

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DIOSDADO ALVARADO, JR., SOFRONIO PEGARES, JUSTINIANO
ORACION, AND SALAZAR ARAGON, DEFENDANTS, SOFRONIO
PEGARES AND JUSTINI...**

G.R. No. L-29230. July 25, 1983

Ponente: CONCEPCION, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/458594af186a/>

CONCEPCION, JR., J.:

Diosdado Alvarado, Jr., Sofronio Pegares, Justiniano Oracion, and Salazar Aragon were charged before the Court of First Instance of Leyte with the crime of Robbery in Band with Rape and Multiple Physical Injuries committed as follows:

"That on or about the 6th day of February, 1967, in the municipality of Baybay, province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused together with several John Does, who are still at large all armed with unlicensed firearms which they had themselves provided for the purpose, conspiring and confederating together and mutually helping one another, and taking advantage of nocturnity or nighttime, did then and there wilfully, unlawfully and feloniously enter the dwelling house of Alfonso Mesario and Celerina Saladores, husband and wife, by forcibly breaking the lock of the door of the house by means of an auger bit which they had themselves provided for the purpose, and while inside the house, with intent of gain and by means of violence against and intimidation of persons, did then and there steal and carry away without the consent and against the will of the owners the following personal properties, to wit: Money amounting to P8,200.00 and one (1) jacket valued at P30.00, amounting in all to P8,230.00 belonging to spouses Alfonso Mesario and Celerina Saladores; and money amounting to P4,000.00 and assorted jewelry valued at P500.00 amounting in all to P4,500.00 belonging to Dionisio Saladores, the grand total of the property robbed amounted to P12,730.00 to the damage and prejudice of the aforesaid owners in the respective amounts indicated above; and on the occasion of the robbery, the above-named accused conspiring and confederating together and mutually helping one another, with deliberate intent and by the use of force and intimidation, did then and there have sexual intercourse with Magdalena Arejola and Flora Prado against their will, both victims are nieces of Alfonso Mesario; and on the same occasion of the robbery and rape, with deliberate intent, conspiring and confederating together and mutually helping one another, did then and there attack, assault and inflict physical injuries on the different parts of the bodies of Magdalena Arejola, Celerina Saladores, Dionisia Saladores and Simeon Mesario, which injuries required medical attendance and incapacitated them from performing their customary labor during the period of treatment."

After trial, Judge Bernardo Ll. Salas rendered judgment as follows:

"WHEREFORE, the Court finds the four (4) aforementioned accused, namely:

"1. Justiniano Oracion, for abusing Magdalena Arejola, and for the injuries sustained by Dionisia Saladores, Simeon Mesario and Celerina Saladores, guilty beyond reasonable doubt of the indivisible complex crime of robbery in band as defined and penalized in accordance with Art. 294, Par. 2 in relation to Arts. 295 and 296 of the Revised Penal Code, and Art. 294, Par. 5 in relation to Arts. 295 and 296 of the Revised Penal Code, and

hereby imposes upon him the following penalties: the penalty of RECLUSION PERPETUA and to indemnify the offended party, Magdalena Arejola, the amount of P20,000.00; the indeterminate penalty of not less than TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional in its medium period as the minimum, to not more than EIGHT (8) YEARS and ONE (1) DAY of prision mayor in its medium period as the maximum (re injuries sustained by Dionisia Saladores and consequent loss of her cash items); the indeterminate penalty of not less than TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional in its medium period as the minimum, to not more than EIGHT (8) YEARS and ONE (1) DAY of prision mayor in its medium period as the maximum (re injuries sustained by Simeon Mesario); and the indeterminate penalty of not less than TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional in its medium period as the minimum, to not more than EIGHT (8) YEARS and ONE (1) DAY of prision mayor in its medium period as the maximum (re injuries sustained by Celerina Saladores and the consequent loss of her cash items);

