Bonion narrated how on the night of February 17, 1977 as she was fast asleep because of the days work, she woke up to find Adolfo Terrobias already on top of her holding her hands and when she resisted was told not to shout under threats of harm. As Delia continued to struggle, Adolfo covered her mouth with a wad of cotton soaked with medicine which smell weakened her and caused her to lose consciousness. When she came to, Delia still saw Adolfo getting his pants and went out the room. Still laboring under the fear of harm because Adolfo warned her that nobody should know what he did, Delia continued her usual household work, awaiting the arrival of her parents. Adolfo did not take breakfast at the table the following morning, Delia's mother visited her February 27 and she confided to her what Adolfo did. Florencia Terrobias was informed by Dolores C. Bonion same day within the hearing of Delia, and after condemning Adolfo as a 'salvaje', her Lola Insay asked the two to wait for the arrival of Gregorio Terrobias who was in Naga City. The defense miserably failed to present Gregorio and Florencia Terrobias to rebut the claim of Delia and Dolores about the report of the RAPE to both of them. Neither did the defense deny that Gregorio after knowing his son's perfidy told complainant and her mother Dolores to have the child removed or aborted thru the help of an 'arbulario'. The proposal of abortion refused, Dolores demanded that Adolfo marry her daughter which the Terrobias family scorned. Delia was thereafter taken away by her own parents. The case went to Court. In retaliation, Dolores and her husband were summarily removed as tenant-encargado." [2]

The assault took place in the house of appellant's parents, Gregorio and Florencia Terrobias, at Bato, Catanduanes, where complainant was a house helper, her parents being the "encargado" [3] of the properties of the aforesaid spouses, whom Delia called "Lolo Goyong" and "Lola Insay", [4] and treated as her foster parents. Appellant, then single and thirty-three years of age, was living with his parents in the same house. Delia's room was between appellant's room and that of the latter's mother. [5] It is in complainant's room that the rape took

place.

From her plain and straightforward testimony, We have no doubt as to complainant's candor and sincerity. A 17-year old girl at the time, she could not have merely concocted the story she narrated in court, directed against a thirty-three-year-old son of her masters. Only truth and a feeling of deep grievance could have impelled her to charge appellant with the grave offense committed against her, even at a price she has to pay in terms of her honor being exposed or even tarnished, not to mention the discharge of her parents as "encargados" of appellant's parents.

The circumstances as duly established following the sexual assault could not but strengthen belief in complainant's honesty and truthfulness. As soon as she had the chance to report the offense done her to someone of her fullest confidence and who could look at her plight with sympathy and understanding, she did so. This was on February 27, 1977 on her mother's first visit to her after the incident when she told her mother about the harrowing experience.[6] The mother, in turn, told appellant's mother what the latter's son did to her daughter. Right after hearing the daughter's whole story appellant's mother, instead of expressing disbelief in what was told her, reproached her son for the act, calling him "salvaje", and suggested that Delia remain until the matter is reported to her husband who was then in Naga City.[7] When the father of appellant heard of the incident as narrated to him by complainant's mother, he told the latter to return on April 2 to afford him time to investigate the matter. On her return as agreed, Delia's mother told appellant's father that Delia was on the family way. Thus informed, appellant's father suggested abortion by an "arbulario",[8] to which Delia's mother disagreed, and instead demanded that appellant marry Delia who was with her. Appellant's father answered in Bicol: "Carabaos should be with carabaos and cows with cows." [9]

On the same date, April 2, 1977, Mrs. Bonion took her daughter Delia to Virac to seek advice of her aunt who suggested that a medical certificate be secured as to the condition of Delia. Dr. Masagca who examined Delia found her one and one-half month pregnant, her last menstruation being on January 29, 1977.

