

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDMUNDO BABASA, ACCUSED WHOSE DEATH SENTENCE IS UNDER REVIEW.

G.R. No. L-38072. May 17, 1980

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/7fd21ee83d4e/>

PER CURIAM:

This is a review en consulta of the judgment of the Court of First Instance of Albay, convicting Edmundo Babasa of forcible abduction with rape, sentencing him to death and ordering him to pay to Magdalena Bermas moral damages amounting to three thousand pesos (Criminal Case No. 158).

At about five o'clock in the afternoon of October 4, 1970 Magdalena Bermas, 18, after watching a movie in the Plaza Theater, in Daraga, Albay, boarded the tricycle of Edmundo Babasa, 30, and directed him to take her to the residence of Aida de Lumen in the Guevarra Subdivision in Daraga where Magdalena worked as a housemaid.

After the tricycle had traversed a short distance, two men boarded it. One of the men sat beside Magdalena and the other sat behind the driver, Babasa. The man sitting beside Magdalena poked a knife at her and warned her to re-main silent. Babasa drove the tricycle in the direction of the Esso Gas Station. Babasa and the two men were laughing while he was driving the tricycle. Magdalena shouted and asked why she was not being taken to the Guevarra Subdivision. The man beside her again warned her to keep silent if she de-sired to remain alive.

Magdalena was brought to the spillway at Barrio Bini-tayan, Daraga where the two men tried to get her out of the tricycle by dragging her by the hand. She pleaded with Babasa to stop the two men from taking her out of the tricycle. Babasa just laughed and did not heed her pleas.

Babasa then drove the tricycle on the road leading to the airport. Magdalena all the while shouted for help. It was already nighttime. The tricycle stopped when Babasa announced that it had run out of gas. When Magdalena saw an old man, she shouted to him for help but when the latter tried to rescue her, Babasa started the tricycle. While it was in motion, the man beside her inserted his hand under her T-shirt and touched her nipples.

Babasa took the tricycle to Sampaguita Street, Albay, the town which is next to Daraga and is near Legaspi City. There, he stopped the tricycle to fix its tire. She was told to alight from the tricycle. The man beside her continued poking his knife at her. He and Babasa warned her not to shout because that place was their "territory". After the tire was fixed, Babasa retraced his route and returned to the spillway in Binitayan. There, Magdalena was forced to get out of the tricycle. It was then about eight o'clock in the evening.

The three malefactors removed her jeans, T-shirt, shoes and panty. They (including Babasa) forced her to lie down on the grass, near the bank of the Yawa River. They took turns in having sexual intercourse with her. Babasa was the third person to have sexual intercourse with her. While one was ravishing her, the other two held her shoulders and covered her mouth with their hands. Each of the three men had sexual intercourse with her two times, meaning "they inserted their penis inside her vagina". Then, they told her to put on her clothes. The laps of her jeans were torn.

After she had dressed up, a fourth man appeared. Babasa asked him if he wanted to have carnal intercourse with Magdalena. She pleaded with him not to violate her because she was already weak. She felt pain all over her body. The stranger desisted.

Thereafter, Babasa brought Magdalena to the Bicol Teachers College where she was told to alight and was warned not to reveal anything; otherwise, she, her parents and guardian would be liquidated.[1]

On arriving at the house of her employer, Aida de Lumen, she recounted to the latter her horrible experience in the hands of Babasa and his two companions. On the following day, Aida brought her to the police station where the chief of police took her statement which was sworn to before the municipal judge. On October 6, or two days after the incident, her complaint for "abduction with rape", duly signed by her and sworn to before the municipal judge, was filed in the municipal court.

A doctor examined Magdalena on that same date, October 6, and found plenty of mucous discharges or secretions inside her vaginal canal which were a consequence of sexual intercourse. He also found multiple contusions (lamog) around her fourchette or vulva and lacerations in her vagina at the four o'clock and six o'clock positions. Her vagina admitted one finger easily and two fingers snugly. She had multiple contusions on the shoulders (infrascapular region).

