

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FERNANDO FELIPE ALIAS "LYING";
DEFENDANT-APPELLANT.**

G.R. No. L-40432. July 19, 1982

Ponente: RELOVA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/18dee205283a/>

RELOVA, J.:

Fernando Felipe alias "Lying" appealed from the decision of the Court of First Instance of Bulacan convicting him of rape, sentencing him to suffer the penalty of reclusion perpetua, and ordering him to pay the offended woman, Ruth Pancho, the sum of P3 ,000.00 "for the social humiliation she has suffered, to provide maintenance and support for the child, Marivic Pancho, and to pay the costs."

Prosecution evidence shows that at about 8:00 in the evening of July 9, 1971, Ruth Pancho was in a room in their house in Sta. Barbara, Baliwag, Bulacan, when she heard some noise by the window. She did not pay much attention to the noise but later saw the appellant, an uncle by affinity, who covered her mouth, poked a gun on her chest and warned her not to shout, otherwise she would be killed. Notwithstanding the threat, Ruth pushed and kicked the appellant who then boxed her on the thighs, poked his gun at her and removed her panty. Appellant succeeded in having carnal knowledge of the complainant following which he poked his gun at her again and told her that if she would report the matter to anyone he would kill her.

Afraid of the threat made upon her by the appellant, Ruth did not report the incident to anyone until December 5, 1971, when her sister-in-law, Angelita Sta. Maria- Pancho, noticed the enlargement of her abdomen. Mrs. Pancho informed complainant's mother about her condition and the following day the matter was reported to the police. Ruth was examined by Dr. Artemio Marcelo and was found six months pregnant.

Ruth was twenty-five (25) years old at the time of the trial and her educational attainment is only first year high school because she had to stop schooling due to low intelligence.

After the prosecution had rested its case, the accused, through counsel, manifested that he was submitting his case on the basis of the evidence presented by the People and that he would submit a memorandum for a judgment of acquittal.

No direct evidence whatsoever was presented to belie the testimony of the complainant. Notwithstanding, we have accorded unswerving fidelity to the constitutional canon that an accused is presumed innocent until the contrary is proven and that, consequently, the burden of proof as to the offense charge lies on the prosecution. Accordingly, an accused should be convicted on the strength of the evidence presented by the prosecution and not on the weakness of the defense. Thus, we cannot sanction a verdict of conviction on the basis solely or mainly of the failure or refusal of the accused to take the witness stand to deny the charges against him.

Such situation does not obtain, however, in the case at bar.

The trial court, analyzing the evidence of the prosecution and the memorandum of the defense, arrived at the

conclusion that the crime of rape was committed by the appellant Fernando Felipe upon the complainant Ruth Pancho on the night of July 9, 1971.

We find the conclusion of the trial court which sustained the People's evidence to be correct and plausible.

"In arriving at this determination, this Court has taken into consideration the demeanor of Ruth Pancho during the Trial. She impressed the Court as shy, reticent and unsophisticated, reared as she was in the provincial ways, unschooled in protecting her virtues against the proddings of the male species. She admitted possessing a mental weakness, a low intelligence quotient, which caused her being removed from first year high school by her parents, and made to attend to household chores, caring for the baby and laundering clothes. She appeared very modest and unassuming, her manners belied any wile or craft. Her testimony flowed out in simple terms, firm and sincere. At times her answers could not match the professional bent of the questions of the learned cross-examiner, counsel for the defense. Yet she replied with candor. In her statement to the police in the preliminary investigation, there was no deviation from the main facts of her accusation and she repeated her story before this Court practically four square on the material points which prompted the Defense Counsel to state in his Memorandum, 'All these contradicting statements reveal the fact that the complainant has a propensity to compromise the truth. If she could lie on the following statements, what could have prevented her from lying on the material points of her testimony?' Here then is an admission on the part of the Defense that the contradictions exhibited by the complainant were not on material points. Besides his observations regarding her propensity to compromise with the truth would very well apply to a sophisticated girl wily and crafty in mentality. The complainant, as already observed, is guileless and simple in her demeanor. So the contradictions were more the product of mental weakness rather than deliberate falsehood or concoctions which, this Court finds the complainant is, not capable of perpetrating.