"2. Salazar Aragon, guilty beyond reasonable doubt of the indivisible complex crime of robbery in band as defined and penalized in accordance with Art. 294, Par. 2 in relations to Arts. 295 and 296 of the Revised Penal Code with respect to the sexual abuse against the person of Flora Prado, and in accordance with Art. 294, Par. 5 in relation to Arts. 295 and 296 of the Revised Penal Code, with respect to the injuries sustained by Dionisia Saladores, Simeon Mesario and Celerina Saladores, and hereby imposes upon him the penalty of RECLUSION PERPETUA and to indemnify Flora Prado the amount of P10,000.00; the indeterminate penalty of not less than TWO YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional in its medium period as the minimum, to not more than EIGHT (8) YEARS and ONE (1) DAY of prision mayor in its medium period as the maximum (re injuries sustained by Dionisia Saladores and the consequent loss of her cash items); the indeterminate penalty of not less than TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional in the medium period as the minimum, to not more than EIGHT (8) YEARS and ONE (1) DAY of prision mayor in its medium period as the maximum (re injuries sustained by Simeon Mesario); and the indeterminate penalty of not less than TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional in its medium period as the minimum, to not more than EIGHT (8) YEARS and ONE (1) DAY of prision mayor in its medium period as the maximum (re injuries sustained by Celerina Saladores and the consequent loss of her cash items);

"3. Diosdado Alvarado, guilty beyond reasonable doubt of the indivisible complex crime of robbery in band which is defined and penalized in accordance with Art. 294, Par. 5 in relation to Arts. 295 and 296 of the Revised Penal Code, and hereby imposes upon him the indeterminate penalty of not less than TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional in its medium period as the minimum, to not more than EIGHT (8) YEARS and ONE (1) DAY of prision mayor in its medium period as the maximum (re injuries sustained by Dionisia Saladores and the consequent loss of her cash items); the indeterminate penalty of not less than TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional in its medium period as the minimum, to not more than EIGHT (8) YEARS and ONE (1) DAY of prision mayor in its medium period as the maximum (re injuries sustained by Celerina Saladores and the consequent loss of her cash items); and the indeterminate penalty of not less than TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional in its medium period as the minimum, to not more than EIGHT (8) YEARS and ONE (1) DAY of prision mayor in its medium period as the maximum (re injuries sustained by Simeon Mesario); and

"4. Sofronio Pegares, guilty beyond reasonable doubt of the indivisible complex crime of robbery in band which is defined and penalized in accordance with Art. 294, Par. 5 in relation to Arts. 295 and 296 of the Revised Penal Code, and hereby imposes upon him the indeterminate penalty of not less than TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional in its medium period as the minimum, to not more than EIGHT (8) YEARS and ONE (1) DAY of prision mayor in its medium period as the maximum (for the injuries sustained by Dionisia Saladores and the consequent loss of her cash items); the indeterminate penalty of not less than TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision

correccional in its medium period as the minimum, to not more than EIGHT (8) YEARS and ONE (1) DAY of prision mayor in its medium period as the maximum (for the injuries by Simeon Mesario); and the indeterminate penalty of not less than TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional in its medium period as the minimum, to not more than EIGHT (8) YEARS and ONE (1) DAY of prision mayor in its medium period as the maximum (for the injuries sustained by Celerina Saladores and the consequent loss of her cash items).

"The accused, Diosdado Alvarado, Sofronio Pegares, Salazar Aragon, and Justiniano Oracion should also indemnify jointly and severally Dionisia Saladores the amount of P2,250.00 representing the Court's reasonable assessment of the cash and valuables belonging to her and which appears to have been stolen as a consequence of this case, and Celerina Saladores, also jointly and severally, the amount of P2,000.00, similarly representing the Court's assessment of the money forming part of her personal property and stolen by herein accused, with four-fifths (4/5) of the costs.

"The successive service of sentences by the accused Salazar Aragon and Justiniano Oracion should follow the provisions of Art. 70 of the Revised Penal Code, the maximum of which shall in no case exceed forty years.

"With respect to the fifth accused, Antonio Sy, and for insufficiency of evidence, he is by virtue of this decision hereby acquitted with one-fifth (1/5) of the costs de oficio.

"Finally, they shall not be entitled to one-half (1/2) of the period of their preventive imprisonment pursuant to the provisions of Art. 29 of the Revised Penal Code."

