

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FELIPE AMIT, VALENTIN SALA, QUIRIMON PEDRANO &
FULDARICO REYES (AT LARGE), DEFENDANTS-APPELLANTS.**

G.R. No. L-30102. February 27, 1971

Ponente: DIZON, J.

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DIZON, J.:

Felipe Amit, Valentin Sala, Quirimon Pedrano and Fuldarico Reyes were charged with rape in the Court of First Instance of Masbate where, after a trial upon a plea of not guilty (except as to Reyes who had remained at large up to that time), judgment was rendered as follows:

"WHEREFORE, the Court is of the opinion and so holds that the prosecution has proven beyond reasonable doubt the guilt of the accused Felipe Amit as principal by direct participation in the commission of the crime of rape against Divina Niez on the night of May 27, 1965, at sitio Mambog, barrio Buracan, Municipality of Dimasalang, Province of Masbate, as charged in the information, penalized by paragraph 3 of Article 335 of the Revised Penal Code as amended by Republic Act No. 4111 with Reclusion Perpetua; likewise the prosecution has proven beyond reasonable doubt the guilt of the accused Valentin Sala and Quirimon Pedrano as accomplices in the commission of the crime of rape necessarily included in the crime as charged in the information, penalized by Article 52 pursuant to Articles 18 and 71 of the Revised Penal Code, with Reclusion Temporal. There being no aggravating nor mitigating circumstances proven in the commission of the crime, accused Felipe Amit is hereby sentenced to suffer the penalty of RECLUSION PERPETUA, and to pay the amount of Six Thousand (P6,000.00) Pesos, to the victim Divina Niez without subsidiary imprisonment in case of insolvency; and applying the indeterminate sentence law, accused Valentin Sala and Quirimon Pedrano are hereby sentenced to suffer imprisonment from EIGHT (8) YEARS and ONE (1) DAY medium of prison mayor to FOURTEEN (14) YEARS, EIGHT (8) MONTHS, and ONE (1) DAY medium of reclusion temporal, to pay the victim Divina Niez the amount of Three Thousand (P3,000.00) Pesos each, without subsidiary imprisonment in case of insolvency; and accused Felipe Amit, Valentin Sala and Quirimon Pedrano, to pay three-fourth of the costs. Pursuant to Section 4, Rule 114 of the Rules of Court, the bailbond posted by said accused for their provisional liberty is cancelled and their commitment to jail is hereby ordered."

On the basis of the evidence presented by the prosecution and the defense, the trial court found the following facts to have been established:

In the evening of May 27, 1965, Divina Niez, 16 years old, single and a resident of barrio Pagyaman, Uson, Masbate, and her niece Elizalde Bocado were selling soft drinks, beer, bread and cigarettes in a place in sitio Mambog, barrio Buracan, Municipality of Dimasalang, Masbate, where a "fiesta" was being held. At about midnight, Divina retired to a uninhabited house, located about twenty meters away from her stall, belonging to one Filemon Humapao, where she fell asleep on a bench. Soon thereafter she woke up and found herself being lifted therefrom by Sala, Pedrano, Amit and Reyes - whom she all knew - and was laid on the floor. Once she was in that position, Amit tore her panty and lay on top of her, while Pedrano held her legs apart, Sala held her shoulders, and Reyes covered her mouth with a piece of cloth thus preventing her from shouting for help. As a

result, Amit succeeded in having sexual intercourse with her.

At about that time, her niece Elizalde Bocado became sleepy and leaving their wares to Lucina Niez, sister of Divina, followed the latter to the uninhabited house of Humapao. On becoming aware of the presence therein of appellants and Reyes, she shouted: "What are you doing here?," in view of which they all fled through the window.

Thereafter, Divina and Elizalde returned to their stall and after gathering the things that they had for sale went home to barrio Pagyaman, some two kilometers away. Early that morning, Divina revealed to her father what had been done to her, and later that same morning, both reported the matter to Juan Diola, barrio captain of Buracan, and asked him to bring the case to the attention of the authorities of the Municipality of Dimasalang. Father and daughter also complained to Dionisio Mijares, Chief of Police of Dimasalang, who suggested that Divina submit herself to a physical examination by Dr. Jose de Vera, municipal health officer of the town. This she did, and the physician found that she had a slight swelling of the labia majora, multiple contusions with abrasions all over the body and slight cervical laceration (Exh. C). Thereafter, she was questioned in the office of the Chief of Police where her written statement was taken, and on June 3, 1965, appellants and Reyes were duly charged with rape in a complaint subscribed by the offended party.

