

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. EDUARDO CANASTRE, DEFENDANT AND APPELLANT.*G.R. No. L-2055. December 04, 1948*

Ponente: PARAS, J.

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Eduardo Canastre, Gil Sayupo, Francisco Pasaporte alias Francisco Pastera, and Gonzalo Fabilona were charged in the Court of First Instance of Iloilo with the crime of robbery in band with rape. After trial, Francisco Pasaporte and Gonzalo Fabilona were acquitted, but Eduardo Canastre and Gil Sayuco were found guilty of robbery with rape and sentenced, the first to an indeterminate penalty of from 10 years and 1 day, prison mayor, to 17 years, 8 months and 1 day, reclusion temporal, and the second to an indeterminate penalty of: from 17 years, 8 months and 1 day to 20 years, reclusion temporal both with the accessory penalties prescribed by law and both to pay one-half of the costs. Only Eduardo Canastre has appealed, Gil Sayuco having after the commencement of the trial escaped from detention and being still at large.

We have gone over the entire record, and are fully convinced that the following facts have been established: At about one o'clock in the morning of June 28, 1946, the appellant and Gil Sayuco, together with two unidentified companions, came to the house of Magdaleno Beri in barrio Batuan, municipality of Pototon, province of Iloilo. The appellant immediately turned on his flashlight towards the inmates, whereupon Magdaleno inquired for the identity of the intruders. In answer, the appellant pointed his gun to Magdaleno with the warning for him and his companions not to move and with the threat of death if they did otherwise. After tying Magdaleno to the wall, the appellant entered the room of Benedicta Beri, a 17-year old daughter of Magdaleno. The appellant, who directed his flashlight to Benedicta, dragged the latter out and, with the aid of Gil Sayuco, he brought her downstairs under a mango tree. Notwithstanding the girl's cries for help, her father and mother could not come to her rescue, the first being then tied to the wall and the second having been pushed away whenever she attempted to intervene. In spite of Benedicta's resistance, the appellant, with the help of his three companions, was able to have sexual intercourse with Benedicta. Gil Sayuco then took his turn in raping the girl, followed in succession by the other two companions. Not contented with merely satisfying their lust, the appellant, Gil Sayuco and another companion returned to the house and took away a rice bowl, some rice and four chickens, all worth about fifteen pesos.

Aside from alleging that the appellant did not leave his house during the night of June 28, 1946, because he had diarrhea, his counsel contends that he is at least entitled to the benefit of a reasonable doubt, in view of the failure of the witnesses for the prosecution to identify the other two companions of the appellant and Gil Sayuco—which led to the acquittal of co-accused Francisco Panaparte and Gonzalo Fabilona. It is thus insinuated that such failure engenders a doubt as to whether said witnesses (especially Benedicta Beri) told the truth when they incriminated the appellant.

The defense, however, had supplied a persuasive argument in favor of the theory of the prosecution when defense witness, Dr. Engracio Parreñas, district health officer of Iloilo City, admitted that on June 30, 1946, Benedicta

complained to him that she was raped by four men and submitted herself to a physical examination. It is hard to believe that a young unmarried girl would make such a revelation and allow an examination of her private parts and thereafter permit herself to be the subject even of a public trial, if she was not motivated solely by a desire to have the culprits apprehended and punished. And the persuasive weight of this circumstance is: such as to negative the importance of the testimony of Dr. Parreñas to the effect that there were no lacerations, abrasions or rashes in the genital organ of Benedicta that indicated forcible sexual intercourse. Moreover, who laboratory test was made to discover whether any male sperm was present in her organ which was not examined internally, and Dr. M. Cartagena, Health Officer of the City of Iloilo, testified that the absence of external signs cannot definitely be a basis for concluding that a woman did not have a sexual intercourse.

The defense of alibi cannot of course prosper in the face of the positive identification of the appellant by the prosecution witnesses who had not been shown to have any reason for falsely imputing to the appellant so grave a crime as that of which he was convicted. Considering that the night was clear and the appellant used his flashlight, no mistake could have been made in his identity, especially in view of the fact that he was personally known to them. Counsel for appellant thinks that the latter would not have turned on his flashlight in order merely to reveal his identity, but he forgets that that step was necessary to accomplish their plan. He undoubtedly wanted to be sure that the person they tied to the wall was the father and that the person they were to take and rape under the mango tree was Benedicta.

Being in accordance with the law and the facts, the appealed judgment is affirmed, it being understood, however, that the appellant shall indemnify Benedicta Beri in the sum of one thousand pesos.

Moran, C.J., Feria, Pablo, Perfecto, Bengzon, Briones, Tuason, and Montemayor, JJ., concur.

Judgment modified.

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