From that sentence, the accused appealed to this Court. Diosdado Alvarado, Jr., however, escaped from confinement and the Court dismissed his appeal on February 13, 1969.[1] The Court, upon motion of the appellant Salazar Aragon, also dismissed the appeal of the said accused on August 22, 1975.[2] For consideration is the appeal of the accused Justiniano Oracion and Sofronio Pegares.

The facts of the case, as enumerated by the Solicitor General in his brief, are as follows:

"The spouses Alfonso Mesario and Celerina Saladores (pp. 41, 137, t.s.n., Cazar) rice mill and store owners, and dealers in copra and hemp (p. 71, t.s.n., Cazar) live in their house at barrio Biasong, Baybay, Leyte, together with their relatives, namely: Simeon Mesario and his family (pp. 88, 110, 112, t.s.n., Cazar); Dionisia Saladores, Magdalena Arejola, Flora Prado, Apra Mesario, Winston Mesario, Roberta (Baby) Arejola, and their maid Juanita Andrade (t.s.n., pp. 19, 67, 78, 91, 92, 115-117, Arradaza; pp. 7, 9, t.s.n., Cazar).

"At about 2 o'clock in the early morning of February 6, 1967, the accused Diosdado Alvarado, Sofronio Pegares, Justiniano Oracion and Salazar Aragon, each armed with a revolver (pp. 21, 22, t.s.n., Arradaza), and accused Antonio Sy, forcibly entered the aforesaid house of Alfonso Mesario by boring their way in thru the kitchen door (p. 92, t.s.n., Cazar). Once inside the house, the four accused, except Antonio Sy, proceeded to and entered the room lighted by a kerosene lamp occupied by Dionisia Saladores, Magdalena Arejola, Flora Prado, Apra Mesario, Winston Mesario, Roberta (Baby) Arejola and Juanita Andrade who were then all asleep (Exh. 'D', pp. 7, 8, 19, 20, 29, 78, 91, 92, 115-117, t.s.n., Arradaza).

"Aroused by the intrusion, Dionisia Saladores shouted for help (t.s.n., pp. 21, 22, 66, 69, Arradaza; pp. 9, 50, 51, Cazar) prompting Sofronio Pegares to hold and hit her head and other parts of her body with his revolver (t.s.n., 23, 25, Arradaza; p. 12, Cazar). The three other accused, Diosdado Alvarado, Justiniano Oracion and Salazar Oracion, ransacked the two 'aparaadores' inside the room (t.s.n., pp. 25, 26, 36, Arradaza; pp. 9, 10, Cazar) and got P4,000.00 in paper bills and jewelries worth P500.00 in all belonging to Dionisia Saladores (t.s.n., pp. 26, 35, 36, Arradaza; pp. 10, 30, 38, Cazar).

"As the accused were ransacking the place, Magdalena Arejola and Flora Prado hid themselves under the bed (pp. 71, 95, 112, t.s.n., Arradaza). Celerina Saladores (Dionisia's sister) who was occupying a room across the

sala locked her room when she heard outcries for help and told her husband, Alfonso Mesario, to hide which the latter did (pp. 40, 41, 50, 56, 89, Cazar), while their married son Simeon Mesario who was in another room escaped thru the window of his room. He was, however, fired upon by one of the robbers (p. 89, t.s.n., Cazar) hitting with gunshot on the left portion of his left arm. He further suffered dislocation of both knees, swelling of his testicles and pains at the back of his waist, as a consequence of his having jumped from the window and landing on the cement pavement (pp. 90, 91, t.s.n., Cazar).

"Later, accused Diosdado Alvarado after forcibly opening the window entered Celerina's room. Once inside he opened the door for accused Sofronio Pegares who carried a kerosene lamp (Exh. 'D'; pp. 41-53, 57, 58, t.s.n., Cazar). Accused Sofronio Pegares, once inside the room, kicked Celerina and asked her for money. When Celerina shouted for help one of the accused threatened her with his revolver. Accused Diosdado Alvarado and Sofronio Pegares then ransacked her aparador by forcibly opening the lock thereof and found four (4) bundles of her money in paper bills amounting to P4,000.00 which they pocketed (pp. 43, 44, 50, 58-60, 69, 76, t.s.n., Cazar). Thereafter, they demanded of Celerina the key to her trunk and when the accused could not open the trunk, accused Sofronio Pegares kicked her on her right waist line and compelled her to open the trunk (pp. 44, 45, 50, 60, t.s.n., Cazar). The trunk yielded another P4,000.00 in paper bills and P200.00 in coins which were all taken by Diosdado Alvarado (pp. 45, 46, 61-63, t.s.n., Cazar).