Because of the complaint filed by Delia and her parents who forthwith reported what happened to their daughter to the PC at Virac, the Terrobias spouses discharged Delia's parents as their "encargado".[10] Delia later gave birth to a baby girl on October 28, 1977.[11]

With the complainant pointing to appellant as the person who ravished her in her room in appellant's residence on the night of February 17, 1977, the latter's alibi of not being in his house on said time and day because he attended the birthday party of Teodulo dela Providencia in San Andres, Catanduanes, some 25 kilometers from Bato, where he had to spend the night in Teodulo's house because he had drunk too much is unavailing. No motive was given why the complainant should falsely charge appellant with so grave an offense, considering that she had treated appellant's parents with so much affection that she called them "Lolo" and "Lola".

Complainant might have incurred in some inconsistencies, in her testimony during the trial in relation to statements she gave before the trial as appellant tried graphically to demonstrate in his brief (p. 11). They refer, however, to minor details that do not detract from the truth of the central fact of rape having been committed by appellant on the complainant. They arise from or are caused by, the natural weakness, or even fickleness, of memory and rather strengthen credibility, as they erase suspicion of coaching or of a rehearsed testimony. On the important and decisive details, however, she was consistent in all the statements she made, such as appellant's being already on top of her when she woke up, how she resisted his action despite appellant's threat, which was followed by the latter pressing a wad of cotton soaked with medicine on her mouth and nose which rendered her unconscious, her feeling pain in, and the bleeding of, her private parts, her "bra" being torn and her skirt, rolled up.

On the other hand, complainant's mother's testimony that on her first visit to her daughter at her masters' residence after the incident, Delia reported to her the outrage committed on her, and appellant's mother called her son a savage on being informed of what he did, while the father advised the removal of the fetus by an "arbulario," were not rebutted by appellant's parents. They did not take the witness stand despite that the aforesaid testimony against them lent full credence to complainant's story. The acts of appellant's parents as aforestated would show that they had no reason to disbelieve said story, specially considering that the father had all the time he asked for to investigate the matter. Indeed, a young simple barrio girl like Delia could not have fabricated a charge of rape against a man twice her age, the son of her masters at that, for whom she had none but affectionate respect.

Appellant claims of having been denied his constitutional right by the mere fact that the trial of the case took only four days is entirely without basis. He had presented all his evidence which was duly submitted by his counsel who never asked for more time to do so. His right to cross-examine the witnesses against him was exercised to the fullest.

Neither is his claim of lack of authority of the trial judge to decide the instant case with any legal support to stand on. While by the Resolution of the Supreme Court[12] the authority of the trial judge to try criminal cases in Branch II of the Court of First Instance of Catanduanes was up to March 2, 1978, it does not preclude submission of memoranda even after such date, as long as the trial was completed, and the order to file memorandum given, before the expiration of his authority to try the case. Much less was the trial judge divested of the authority to decide the case which he can do anytime after the trial of the case, under Section 51 of the Judiciary Act, the filing of memoranda not being a part of the trial, nor is the memorandum itself an essential, much less an indispensable, pleading before a case may be submitted for decision. It is intended primarily to aid the court in the rendition of the decision in accordance with law and the evidence, and should not, therefore, be the cause for the loss of the authority of the judge who heard the case to decide it.

WHEREFORE, as recommended by the Solicitor General, the judgment appealed from being in accordance with law and the evidence, is hereby affirmed in toto, with costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Fernandez, Guerrero and Melencio-Herrera, JJ., concur.

[1] p. 11, Rollo.

[2] p. 10, Rollo.

[3] p. 99, t.s.n., February 23, 1978.

[4] pp. 3-4, January 21, 1978.

[5] p. 54, t.s.n., February 22, 1978; Exhibits D, C, C-1, 1-b).

[6] pp. 86-87, t.s.n., February 23, 1978.

[7] pp. 88-91, t.s.n., February 23, 1978.

[8] pp. 92-94, t.s.n., February 23, 1978.

[9] pp. 94-98, t.s.n., February 23, 1978.

[10] p. 99, t.s.n., February 23, 1978.

[11] pp. 35-36, t.s.n., February 22, 1978.

[12] Resolution No. 765-CCC, November 8, 1977.

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