

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
VIRGILIO VEGA, DEFENDANT-APPELLANT.***G.R. No. L-38002. June 29, 1983*

Ponente: RELOVA, J.

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Virgilio Vega was found guilty by the Court of First Instance of Rizal of the crime of forcible abduction with rape with one mitigating circumstance in his favor, and "pursuant to Articles 335, 342 and 48 of the Revised Penal Code he is sentenced to RECLUSION PERPETUA with the corresponding accessory penalties provided for by law, and he is ordered to indemnify Amelia Lising by way of moral damages in the amount of six thousand (P6,000.00) pesos and to pay the corresponding costs."

The People's evidence shows that in May 1967 complainant Amelia Lising, about 18 years old, was working as a "hostess" at the D'Wave Nightclub. On May 12, her work was in the day shift, but she continued working up to one o'clock in the morning of May 13. When she left the club and took a taxi, she directed the driver to take her home at Dayap Street, Buendia, Makati, Rizal. On the way, a car colored "sky blue" blocked her cab and four (4) men alighted from the car and opened the door of the taxi. One of the men hit the driver on the nape and pointed a balisong at him, while another pulled complainant out of the taxi and dragged her to the car. She shouted for help and fought back but nevertheless, the men succeeded in pushing her inside the car. As the car proceeded on its way, the men kissed her and touched the different parts of her body. There were six (6) men inside the car; three (3) were seated in front and three (3) at the rear. Four were identified by their names to be Pabling, Armando, Freddie and Virgilio, the accused in this case. They took complainant to an isolated place somewhere in Parañaque, in the vicinity of the Singer Sewing Machine factory. The men started to remove their clothes but a watchman blew his whistle and so they left the place. They transferred to another factory site and there Pabling told his companions that he would be the first to use her, he being the owner of the car. She fought back and Pabling asked help from his companions, two of whom held her feet. Pabling abused her while she was thus lying at the back seat of the car with its two doors opened. The others succeeded in having carnal knowledge of her except the sixth man who said that he was not in condition. Appellant Vega was the fourth man who abused her.

After the men were through with her, she was told to dress up and warned not to report the matter or else they would bury her alive. They got a taxi for her and left her P2.00 after they had taken the contents of the bag.

Upon reaching home, she related to her auntie and uncle what happened to her. They went to the police department in Makati where she executed a statement which was marked as Exhibit "B." She was physically examined by Dr. Mariano Cueva, a medico legal officer of the National Bureau of Investigation. Dr. Cueva found contusions and abrasions in her body and her private parts showed signs of recent sexual intercourse.

Ulpiano Cortel, the taxi driver who was with complainant Amelia Lising when the incident happened, corroborated her testimony although he declared that he was not in a position to identify any of the six abductors. However, he was able to take down the number of the car used by them which was "H-7858-Manila."

The defense was denial and alibi. Appellant Virgilio Vega testified that about six o'clock in the afternoon of May 12, 1967, he was with Teody Gavieres, Boy Astillero and Angel Diones drinking in a store at Cuenca Street. About midnight they rode in a car and proceeded to Harrison Street to attend the wake of a relative of Teody. After about thirty or forty minutes at the place, they went to Luneta in front of the grandstand to rest and to overcome their drunkenness. They were accosted by policeman Hernando Sumangil who advised them to stay quiet. They left Luneta and proceeded to Dewey Boulevard and went to a house at Durango Street. That was already about three-thirty in the morning. His companions alighted while he remained in the car and slept. About five o'clock in the morning, they all went home. After sometime a policeman arrived with complainant Amelia Lising who, when asked by the policeman if she recognized him, replied that she was not sure. Nevertheless, he was taken to the police station where he was asked to sign a statement with the understanding that he would be released thereafter.

Patrolman Hernando Sumangil testified and confirmed the claim of Virgilio Vega that the latter and his companions were at Luneta between one and two o'clock in the morning of May 13. Isabelo Mutuc also declared that Vega was at the wake in Harrison Street at past midnight of May 12. Further, Victorina Vega, mother of appellant, corroborated the claim of her son that Amelia when asked by the policeman replied that she was not sure if herein appellant was one of those who raped her.