A microscopic examination of the substance taken from her vagina was positive for the presence of sperm cells. The doctor testified that the lacerations, which were fresh, could have been caused by a hard object like the stiff male organ.

At the trial, Babasa (a married man and a resident of Barrio Binitayan, Daraga who finished first year high school) testified that on October 4, 1970, at about five o'clock in the afternoon, Magdalena, together with two men, boarded his tricycle in front of the Plaza Theater, at Daraga. She seated herself at the extreme right of the carriage of the tricycle. One man seated himself between her and Babasa while the other man seated himself behind the accused.

The man beside the complainant told Babasa to drive the tricycle around Lakandula Drive, Daraga. While they were going to Lakandula Drive, that man and Magdalena were allegedly laughing and joking with each other. When they reached Lakandula Drive, Babasa was told to proceed to Washington Drive and then to the national road. Thereafter, they went to Balagtas Street. While they were at Balagtas Street, Babasa noticed that one tire of the tricycle had a blowout. He requested Magdalena and the two men to alight so that he could change the tire.

While he was changing the busted tire near a lighted electric post, Magdalena and her two male companions were seated on the sidewalk near the said electric post. They were conversing and allegedly telling stories to each other. Several persons were watching him while he was changing the tire and there were also many passersby.

After Babasa had changed the tire, Magdalena and the two men again boarded his tricycle. Babasa drove it, as directed by his passengers, towards the spillway at Binitayan. His passengers told him to wait for them because they were going to a certain place.

As instructed, he waited for them, and after an hour, Magdalena and the two men returned and boarded his tricycle. Babasa was directed to bring them to Guevarra Subdivision. While they were on the way to that place and upon reaching the Bicol Teachers College, Magdalena and the two men alighted from the tricycle. One of the men handed him thirty centavos as payment for the fare.

Babasa said that before October 4, 1970, he did not know Magdalena and the two men who rode with her in his tricycle. He was unable to ascertain the identities of those two men because in the afternoon of October 5, 1970,

he was arrested. He said that he was implicated in the case because Magdalena's two companions could not be located.

Leon Belmonte and Quirina Batalla, corroborating Babasa's alibi, testified that while waiting for the three passengers who went to the spillway, Babasa chatted with Belmonte and Batalla in the latter's store. Babasa in his testimony and affidavit did not mention Batalla's store nor declare that he conversed with Belmonte while waiting for the three passengers.

It is relevant to mention that after his arrest or on the day following the incident Babasa executed a sworn statement wherein he admitted that the two passengers of his tricycle raped Magdalena; that while the rape was being perpetrated, he, Babasa, remained seated on his tricycle; that the two men, after raping Magdalena, asked Babasa to have carnal intercourse with Magdalena but he "did not do it" and that one of the rapists resided near the spillway at Binitayan where Babasa also resided (Exh. D-1). Babasa never questioned that his statement was freely executed.

Counsel de oficio contends that, because the criminal complaint signed by Magdalena does not allege the offense of forcible abduction, the trial court had no jurisdiction to convict Babasa of forcible abduction with rape. That contention is not well-taken.

It is predicated on the provision of article 344 of the Revised Penal Code that "the offenses of seduction, abduction, rape or acts of lasciviousness, shall not be prosecuted except upon a complaint filed by the offended party or her parents, grandparents, or guardian".

In the complaint signed by Magdalena it was alleged that she was accusing Babasa and his two companions "of the crime of abduction with rape". However, in the body of the complaint the elements of forcible abduction were not specified. It was simply alleged therein that the accused took Magdalena "with their tricycle to Binitayan, Daraga" "and by means of force and intimidation, willfully, unlawfully and feloniously had succeeded in having carnal knowledge of" Magdalena "for several times".

