

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MODESTO MESIAS, JR., PORFERIO MESIAS AND NICOLAS BILOG, DEFENDANTS-APPELLANTS.

G.R. Nos. L-40318-20. February 28, 1984

Ponente: CONCEPCION, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/4564e3edd047/>

CONCEPCION, JR., J.:

Appeal from the judgment of the Court of First Instance of Pangasinan, Branch VI, imposing upon each of the accused Modesto Mesias, Jr., Porferio Mesias and Nicolas Bilog three penalties of reclusion perpetua for the crime of rape committed against Leonida Manuel and ordering them to jointly and severally indemnify the victim in the sum of P15,000.00 and to proportionately pay the costs.

The accused Modesto Mesias, Jr., Porferio Mesias and Nicolas Bilog were charged with the crime of rape in three informations filed by the Assistant Provincial Fiscal of Pangasinan by virtue of a complaint signed by Leonida Manuel. The complaint alleged that the accused conspired, confederated and mutually helped one another in having carnal knowledge one after the other of Leonida Manuel against her will, and that in the commission of the offense the aggravating circumstances of nighttime, uninhabited place and abuse of superior strength concurred.

The prosecution's version of the fact, as stated in the People's brief, is as follows:

"On April 2, 1972 at about 7 o'clock in the evening, the complainant Leonida Manuel was walking home to Barrio San Felipe, San Nicolas, Pangasinan. She came from the Poblacion. About three meters behind her, also going in the same direction, were her barriomates Dionisio Descargar, Hilario Carig, and Segundo Carig. (Tsn., pp. 2-4, October 23, 1973).

While thus walking, Leonida met the accused-appellants Modesto Mesias, Jr., Porferio Mesias and Nicolas Bilog together with Rodolfo Agne. The appellants who were residents of a nearby barrio were known to Leonida. They asked her where she came from and she told them. (Tsn., pp. 4-5, October 23, 1972). All of a sudden the three appellants held her and started pulling her. Rodolfo Agne tried to stop them but to no avail (Tsn., p. 15, May 22, 1973). Leonida also cried out for help to Dionisio Descargar and his companions but these three continued on their way. (Tsn., p. 6, October 23, 1973; Tsn., p. 17, May 22, 1973).

Rodolfo Agne likewise went his way after his attempts to stop appellants were not heeded. (Tsn., p. 19, May 22, 1973).

As a result of appellants' dragging and pulling her, complainant stumbled by the road side. (Tsn., p. 8, Oct. 23, 1973). On the ground, her arms were held by Nicolas Bilog and Porferio Mesias while Modesto Mesias, Jr. sat on her thighs. Her struggle proved futile and appellants were able to tear off her blouse, bra, shorts and panty. (Tsn., pp. 10, 15-17, October 23, 1973). Complainant was then wearing a black blouse, green skirt, white bra, pink panty and black shorts. (Tsn., p. 15, Oct. 23, 1973; Exhibits "C"-"F").

Thereafter Modesto Mesias, Jr. went on top of her and had sexual intercourse. Then appellants Porferio Mesias and Nicolas Bilog took their turns. (Tsn., pp. 18-19, Oct. 23, 1973). While one of the appellants had carnal

knowledge of her, the two others held her arms and kept her from struggling. (Ibid., p. 14).

After the three had taken their turns abusing her, the complainant was not released. Appellants continued kissing her, embracing and touching her, at the same time threatening to slaughter her by covering her with straw and burning her. (Tsn., pp. 21-22, Oct. 23, 1973).

Complainant put on her garments and walked home slowly (Ibid., p. 31). She reached her house at about 5 a.m. Only her sister was home then. Her parents had gone upstream looking for gold dust. She could not bring herself to tell her sister before she had told her parents. Besides, appellant Modesto Mesias, Jr. was hanging around their place watching her.

When her parents returned on April 8 she told her father what happened. They went to see the Mayor the next day and filed the complaint. (Tsn., pp. 27-28, Oct. 23, 1973).

On April 18, 1972, complainant submitted to a medico-legal examination. NBI Medico-Legal officer Dr. Nieto M. Salvador made out a report (MG-720276, p. 8, Records, Crim. Case No. 117)."[1]

The accused denied the charges of rape filed against them and interposed the defense of alibi. Modesto Mesias, Jr. testified that in the afternoon of April 2, 1972 he was in Barrio Malilion, Pangasinan, with Leonardo Pablo and a certain person named Romy. Then they met the victim whom they escorted on her way to Barrio San Felipe. On their way to San Felipe, he noticed that Leonardo and the victim were quarreling. Leonardo wanted to take the victim to his house in San Manuel but the latter refused. Upon reaching San Felipe, the victim went home and he, Leonardo and Romy went to his house where they slept. He knows the victim to be married to Leonardo. He declared that the victim implicated him because he was with Leonardo in the afternoon of April 2, 1972.