Appellants now pray for their acquittal, claiming that the trial court committed the following errors:

"I

THAT THE JUDGMENT OF THE LOWER COURT BEING APPEALED, IS NULL AND VOID, THE SAME BEING CONTRARY TO LAW.

II

THE TRIAL COURT ERRED IN GIVING CREDIT TO THE TESTIMONIES OF PROSECUTION WITNESSES DIVINA NIEZ AND ELIZALDE BOCADO WHICH ARE FULL OF INCONSISTENCIES, INHERENT IMPROBABILITIES, INCONSISTENT WITH HUMAN BEHAVIOR AND EXPERIENCE AND AGAINST THE NATURAL COURSE OF THINGS.

III

THE TRIAL COURT ERRED IN NOT CONSIDERING THE FLIGHT OF ACCUSED FULDARICO REYES WHICH TEND TO SHOW THAT HE SAID ACCUSED WAS THE SOLE PERPETRATOR OF THE CRIME ALLEGED AND IMPUTED UPON THE APPELLANTS.

IV

THE TRIAL COURT ERRED IN NOT TAKING INTO CONSIDERATION, EXHIBITS "3" AND "3-A", THE STATEMENT OF THE OFFENDED PARTY, DIVINA NIEZ MADE BEFORE THE BARRIO CAPTAIN OF BURACAN, DIMASALANG, MASBATE, STATING AMONG OTHERS THAT IT WAS FEDERICO REYES WHO ABUSED HER.

V

THE TRIAL COURT ERRED IN DECLARING THAT THE DEFENDANTS-APPELLANTS FAILED TO PROVE MOTIVE ON THE PART OF PROSECUTION WITNESSES TO FALSELY TESTIFY AGAINST THEM.

VI

THE TRIAL COURT ERRED IN CONVICTING THE APPELLANTS OF THE CRIME CHARGED AGAINST THEM, THEIR GUILT NOT HAVING BEEN PROVEN BY THE PROSECUTION BEYOND REASONABLE DOUBT."

Appellants' contention in the first assignment of error is that the appealed decision is void because, in violation of the provisions of Article VIII, section 12 of the Constitution of the Philippines and of section 2, Rule 120 of the Rules of Court, it does not contain "an analysis and/or make a finding upon all the evidence adduced by both parties" and does not state (a) the legal qualification of the offense charged, the aggravating or mitigating circumstances attending the alleged commission thereof, and (b) the participation of each of the appellants in the commission of the crime.

Perusal of the appealed decision readily shows, however, that it satisfies the above-mentioned legal provisions as it clearly gives the proper qualification - Rape - for the offense charged; it makes a sufficiently clear statement of the evidence presented by the prosecution and the defense and of the facts which, in the opinion of the trial judge, were established beyond doubt.

That the appealed decision does not contain a detailed narration of all the facts testified to by each and everyone of the witnesses for the defense but instead considered their testimonies as a whole as tending to establish the defense of alibi - which was, in fact, appellants' main defense - does not make said decision fatally defective. In fact, we believe that the alleged defect constitutes no irregularity at all.

The remaining assignments of error raise, in general, the question of credibility of the prosecution witnesses and the sufficiency of their testimonies to prove appellants' guilt beyond reasonable doubt.

In the first place, appellants claim that the testimony of the complaining witness, Divina Niez, and of her niece, Elizalde Bocado, is unreliable because it is full of inconsistencies and of inherent improbabilities. This we find to be groundless. Whatever variance or contradictions may be found in their respective testimony is merely on details that do not affect their credibility and the substance of their statements in open court.

