

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROLANDO PEÑA Y CAYAS, ACCUSED-APPELLANT.***G.R. No. L-36435. December 20, 1977*

Ponente: AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/623c4ee8cc4c/>**AQUINO, J.:**

This is a case of forcible abduction with rape. The trial court convicted the accused, Rolando Peña, of rape only. It found that forcible abduction was not proven because lewd de-signs were absent in the taking by the accused of the complainant, Esther Tayag, from Ocampo Street, Caloocan City to an isolated hut in Manila Bay near Lido Beach, Noveleta, Cavite, where she was allegedly raped.

Peña, twenty-eight years old, single, a native of General Trias, Cavite, formerly a second year college student at the Feati University and a resident of 3435 A. B. Tan Street, Barrio Obrero, Tondo, Manila, was a security guard of the Hercon Security Agency, 158 Lakandula Street, Bulakeña Restaurant, North Harbor, Tondo, Manila.

Esther Tayag, twenty-three years old, single and a resident of 133 Macabalo Street, Caloocan City, was a sales girl since 1966 of the Shelton Department Store located at Carriedo Street, Quiapo, Manila, with office hours from nine o'clock in the morning to eight-thirty in the evening. She came to know Peña in April, 1971 when her friend Oscar introduced him to her at her residence. They were not sweethearts.

Peña said that his love for Esther extended up to heaven and that he was ready to marry her so that she would be his wife and would be on his side as long as he lived ("Sapagkat hanggang langit po ang pagmamahal ko sa kanya at handa ko siyang pakasalan upang maging asawa ko siya at maging kapiling ko habang buhay." (Exh. C).

As to the rape, the evidence of the prosecution consists of Peña's extrajudicial confession and the offended girl's testimony.

Peña admitted in his confession that he intimidated Esther into having sexual intercourse with him. The pertinent portion of his confession reads (Exh. C):

"19. T: Noong siya ay iyong kunan ng kanyang kapurihan o ng kanyang pagkababae, yon ba ay labag din sa kanyang kalooban o pinipilit mo lang siya? - S: Opo. Noong una noong nasa kubo kami sa laot, pinilit ko siya pero noong bandang huli ay hindi na.

"20. T: Papaano mo nakuha ang kanyang pagkababae kung labag sa kanyang kalooban? - S: Noong una ay tinakot ko siya sa pamamagitan ng tres kantos na patalim pero noong bandang huli na ay hindi na."

The medico-legal officer of the Constabulary crime laboratory at Camp Crame, who examined Esther on June 12, 1971 or three days after the first sexual intercourse, found, upon separating her slightly hypertrophic labia minora, "a congested vulvar mucosa, an abraded posterior fourchette and an elastic, fleshy-type hymen with healing lacerations at the 3 and 9 o'clock positions." Her external vaginal orifice offered moderate resistance to the introduction of the examining index finger and the virgin-sized vaginal speculum. Her vaginal canal was tight with slightly shallowed rugosities. The vaginal and peri-urethral smears were positive for gram-negative

diplococci and for spermatozoa.

According to the doctor, those findings, particularly the two lacerations which were in the process of healing, were compatible with a recent loss of physical virginity through sexual intercourse. (Exh. B).

Esther testified that in the morning of Wednesday, June 9, 1971 she boarded at Ocampo Street, Caloocan City a jeepney bound for Blumentritt Street, Manila in order to report for work. Inside the jeepney was a lone passenger who was reading a newspaper which covered his face. He turned out to be Peña. He moved to Esther's side, pointed a gun at her waist, and told her not to shout or he would kill her, or, as she testified on cross-examination, he pointed a gun at her when they were at Blumentritt Street (9 tsn Sept. 16, 1971; 21, 26 tsn Dec. 14, 1971).

The jeepney proceeded to Quiapo, Manila but did not take other passengers. When it reached Quiapo, Esther told the driver to stop but Peña, who continued to poke the gun at her right waist-line, directed the driver to proceed to Baclaran, Parañaque, Rizal. At Baclaran, the jeepney slowed down. "Two husky, dark men" allegedly boarded the jeepney. Peña told her that the two men were tough characters ("siga-siga, maton").

The jeepney proceeded to a seashore (Lido Beach, Noveleta, Cavite) where it stopped. The driver and the two men got down. As instructed by Peña, one of the men produced a boat. Peña pushed Esther into the boat and fired two shots into the water. He sat beside her in the boat. One of the men rowed the boat and brought the two to a hut in the middle of the bay. It was around ten o'clock. Peña took her inside the hut and instructed the man, who had rowed the boat, to leave and return after a while.