"While the robbery in the room of Celerina Saladores was taking place, Magdalena Arejola and Flora Prado who hid themselves under the bed in Dionisia's room were dragged therefrom by accused Justiniano Oracion and Salazar Aragon, respectively (pp. 96, 97, t.s.n., Arradaza). Magdalena Arejola struggled and tried to extricate herself from accused Justiniano Oracion. Her struggles prove futile as Oracion was able to drag her towards the kitchen where Magdalena saw Antonio Sy when the flashlight of Justiniano Oracion was focused on his face (p. 97, t.s.n., Arradaza). Threatening her with his revolver, Justiniano Oracion brought her downstairs and took her to the coconut plantation about 100 meters from the house, despite Magdalena's struggles (p. 98, t.s.n., Arradaza). When Magdalena refused to remove her panty despite threats by Oracion, the latter grabbed her panty, tearing it away from her body (p. 99, t.s.n., Arradaza). After a vigorous struggle, Magdalena weakened and Justiniano Oracion was able to insert his penis inside her vagina for which she felt pain (p. 99, t.s.n., Arradaza). After ravishing her, Justiniano Oracion took her to a hill and down to a ricefield. On their way Oracion fell down enabling Magdalena to free herself from his hands and escaped towards the bushes where she hid herself until about 6 o'clock that morning when she went home and immediately informed the people therein that she was abused (pp. 100, 103, t.s.n., Arradaza).

"On the other hand, Salazar Aragon who dragged Flora Prado from under the bed brought her to the kitchen. Despite threats with a revolver, she resisted Salazar Aragon who, after tearing her panty, forced her to lie down and laid on top of her. Notwithstanding her struggles, Aragon's penis penetrated her organ and she felt wet substance inside her organ (pp. 73, 74, 83, t.s.n., Arradaza). Upon hearing shouts from the outside, accused Salazar Aragon stood up. Finding herself free from Aragon's clutches, she ran towards a room and again hid herself under one of the beds. There, she felt pain in her vagina and in all parts of her body (p. 74, t.s.n., Arradaza).

"Dionisia Saladores was examined and treated by Dr. Francisco Isidro whose findings are as follows"

"Re: X-Ray examinations:

'(Chest)

'Hilar enlargement bilateral. Negative for any fracture of the thoracic cage.

'(Skull)

'Negative for any fracture of the skull. (Exhs. 'A', 'A-1' and 'A-2'; pp. 290, 291, Rec.)

"Re: Physical examinations:

'1. Contusion with hematoma supra-scapular regions, left.

'2. Abrasion with contusion left hand.

'3. Hematoma and contusion wrist region right.

'4. Lacerated wound, small, occipital area left.

'All these lesions will heal, barring complications, in from 10 to 15 days.' (Exhs. 'A-3' and 'A-4'; pp. 293, 294, Rec., pp. 2-8, t.s.n., Arradaza).

"Flora Prado was examined and treated by Dr. Leticia Lacerna Perez whose findings are as follows:

'Nothing noted on the thighs

'External genitalia - abrasions on the posterolateral, left of the labia minora

- hymen - no abrasions

specimen from vaginal canal examined

- positive of sperm cells' (Exhs. 'B' and 'B-1', p. 295, Rec., pp. 2-19, t.s.n., Arradaza).

"Subsequently, Flora Prado was also examined by Dr. Victorino Abrasaldo whose findings are as follows"

'X-Ray findings:

'(1) thoracic cage - negative for any fracture and dislocation.

'(2) lung parenchyma - indicative of thoracic concussion.

'Physical Findings:

'(1) Contusion with hematoma - left anterior lumbar area.

'All these lesions will heal, barring complications, in from 6 (six) to 8 (eight) days.' (Exhs. 'G' and 'G-2'; pp. 300, 301, Rec.; pp. 86-87, Cazar)

"Magdalena Arejola was also examined and treated by Dr. Leticia Lacerna Perez whose findings are as follows:

'Abrasions noted on the left thighs.