As he was not agreeable with the decision of the trial court, Virgilio Vega appealed to this Court claiming that there was error (1) in believing and giving credence to the testimony of the complaining witness, Amelia Lising, when the same should have been completely disregarded not only because of its inherent incredibility but also because it is full of inconsistencies both by itself alone and in relation with the testimonies of the other witnesses for the prosecution; and, (2) in finding the accused-appellant guilty beyond reasonable doubt of forcible abduction with rape and in sentencing him to reclusion perpetua with the corresponding accessory penalties provided for by way of moral damages in the amount of Six Thousand Pesos (P6,000.00) and to pay the corresponding costs.

We find no cogent reasons for discarding the findings of facts of the trial court. Appellant assails the veracity of the testimony of the complainant. But what possible motive could she have in fabricating a story that would bring down on her and her family shame and humiliation and make her the object of gossip and curiosity among her co-workers at the nightclub and the people she knew. Besides, it is a fact that a public trial involving a crime of this nature subjects the victim to what can be a harrowing experience of submitting to a physical examination of her body, an investigation by the police, appearance in court for the hearing where she has to tell the details of a shameful event which she would want to forget and leave it unknown to others. If complainant Amelia forced herself to do all these and faced the cruel realities of the situation it was due to her natural instinct to speak the truth and bring to the bar of justice her evildoer.

However, appellant invited the attention of this Court to the fact that it is not possible for anyone to rape the complainant - "lying on her back at the back seat of the car, two men holding her by the legs and two others her hands while another was on top of her and sexually abusing her - like she said it happened . . ."

On this point, We agree with the Solicitor General that "considering the ages of appellant and his companions, a sexual intercourse at the back seat of a car is not a physical impossibility. Perhaps it is difficult but nevertheless it could be done. It will be remembered that hands and feet of complainant were being held by the companions of appellant (pp. 58-59, tsn., March 18, 1968). It was only complainant and the one abusing her who were in the back seat of the car; the others who were holding her hands and feet were outside the car by the door (p. 71 ts., March 18, 1968) . . ." And, We take note and fully agree with the observations of the trial court, as follows:

"This Court cannot believe what the accused and his mother declared in Court to the effect that when the accused and Amelia Lising were confronted with each other, the latter stated that she was not sure if accused

was one of those who raped her. Not only did Amelia Lising categorically state that she immediately recognized and identified Virgilio Vega when she saw him in his house (and this testimony is repeated and clarified during her cross-examination), but there is the fact that the policeman arrested Vega right there and then and brought him to the police headquarters which act is a strong indication that Vega must have been identified by Amelia Lising.

.....

"Finally, we attached some significance to certain circumstances brought out in the testimony of the accused, Vega, which somehow tally with the testimony or narration given by Amelia Lising. First is the fact that there were six men who abducted Amelia Lising, which coincides with the admission of Vega that on that particular morning he was with a group of six men, four of whom he identified by their names, while the two were friends of his companions. Second, is the fact that according to Amelia Lising the men who abducted her were drunk which again tallies with the statement of Vega that he and his companions were drunk at the time. Lastly, is the fact that accused was out in the morning of May 13 having a joy-ride in a car. Of course the accused claims that the car which he used on that morning was colored black and owned by Teody Gavieres (tsn., April 13, 1968). However, at no instance did Teody Gavieres appear in Court to show the black car and corroborate the testimony of the accused Vega. Being a good friend of Virgilio Vega, it is indeed surprising why Teody Gavieres did not testify in Court to substantiate the alibi of the accused. Was it because Gavieres was afraid that if seen by Amelia Lising the latter might positively identify him as one of her 'abductors.?' (pp. 9 & 12, Decision)

The facts as established by the evidence of the prosecution constitute the complex crime of forcible abduction with rape, with the mitigating circumstance of drunkenness because when the crime was committed, appellant was in the state of intoxication which was neither intentional nor habitual.

WHEREFORE, the judgment of conviction of appellant Virgilio Vega for the crime charged is hereby **AFFIRMED**, with costs.

**SO ORDERED.**

Teehankee (Chairman), Plana, Escolin and Gutierrez, Jr., JJ., concur.  
Melencio-Herrera and Vasquez, JJ., on leave.

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