Inside the hut, Peña fired again his gun into the sea, then placed it on the floor, and took out a balisong (tres cantos) knife "from underneath his socks" and placed it likewise on the floor. Without any provocation, he allegedly told her: "You are a beast. Even if you shout here, you cannot do anything. No one will help you. Undress". ("Hayop ka, kahit magsisigaw ka pa rito, wala ka nang magagawa. Walang sasaklolo sa iyo. Maghubad ka.").

When Esther did not undress, Peña pointed the knife at her neck. She tried to push it aside. Peña placed the knife on the floor and removed his clothes. He took off her blouse, mashed her breasts, inserted his hand into her private organ and pulled down her shorts and panty. When Esther resisted and fought Peña, he got his gun and pointed it at her.

After some struggle, she became weak. By placing her hands away from her body and spreading out her thighs, he was able to place his penis inside her vagina and to have carnal know-ledge of her. She shouted because of the pain and later she lost consciousness.

When she regained consciousness, she saw blood on her private parts. She was scared and feeling weak. She put on her panty while Peña put on his clothes. They stayed in the hut for around five hours.

When it was already getting dark, she and Peña boarded the boat and returned to the shore. He cautioned her not to tell anything to his aunt; otherwise, he would kill her. They rode in the jeep and went to the residence of Peña's aunt at Barrio Bagbag, Rosario, Cavite. It was already dark. Peña told his aunt that he and Esther had eloped.

They went to a room upstairs. Peña locked the room and, while pointing his gun at her, removed her clothes (except her skirt), fondled her breasts, made her lie down on the floor and had sexual intercourse with her. They stayed in that room up to June 11.

In the morning of June 11, 1971, Esther asked Peña to allow her to contact her mother by long distance telephone. Peña advised her to tell her folks that she was in good condi-tion. Esther went to the house of Peña's cousin and asked her to phone her sister, Nenita Tayag. She was able to talk with the mother-in-law of her sister. She told the

latter that she was in good condition; that she was in Bagbag Street, Cavite City and that what had happened to her was not her own desire. While she was at the phone, Peña was allegedly poking a gun at her waist. The mother-in-law of her sister advised her not to leave the place where she was staying.

At noontime, Peña locked her in the room and went out. Upon his return, he removed his clothes, pointed the gun at her, caressed her body, sucked her breasts, and told her to suck his penis. She did not obey him. He had sexual intercourse with her.

Later in the day, while she was at the window, she saw her mother riding in a car with some companions. She shouted: "Mother, my God, Mother". (Inay, Dios ko, Inay".) Her mother entered the house, accompanied by policemen. They got Peña's gun and knife. Peña told her not to go with her mother because if she left him, he would be jailed. She and her mother and the policemen went to the municipal building of Rosario, Cavite. She was investigated. Peña was detained in the municipal jail.

He was later brought to Manila and investigated by the Manila police at Precinct No. 5 in Balut, Tondo, where he made an extrajudicial confession.

On June 15, 1971 a complaint for forcible abduction with rape was filed against Peña in the Court of First Instance of Manila (Criminal Case No. 5297). Esther swore to the complaint.

For having committed rape with the use of a knife and a revolver, the trial court sentenced Peña to reclusion perpetua but did not require him to pay an indemnity.

Peña contends that the trial court erred (1) in admitting in evidence his extrajudicial confession; (2) in giving credence to complainant's testimony; (3) in finding that Peña had carnal knowledge of the complainant by means of threats; (4) in finding that Peña used a gun and a knife, and (5) in convicting him.

Peña assailed the voluntariness of his confession. He testified that a Manila policeman gave him a karate blow on his back and thigh while he was in Precinct 5, Balut, Tondo.

Patrolman Florendo C. Angeles testified that Peña voluntarily recounted what had happened. The investigation was conducted in a room twenty meters long and seven meters wide. Patrolman Angeles asked Peña questions which he typed together with his answers. Angeles denied that he made threats against Peña. The trial court found that the confession was voluntary. We agree with that finding.

It should be noted that on the occasion when Peña's confession was taken, Esther Tayag was in the police precinct, where she was also investigated. She had a confrontation with Peña. She pointed to him and shouted in Tagalog: "Iyan and gumahasa sa akin. Patayin ninyo iyan. Sunugin ninyo iyan." (4 tsn Aug, 26, 1971).