'External genitalia - abrasions on the posterior fourchette extending to both lateral portions - no lacerations noted on the hymen.

'Specimen from the vaginal canal examined - strongly positive for sperm cells.' (Exhs. 'C' and 'C-2'; p. 296, Rec.; pp. 12-18, t.s.n., Arradaza).

"Simeon Mesario was examined and treated by Dr. Emilio Martinez whose findings are as follows"

'(1) Gunshot wound located at the ventral medial lower third of the left forearm, measuring about 1/2 inch long, about 1/2 cm. wide and about 2 cm. deep.

'(2) Contusion located at both knee joints.

'(3) Tenderness located at the posterior portion of the waist.

'Most probable Weapon used"

'(1) Firearm

'(2) Sudden force of a hard surface on the feet.

'Healing Time:

'Fourteen to sixteen days if properly treated, barring complications. (Exhs. 'E', p. 197, Rec.; pp. 3-6, t.s.n., Cazar).

"Celerina Saladores was also examined and treated by Dr. Victorino Abrasaldo whose findings are as follows:

'X-Ray findings:

'(1) Thoracic cage - negative for any fracture or dislocation.

'(2) Lung parenchyma - indicative of thoracic concussion.

'Physical findings:

'(1) Contusion w/ hematoma extensive both subcostal areas.

'All these lesions will heal, barring complications, in from 6 (six) to 9 (nine) days. (Exhs. 'F' and 'F-1'; pp. 298, 299, Rec.; pp. 85, 86, t.s.n., Cazar)."

The appellant Justiniano Oracion denied participation in the commission of the crime claiming that he was in barrio Palhi, Baybay, Leyte, at the time the offense complained of was committed. His testimony, as summarized by the trial judge, is as follows:

"The third witness Justiniano Oracion, also a co-accused, testified that at around 9:00 o'clock in the evening of February 5, 1967, he was running a game of 'hantak' which lasted until 2:00 o'clock in the morning of February 6. After the game, he was taken by Max Cerna to the store of Margarita Barrientos in Barrio Palhi. In the store they were joined by Alfredo Viterbo, Agripino Escuadra and Primitivo Ybanez, Jr.

"He further testified that they stayed in the store until 3:00 o'clock in the morning. After that he went home together with Alfredo and Primitivo and eat the leftovers. The three (3) of them then went to sleep and at around 8:00 o'clock in the morning, he woke up.

"On February 8, he went to the market to buy rice and some viands but at around 2:00 o'clock in the afternoon, he was apprehended by the two policemen and then taken to the police headquarters for investigation. Confronted by Magdalena Arejola and Flora Prado, both simply shook their heads although he noticed that Policeman Wagas whispered something to them.

"In Court he admitted knowing the names of these women because he said that they used to buy his copra and as a matter of fact, he used to mill his rice at their residence. Further interrogated, he admitted knowing the accused, Diosdado Alvarado, before February 7.

"On cross-examination, he admitted that there is a trail that leads from the barrio of Palhi to Biasong and runs a distance of about two (2) kilometers which can be negotiated on foot in a period of one (1) hour. As a matter of fact, he knew the house in Barrio Biasong to be owned by Mesario and the milling machine is even beside the house. His copra are even weighed and sold right in the house of Mesario on the ground floor. He also admitted that he knows in person Flora and Magdalena because of their business dealings, and between them, they know each other both in appearances and names." [3]

The appellant Sofronio Pegares also denied participation in the commission of the crime and similarly interposed the defense of alibi. His testimony is summarized as follows:

"The accused witness, also a co-accused, Sofronio Pegares, testified that he is from the city of Butuan and that he only come to Baybay the first time in January, 1967, to look for his daughter, Conchita, who left their

house. Precisely he came to Baybay to follow her because he suspected her to have ran away with the accused, Diosdado Alvarado, who comes from this town.

"He also testified that he went straight to the residence of Diosdado at barrio Palhi on January 29, 1967, but that the only person who was in the house was his sister, Barbara Alvarado. Temporarily he resided in the house of Diosdado and that from January 29 up to February 5, he had not gone to any of the barrios here in Baybay.

