

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.  
KAMAD AKIRAN, ET AL., DEFENDANTS, KAMAD AKIRAN, JARANG  
ASKALI, ALAMMARA DUMPAS AND KASTIRI SAPPARI, DEFENDANTS  
AND APP...**

*G.R. No. L-18760. September 29, 1966*

Ponente: BENGZON, J.P., J.

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**BENGZON, J.P., J.:**

An amended information for kidnapping with ransom was filed on December 22, 1960 by the Provincial Fiscal in the Court of First Instance of Sulu against Kamad Akiran, Jarang Askali, Jamiri Hawadji, Alammara Dumpas and Kastiri Sappari. It alleged that on July 26, 1960, in the municipality of Maimbung, Province of Sulu, the abovementioned five accused, together with five other persons still at large, namely, Ahaddin Panning, Isirani Askali, Abdusali Jadji, Jammang Dahim and Ammang Akiran, armed with firearms, in pursuance of a conspiracy, kidnapped Isirani Sakili and brought him to a house in Bud Katinganan, of the same municipality, where he was detained for nine hours and released only when the said accused persons succeeded in extorting a ransom of P1,000, in violation of Article 267, last paragraph, of the Revised Penal Code, as amended.

At the instance of the Provincial Fiscal, for lack of evidence, the charge was dismissed as to Jamiri Hawadji. The remaining four accused pleaded not guilty.

The prosecution presented the alleged kidnap victim himself, Isirani Sakili, 45 years old, married, a merchant, who testified that on July 26, 1960 his brother Hadji Hassan, his driver, Bairulla, and he were on the way to Jolo after having loaded his truck with copra in Tambaking, Maimbung District. At Kilometer 16 of the Indanan-Lapa road, they were stopped by a group of men armed with carbines and garands, who, led by the accused Jarang Askali, ran to the middle of the road and pointed their weapons at them. As they stopped, Jarang Askali shouted for him to come down from the truck. When Isirani Sakili and his brother stepped off the truck, Jarang ordered Hadji Hassan to go home and produce P1,600 that very day or else Isirani Sakili would be killed (I Tsn., 39-30). Hadji Hassan boarded the truck and left. Isirani Sakili was then brought to an abaca plantation in Bud Katinganan where he stayed from 9 A.M. to 1 P.M. of the same day, guarded by Jarang and Ahaddin, as the rest had gone home (I Tsn., 46). When Jamiri Hawadji came, Isirani Sakili was brought to the former's house upon Jamiri's own suggestion. At about 6 P.M. that day was released, after his brother Hadji Hassan and father-in-law, Saddawani Sadda, came and gave to Jarang Askali P1,000, promising that the remaining P600 will be given the next day (I Tsn., 38). Isirani Sakili identified among his kidnappers the four accused; Jarang Askali, Ahaddin Panning, Kastiri Sappari, Isirani Askali, Abdusali Jadji, Alammara Dumpas, Jammang Dahim, Kamad Akiran and Ammang Akiran (I Tsn., 32), claiming that he knew them because they were neighbors and grew up together (I Tsn., 44).

Hadji Hassan, corroborating his brother's testimony, also identified the four accused as among Isirani Sakili's kidnappers (II Tsn., 1-3). He added that after he left, he told Isirani's wife, Nunung, what happened. She was able

to give him only P1,000. The remaining P600 he tried to raise from neighbors and friends, but failed. He then proceeded to the private, market of Imam Juaini where he met Isirani Sakili's father-in-law, Saddawani Sadda, who told him he already found Isirani through Jamiri Hawadji, through whom also Jarang Askali sent word about the P1,600 ransom (II Tsn., 1-5). Because they could not get P600 more, they proceeded to the house of Jamiri Hawadji and found there Isirani Sakili, Jarang Askali, Ahaddin Panning and Jamiri Hawadji. After he personally handed the money to Jarang Askali, Isirani Sakili was released at about 6 P.M., with the promise of Hadji Hassan to bring the P600 the next morning. Hadji Hassan went home while Isirani Sakili went to Jolo (II Tsn., 5-7).

Saddawani Sadda - another prosecution witness - testified that he had requested Jamiri Hawadji, a close relative of Jarang Askali, through Unsul and Beilaji, to intercede for Isirani Sakili (II Tsn., 24). After they gave the money to Jarang Askali, Hadji Hassan went home while Isirani Sakili went to report the matter to the Philippine Constabulary. Then, together, they proceeded to Jolo (II Tsn., 29).

