

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FELIPE RAMIREZ Y CAMATIS, DEFENDANT-APPELLANT.***G.R. Nos. L-30635-36. January 29, 1976*

Ponente: FERNANDO, J.

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It is unfortunate that in a number of cases involving sexual offenses, the person indicted is a stepfather or a common-law husband taking advantage of a daughter of the spouse, a stranger by blood, but to all intents and purposes as much a member of the family. So it is in this appeal from a conviction of the accused Felipe Ramirez y Camatis for the crime of rape. He received the penalty of reclusion perpetua twice for the two separate occasions where, as found by the lower court, he employed force on a daughter of his common-law wife and thus succeeded in having intercourse with her.[1] There was no denial about the commission of such acts; his defense, however, was that there was consent on her part, as indeed there had been previous instances where he had access to her. In his brief, he did emphasize the weakness of the proof for the offended party. He could rely then on the constitutional presumption of innocence,[2] his guilt not having been shown beyond reasonable doubt. A careful study of the records of the case calls for an affirmative response to such a plea. This is not to condone what was done. It is reprehensible. There was a failure, however, to demonstrate his culpability for the crime of rape.[3] So we dispose of this appeal.

The prosecution presented three witnesses, the complainant, Felicisima Briones, then sixteen years of age, her seventy-year old grandfather, Basilio Mendoza, and the medico-legal officer of the National Bureau of Investigation, Dr. Mariano B. Cueva, Jr. As is to be expected in cases of this nature, the principal testimony came from the complainant. When called to the stand, she testified that the first time she was raped was on the morning of September 29, 1967 when the accused, the common-law husband of her mother, taking advantage of the fact that she was alone in the house, suddenly embraced her, brought her inside the room, and then gagged her, with a gun pointed at her.[4] Thus he was able to have sexual intercourse with her.[5] Her exact expression was, "kinuha ang aking pagkababae." [6] She admitted having allowed the accused to take such liberty in these words: "I agreed because what can I do; I have already fought back but I could do nothing." [7] She added: "I fought back but I was overwhelmed." [8] She used the phrase, "talong-talo po ako." [9] He left her right afterwards; all she could do was to cry. [10] Her mother arrived, but she did not report that she was deflowered as she was afraid, the accused having warned her that should she "reveal the matter, [she] would be killed as well as [her] brothers and sisters and [also her] mother." [11] She further testified that in well-nigh similar fashion, the language employed being almost identical, the same act was perpetrated by the accused on the morning of October 2, 1967. [12] Again, she "fought back but [she] was overwhelmed." [13] Likewise, it was her fear that prevented her from revealing to her mother what did transpire the second time. [14] She gave birth to a child on May 22, 1968, seven months and twenty-five days after the first sexual act. [15] Her pregnancy was not made known to her mother until about five months had elapsed. [16] She pointed to the accused as being responsible for it. [17] When her grandfather was told about the matter, he told her that a case would be filed. [18]

It was not too searching a cross-examination to which she was subjected but there were additional facts elicited from her that cast further doubt on the claim of force having been employed. It was only after five months from September 29, 1967, that is, in February of 1968, when upon her pregnancy becoming noticeable, the allegation that she was raped was first made, while all the while, she stayed with her mother and the accused in the same house.[19] At no time till then did she ever complain to anybody of the misdeed which she would now impute to him.[20] She has an uncle and an aunt living in the same barrio but when she visited them in October, 1967, she never mentioned such incident.[21] With her in the same house was also her grandfather, Basilio Mendoza, but again, it was only after five months that he was acquainted with the alleged rape.[22] Thus it was obvious that she had the opportunity to complain against the misdeed for a rather lengthy period of time, but she never availed herself of it.[23] It likewise must be noted that there was an elder sister, also a resident of the place, but she was also kept ignorant of the matter.[24] Moreover, from her answers to certain questions on cross-examination as to the mode in which the alleged rape was consummated, appellant's guilt was far from clearly shown. She was compelled to admit that when the act was performed, the gun was not pointed at her.[25] The accused was alleged to have placed himself on top of her with one hand holding her two hands, although later on released, at which time on both occasions, the act of intercourse took place.[26] Thereafter, as if nothing out of the ordinary had happened, she continued her task of weaving a mosquito net.[27] She performed her household chores, and for the ensuing period of time until she could no longer hide the fact of pregnancy, all did appear to be well.