Porferio Mesias testified that he was a jeepney driver and at around 7:00 o'clock in the evening of April 2, 1972, he was in Tayug, Pangasinan, waiting for passengers for Carmen, Pangasinan. From Carmen, he made a return trip to Tayug arriving there between 9:00 o'clock to 9:30 o'clock in the evening. Upon arrival at Tayug, he brought his jeepney to the garage and went to sleep.

Nicolas Bilog testified that he was in his house at Barrio Salpad, San Nicolas, Pangasinan, the whole day of April 2, 1972 with his parents. At about 6:00 o'clock in the afternoon of the same day he went to sleep after working on their poultry the whole day and woke up at around 6:00 o'clock the following morning.

Venancio Madriaga was presented to corroborate the testimony of Porferio Mesias. He declared that he was one of the passengers of Porferio on the latter's return trip to Tayug. That was his first time to ride on Porferio's jeepney. Before April 2, 1972, he had seen Porferio driving a passenger jeepney but he did not know the name of Porferio nor had he ever talked to him except the day before he testified in court when Porferio went to his house and asked him to testify.

Rosenda Mesias, sister of Modesto Mesias, Jr. declared that her house is only 30 meters away from that of her brother's. At around 7:00 o'clock in the evening of April 2, 1972 she saw Modesto Mesias, Jr. with Leonardo Pablo and another person at his brother's house. She came to know later that they all slept in the house of his brother.

The alibis set up by the accused are unworthy of credence and can not stand over positive identification by the victim who could not be mistaken in her identification. She knew all of the accused, the latter being residents of the nearby barrio of Salpad. Besides, the alibis are not supported by positive, clear and satisfactory evidence. The accused failed to show that it was physically impossible for them to be present at the scene of the crime at the time of its commission.

As correctly observed by the lower court, the defense put up by the defendants could easily be fabricated and it

appeared flimsy and simply unbelievable. Modesto Mesias, Jr. declared that he was with Leonardo Pablo on the night of April 2, 1972. The best witness could have been Leonardo Pablo himself. Porferio Mesias presented Venancio Madiaga who declared that he was asked to testify by Porferio only the day before he testified in court and that he does not know the name of Porferio. With respect to Nicolas Bilog, no one was presented to even corroborate his testimony.

The accused denied the charges against them but gave no valid reason why the victim testified against them as she did. Modesto Mesias, Jr. would want the court to believe that he was being charged only because he was with Leonardo Pablo on the night of April 2, 1972 and that the charge was simply a distorted and perverted way of getting back at Leonardo Pablo, who the victim alleged forced her to marry him, by filing a complaint against his friends. Such reason deserves scant consideration. As the Solicitor General correctly observed:

"No woman in her right mind would go through the trouble and embarrassment of a public trial such as was entailed here only for such a flimsy excuse. Modesto Mesias tried very hard to conjure a picture of complainant's father hating and threatening to kill Leonardo Pablo and his friends and Leonardo Pablo promising to take responsibility for appellants' predicament but too fearful for his life to come out in the open. (Tsn., pp. 90, 92, 98, February 13, 1974). Such assertions simply do not ring true. The unfortunate marriage with Pablo, if any there was, supposedly occurred in August 1972 (Exhibit 'I'). Whatever bad blood may have existed between Pablo and complainant's family, nothing seems to have been done by the latter to the former. Now, almost a year after why should a friend of Pablo be made the object of hatred or revenge?

Besides, if it was only Mesias, Jr. who claims to have been with Pablo on April 2, 1972 (Tsn., pp. 88-89, February 13, 1974) why should complainant charge Porferio Mesias and Nicolas Bilog besides? And with a very serious crime?

