

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
ROGELIO REYES, DEFENDANT AND APPELLANT.***G.R. Nos. L-36874-76. September 30, 1974*

Ponente: FERNANDO, J.

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The state policy on the heinous offense of rape is clear and unmistakable. Life is made forfeit under certain circumstances.[1] At first blush, the harshness of the penalty may give cause for concern, considering that by the very nature of its commission, it is both sordid and joyless, the pleasure derived, if any, being minimal. To be thereafter sentenced to a long period of confinement, perhaps for the rest of one's life, even to suffer death, may appear excessive. Nonetheless, there is sound reason for such severity. It is an intrusion into the right of privacy, an assault on human dignity. No legal system worthy of the name can afford to ignore the traumatic consequences for the unfortunate victim and grievous injury to the peace and good order of the community. As was so aptly stated by Dean Pound: "Civilization involves subjection of force to reason, and the agency of this subjection is law." [2] Nonetheless, 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 people 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. So it must be in these three prosecutions for rape.

There were, as could be expected, conflicting versions as to what transpired on the evening of August 4, 1972 and the early morning of the following day from the complainant Teresita de Leon, a young lady of eighteen and the accused Rogelio Reyes, then in his twenty-fourth year. They were agreed, however, on certain points. Thus it is undisputed that between nine o'clock of August 4 and four o'clock the next morning, the accused had sexual intercourse with the complainant three times, preceded for a period of approximately thirty minutes each time, by his kissing her all over the body including her private parts, she being in a state of total deshabille, cunnilingus [3] being performed; at no instance was there coitus interruptus; between the second and third sexual act, complainant ate the food prepared by the accused necessitating their leaving the room where the carnal access took place; the mother and the sister of the accused were in the house, where, as admitted by her, the second and third sexual intercourse took place, the accused asserting that it was in his house likewise that it happened the first time; and complainant had to borrow a dress from a sister of the accused as her own garment was wet because of the rain. The discrepancy consisted in complainant asserting that all the while he was using a knife while he had his way on her person and that she was accosted at an alley near a lime factory and thereafter taken to a banca where he first committed the alleged offense. On the other hand, he accused maintained stoutly that no force was employed. He did not have to, the complainant being a willing, if not an eager, participant. She was, according to him, his sweetheart, before she transferred her affections to a common-law husband. It so happened that on that particular evening, she quarreled with her kabit, as she referred to him, upon meeting her in a place near his residence, the accused invited her for a tryst, and she accepted. She went with him to his house where they spent the evening

making love three times. Again on the question of what Justice Laurel referred to as "acts of the character of abusos deshonestos all in prelude to the carnal act,"[4] while he asserted that there was enthusiastic cooperation on her part, she would have this Court believe that it was merely passive acquiescence on hers. It is true that there were knife wounds on the persons of both complainant and the accused. It was explained by him as having been inflicted by her kabit, who was understandably enraged at what he did consider as a slur on his honor. It cannot escape attention that there was no rebuttal testimony offered by complainant.

It is in the light of the above that counsel de oficio for the accused, Adelaida E. Reyes of the Citizens Legal Assistance Office, assailed vigorously the three sentences for reclusion perpetua imposed by the trial judge, as unwarranted and unjustified. We agree with her appraisal.

1. Considering the testimony of record, it cannot be plausibly maintained that the constitutional presumption of innocence had been overcome by proof beyond reasonable doubt. What was said by this Court in *People vs. Dramayo*[5] has pertinence: "Accusation is not, according to the fundamental law, synonymous with guilt. It is incumbent on the prosecution to demonstrate that culpability lies. Appellants were not even called upon then to offer evidence on their behalf. Their freedom is forfeit only if the requisite quantum of proof necessary for conviction be in existence. Their guilt must be shown beyond reasonable doubt. To such a standard, this Court has always been committed. There is need, therefore, for the most careful scrutiny of the testimony of the state, both oral and documentary, independently of whatever defense is offered by the accused. Only if the judge below and the appellate tribunal could arrive at a conclusion that the crime had been committed precisely by the person on trial under such an exacting test should the sentence be one of conviction. It is thus required that every circumstances favoring his innocence be duly taken into account. The proof against him must survive the test of reason; the strongest suspicion must not be permitted to sway judgment. The conscience must be satisfied that on the defendant could be laid the responsibility for the offense charged; that not only did he perpetrate the act but that it amounted to a crime. What is required then is moral certainty."[6]