Evidently, the complaint was not prepared by a lawyer. Only the crime of rape was sufficiently alleged. But in the information filed by the fiscal, it was explicitly indicated that Babasa and his two companions were being charged with forcible abduction with rape. The elements of the two offenses, constituting a complex crime, were adequately specified.

Counsel de oficio argues that the trial court acquired jurisdiction to try Babasa only for the crime of rape but not for forcible abduction since the ingredients of the latter offense were not alleged in the complaint although sufficiently spelled out in the information. Counsel relies on *People vs. Oso*, 62 Phil. 271.

Although in Magdalena's complaint the elements of forcible abduction were not alleged, nevertheless, in her sworn statement, on which that complaint was based and which statement forms part of the record, the ultimate facts constituting forcible abduction were clearly set forth.

So, at the second stage of the preliminary investigation, Babasa could have easily ascertained that he was being charged not only with rape but with forcible abduction as well. As already stated, the fiscal in his information specifically accused Babasa of the complex crime of forcible abduction with rape. He was duly apprised at the outset of the nature of the accusation against him.

The matter may be viewed from another angle. Article 344 requires a complaint of the offended party in crimes against chastity out of consideration for the offended woman and her family who might prefer to suffer the outrage in silence rather than go through with the scandal of a public trial (*Samilin vs. Court of First Instance of*

Pangasinan, 57 Phil. 298, 304). The law deems it the wiser policy to let the ag-grieved woman and her family decide whether to expose to public view or to heated controversies in court the vices, faults and disgraceful acts occurring in the family (U. S. vs. Bautista, 40 Phil. 735, 743).

Article 344 was not enacted for the specific purpose of benefiting the accused. When it is said that the requirement in article 344 (that there should be a complaint of the offended party or her relatives) is jurisdictional, what is meant is that it is the complaint that starts the prosecutory proceeding. It is not the complaint which confers jurisdiction on the court to try the case. The court's jurisdiction is vested in it by the Judiciary Law (Valdepeñas vs. People, L-20687, April 30, 1966, 16 SCRA 871).

The issue is whether Babasa's guilt as a co-principal in the complex crime of forcible abduction with rape was established beyond reasonable doubt.

The trial court gave credence to the prosecution's version because (1) Magdalena revealed at once to her employer the outrage which she had suffered, an act constituting part of the *res gestae*; (2) she testified in a frank and straightforward manner; (3) she identified Babasa as one of the rapists on the day following the incident when she gave her statement and after Babasa was arrested; (4) Babasa did not mention in his testimony the declaration of his two witnesses that he supposedly talked with one of those witnesses while waiting for his three passengers and (5) the round-about route followed by the tricycle was an indication that Babasa and his co-conspirators were waiting for the mantle of darkness to facilitate the consummation of the rape.

The trial court rationalized that Magdalena would not have allowed her private part to be examined if she had not been raped and that it was not probable that she would have filed a trumped-up charge against Babasa.

Counsel de oficio contends that Magdalena's version is highly improbable and untrustworthy because she did not make a sufficient outcry to attract attention nor try to escape from the clutches of her captors.

But, as observed by the Solicitor General, "the constraint produced by fear of great bodily harm or danger to life or limb had clearly overcome her will to summon help".

Magdalena and her employers, the Lumen spouses, lost no time in denouncing the outrage which she had suffered. Through the assistance of former Mayor Vicente Jaucian of Daraga, Babasa was apprehended and investigated. In his sworn statement, he admitted that the two passengers of his tricycle detained and raped Magdalena. His pretension that he had no complicity in the rape and that he was merely a spectator is unbelievable especially considering that his tricycle was used for more than three hours and he was paid only thirty centavos or less than ten centavos an hour.

The conduct of Babasa and the two male passengers, who are at large, reveals that there was a conspiracy or community of design among them to perpetrate the crimes charged. There was forcible abduction (*rapto de una mujer contra su voluntad*) because Magdalena was detained against her will with lewd designs (*miras deshonestas*). Her testimony that Babasa and his two companions committed rape (*violacion*) because they had sexual intercourse with her by using force and intimidation has the earmarks of credibility.