Nor did the testimony of Dr. Mariano Cueva, Jr., the medico-legal officer, help her case any. Rather, the impression conveyed was to the contrary. When asked whether it would be a fair summary that complainant was subjected to such alleged abuse, this is his answer: "I would rather say that she had previous sexual intercourse which corresponded to the examination, that was on September 29, 1967 as well as October 2, 1967, Your Honor, and furthermore such intercourse resulted in pregnancy which at the time of the examination she was five months, moving to six months, on the way, Sir." [28] On cross-examination, the doctor was asked the question whether it is possible that prior to September 29, 1967 and October 2, 1967, the complainant had engaged in sexual intercourse. This is the categorical reply: "Maybe long before September 29, Sir." [29] When pressed further as to whether it could have occurred, say the last week of August, 1967, he reiterated such an opinion: "Well, based on the age of pregnancy as well as the age of the laceration. In my honest opinion, * * * sexual intercourse could have occurred a month earlier than September 1967." [30] Continuing along the same line and taking note of the birth of the child on May 22, 1968, which indicated that the period was less than nine months, the query was made as to whether it is usual to give birth earlier than nine months. Again, the doctor was not equivocal: "It is unusual to give birth earlier than nine months. They could have given birth [after] six months to a live infant, but it is not [likely, especially in the case] of women who give birth to a first child wherein it is suspected such delivery could have occurred earlier." [31]

It becomes readily understandable why appellant could seize on the glaring weakness of the case for the prosecution as to the alleged employment of force. Even from the most objective standpoint, doubts about his guilt for the crime of rape, not fanciful but real, cannot easily be erased. There is much from the evidence of the prosecution itself that reinforces the assertion that there had been prior sexual relationship between him and the complainant. It is not easy to accept the view, even on the assumption that on two separate occasions there was access to her person, that she was compelled against her will to submit. Even the filing of the complaint can reasonably be ascribed to the insistence of her grandfather, who urged her and her mother to do so by way of vindicating a grievous offense to the family honor. What was done by appellant is certainly inexcusable. It is offensive to morals. Rape was not committed, however; the constitutional presumption of innocence had not been overcome.

1. The pronouncement in *People vs. Dramayo* [32] as to the extent of the protection accorded by the Constitution

to a person indicted for a criminal offense once again possesses relevance. Thus: "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 circumstance 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." [33] There has been recently a number of cases where appellants were quite successful in obtaining a reversal based on such a principle. [34]

2. Appellant therefore perpetrated what, without exaggeration, could be denominated a dastardly deed. A reasonable, not a fanciful, doubt, however, being a legitimate inference from the evidence of record, no conviction for rape, the offense of which he was accused, could lie. At that, is there no criminal liability on the basis of qualified seduction? It is to be remembered that from *United States vs. Arlante*, [35] a 1908 decision, with Chief Justice Arellano, no less speaking for the Court, such an offense under appropriate circumstances could be the basis for a criminal prosecution. As a matter of fact, in two recent decisions, *People vs. Alvarez* [36] and *People vs. Samillano*, [37] while the appellants were acquitted, the commission of the crime of rape not having been shown, this Court found them guilty of qualified seduction. Such a result, regrettably, is not warranted here. The information was quite definite that this accused, "armed with a deadly weapon, a firearm, and by means of violence and intimidation, did then and there willfully, unlawfully and feloniously lie with and have carnal knowledge of a fifteen-year old girl, one Felicisima Briones Mendoza, * * *." [38] It is the even more recent case, *People vs. Castro*, [39] then, that finds application. As was set forth in the opinion of Justice Aquino: "Appellant Castro may possibly have committed qualified seduction, of which one form is 'the seduction of a virgin over twelve years and under eighteen years of age, committed by' a 'domestic' (Art. 337, Revised Penal Code). 'La voz domestico se refiere a las personas que habitualmente viven bajo el mismo techo, pertenecen a misma casa y forman en este concepto parte de ella' (2 Cuello Calon, Codigo Penal 12th Ed. 560). By reason of the intimacy and confidence existing among various members of a household, opportunities for committing seduction are more frequent (*U.S. vs. Santiago*, 26 Phil. 184; *U.S. vs. Arlante*, 9 Phil. 595; *People vs. Samillano*, L-31375, April 22, 1974, 56 SCRA 573). It may be argued that Castro was a domestic in relation to Miguela. We do not make any finding that he committed qualified seduction. Since he was definitely and squarely charged with rape, he cannot be convicted of qualified seduction. The complaint in this case is not susceptible of being construed as charging qualified seduction. It is alleged in the indictment that Castro, 'by means of force and intimidation', wilfully had carnal knowledge of Miguela Micua against her will. That charge does not include qualified seduction. Much less can qualified seduction include rape. Hence, Castro cannot be convicted of qualified seduction under the rape charge (See secs. 4 and 5, Rule 120, Rules of Court). The rape charge did not place him in jeopardy of being convicted of qualified seduction. He is entitled to be informed of the nature and cause of the accusation against him (Sec. 1[c], Rule 115, Rules of Court; Sec. 1[17], Art. III, Old Constitution; Sec. 1[19], Art. IV, New Constitution)." [40]

Wherefore, the appealed decision of January 8, 1969 in criminal cases Nos. 2698 and 2699 of the Court of First Instance of Batangas of the Eighth Judicial District finding the accused guilty beyond reasonable doubt for the

crime of rape and sentencing him to reclusion perpetua is reversed and set aside. Appellant Felipe Ramirez y Camatis is acquitted with costs de officio.

