

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PASTOR PASCO, DEFENDANT-APPELLANT.

G.R. No. L-41909. February 14, 1983

Ponente: RELOVA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/168977f2ca93/>

RELOVA, J.:

This is an appeal from the decision of the Court of First Instance of Misamis Occidental finding Pastor Pasco guilty beyond reasonable doubt of a crime of rape and sentencing him "to suffer the penalty of RECLUSION PERPETUA, to indemnify the offended party as moral damages in the amount of P5,000.00, with the accessories provided by law, and to pay the costs."

It appears that on September 11, 1974, the City Fiscal of Oroquieta City filed an information for rape against Pastor Pasco as follows:

"That on or about the 29th day of June 1974, in the barrio of Tipan, Oroquieta City, Philippines, and within the jurisdiction of this Honorable Court, the said accused, taking advantage of his superior strength, and by means of force and violence, did then and there willfully, unlawfully and feloniously have carnal knowledge of one Regina M. Vda. de Turco, 67 years old, widow, against her will and without her consent.

"Contrary to Article 335 of the Revised Penal Code."

Upon arraignment, the accused pleaded not guilty. Hence, trial on the merits proceeded.

The evidence for the prosecution and the defense, as synthesized by the Solicitor General in the People's Brief are as follows:

"On June 29, 1974, at about 6:00 o'clock p.m., Regina Torco was on her way home from the house of her sick nephew, Leonardo Ibasan, in Barrio Tipan, Oroquieta City. While she was walking along a small path near the banana plantation of Felipe Batoy, appellant Pastor Pasco suddenly grabbed her hands and dragged her bodily towards the banana plantation. (t.s.n., p. 10, October 31, 1974). Regina tried to free herself from appellant's hold but she failed because she was too old and weak. (t.s.n., p. 10, id; p. 7, Nov. 4, 1974). She was then 67 years old (t.s.n., p. 8, id.) Regina shouted for help while she was being dragged (t.s.n. p. 8, Nov. 4, 1974) but the appellant squeezed her mouth and at the same time kicked her leg which caused her to fall down face upward. (t.s.n., p. 11, Oct. 31, 1974). Appellant raised her dress exposing her private parts. She was not wearing panties then (t.s.n., p. 11, id.). He spread her legs, laid on top of the prostrate Regina, inserted his penis into her sexual organ and made a push-and-pull movement (t.s.n., pp. 11-12, id.).

"At this juncture, Felipe Batoy, who had been attracted by Regina's shouts for help (t.s.n., p. 20, Nov. 4, 1974), went near the source of the shout and saw the appellant doing the sexual act on top of Regina (t.s.n., p. 21, id.). Felipe shouted 'hoy'; the appellant stood up and ran towards the west. About fifteen (15) minutes later, however, the appellant came back, put his hands on Felipe's shoulders and said 'do not tell.' Felipe replied 'Go ahead, Tor,' referring to appellant Pastor Pasco (t.s.n., p. 21, id.).

"Felipe helped Regina stand up. He then asked her: 'What happened to you, Ya?' to which Regina answered 'I

was raped by Pastor Pasco.' (t.s.n., p. 22, id.).

"Regina, whose dress (Exhibit 'C') was torn (Exhibit 'C-1') (t.s.n., pp. 1-2, November 4, 1974), then went with Felipe to the latter's house (t.s.n., p. 14, October 31, 1974) and later, she went home (t.s.n., p. 15, id.). She summoned her children, and, the following morning, she lodged a complaint for rape in the Office of the Chief of Police of Oroquieta City (t.s.n., p. 17, id.). After she was investigated, she went to the Provincial Hospital where she was examined by Dr. Pintacasi (t.s.n., p. 18, id.) The doctor examined her injuries on the chin and right cheek (Exhibit 'A'; t.s.n., p. 4, id.) but no vaginal examination was conducted (t.s.n., pp. 18-19, id.). Regina, however, told Dr. Pintacasi that she was raped. (t.s.n., p. 18, id.)