In defense, it was testified to by Panglima Tagayan, that earlier, on June 5, 1960, his son-in-law Hayani Askali, Jarang Askali's brother, was shot by Tingkahan and Sakkan, brothers or cousins-in-law of Isirani Sakili. Hayani Askali, although wounded, lived (II Tsn., 45). Five days after he was shot, Hayani went with a brother of his and Panglima Tagayan to the Provincial Fiscal to lodge a complaint. Subsequently, Isirani Sakili offered to pay Hayani P1,600, provided the latter would not proceed with the complaint.

Salama Sahawi, sister-in-law of Jamiri Hawadji and mother-in-law of Alammara Dumpas, stated that while drinking soft drink in the store of Imam Juaini, she saw a cargo truck pass by, on which were Isirani Sakili, his wife, Hadji Hassan and others she could not remember (I Tsn., 71-72). The truck stopped and she saw and heard Jarang ask in a loud voice "Why did you not comply with your promise, you did not comply with it?" (I Tsn., 72). Then she saw Isirani Sakili and Jarang Askali with his companions head for Bud Katinganan with Isirani leading the way. Meanwhile Isirani Sakili's companions went towards Jolo.

Layha Bismark claimed that in the afternoon of July 26, 1960, he overheard a group, among them Kamad Akiran, Jammang Dahim, Hadji Hassan and Saddawani Sadda talking (II Tsn., 49-51). He found out that Hadji Hassan and Saddawani Sadda were going to Jamiri Hawadji's house, where Isirani was kept, to give P1,000 to Jarang Askali to defray the hospital expenses of Hayani.

Accused Jarang Askali, 37, married, and a resident of Kabbun, Jali, Indanan, Sulu, testified that Isirani Sakili had arranged with his uncle Panglima Tagayan to pay the expenses of Hayani (II Tsn., 56). On the day of the alleged kidnapping he and some companions were on the way to a certain celebration when they saw Isirani Sakili on his truck with Hadji Hassan and their wives. They waved for him to stop and when he did, they conferred regarding the payment of his brother's expenses. Then he and his companions, Jammang Dahim, Abdusali Jadji, Ahaddin Panning, with Isirani Sakili leading, went to Jamiri Hawadji's place where Isirani Sakili proposed to make payment (II Tsn., 57-63). Before they reached Jamiri's house, they were joined by Hadji Hassan and Saddawani Sadda. Since Jamiri, before whom payment was to be made - as he was a sort of a leader in the place - was not there, Jarang Askali was made to swear before a grave that he would not file a complaint. After he swore, was given P1,000 and some jewelries to guarantee payment of the remaining P600, which guaranty he did not accept as he already considered Isirani Sakili a blood brother whose word could be trusted.

As to Alammara Dumpas, Jarang testified he was also with Isirani Sakili in the hauling truck. Jammang Dahim, he further testified, is already dead (II Tsn., 61). Jarang added that he was surprised when the complaint was filed against him and so went into hiding and came home only after nine days (II Tsn., 72), and surrendered himself and also the gun he bought with part of the money he got.

Taking to the witness box, Kamad Akiran, 22, single, herder and resident of Indanan, Sulu, denied all of Isirani

Sakili's charges, denied having known him at all and claimed that at the time of the alleged kidnapping, he was husking coconuts (I Tsn., 17-18), and knew of the incident only from rumors that went around. And he added that it was Isirani Sakili's wife who caused his arrest while he was selling copra in town (I Tsn., 21).

After trial, judgment was rendered on June 29, 1961, finding the four accused guilty as charged beyond reasonable doubt and in view of Republic Act 1084 raising the penalty of kidnapping for ransom to a single penalty of death, sentenced them to death and ordered them to jointly and severally pay Isirani Sakili P1,000 and to pay the costs.

Automatically, therefore, the case is before Us for review.

The resolution of the issues herein hinges on the credibility of the witnesses for the prosecution and the defense. In such a case the rule followed is that appellate Courts will not disturb the findings of the trial court, as the latter is in a better position to decide the question of credibility, having seen and heard the witnesses themselves and observed their behavior and the manner of their testimony during the trial. The exception to this rule is when it is shown that the trial court has overlooked certain facts of substance and value that, if considered, might affect the case.[1]

Jarang Askali claimed that they were on their way to a celebration when he saw Isirani's truck, waved for it to stop, conferred with Isirani and then, with Isirani, proceeded to Jamiri's place where the payment was to be made. This meeting was unarranged. It is not likely for the alleged transaction to have been carried out without preparations on both sides. Furthermore, the money which was supposed to be for the hospital expenses of Hayani was never given to Hayani. And instead Jarang admitted having bought a gun with part of the money he received.