Barredo, Aquino, Concepcion Jr., and Martin, JJ., concur.

Antonio, J., took no part.

[1] There were two criminal informations for rape filed against the accused, Criminal Cases No. 2698 and 2699 of the Court of First Instance of Batangas.

[2] According to Article IV, Section 19 of the Constitution: "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, * * *."

[3] Unlike the case of U.S. vs. Arlante, 9 Phil. 595 (1908), he could not be found guilty of qualified seduction.

[4] T.s.n., Session of August 27, 1968, 4-5.

[5] Ibid, 5.

[6] Ibid.

[7] Ibid, 5-6.

[8] Ibid, 6.

[9] Ibid.

[10] Ibid.

[11] Ibid, 6.

[12] Ibid, 7.

[13] Ibid, 8.

[14] Ibid.

[15] Ibid.

[16] Ibid, 9.

[17] Ibid.

[18] Ibid.

[19] Ibid, 12.

[20] Ibid.

[21] Ibid, 13.

[22] Ibid.

[23] Ibid, 14-15.

[24] Ibid, 15-16.

[25] Ibid, 20.

[26] Ibid, 22.

[27] Ibid, 25.

[28] T.s.n., Session of October 22, 1968, 16.

[29] Ibid, 19.

[30] Ibid.

[31] Ibid, 20.

[32] L-21325, October 29, 1971, 42 SCRA 59.

[33] Ibid, 64.

[34] Cf. *People vs. Imperio*, L-26194, March 29, 1972, 44 SCRA 75; *People vs. Urro*, L-28405, April 27, 1972, 44 SCRA 473; *People vs. Gatmen*, L-25368, Aug. 18, 1972, 46 SCRA 368; *People vs. Encomienda*, L-26750, Aug. 18, 1972, 46 SCRA 522; *People vs. Basuel*, L-28215, Oct. 13, 1972, 47 SCRA 207; *People vs. Tingson*, L-31228, Oct. 24, 1972, 47 SCRA 243; *People vs. Custodio*, L-30463, Oct. 30, 1972, 47 SCRA 289; *People vs. Enomar*, L-26898, Jan. 16, 1973, 49 SCRA 55; *People vs. Palacpac*, L-27822, Feb. 28, 1973, 49 SCRA 440; *People vs. Manipula*, L-27608, July 6, 1973, 52 SCRA 1; *People vs. Zamora*, L-34090, Nov. 26, 1973, 54 SCRA 47; *People vs. Manzanero, Jr.*, L-33698, Dec. 20, 1973, 54 SCRA 335; *People vs. Aquino*, L-32090, Dec. 28, 1973, 54 SCRA 409; *People vs. Alvarez*, L-34644, Jan. 17, 1974, 55 SCRA 81; *People vs. Dayag*, L-30619, March 29, 1974, 56 SCRA 439; *People vs. Barbo*, L-30988, March 29, 1974, 56 SCRA 459; *People vs. Madera*, L-35133, May 31, 1974, 57 SCRA 349; *People vs. Cabrera*, L-37398, June 28, 1974, 57 SCRA 714; *People vs. Maliwanag*, L-30302, Aug. 14, 1974, 58 SCRA 323; *People vs. Castro*, L-33175, Aug. 19, 1974, 58 SCRA 473; *People vs. Alviar*, L-32276, Sept. 12, 1974, 59 SCRA 136; *People vs. Reyes*, L-36874, Sept. 30, 1974, 60 SCRA 126; *People vs. Boholst-Caballero*, L-23249, Nov. 25, 1974, 61 SCRA 180; *People vs. Beltran*, L-31860, Nov. 29, 1974, 61 SCRA 246; *People vs. Roa*, L-35824, Jan. 17, 1975, 62 SCRA 51; *People vs. Macatanaw*, L-37883, Feb. 25, 1975, 62 SCRA 516; *People vs. Joven*, L-36022, May 22, 1975, 64 SCRA 126; *People vs. Ilagan*, L-36560, May 28, 1975, 64 SCRA 170; *People vs. Padirayon*, L-39207, Sept. 25, 1975.

[35] 9 Phil. 595.

[36] L-34644, January 17, 1974, 55 SCRA 81.

[37] L-31375, April 22, 1974, 56 SCRA 573.

[38] Information dated May 20, 1968.

[39] L-33175, August 19, 1974, 58 SCRA 473.

[40] Ibid, 479-480.

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