.....

"The alibi of the appellant does not meet the requirement. He tried to show that in the afternoon of June 29, 1974, he was in Mansabay, Lopez Jaena, Misamis Occidental, attending the barrio annual fiesta; that at about 4:00 o'clock in the afternoon of the same day, he alighted in the crossing at Barrio Tipan, Oroquieta City; that he boarded a Ford Fiera and arrived home at 4:30 p.m.; that at a store near his house, he saw the complainant apparently drunk; that he pushed the complainant's back which caused the complainant to loosen her hold on the bamboo pole which hit her face; that the complainant got angry and uttered angry words at the appellant; that he then went home but at about 6:00 o'clock in the same afternoon, he left for the house of his friend by the name of Cresenciano Dumaog about a kilometer away from his house; that, on his way, he again passed the store where he saw the complainant; that this time he did not stop anymore for fear of being seen by the complainant; and that, instead, he went to the house of Dumaog to ask the latter's help to lift his boat from the river bank. (t.s.n., pp. 36-41, Silvestre).

"Appellant admits having seen the complainant twice that same afternoon. The first time was at 4:30 and the second time after 6:00 p.m. He however, denies having committed the crime of rape. This denial, we submit, cannot prevail over the testimony of the complainant herself and prosecution eye witness Felipe Batoy . . ."

The crime of rape as has been said before is an accusation easy to make, hard to probe, but even harder to defend by the party accused, though innocent. As stated by Chief Justice Fernando in *People vs. Reyes*, 60 SCRA 126, "the seriousness with which the state rightfully views the matter with the corresponding imposition of the punishment that fits the crime calls for extreme care on the part of the judiciary to avoid an injustice on an accused. For it is equally true that this is an offense to which, as is often the case, only two person can testify, thus requiring the most conscientious effort on the part of the arbiter to weigh and appraise the conflicting testimony. If a reasonable doubt exists, the verdict must be one of acquittal."

In the case at bar, complainant Regina Torco went to the Office of the Chief of Police the day after the incident to file her complaint for rape against herein appellant. She was investigated following which she went to the Provincial Hospital where Dr. Reynaldo Pintacasi examined her chin, as well as her right cheek below the eye, but not her private parts. Hereunder is her testimony on this point:

"Q Who accompanied you when you went to the hospital?

A My children.

Q Who did you contact or see in the hospital?

A Doctor Pintacasi.

Q

Before Doctor Pintacasi saw you who introduced you to Doctor Pintacasi?

A Myself.

Q Were you not accompanied by any woman?

A My daughter-in-law, the wife of Lazaro.

Q What was done to you in the hospital?

A My chin was examined.

Q Did you ask the doctor that you be examined internally?

ATTY. CATANE:

Leading, Your Honor, we object.

COURT:

Sustained.

FISCAL BATOY:

Q What else did the doctor do to you?

A He examined my chin as well as my right cheek below my eye.

Q What did you tell the doctor, if any, when you met him?

A I told him I was raped.

Q

Did he conduct a vaginal examination of you after you told him that you were raped?

COURT:

Will you tell this witness to listen to the question before she makes an answer?

THE WITNESS: (after being admonished)

A No, sir. (t.s.n., pp. 18-19, October 31, 1974)

.....

CROSS-EXAMINATION

BY ATTY. CATANE

Q You did not tell the doctor that you were raped?

A No, sir, I did not tell.

Q

So much so that the doctor did not conduct a vaginal examination on you?

A No, sir.

Q

All what you told to the doctor in the hospital was that you suffered injuries at the face and at the back?

A Yes, sir.

COURT:

Q

Inasmuch as you have already testified that you were raped by the accused, why did you not tell the doctor who conducted an examination on you to conduct a vaginal examination because you were raped in order that he could make a certification to that affect, of his vaginal examination?

A It was Nonoy who told Dr. Pintacasi.