"Testifying further, he stated that on the night of February 5, 1967, he went to the sitio of Cabacongan together with Barbara. That time the other accused, Diosdado, was attending a dance in Barrio Palhi. He went to bed at around 3:00 o'clock in the morning of February 6 because he arrived late from the house of a neighbor, Roman Jaca, who died.

"The following morning, several policemen called at the house of Diosdado and Diosdado told them that he (Sofronio) was only his visitor, but when Diosdado was arrested, he went along with him to give him company.

"Unfortunately, while in the municipal building, he was detained. He learned later that he was detained because of the robbery that was committed at the house of Mesario the night before.

"Finally, he identified in court the certificate issued by the Clerk of Court of the City Court of Butuan to the effect that he had criminal record (Exhibit '2'), another certificate issued by the Court of First Instance of Butuan, Exhibit '3', the certification of the Butuan City Police Force, Exhibit '4', and Exhibit '5', that of the Vice-Mayor to the effect that he had no police record whatsoever.

"On cross-examination, he testified that he did not report to the police authorities the purpose of his trip to Baybay; that he did not look for his daughter even up to the time of his arrest because he was concerned about the death of his neighbor who was the father-in-law of Barbara. As a matter of fact, the only thing he did was to inquire from a store owner in Palhi about his daughter, but did not in any manner ask the help of the local police authorities in looking for her.

"He also stated that he did not even tell the barrio officials that he was looking for his daughter although his only purpose in coming to Baybay was to follow her." [4]

His wife, Fidela Bengato Pegares, corroborated his testimony that he went to Baybay, Leyte, to look for their missing daughter, Conchita, whom they thought had eloped with Diosdado Alvarado. Fidela identified the certifications issued by the police authorities in Butuan City, the Clerk of the City Court of Butuan, the Vice-Mayor of the City and the Court of First Instance of Agusan to the effect that her husband, Sofronio Pegares, has no criminal record. [5]

We have examined the records of the case with great care and find no cogent reason to disturb the findings of the trial court that the appellants are guilty of the offense complained of. The testimony of the prosecution witnesses are clear, precise, positive, and straight-forward and include minute details consistent with human nature and experience. There cannot be any doubt as to their ability to identify the culprits as the place was well illuminated and the accused were familiar to them. Besides, there is no showing, much less, a hint, of any evil motive on the part of the prosecution witnesses to testify falsely against them. They bore them no grudges nor ill-will. They would not have imputed to the appellants the commission of such a grave offense of Robbery with Rape if it were not true that they were really innocent thereof.

Moreover, the testimony of the appellants are not convincing. Thus, Sofronio Pegares testified that he went to Baybay, Leyte, solely for the purpose of looking for a missing daughter. But, his matter-of-fact manner of conducting the search makes his claim incredible and appear absurdly inept and false and especially concocted to

escape penal liability. As the trial court stated, Sofronio Pegares admitted that he did not look for his daughter outside Palhi when, as a matter of fact, his only purpose in coming to Baybay was to follow her, and the only thing he did was "to inquire her whereabouts from a store owner in the barrio, because he was deeply concerned about the death of Roman Jaca, the father-in-law of Barbara Alvarado, in whose house he was then staying up to the time of his arrest;" and "did not even seek the help of the barrio officials and the local police authorities if only to assist him in looking for her."

The appellant, Justiniano Oracion, for his part, declared that he was running a "hantak" game (cara y cruz) until 2:00 o'clock in the morning of February 6, 1967 and went to the store of Margarita Barrientos together with Alfredo Virterbo, Agripino Escuadra, and Primitivo Ybañez, Jr., where they stayed drinking up to about 3:00 o'clock in the morning. And yet, he did not present any of these persons if only to corroborate his testimony.

At any rate, it was not impossible for the appellants to be at the scene of the crime at the time it was committed since Barrio Biasong is only 2 kilometers away from Barrio Palhi and could be negotiated in an hour's time by walking. It was possible for the appellants to have gone to Barrio Biasong and rob Alfonso Mesario and go back to whatever they were doing without being missed.