2. If deference be paid to the above fundamental principle, then the accused is entitled to acquittal for all three prosecutions. In this ruling, this Tribunal merely adheres to what had been consistently followed in the past when there was insufficiency of proof. Under such circumstances, a conviction for rape could not be sustained and had to be set aside. There is an impressive array of cases to that effect. It started with *United States vs. Obregon*,[7] decided in 1904. The latest decision, *People vs. Castro*,[8] with Justice Aquino, as ponente, was handed down less than a month ago. Justice Torres, speaking for this Court, in *United States vs. de Dios*,[9] promulgated as far back as 1907, had this to say: "From the above-stated facts it will be seen that there is no evidence on record sufficient to prove that the crime, of which the accused is charged, has been committed; for it was not thoroughly demonstrated at the trial beyond reasonable doubt that said defendant, having twice had sexual intercourse with Silvina Cunanan, could have employed physical force or intimidation against her. Inasmuch as it took the offender one full hour to have sexual intercourse twice with the so-called injured party, and as no struggle had ensued between the two, no resistance was offered by the latter for the protection of her chastity, and no outcries for help were made by her, even though the act took place in the center of the town, it is undeniable that, although consent was not previously given by the young woman, Silvina Cunanan, to the realization of the repeated sexual intercourse had between herself and the accused, nevertheless the daring attitude of the latter was responsible for her yielding and tacitly giving her assent, contributing by her quietude and passivity to the consummation of the two acts of intercourse, which in criminal law should perhaps be termed the crime of seduction (estupro)." [10] In *United States vs. Flores*,[11] where a sentence was set aside, this Court, through Justice Carson, cited Blackstone to show why the utmost care should be taken lest a man whose guilt has not been clearly shown would be made to suffer. Thus: "Blackstone (2 Chitty's Blackstone, p. 165) quotes with approval a learned English judge (1 Hol. P. C. 635) as follows: 'It is true that rape is a most detestable crime, and therefore ought severely and impartially to

be punished with death; but it must be remembered that it is an accusation easy to be made, hard to be proved, but harder to be defended by the party accused, though innocent." [12] There is an equally relevant excerpt from the opinion of former Chief Justice Concepcion, in *People vs. Sia*: [13] "Just the same, this case hinges on complainant's testimony – uncorroborated, insofar as the deceit imputed to appellant herein – vis-a-vis the latter's testimony, coupled with the fact that the complaint herein was not filed until almost five (5) months after the alleged rape and immediately after appellant had married another woman. Considering our human fallibility and the gravity of the offense charged, the Court feels it cannot legally declare that appellant's guilt has been established beyond reasonable doubt. This does not imply that complainant's version is false or that we doubt her probity or morals. It simply means that the quantum of evidence required by law to justify conviction for said crime has not been clearly met." [14]

So it should be once again. Nor is there need to salve the judicial conscience, as the complainant in this case, from the evidence of record, is not a young lady clad in the armor of innocence regrettably pierced, but one experienced in the ways of life. Moreover, there is more than just an inkling that what did transpire could be ascribed to the permissive character of the times, the alleged - victim manifesting a response that satisfied the hunger of the loins thus sparing the accused from any frustration arising from baffled lust. To paraphrase an old English decision, that is all there is to it. No moral intrudes, no message penetrates. In the more prosaic language of the law, the guilt of the accused had not been established beyond reasonable doubt.

WHEREFORE, the decision of April 16, 1973 by Judge Santiago O. Tanada, sentencing the accused to three penalties of reclusion perpetua from the crime of rape, is reversed and the accused acquitted. Costs de oficio.

Barredo, Antonio, Fernandez, and Aquino, JJ., concur.

[1] Article 335 of the Revised Penal Code as amended by Republic Act No. 4111 (1964) reads as follows: "When and how rape is committed. – Rape is committed by having carnal knowledge of a woman under any of the following circumstances: 1. By using force or intimidation; 2. When the woman is deprived of reason or otherwise unconscious; and 3. When the woman is under twelve years of age, even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present. The crime of rape shall be punished by reclusion perpetua. Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death. When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death. When the rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be likewise death. When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death. ***"

[2] Pound, *The Future of Law*, 47 *Yale Law Journal*, 1, 13 (1937).

[3] Cf. *State vs. Murry*, 66 So. 963 (1914).

[4] *People vs. Gonzales*, 69 Phil. 66, 74 (1939).

[5] L-21325, October 29, 1971, 12 SCRA 59.

[6] *Ibid*, 64.

[7] 3 Phil. 320.

[8] L-33175, Aug. 19, 1974. Cf. *Fidelino vs. Legarda*, 4 Phil. 285 (1905); *United States vs. Flores*, 6 Phil. 420 (1906); *United States vs. de Dios*, 8 Phil. 279 (1907); *United States vs. Narvas*, 10 Phil. 729 (1908); *United States vs. Estacio*, 18 Phil. 432 (1911); *United States vs. Tacubanza*, 18 Phil. 436 (1911); *United States vs. Cruz*, 18 Phil.

543 (1911) United States vs. Mendez, 19 Phil. 28 (1911); United States vs. Samonte, 20 Phil. 157 (1911); United States vs. Flores, 26 Phil. 262 (1913); United States vs. Bragat, 28 Phil. 78 (1914); United States vs. Claro, 32 Phil. 413 (1915); People vs. De la Cruz, 48 Phil. 533 (1925); People vs. Santiago, 55 Phil. 991 (1931); People vs. Tolentino, 59 Phil. 56 (1933); People vs. Mangon, 60 Phil. 821 (1934); People vs. Villa, 81 Phil. 193 (1948); People vs. Quitan, 99 Phil. 226 (1956); People vs. Flores, L-17077, April 29, 1968, 23 SCRA 309; People vs. Sia, L--28884, July 25, 1969, 28 SCRA 789; People vs. Alvarez, L-34644, Jan. 17, 1974, 55 SCRA 81.

[9] 8 Phil. 279.

[10] Ibid, 282.

[11] 26 Phil. 262 (1913).

[12] Ibid, 269.

[13] L-28884, July 25, 1969, 28 SCRA 789.

[14] Ibid, 791-792.

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