Q Who is this Nonoy?

A My son-in-law.

Q

You mean to tell the Court that your daughter did not tell the doctor that you were raped?

A Yes, sir.

Q

Did the doctor inquire from you that what has been reported is correct?

A Yes, he examined my face.

Q

Did you confess to the doctor what was told by your daughter-in-law?

A Yes, sir.

Q

And, in spite of the fact that you were told or I should say you told the doctor that you were raped, the doctor did not conduct a vaginal examination on you?

A No, he did not make any vaginal examination.

Proceed.

ATTY. CATANE:

Q

It was only a few days ago, from October 31, that you commanded one of your members of your family to go to Dr. Pintacasi to ask for a medical certificate regarding the fact that you were raped, is that correct?

A Yes, sir.

Q

And the doctor did not give any medical certificate because at the time you reported to him on June 30, 1974, you never told the doctor that you were raped?

A Yes, sir." (t.s.n., pp. 15-16, November 4, 1974 hearing)

Dr. Pintacasi, a witness for the prosecution, testified that complainant did not request for examination of her vagina:

"FISCAL BATOY:

Q

Do you remember having issued a medical certificate in connection with your examination?

A Yes, sir.

Q

I show you this medical certificate which is page 7 of the records and which we pray that this be marked Exhibit A for the prosecution.

COURT:

Mark it Exhibit A. (t.s.n., pp. 3-4, October 31, 1974 hearing)

.....

FISCAL BATOY:

Q

Since you mentioned in your Exhibit A contusions, how many contusions were there?

A Two contusions.

COURT:

Q Where was the other one?

A On the chin. (t.s.n., p. 5, October 31, 1974 hearing)

.....

FISCAL BATOY:

Q

You did not examine the, – You did not conduct Doctor internal vaginal examination of Regina Torco?

ATTY. CATANE:

It seems that the Fiscal is impeaching his own witness.

COURT:

Let the witness answer.

THE WITNESS:

A There was no indication for such examination.

COURT:

Q

Do you mean to tell the Court inasmuch as there was no indication for a vaginal examination you never conducted a vaginal examination of the victim?

A The patient did not request for examination of the vagina.

FISCAL BATOY:

Q

Your examination was only limited to the physical injuries found on the infraorbital area, is that right?

A Yes, sir.

.....

COURT:

Just a minute.

Q

When you made this physical examination it was only on the face of the patient?

A Yes, sir.

Q

You did not conduct any other physical examination on any other part of her body?

A Yes, sir.

Q

And neither did the patient requested for an examination of other parts of her body?

A

She did not request for other examinations." (t.s.n., pp. 6-8, October 31, 1974 hearing)

Likewise, Presentacion Torco, a daughter-in-law of the complainant, testified that on July 2, 1974, few days after the incident they returned to the hospital for the vaginal examination of the complainant. However, the doctor would not examine her because "it was useless." Presentacion Torco testified as follows:

"Q

Now, did you bring your mother-in-law, the victim, to the doctor for vaginal examination upon advice of the Fiscal?

A Yes, we brought her.

Q That was on June 30, 1974?

A At the time when we went back.

Q When was that, the date?

A July 2, 1974.

Q That is around four days after the incident?

A Yes, sir.

Q

Did the doctor conduct a vaginal examination on your mother-in-law?

A He did not because it's useless.

Proceed.

ATTY. CATANE:

Q

Did not the doctor tell you that he did not conduct a vaginal examination because you or your mother-in-law or anybody accompanying your mother-in-law did not tell him that your mother-in-law was abused?

A Yes, sir." (t.s.n., p. 49, Nov. 4, 1974 hearing)

It is true that medical examination is not an indispensable element in the prosecution for the crime of rape, because it all depends upon the evidence offered and as long as such evidence convinces the court, a conviction therefor is proper. (People vs. Orteza, 6 SCRA 109). In the case at bar, however, there was an examination on June 30, 1974 on the complainant by the doctor who found on her "contusions, infraorbital area (right) chin" which would require at least "four (4) to seven (7) days medical attendance."