Peña invoked section 20, Article IV of the 1973 Constitution which provides that "no person shall be compelled to be a witness against himself"; that "any person under investigation for the commission of an offense shall have the right to remain silent and to counsel, and to be informed of such right"; that "no force, violence, threat, intimidation, or any other means which vitiates the free will shall be used against him", and that "any confession obtained in violation" of section 20 "shall be inadmissible in evidence".

We have already held that the innovations introduced by section 20 have no retroactive effect (*Magtoto vs. Manguera*, L-37201-02, March 3, 1975, 63 SCRA 4). The confession in this case was obtained before January 17, 1973 when the present Constitution took effect. Appellant's first assignment of error is not well-taken.

Having ruled that Peña's confession was not obtained through duress, it follows that his admission therein that he raped Esther Tayag is conclusive against him. Peña's arguments in his other assignments of error, wherein he impugned complainant's credibility and contended that no weapons were used and that his guilt was not proven

beyond reasonable doubt, cannot destroy his own admission that he intimidated Esther into having sexual intercourse with himself.

We find the following conclusions of the trial court, re-jecting Peña's version, which contradicts his confession, to be correct and plausible:

"On the other hand, the statement of the accused that he did not commit the act imputed to him, is solely based upon his uncorroborated and self-serving testimony. According to his version, Ester was his sweetheart, whom he met on board a 'jeepney' in the morning of June 9, 1971; that as Ester was already late for her work, Rolando (Peña) invited her to go with him to Cavite to introduce her to his relatives; that Ester agreed but while they were already on the way, they thought of buying oysters, and accordingly they proceeded to a place near the sea-shore; that at the time, there were no oysters for sale, and so the two went boating instead and then stayed for about one-half hour in a nipa hut constructed near the oyster farm; that after passing away the time in the nipa hut, they left the place and proceeded to Barrio Bagbag, Rosario, Cavite, where at the house of the sister of his father, Rolando introduced Ester as his wife; that at 3:00 p.m., Rolando left Ester in the house of his aunt and returned to Manila, where he worked as security guard from 5:00 p.m. of June 9, 1971, to 1:00 a.m. of June 10, 1971; that early in the morning of the last date, he returned to Barrio Bagbag, Rosario, Cavite, where between 8:00 and 9:00 in the morning, with her assent, he had carnal knowledge of Ester; that before noon, Rolando and Ester went to Cavite City, where she was introduced to a cousin of the mother of the accused; that Ester tried to call his mother by long distance telephone, but she was unable to make a connection; that in the afternoon of the same day, they returned to Rosario, Cavite, where Ester was again left in the house of the aunt of Rolando Peña, who went to Manila to work as security guard; that early in the morning of June 11, 1971, Rolando returned to Rosario, Cavite, and joined Ester in the house of his aunt; that after lunch, Rolando accom-panied Ester to Cavite City, where she made another long dis-tance telephone call to Manila, and this time she was able to talk with the mother-in-law of her sister; that Ester informed that party where she was, with the request to relay the message to her mother; that in the afternoon of said date, Ester's mother, with several companions, arrived in Barrio Bagbag, Rosario, Cavite; that Ester was investigated by the police authorities of said municipality and as a result thereof Rolando was detained in its jail.

"The story given by the accused, was irrational and un-convincing. His pretension that Ester accepted his proffer of love in the morning of Holy Friday, after he visited her three times in her house, which was usually done at about 5:00 p.m. on a Sunday afternoon, could not be true. In the first place, the accused failed to produce any tangible evidence like a letter, gift, or any item which may have come from Ester indicating that they are already sweethearts.

"Besides, Rolando affirmed that he was required to re-port for work every day of the week and so had he visited Ester on two Sundays in March, 1971, he would have been absent from work for two days, and yet in the report of Hercon Security Agency to the Social Security System for said month no deduction was made from his salary (Exh. 8), thereby indicating that he worked everyday that month. Finally, it is very unlikely and hard to believe that a young man would visit the young woman he is courting especially in the morning of a Holy Friday, because to Christian Filipinos, it is a day dedicated to prayers and meditation.

"The explanation given by the accused to the effect that he invited Ester to go to Cavite to introduce her to his relatives is not worthy of credence. Even assuming that Ester was the sweetheart of the accused (which the former, however, vehemently denied), any introduction should have been made first to his parents, who reside in Tondo, Manila, for which reason there would be no need to go to Cavite.

"In the second place, any such introduction would be premature because the accused and his alleged sweetheart have not yet made any plan to get married. Moreover, it could not be true that Ester was brought to Cavite so that she would come to know the relatives of the accused, because for two days that she was in said province, she was introduced only to two of them, namely, a sister of the father of Rolando and a cousin of his mother.