Isirani Sakili, who denied the assertions of the defense, and Hadji Hassan, positively identified the four accused as the authors of the crime. As against the allegations of the defense which were not sufficiently and convincingly presented, the trial court's finding in favor of the prosecution should be upheld. As afore-stated, said court is better situated to determine the credibility of the witnesses.

It is however argued in defense, that granting there was kidnapping, the lower court erred in ruling that there was conspiracy to extort ransom. It is urged that only Jarang Askali was active while the rest remained passive and silent. Furthermore, at the time the money was given to Jarang, of the other alleged kidnappers, only Jammang Dahim was present. We cannot agree. The trial court found that, heavily armed, they all waited for Isirani's truck and stopped it when it came. The others fully concurred in Jarang's criminal resolution when he demanded P1,600 for Isirani's release and affirmed their assent when they escorted Isirani to the abaca plantation where he was confined. Even if they went home afterwards or did not get any part of the money, the fact is that they fully and directly cooperated and did their part so that Jarang's resolution would be carried out.

It is further maintained that the accused should not be convicted of kidnapping with ransom because the intention was at most merely to compel Isirani to fulfill his promise of defraying Hayani's hospital expenses. If this were the purpose, the accused did not have to kidnap Isirani. The latter wanted, if the allegations of the defense are true, to prevent the filing of the complaint, to the extent of paying P1,600. All there was to do to compel payment was to threaten to continue the complaint and that would have alarmed Isirani into submission. No kidnapping would have been necessary.

We state in passing that even if the purpose alleged by the defense be accepted - that is, to compel the alleged payment - under Article 267 of the Revised Penal Code, as amended by R.A. 1084 effective June 15, 1954, the offense is still kidnapping for ransom. Said amended last paragraph, which increased the penalty for kidnapping and serious illegal detention, provides:

"The penalty shall be death where the kidnapping or detention was committed for the purpose of extorting ransom from the victim or any other person, even if none of the circumstances above mentioned were present in the commission of the offense."

This provision was derived from statutes of the United States, particularly the Lindbergh Law. Thus, American jurisprudence thereon has persuasive application. "Ransom" under American rulings, as used in statutes making kidnapping with intent to hold for ransom a capital offense, has been held to mean in its ordinary sense as "money, price or consideration paid or demanded for redemption of a captured person or persons, a payment that releases from captivity." [2] Since the accused in this case demanded and received money as a requisite for releasing a person from captivity, whatever other motive may have impelled them to do so, the money is still ransom under the law.

With regard to Alammara Dumpas, We cannot believe that Isirani Sakili would accuse him of a capital offense if he was really Isirani's companion in the truck. The truth must be that he was among the kidnappers who stopped the truck, as pointed out by those admittedly aboard said truck, namely, Isirani and Hadji.

Neither do We find credible the alibi of Kamad Akiran that he was husking coconuts - it is not stated where - at the time of the alleged kidnapping. No other witness was presented in his behalf. Alibi is so easily and conveniently manufactured. And to be sustained it must be shown - which has not been done herein - to preclude the physical presence of the accused at the place of the crime at the time of commission. As ruled by this Court, alibi dwindles into nothingness in the face of positive identification, as in this case, of the accused as participants of the crime. [3]

Appellants' brief states that Kastiri Sappari was not present in the scene of the crime, citing Jarang Askali's testimony (II Tsn., 61) that Kastiri was not with him when he stopped the truck, and the testimony of another defense witness, Salama Sahawi, (I Tsn., 76), who merely said she could not identify who were the other companions of Jarang, but did not state that Sappari was not there. Such evidence - so dependent upon credibility - cannot prevail over Sappari's positive identification by Isirani and Hadji.

WHEREFORE, the appealed judgment of conviction is hereby affirmed, with the sole modification, for lack of the necessary votes to impose the penalty of death, that the four accused are hereby sentenced to reclusion perpetua instead of death. No costs in this instance.

### **SO ORDERED.**

Concepcion, C.J., Reyes, J.B.L., Barrera, Dizon, Regala, Makalintal, Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.

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[1] People v. Alban, L-13203, March 29, 1961; People v. Curiano, L-15256-57, Oct. 31, 1963.

[2] See Corpus Juris Secundum, 458; 36 Words & Phrases, 102; Keith, et al. v. State, 163 So. 136, 120, Fla. 847.

[3] People v. Tansianco, L-19448, Feb. 28, 1964.

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