Why did not complainant have her private parts examined considering her testimony that appellant was able to consummate the sexual act, as in fact when he stood up and ran away she noticed his semen on her private parts? According to Dr. Pintacasi, neither complainant nor those who accompanied her told him she was raped and that she be examined on her private parts. That was the reason the physician limited his examination on the injuries found in the infraorbital area. Upon advice of the fiscal, it was only on July 2, 1974 when she returned to the doctor for vaginal examination.

It is indeed strange that an alleged victim of this heinous offense of rape did not reveal immediately to the doctor what happened to her so that she will be examined. Was it because nothing of this sort did really take place and that she complained to the police out of resentment only?

At any rate, it is fundamental that the prosecution to secure a conviction of any crime, must rely on the strength of its own evidence and not on the weakness of the defense; that it is its duty to demonstrate that culpability lies. "The freedom of the accused is forfeited only if the requisite quantum of proof necessary for conviction be in existence. Guilt must be shown beyond reasonable doubt." (People vs. Reyes, supra). In the light thereof, courts have generally exercised great care and vigilance to insure that a verdict of conviction was supported by sufficient and competent evidence and not the result of passion and prejudice. In this case, We hold that the guilt of the accused had not been established beyond reasonable doubt.

WHEREFORE, upon reasonable doubt, the trial court's judgment is reversed and appellant Pastor Pasco is acquitted of the crime of rape, with costs de oficio.

SO ORDERED.

Teehankee, Concepcion, Jr., De Castro, Escolin and Gutierrez, Jr., JJ., concur.

Fernando, C.J., concurs on the ground that the constitutional presumption of innocence has not been overcome.

Makasiar, Guerrero, Abad Santos, Melencio-Herrera, Plana and Vasquez, JJ., dissent.

Aquino, J., took no part.

Abad Santos, J., votes for the affirmance of the decision.

CONCURRING OPINION

DE CASTRO, J.:

On ground of reasonable doubt, I concur, that complainant did not undergo a vaginal examination can only mean that she did not ask for it, or gave no information to the doctor that would prompt the latter to perform such examination. This must be because complainant feared that such an examination will reveal her allegation of rape

as a mere concoction.

I prefer to give more credence to the doctor's testimony that he was not told that complainant was raped to that of complainant that he was told, and still, notwithstanding, did not perform a vaginal examination.

DISSENTING OPINION

MELENCIO-HERRERA, J.:

I vote for affirmance. Unlike in other rape cases, there was an eyewitness herein to the crime committed, who was even approached by the accused minutes after the incident with the request "not to tell."

DISSENTING OPINION

PLANA, J.:

I believe the crime of rape has been established beyond reasonable doubt, even assuming that the complainant indeed failed to advise the doctor who examined her after the incident that she had been raped. This conclusion is sustained by the following:

- The complainant was assaulted on June 29, 1974 at about 5:00 o'clock in the afternoon. The morning after (June 30), she went to the Police Headquarters of Oroquieta City and reported that she had been raped (TSN, Oct. 31, 1974, p. 17). In support of her complaint, she made a written statement before the police detailing the rape incident (Record, p. 8).
- She was thereafter taken to the Assistant City Fiscal of Oroquieta before whom she swore to the written statement she had executed before the police.
- On July 1, 1974, the complainant filed her sworn complaint for rape in the City Court of Oroquieta (Exhibits B and B-1).
- Testimony of the victim herself that she was raped by the accused who forcibly pressed her mouth in the process.
- Testimony of eyewitness Felipe Batoy who saw the accused in the act of raping the complainant ("the man [accused] being on top holding the mouth and doing sexual act") and shouted "hoy". (TSN, Nov. 4, 1974, p. 21.)
- Immediately following the assault, after the accused had run away upon being surprised in the act of rape by Felipe Batoy, the complainant confirmed to Batoy that she was indeed raped by Pastor Pasco (TSN, Nov. 4, 1974, p. 22).
- Facial injuries suffered by the complainant, as attested to by the examining physician, corroborate her allegation that the accused had forcibly pressed her on the mouth (Exhibits A and A-1).
- Finally, the torn dress of complainant additionally corroborate her allegation of having been sexually abused (Exhibits C and C-1).