"Finally, Ester was made to stay in Cavite up to June 11, 1971 and not allowed to return to Manila in the afternoon of June 9, 1971, for which reason she was not able to report for work on the 10th and 11th of said month. Evidently, the reason given by the accused for inviting Ester to go to Cavite because she was already late in going to her place of work in the morning of June 9, 1971, was not true.

"Counsel contends that the accused could not have brought Ester to the nipa hut against her will because she could easily have done something along the way which would attract the attention of other persons, thereby thwarting whatever plans the accused had. This contention, in the opinion of the Court, is not well taken. According to Ester, they were the only passengers on board the jeepney and the accused had the barrel of a revolver pointed against her right waistline.

"Ester is a nervous and easily scared type of individual, and so upon being threatened with a deadly weapon, she lost her composure so much so that what she did was merely to cry and cover her face with a handkerchief. Besides, Ester became more helpless when two 'husky and dark' men boarded the 'jeepney' somewhere in Baclaran, and she was informed by the accused that they are 'tough' thereby making it more difficult, if not to say impossible, for her to make any attempt to escape or run away.

"Another circumstance which persuaded the Court into giving more credence to the testimony of Ester than to that of the accused, was the reaction of the former when asked to identify the person who abducted and raped her and she had to look in the direction where the accused was seated in the Court room. Ester immediately became hysterical, and uttered words of indignation and condemnation against the accused, which reached a high pitch and then she collapsed and lost consciousness. This happened on several occasions so much so that the trial had to be suspended for half an hour or transferred to another date because Ester was visibly in no condition to give further testimony."

The result is that the fact of the commission of the rape or the corpus delicti was proven by the testimony of Esther Tayag and the medical certificate and testimony of the medico-legal officer of the Constabulary crime laboratory.

Appellant's voluntary extrajudicial confession, that he raped Esther, was, therefore, corroborated by evidence of the corpus delicti (Sec. 3, Rule 133, Rules of Court).

We also agree with the trial court that the crime of forcible abduction was not proven. Complainant's story as to how she was abducted contains improbabilities, such as that the jeepney, wherein she was riding, made no stops during its trip from Blumentritt Street to Quiapo and that she did not remember the streets traversed by the jeepney.

Although the forcible abduction, which was supposedly commenced in Manila, was not proven and although the rape, which was proven, was actually committed in Cavite, still the Court of First Instance of Manila had jurisdiction to convict the accused of rape.

The complex crime of forcible abduction with rape was charged in the complaint on the basis of which the case was tried. That complex crime is a transitory offense. The Court of First Instance of Manila had jurisdiction over that complex crime because an essential element of the abduction took place in Manila (Sec. 14, Rule 110, Rules of Court; *Parulan vs. Rodas and Reyes*, 78 Phil. 855; *People vs. Parulan*, 88 Phil. 615; *Parulan vs. Director of Prisons*, L-28519, February 17, 1968, 22 SCRA 638; *U. S. vs. Bernabe*, 23 Phil. 154, 159).

Moreover, the averments in the complaint or information characterize the crime to be prosecuted and the court before which it must be tried (*Balite vs. People*, L-21475, September 30, 1966, 18 SCRA 280, 288). The complex crime of forcible abduction with rape was explicitly spelled out in the complaint of Esther Tayag.

Rape committed with the use of a deadly weapon is punished by reclusion perpetua to death. There being no

aggra-vating nor mitigating circumstances, the trial court correctly imposed reclusion perpetua on defendant-appellant Peña (Arts. 63[2] and 335, Revised Penal Code, as amended by Republic Act No. 4111).

The trial court overlooked the imposition of an indemnity or civil liability which is mandated in articles 100, 104(3), 107 and 345(1) of the Revised Penal Code. An indemnity of twelve thousand pesos should be imposed on Peña (People vs. Gonzales, L-33926, July 31, 1974, 58 SCRA 265, 271; People vs. Amiscua, L-31238, February 27, 1971, 37 SCRA 813).

WHEREFORE, the trial court's judgment is affirmed with the modification that appellant Peña should pay to Esther Tayag an indemnity of P12,000. Costs against the appellant.

SO ORDERED.

Barredo, (Acting Chairman), Antonio, Concepcion, Jr., and Guerrero*, JJ., concur.
Fernando and Santos, JJ., on leave.

* J. Guerrero was designated to sit in the Second Division.

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.