"Ordinarily, the length of time that had expired before the complainant reported the incident to the police authorities would be suspect, but in the case of Ruth Pancho, it would seem that her fear and shame took hold and possessed her until such time that her shame could no longer be kept a secret. This was in the early part of December, 1971. Innocent, indeed, she was, for the irregular arrival of her menstruation, sometimes, none in two months, three months, but then her bulging stomach could no longer hide her secret -- pregnancy. Her fear was not only for herself but for her parents as well. Her demeanor and behaviour cannot be undermined. On the contrary, it ought to be admired and respected. It is the dutiful daughter who would place the lives of her parents above her own. Fear can take on different proportions which in this case of a girl like the complainant, can be maintained through the interplay of the shame that possessed her hand in hand.

"The Defense is of the opinion that the force employed is of small proportion that the resistance put up by the victim cannot support the conviction of rape. This proposition runs counter to the decision of the Court of Appeals in *People vs. Lim Chua Pun* decided on December 13, 1962, where the appellate court observed, 'While we do not dispute the appellant's argument that mere initial token resistance is insufficient to sustain a conviction for rape, it is an equally true and accepted doctrine that force in rape is not strictly limited to physical force alone. It has been held that fear is capable of producing and having the effect of physical force required to overcome the resistance put up by a victim of rape. It is precisely the contention of the appellee that it was this fear, instilled in the Complainant by the appellant's threat to kill her backed up by revolver he was then wielding x x x.' This is an instance where force in rape includes intimidation and is applicable to the present case.

"FINALLY, the Defense has insinuated that there had been a relationship, beyond that of uncle-in-law and niece between the accused and the complainant. Such allegation demands the presentation of evidence on the part of the accused. This, he did not do. Again, there are many more things that were insinuated and evidence ought to have been presented. Other allegations of fact were made, such as the possession of the gun that ought to have been denied by the accused if it were not true at all. The failure of the defense to put up any denial as to these allegations of fact and as to the rape itself is an indication that the incident actually occurred. On this point, the accused would rely on mere presumptions for his defense. Ironically, the presumption is against the

accused, for the Honorable the Supreme Court intoned in *People vs. Francisquite*, 56 SCRA 765, that '(It) is apparent that the accused is so situated that he could produce evidence of all the facts and circumstances to overcome the evidence of the prosecution, but fails without justifiable cause to offer such proof, the natural conclusion is that such proof, if produced, instead of rebutting, would tend to sustain the charge. x x x'

"FURTHERMORE, there is no evidence to show that the complainant has harbored any grudge of any sort whatsoever for her to concoct evidence or to tell a sordid story against the husband of a close relative, the sister of her own mother. This is contrary to the natural course of human behavior. It would take the sophistication of a Macchiavelli to invent such a distorted picture of a close relative (even an in-law), or of any man for that matter, without rancor and without motivation. The failure of the Defense to produce evidence in respect to any kind of hate existing either on her part, or that of her kins, against the accused produces in the mind of the Court the respect to which her candid testimony in open session merits. A true Filipina would not go around in public declaring the facts of her defloration for no reason if such were not the true facts."

Defendant-appellant alleges that the trial court erred -

"I

"x x x in giving weight to the testimony of Ruth Pancho and making it the basis of its judgment of conviction despite the fact that -

"(a) said testimony is highly improbable, unnatural and borders on the absurd;

"(b) it is fraught with inconsistencies and is self-contradictory;

"(c) it proceeds from a necessarily biased and polluted source; and

"(d) it lacks corroboration on material and significant points and is contradicted by the other evidence on record.