Against the foregoing evidence, I believe it would not matter much whether or not the complainant told or (perhaps by reason of her mental state or confusion at the time) failed to tell the examining doctor that she had been raped.

Additionally, since a medical finding indicating sexual abuse is not an indispensable requirement in a prosecution for rape, being merely corroborative, the question of the guilt or innocence of the accused would largely depend on the credibility of the witnesses, apart from corroborating documentary evidence. The trial court found the declarations of the offended party and eyewitness Batoy credible, and convicted the accused. On the issue of credibility, I am not prepared to overturn the factual finding of the trial court, which had the opportunity to observe the demeanor of the witnesses while testifying. With specific reference to the complainant, the records do not disclose any reason why she - a 67 year old lady — would conjure a tale of rape and falsely pin that heinous crime on the accused. This is also true as regards eyewitness Batoy.

DISSENTING OPINION

VASQUEZ, J.:

The "reasonable doubt" upon which the acquittal of the accused is decreed in the main opinion is based solely on the alleged circumstance that the complainant failed to tell Dr. Reynaldo Pintacasi that she had been raped and that, as a matter of fact, the medical certificate issued by said doctor does not show an examination of her private parts. I would agree that this would be a vital circumstance to consider in determining the guilt or innocence of the accused for the crime of rape, if the record shall show sufficient evidentiary basis to sustain the finding that the offended party, indeed, had not complained to the examining physician about her having been raped by the appellant.

It is an admitted fact that the complainant went to the Chief of Police the day after the incident to file a complaint against the appellant for rape, and not for having been simply injured. After an investigation by the Chief of Police, she was referred to Dr. Pintacasi who found injuries on her chin and right cheek. Dr. Pintacasi issued a medical certificate which contained no finding as to the complainant's private parts. This fact, however, does not necessarily mean that the complainant did not tell Dr. Pintacasi that she had been raped, nor that such an examination was not made.

As to whether Dr. Pintacasi was told that the offended party had been raped, the testimony of the complainant cited in the main opinion contains conflicting answers. Her vacillation on this point could have been undoubtedly due to her hesitancy to declare in open court that she, a woman 67 years of age, had been sexually abused in a banana plantation. The failure of Dr. Pintacasi to conduct a vaginal examination, if true, could readily be explained by the fact that, as he stated during the second time that such an examination was requested due to the lack of any finding to that effect in the original medical certificate that he issued, he believed that such an examination was "useless". This attitude of Dr. Pintacasi was presumably because he expected that the usual signs of rape would not be manifested in the complainant's private parts due to her advanced age. While it is true that Dr. Pintacasi had testified that the offended party did not tell him about having been raped, such testimony on his part was but to be expected considering that his medical certificate did not contain a finding of his examination of the private parts of the complainant. To admit that the complainant informed him of the rape would reflect on his competence, he having failed either to make the necessary vaginal examination which was what he should have done considering the purpose of the examination; or having done so, he failed to indicate his finding in the medical certificate that he issued.

The undisputed fact remains that the complainant sustained injuries during the incident that she had with the appellant. Such injuries could not have been caused in the manner testified to by the appellant, to wit: "having seen the complainant, he pushed her back causing the complainant to loosen her hold on the bamboo pool which hit her face". This explanation is too improbable and unlikely, and could not have been reason enough for the

complainant to file a charge against the appellant that would require admitting or proclaiming publicly that she had been sexually abused by the appellant.

I accordingly vote to affirm the decision appealed from.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.