

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
MAURICIO SARILE, DEFENDANT AND APPELLANT.***G.R. No. L-37148. June 30, 1976*

Ponente: FERNANDO, J.

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The sexual abuse alleged to have been committed on the person of Jane de la Paz, then fourteen years of age, led to the prosecution and thereafter the conviction of Mauricio Sarile, now appellant, for the crime of rape. While the defense interposed at the trial was alibi, his brief would rely on the claim that the constitutional presumption of innocence had not been overcome.[1] There is no question as to the physical act of intercourse having taken place. Complainant became pregnant and was thereafter delivered of a child. It could be that the apprehension that the plea of alibi was hardly persuasive resulted in the claim on appeal that there was consent on her part. If true, no prosecution would lie. The lower court, after an extremely careful study of the evidence presented, found that the sexual act took place as narrated by the complainant, with her will to resist paralyzed by the actuation of appellant, who likewise threatened to kill her if she would not do his bidding or thereafter reveal what happened. The time came, however, when her pregnancy became obvious. The whole sordid story then came to light. The lower court was convinced that she told the truth. So is this Court after a careful study of the evidence of record.

The version of the prosecution lent credence by the lower court follows: Jane de la Paz, the offended party, and appellant Mauricio Sarile, her second cousin, were living in the same compound in Paco, Manila but in different houses.[2]

On the afternoon of September 5, 1971, at about 1:00 o'clock, Jane with two companions, Danilo and Marilyn Roxas, fourteen and twelve years old respectively, went to appellant's house to watch television.[3] Appellant's wife with their child went to Baclaran to visit her parents, but appellant stayed behind.[4] Shortly afterwards, the Roxas children left as they were called by their mother, thus leaving Jane and appellant alone.[5] He then closed the windows and locked the door.[6] After which, he dragged Jane to a nearby bed, covered her mouth with a handkerchief and placed both her hands around her nape.[7] In spite of the resistance put up by Jane, appellant Mauricio was able to raise her dress, to bring down her panties, to place his legs between hers and to have sexual intercourse with her.[8] She could not shout as she was threatened with death if she did so. Later, Jane was allowed to go out of the house but was warned that if she told anybody of the incident, he would kill her.[9] At the time of the incident, she was less than fifteen years old, as she was born on January 28, 1957.[10] In the following month of October 1971, Jane began to feel severe headaches which lasted up to March, 1972.[11] She was given Medicol by her mother to relieve the pain.[12] Due to her recurrent severe headaches and continued dizziness and weakness, however, she was brought by her mother to a physician in Pasay City on March 28, 1972.[13] The examination disclosed that she was pregnant.[14] When questioned whether she was married, she answered that she was single.[15] When asked who the father of the child is, Jane named her cousin Mauricio Sarile.[16] Her mother, upon being told that her daughter was pregnant, wept and continued to cry even after reaching home.[17] The following day, appellant, who was informed that the mother knew what happened, went to the house of Jane

to ask forgiveness from her parents.[18] Her mother refused and instead instituted the complaint for rape against appellant.[19] He was asked why he did it, and his answer was nagdilim siya.[20] Jane was examined by the Medico-Legal Officer of the National Bureau of Investigation.[21] On June 13, 1972, she gave birth to a baby boy.[22]

In the well-written decision convicting the accused, penned by the then Judge, now Associate Justice of the Court of Appeals, Lorenzo Relova, there was a painstaking analysis of the evidence for both the prosecution and the defense. As noted, appellant would exculpate himself by relying on the defense of alibi. He did not deny his presence in the neighborhood, but he claimed to have been playing mahjong. He called five witnesses but three of them, Edmundo Dikit, Rodolfo Pania, and Rogelio de la Paz, all residents in the same compound, were not even cross-examined as all they could testify to was that Jane de la Paz never told them that she was raped by appellant. Another witness, Felix Nanit, also a resident in one of the houses in such compound, when asked whether he was playing mahjong during Sundays of September 1971, could only say "maybe, sir." [23] When the trial court noted that he was not even sure that he played during Sundays of September that year, he was candid enough to acknowledge "I am not sure sir." [24] Ignacio de la Rosa, another defense witness, living a block away from the place of the appellant, [25] could only assert that from eleven in the morning to ten o'clock in the evening they would play mahjong near the house of appellant who was the maintainer of such games. It is understandable, therefore, why there was no affirmative response on the part of the then Judge Relova. As was succinctly put in the recent case of *People vs. Cudalina*: [26] "It suffices to state that this Court when confronted with the defense of alibi in rape cases has invariably found it unconvincing and unsatisfactory." [27] It is equally understandable then why counsel for appellant, Attorney Jose T. Cabaddu, who submitted a carefully-prepared brief, would rely on the alleged failure of the evidence for the prosecution to overcome the constitutional presumption of innocence. As was made clear at the outset, an intensive scrutiny of the records of the case justifies the conclusion that the conviction for rape must stand, the guilt having been proved beyond reasonable doubt.

1. The testimony of complainant as to how the offense was committed was clear, concise, categorical. Thereafter, she was subjected to a thorough, searching and intensive cross-examination. She stood firm. Her story held. It was not at all discredited. What was said in the first reported case on rape, *United States vs. Ramos* [28] referred to by the lower court, has relevance: "When a woman testifies that she has been raped she says, in effect, that all that is necessary to constitute the commission of this crime has been committed. It is merely a question then, whether or not this court accepts her statement." [29] That was in 1901. That has been the rule since then. Only two years ago, in *People vs. Royeras*, [30] it was reiterated in well-nigh identical language.