Next, appellants claim that they could not have committed the crime charged in a house almost surrounded by improvised stalls and situated near the place where a dance was going on. These particular circumstances do not necessarily support appellants' view. Instead it can be claimed that they render more credible the prosecution evidence regarding the commission of the crime at the time and place mentioned in the testimony of the prosecution witnesses, because precisely the people attending to the sale of their wares at their respective stalls, the persons buying from them, as well as those who were engaged in dancing were too busy to pay attention or notice what was happening inside the house of Humapao which, according to the evidence, was located about twenty meters away from the stall of the complaining witness.

Next claim of appellants is that it was physically impossible for the complaining witness to recognize them in the dark. This is untenable, premised as it is on the unfounded assumption that the crime was committed in a dark place. On this matter the evidence is to the effect that the walls of the dilapidated house of Humapao were studded with holes, and that the place where some people were dancing was well lighted with a Coleman lamp.

The evidence likewise is clear that appellants were personally known to their victim; that she knew Amit because she used to pass by his house in going to school; that before the night in question, she had seen Pedrano and Sala personally, and that she had also known Reyes when the latter arrived in barrio Mambog to run a "hantak" game.

The record shows, on the other hand, that Divina and Elizalde were thoroughly examined and cross-examined, but that this notwithstanding neither incurred in any substantial contradiction sufficient to lessen her credibility. As a

matter of fact, the circumstance that early that same morning when she was victimized Divina reported her sad experience to her father and both reported the matter to the barrio captain cannot but bolster her credibility.

Appellants would like us to believe next that, because Fuldarico Reyes absconded, the presumption must be that, if the rape was committed at all, he was the sole perpetrator thereof. To bolster this not so definite claim, appellants presented some evidence to the effect that there were amorous relations between Reyes and Divina. Such evidence, however, is far from being convincing. In the first place, Maximo Metante, whom appellants called to the witness stand to corroborate their testimony on this matter miserably failed to do so. According to the testimony of appellants Sala and Pedrano, Reyes and Divina stayed together conversing in the uninhabited house of Humapao from 11:00 o'clock up to past twelve midnight, but it may be gleaned from Metante's testimony that at about midnight he had ordered coffee from Divina, with instruction to have it served to those who were dancing. This renders doubtful, if not incredible, Sala and Pedrano's claim, although Divina herself denied having sent the coffee allegedly ordered by Metante, because she had no coffee for sale that evening. Furthermore, as according to Divina she knew Reyes to be a married man, we cannot easily believe that she had amorous relations with him at her tender age of sixteen, there being no showing that she was of loose morals.

Appellants' defense of alibi, on the other hand, cannot overcome the testimony of the offended party, who knew them personally, identifying them as the persons who had subjected her to a tragic experience. To this we may add firstly, that, according to the trial court, there is absolutely no evidence showing any ill motive on Divina's part falsely to impute to appellants the commission of such a serious offense as rape; secondly, as appellants admitted their presence in Mambog on the night of the commission of the crime, drinking beer in different stalls, it was not physically impossible for them to have left those places to go to the house of Humapao and commit the rape they were subsequently charged with.

Considering all the foregoing, we are of the opinion and so hold that appellants' guilt has been established beyond reasonable doubt. We, however, disagree with the trial court's finding that appellants Valentin Sala and Quirimon Pedrano are guilty only as accomplices in the commission of the crime because, upon the evidence before us, they are guilty of rape as co-principals (Article 17, paragraph 3, Rev. Penal Code; *People vs. Villa et al.*, 81 Phil. 193; *People vs. Alfaro et al.*, 91 Phil. 404), and must, therefore, be sentenced accordingly.

WHEREFORE, the appealed decision, as far as appellant Felipe Amit is concerned, is affirmed, said appellant to pay his proportional share of the costs. The appealed judgment is, however, modified as far as appellants Valentin Sala and Quirimon Pedrano are concerned by finding them guilty, as they are hereby found guilty as co-principals in the commission of the crime charged, penalized by Article 335, paragraph 1, as amended, of the Revised Penal Code. As a consequence, each of them is hereby sentenced to suffer the penalty of reclusion perpetua, and to pay, jointly and severally with the other appellants, the amount of P6,000.00 to the complaining witness, Divina Niez, without subsidiary imprisonment in case of insolvency.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

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