Indeed, the entire records simply disclose no motive powerful enough to overcome complainant's aversion to any litigation of this nature other than her desire for justice. She had everything against her."[2]

The victim declared that when the accused started pulling her, she cried for help to Dionisio Descargar, Segundo Carig and Hilario Carig who were following her but these three continued on their way. The accused claimed that the failure of the victim's barriomates to help her is contrary to human experience. It must be noted however, that at this point, no rape had taken place yet. Dionisio Descargar in a sworn statement taken by the Chief of Police of San Nicolas, Pangasinan, stated that on the night of April 2, 1972, at about 7:00 o'clock in the evening, he with his companions Segundo Carig and Hilario Carig saw Modesto Mesias, Jr., Rodolfo Agne and two other persons on the road to San Felipe; that they saw them standing on the road with a girl but saw nothing unusual; that they continued their walk and that when they were about to reach their houses, they heard shouts but they were not certain as to who shouted.

The accused also alleged that the testimony of the victim is replete with inconsistencies. The victim testified that her right arm was held by Porferio Mesias while Nicolas Bilog held her left arm. Later she said the reverse. The victim also said that she was met by her elder sister upon arrival at their house. On cross-examination, she said that she was met by her mother. These inconsistencies are of minor details which do not detract from the credibility of the witness. As properly observed by the Solicitor General:

"Minor flaws are unavoidable at times and may be due to the lapse of time or to lack of sufficient education. Discrepancies may be attributed to deficiencies in observation and recollection, misapprehension of the misleading and confusing questions during cross-examination to the defective translation of the questions and answers but they do not necessarily indicate a wilful attempt to commit falsehood. (People vs. Sangalang, 58 SCRA 737). In fact, they are evidence that the witness was not coached and was answering as spontaneously and truthfully as she could."[3]

Also, it has been decided in a long line of cases that with respect to the credibility of witnesses, the Supreme Court has always accorded the highest decree of respect to the findings of the trial judge, unless there is proof of misappreciation of evidence - which is absent in the case at bar.[4] The trial court said: "The testimonies and demeanor of the witnesses of the prosecution in court appeared more credible than that of the defense."

The failure of the prosecution to present the medical certificate of the victim to prove loss of virginity at the time the crime of rape was committed is not fatal to the case at bar. 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 therefore is proper.[5] At any rate, a medical examination of the victim was performed by Dr. Nieto M. Salvador but the same was not presented because of the non-availability of the doctor, although the prosecution did try to present the doctor even against the lower court's inclination. Also virginity of the offended party is not an essential element in the crime of rape. The fact that the offended party was no longer a virgin constitutes no defense in a charge of rape, provided that the sexual act was committed with force and violence.[6]

The aggravating circumstances of nighttime and uninhabited place however, can not be appreciated for lack of evidence to show that the accused especially sought or taken advantage of the night and solitude of the place to facilitate the commission of the crime. It is not improbable that the victim was casually encountered by the accused while on her way home. There is no evidence to show that the accused had sought the victim for any purpose whatsoever.

The crime of rape committed by two or more persons, under paragraph 3, Article 335 of the Revised Penal Code, as amended by Republic Act No 4111, which took effect on June 20, 1964, is punishable by reclusion perpetua to death. The penalty of death should be imposed upon the accused since the aggravating circumstance of abuse of superior strength attended the commission of the crime of rape with no mitigating circumstances to offset the same. The evidence shows that while one of the accused had carnal knowledge of her, the other who held her arms and kept her from struggling. The accused in conspiracy with one another cooperated in such a way as to secure advantage from their superiority of strength. And as co-conspirators, each of the accused is guilty of the commission of three rapes and should each be sentenced to three death penalties. However, for lack of the required number of votes, the death penalty cannot be imposed upon the accused.

WHEREFORE, the judgment appealed from should be, as it is hereby, AFFIRMED. With costs against the appellants. SO ORDERED.

Makasiar, (Chairman), Aquino, Guerrero, Abad Santos, De Castro, and Escolin, JJ., concur.

[1] Appellee's Brief, pp. 2-4.

[2] Appellee's Brief, pp. 12-13.

[3] Appellee's Brief, pp. 6-7.

[4] People v. Jardiniano, L-37191, March 30, 1981, 103 SCRA 530; People vs. Legones, L-30245, Jan. 30, 1976, 69 SCRA 210; People vs. Boduso, L-30450-51, Sept. 30, 1974, 60 SCRA 60; People vs. Cariño, L-33608, Feb. 12, 1974, 55 SCRA 516.

[5] People vs. Belandres, 85 Phil. 864; People vs. Orteza, L-16033, Sept. 29, 1962, 6 SCRA 109.

[6] People vs. Santos, No. L-38512, Nov. 16, 1979, 94 SCRA 277.

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.