2. Nor is the credibility that attaches to complainant's narration weakened by the assertion of the inadequacy of the force exerted on her. In another early decision, *United States vs. Villarosa*, [31] promulgated in 1905, this Court, through Justice Torres, held: "It is a doctrine well established by the courts that in order to consider the existence of the crime of rape it is not necessary that the force employed in accomplishing it be so great or of such character as could not be resisted; it is only necessary that the force used by the guilty party be sufficient to consummate the purpose which he had in view. (Judgment May 14, 1878, supreme court of Spain.)" [32] There is this similar ruling in *People vs. Momo*: [33] "It need not be irresistible; it need but be present, and so long as it brings about the desired result, all consideration of whether it was more or less irresistible is beside the point." [34] As restated in the recent decision of *People vs. Savellano*, [35] penned by Justice Aquino: "The force or violence necessary in rape is naturally a relative term, depending on the age, size, and strength of the parties and their relation to each other." [36] What is essential is that the act was accomplished against the will of the aggrieved person and in spite of her resistance. So it was in this case.

3. An excerpt from the opinion of Justice Moreland, *United States vs. Estrada*, [37] lends further support to the

conclusion reached by us: "The commission of the crime at the place, at the time, and in the manner charged is not impossible and, although the charge that it was so committed may be unreasonable, still such unreasonableness may be overcome by the direct and positive testimony of unimpeachable witnesses. From the evidence before him the learned trial court found that the witnesses for the prosecution were telling the truth in their relation of the story of the case and that the facts occurred substantially as they stated them. We have held on many occasions that 'this court will not interfere with the intelligent conclusion of a trial court concerning the credibility of witnesses, the court having seen the witnesses in the act of testifying and having carefully observed their manner and demeanor as witnesses, unless the record discloses that some fact or circumstance of weight and influence has either been overlooked by the court or has been misapprehended or misinterpreted.'"[38] There is no such showing in this case, notwithstanding the valiant efforts of counsel for appellant to create such an impression.

4. The vigorous plea for the reversal of the decision reached thus must be denied. There is in this case that quantum of proof necessary for the constitutional pre-sumption of innocence to be overcome.

WHEREFORE, the decision of June 23, 1973, finding appellant guilty beyond reasonable doubt of the crime of rape and sentencing him to the penalty of reclusion perpetua, to indemnify complainant in the sum of P5,000.00, to support the child Jesus Romel de la Paz in the sum of P100.00 a month until he reaches the age of majority and to pay the costs, is affirmed.

Barredo, Antonio, Aquino, and Martin, JJ., concur.

Concepcion, Jr., J., is on leave.

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

[2] T.s.n., Session of September 13, 1972, 4.

[3] Ibid, 4-5.

[4] Ibid, 5-6.

[5] Ibid, 6.

[6] Ibid, 7.

[7] Ibid, 9.

[8] Ibid, 10.

[9] Ibid, 11.

[10] Ibid, 3.

[11] Ibid, 12-13.

[12] Ibid, 13.

[13] Ibid, 13-14.

[14] Ibid, 14.

[15] Ibid, 15.

[16] Ibid.

[17] Ibid.

[18] Ibid, 15; Session of September 5, 1972, 10-11.

[19] Ibid, 16; Session of September 5, 1972, 11.

[20] Ibid, 17.

[21] Ibid, 18.

[22] Ibid, 17; Session of September 5, 1972, 16-17.

[23] Ibid, 22.

[24] Ibid.

[25] Ibid, Session of December 1, 1972, 5.

[26] L-34969, April 29, 1975, 63 SCRA 499.

[27] Ibid, 507. Fifteen decisions from *People vs. Sardoma*, 79 Phil. 607 (1947) to *People vs. Baylon*, L-35785, May 29, 1974, 57 SCRA 114, were cited.

[28] 1 Phil. 81 (1901).

[29] Ibid, 82.

[30] L-31886, April 29, 1974, 56 SCRA 666.

[31] 4 Phil. 434.

[32] Ibid, 437.

[33] 56 Phil. 86 (1931).

[34] Ibid, 87 citing *V Viada*, 5th ed., 224.

[35] L-31227, May 31, 1974, 57 SCRA 320.

[36] Ibid, 328.

[37] 24 Phil. 401 (1913).

[38] Ibid, 406. Cf. *U.S. vs. Bay*, 27 Phil. 495 (1914); *U.S. vs. Claro*, 32 Phil. 413 (1915); *People vs. Blance*, 45 Phil. 113 (1923); *People vs. Sasota*, 52 Phil. 281 (1928); *People vs. Lomibao*, 55 Phil. 616 (1931); *People vs. Manaba*, 58 Phil. 665 (1933); *People vs. Segura*, 60 Phil. 933 (1934); *People vs. Luneta*, 79 Phil. 815 (1948); *People vs. Jore*, 93 Phil. 1017 (1953); *People vs. Selfaison*, 110 Phil. 839 (1961); *People vs. Angcap*, L-28748, Feb. 29, 1972, 43 SCRA 437; *People vs. Carandang*, L-31012, Aug. 15, 1973, 52 SCRA 259; *People vs. Cudalina*, L-34969, April 29, 1975, 63 SCRA 499.

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