The appellants assail the trial court for giving credence to the testimony of Flora Prado, claiming that while the said Flora Prado is acquainted with Justiniano Oracion since she used to see him during Sundays in the company of Damian Meredores, yet, she did not "tell the police that one of the alleged robbers who abused her was a man whom he saw one Sunday with Damian Meredores." [6]

The contention is utterly devoid of merit. While it may be true that Flora Prado was asked during the investigation if she knew the robber who brought her to the kitchen and abused her and she answered that she did not know him, [7] she could not have had Justiniano Oracion in mind because it was Salazar Aragon who violated her in the kitchen of the house of Alfonso Mesario. The appellant Justiniano Oracion is accused of having raped Magdalena Arejola, not Flora Prado, and Magdalena positively identified him as the one who raped her. [8]

The trial court correctly imposed the penalty of reclusion perpetua upon the appellant Justiniano Oracion, the same being the maximum penalty for the crime of Robbery with Rape, as defined and penalized in par. 2, Art. 294 of the Revised Penal Code, but erred in sentencing the said appellant to suffer three (3) separate indeterminate penalties, one for each of the injuries sustained by Dionisia Saladores, Simeon Mesario, and Celerina Saladores by reason of the robbery, since the offense committed is a complex crime penalized with a single penalty. [9] The physical injuries sustained by the victims of the robbery are but aggravating circumstances that would justify the imposition of the maximum period of the imposable penalty. Consequently, the three (3) separate indeterminate penalties imposed upon Justiniano Oracion should be eliminated.

The trial court, likewise, erred in imposing three (3) separate indeterminate penalties upon the appellant Sofronio Pegares, one for each of the injuries sustained by Dionisia Saladores, Simeon Mesario, and Celerina Saladores in the course of the robbery. The offense committed by Sofronio Pegares is robbery with violence against persons as defined in par. 5, Art. 294 of the Revised Penal Code and penalized by prision correccional in its maximum period to prision mayor in its medium period, as maximum. But since the crime was committed by a band, the maximum period of the penalty should be imposed upon him, pursuant to Art. 295 of the Revised Penal Code. Only one (1) penalty should be imposed upon the offender. The law does not authorize the imposition of a separate penalty for the injuries inflicted upon persons in the course of the robbery since the physical injuries suffered by them are but the overt manifestations of the violence employed and are inherent in the crime of robbery with violence against persons. For this reason, only one (1) penalty should be imposed upon the appellant Sofronio Pegares.

WHEREFORE, the judgment appealed from should be, as it is hereby, MODIFIED, as follows:

- Justiniano Oracion is found guilty of the crime of Robbery with Rape, as defined and penalized in par. 2, Art. 294 of the Revised Penal Code, and is hereby sentenced to suffer the penalty of reclusion perpetua; to indemnify the offended party, Magdalena Arejola, in the amount of P20,000.00; and to pay proportionate part of the costs;

- Sofronio Pegares is found guilty beyond reasonable doubt of the crime of Robbery in Band, as defined and penalized under par. 5 of Art. 294, in relation to Arts. 295 and 296 of the Revised Penal Code, and is hereby sentenced to suffer the indeterminate penalty of from two (2) years, four (4) months and one (1) day of prision correccional, as minimum, to eight (8) years of prision mayor, as maximum; and to pay proportionate part of the costs. Considering that the said accused had been a detention prisoner since 1968, for a period of more than fifteen (15) years, he should be forthwith released from prison unless there be any other cause why he should continue to be detained; and

- Appellants Justiniano Oracion and Sofronio Pegares are further sentenced to pay, jointly and severally, with their co-accused, the amounts of P4,500.00 and P8,200.00 to Dionisia Saladores and Celerina Saladores, respectively.

SO ORDERED.

Aquino, Guerrero, Abad Santos and Escolin, JJ., concur.

Makasias (Chairman), J., concurs in the result.

De Castro, J., on sick leave.

[1] Rollo, p. 83.

[2] Id., p. 244.

[3] Original Record, pp. 586-587.

[4] Id., pp. 584-586.

[5] t.s.n., Cazar, pp. 174-179.

[6] Appellants' Brief, p. 4.

[7] See Question and Answer No. 7 of the Sworn Statement of Flora Prado, Exh. 1, Original Record, p. 12.

[8] See Sworn Statement of Magdalena Arejola, Original Record, p. 14.

[9] People vs. De Guzman, 70 Phil. 23.

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.