"II

"x x x in not holding that the evidence for the prosecution is legally insufficient to establish the commission of the crime of rape.

"III

"x x x in motu proprio postponing the testimony of Ruth Pancho, thus providing the prosecution ample opportunity to coach its principal witness.

"IV

"x x x in not acquitting appellant for lack of proof of his guilt beyond reasonable doubt."

The thrust of the errors assigned was that the act complained of was consummated with the consent of the complainant or at least with some degree of acquiescence in her part. Such theory does not, however, find support in the evidence on record. As aptly observed by the trial court, the undenied, unrebutted and uncontradicted testimony of Ruth Pancho as corroborated by the medico-legal findings of Dr. Artemio Marcelo clearly shows that appellant Fernando Felipe had sexual intercourse with the complainant by means of force and intimidation. The trial court even conducted an ocular inspection of the place in the presence of the fiscal, the private prosecutor, the defense counsel and the accused, and found that "the window that complaining witness was talking about is about 2 x 1½ meters in width and 1½ meter in height; the window sill has a height of about 4 to 5 m. from the ground, and immediately in front of it is a guava tree which has a branch of about 1½ meters away from the window sill, and it was there during the incident; demonstrating how she was lying down that evening, witness demonstrated that her head was at the middle of the room, at a distance of her head to the window is 3½

feet and the distance of her head from the door leading to the sala is around 4 feet; she heard the creeping sound on the window near her feet; witness also demonstrated that the three panes of the window were closed with a small portion slightly opened; the electric bulb above her head was working at the time but it was not lighted at the time of the incident; it was also dark outside and there was no moon; it was not raining."

Anent the contention that the trial court erred in holding that the prosecution has proven the guilt of the appellant beyond reasonable doubt, suffice it to say that "absolute certainty of guilt is not demanded by the law as basis for conviction of any criminal charge, but moral certainty is required as to every proposition of proof requisite to constitute the offense." (U.S. vs. Lasada , G.R. No. 5324, December 28, 1910, 18 Phil. 90; People vs. Dramayo , G.R. No. L-21325, October 29, 1971, 42 SCRA 59). Such requirement has been complied with in the case at bar. Besides, it has been the consistent ruling of this Court that appellate courts will generally not disturb the findings of the trial court, considering that it is in a better position to decide the question, having heard the witnesses themselves and observed their department and manner of testifying during the trial, unless it has plainly overlooked certain facts of substance and value, that, if considered, might affect the result of the case.

Further, the defense contends that the fact that a child was born of the complainant on March 13, 1972 shows that the latter could not have been raped on July 9, 1971 because there are only 247 days between these dates; that the normal period of gestation is 280 days and that the Civil Code considers 300 days as the length of uterine development of a child.

The claim is without merit. As aptly contended by the Solicitor General in his brief, " a child born 8 months and seven days after conception is considered normal. x x x ; that in certain instances the Civil Code considers 300 days as the length of the uterine development of a child, but by providing that a premature child is one which has an intra-uterine life of less than seven months (Art. 41, Civil Code) the Code impliedly recognizes that a child which had an intra-uterine life of 8 months, as in the case at bar, is a normal child."

As aforesaid, the essential elements of the crime of rape have been proven satisfactorily by the prosecution. Not only is the testimony of the victim corroborated and un rebutted by a disinterested and expert witness, Dr. Artemio Marcelo, but also this Court has time and again observed that it is hard to believe that an unmarried woman like the victim would publicly disclose that she was raped by a relative by affinity and subject her private parts to examination unless she is motivated by a strong desire to bring to justice the culprit who had previously wronged her.

WHEREFORE, the decision appealed from is hereby AFFIRMED, with costs against defendant-appellant.

SO ORDERED.

Makasiar, Plana, Vasquez, and Gutierrez, Jr., JJ., concur.

Teehankee, Acting C.J., and Melencio-Herrera, J., took no part.

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.