Since the forcible abduction was used as a means of committing six rapes in an isolated place under the cover of night, the offenses constituted the complex crime of forcible abduction with rape, aggravated by nocturnity and use of a motor vehicle and without any mitigating circumstance.

Rape committed by two or more persons is punished by reclusion perpetua to death while forcible abduction is punished by reclusion temporal. The penalty for rape, as the more serious offense, should be imposed in its maximum period, meaning that the greater penalty, which is death, should be imposed (Arts. 48, 63[1], 335 and

342, Revised Penal Code).

Rape used to be punished by reclusion perpetua only.

In 1960, Republic Act No. 2632 increased to reclusion temporal maximum the penalty for rape committed by two or more persons. In 1964, Republic Act No. 4111 increased the penalty for that offense to reclusion perpetua to death or made it a capital offense.

Note that the mere detention of a female person is regarded as kidnapping and serious illegal detention and is punishable by reclusion perpetua to death (Art. 267 of the Revised Penal Code as amended by Republic Acts Nos. 18 and 1084).

In the instant case, the crime is not merely kid-napping but detention of a female with lewd designs and then repeatedly raping her.

The severity of the penalty for rape shows the legis-lative intention to curb the rampancy of that sexual offense after the war and to protect women against the unbridled bestiality of persons who cannot control their libidinous proclivities.

WHEREFORE, the trial court's judgment is affirmed with the modification that the indemnity of three thousand pesos is increased to twelve thousand pesos. Costs de officio.

SO ORDERED.

Makasiar, Antonio, Aquino, Concepcion, Jr., Fernandez, Guerrero, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.

Barredo, J., this decision settles the point that the affidavit of the offended party, if it is part the needed, constitutes such of the complaint of the offended party require by law.

Fernando, C.J., and Teehankee, J., are abroad.

[1] Magdalena's version on the witness stand is subs-tantially the same as the story which she narrated to the po-lice. She said in her statement in the Bicol dialect, which was translated as follows (Exh. C-1):

"I was brought there near the Esso (gas station) and the tricycle was going around.

"When I boarded the tricycle, I was threatened with a knife in the stomach, and I told them that that is not the way to Guevarra Subdivision. But the man who is pointing his knife said that we were just going around and after that I can go home but they did not bring me to the Guevarra Subdivision but, instead, the tricycle went around again and brought me at a certain street and then go back and go straight to Albay (town).

"When I was inside the tricycle, the man beside me was beginning to touch my body and was stretching my T-shirt but my T-shirt was not stretched. So, he put his hand through my neck and he held my nipples.

"When his hand was being removed from my nipples, I told them that I was going to jump from the tricycle but the man beside me was pointing again the knife towards me and the man who is driving the tricycle stopped the tricycle and said that there was no gasoline.

"When I saw a man walking on the street, I called for help but when I called for help the man driving the tricycle let the tricycle go and the man beside me said that when that man would go to help, they would kill him and then he kissed me.

"When we reached Albay (town), we go straight to Sampaguita Street and repaired the tricycle. When we left there, we went to BTC (Bicol Teachers College). After BTC, we returned to Albay (town) the same way as

before and then returned to Binitayan, Daraga.

"When we reached there, I asked them what they were going to do with me because they stopped there at the dark place. They held my hands and let me follow them. Because I was not moving, they pulled me. The two men held my hands but when I shouted, they covered my mouth. So, I got nervous.

"So, they removed my T-shirt and my jeans and also my panty. I was kissed and having (been) done wrong by the man beside me in the tricycle.

"After that, the other man again did something wrong to me. And after the second man, the third man, who was the driver of the tricycle, did something wrong to me. x x x.

"He is the third man that had done wrong against me. (Affiant pointing to Edmundo Babasa who was present at the police department.)

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.