

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
CARMEN LICOP Y SUAREZ, DEFENDANT AND APPELLANT.***G.R. No. L-6061. April 29, 1954*

Ponente: PARAS, C.J.

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Carmen Licop y Suarez, hereinafter to be referred to as Carmen, was prosecuted in the Court of First Instance of Manila in two information's, one for serious illegal detention and another for robbery. After a joint trial Carmen was acquitted in the latter case on the ground that the prosecution had failed to establish the jurisdiction of the court over the subject matter, but was convicted of kidnapping and serious illegal detention defined and penalized by article 267 of the Revised Penal Code, as amended by Republic Act No. 18, and, in view of the aggravating circumstances of nighttime, aid of armed women and. the use of a motor vehicle, as against the sole mitigating circumstance of lack of instruction, was sentenced to death. This judgment of conviction is now before us on review under section 9 of Rule 118 of the Rules of Court.

The evidence for the prosecution tends to show that around seven o'clock in the evening of July 2, 1952, Nelia Ramirez, hereinafter to be referred to as Nelia, aged 18, was on her way from Quiapo, Manila, where she had just left her place of work towards Plaza Sta. Cruz, to board a vehicle in Ronquillo Street bound for her home at Second Avenue, Grace Park, Caloocan, Rizal. While she was crossing at a point in Plaza Sta. Cruz near Bustos Street, along with another woman whose identity had remained unknown, a jeep carrying four female passengers stopped beside Nelia. One of the passengers asked whether they could make an inquiry, to which Nelia and the woman, who had then passed, answered affirmatively. Whereupon, Carmen and two of her female companions in the jeep trained their guns at and ordered Nelia and the other unidentified woman, under threat of death, to get into the vehicle. Nelia and her companion were blindfolded and made to squat on the floor of the jeep. After traveling for some time, the vehicle stopped and the two victims were led to a grassy place where their blindfolds were removed. No sooner had Nelia's been freed than, for no reason at all, she was slapped by Carmen. Nelia found a shack that had no walls and realized that she was in an isolated place surrounded by tall cogon grass. She also saw ten other girls in the shack or sitting on the grass, with torn clothes practically exposing their bodies, and three men tied to the trees. At the same time six other men were smoking and conversing, one of whom passed by one of the girls and toyed with her breasts. In the meantime, a stout woman then talking with Carmen approached and forced Nelia to part with her purse containing P55, her month's wages, Said woman, after further conversation with Carmen, asked Nelia about her civil status; and upon Nelia's revelation that she was single, she was informed of the obligatory trip to the "boss". From one of the captive girls, Anita Villaceran, Nelia learned that the "boss" enjoyed preference over other men in the matter of abusing her. Seeing the contract between Nelia and Anita, another of the women gang slapped and kicked Nelia in the forehead. Shortly thereafter Nelia was taken to the jeep and blindfolded by its original four female passengers, including Carmen, for the routinary presentation to the "boss". Having run for a short while, the jeep developed some engine trouble, and Nelia heard her captors going down from the vehicle. Feeling that she was alone, she attempted to remove her blindfold, but was prevented by one woman who was guarding her. As the latter, addressed as "chief" was called by her companions,

Nelia (thus left alone) took off her blindfold and, noticing that her captors were all in front of the jeep which had its hood raised, she jumped out and fled into the bushes. Aware that she was already abandoned, Nelia walked towards the road. Upon reaching the intersection of Rizal Avenue Extension and Samson Road, near the Bonifacio Monument, she found a policeman to whom she related what happened, although, she fainted before she could finish her story. The policeman (Nel Japa), therefore, had to take Nelia to the Caloocan Puericulture Center for treatment, after which she was taken by him to her home.

On the following day Nelia reported to the Manila Police Department for investigation and medical examination. On July 4, 1952, while she was walking in the vicinity of Azcarraga and Morayta Streets with her sister, she saw Carmen and, recognizing her to be one of those who kidnapped her two nights ago, called a policeman who then and there arrested Carmen. The principal witnesses for the prosecution is of course Nelia, but her testimony is complemented by that of Nel Japa. The latter stated that, while he was on duty near the Bonifacio Monument on the night of July 2, 1952, Nelia approached him and reported the fact of her being kidnapped; that Nelia looked sad and weak, with her dress muddy and dirty and her forehead swollen; that, as she was relating her story, she fainted; that Nel Japa thereupon brought Nelia to the Caloocan Puericulture Center where she regained consciousness; that after knowing the incident, Nel Japa took her to her home.

Dr. Angelo Singian, medical-legal examiner in the Manila Police Department, in turn testified that he examined Nelia on July 3, 1952, and found her to be still a virgin; that she bore the following physical injuries: swelling in the upper right forehead and left parietal region, contusions over the left scapular area, and small multiple spotty abrasions on the upper posterior surface of the left arm and in the right forehead, which had been inflicted with a blunt instrument, such as the human fist.

Lastly, Alberto Nieto of the Detective Bureau of the Manila Police Department, testified that he investigated Carmen and her statements are recited in a sworn statement which she voluntarily signed after being duly informed of its contents thereof; that on the basis of this investigation the detective filed the proper charges against Carmen with the fiscal's office.

Carmen denied the imputations against her, testifying that she had known Nelia even before July 2, 1952, because they were neighbors in Grace Park for more than a year; that on the date in question, after having moved from said place, Carmen met Nelia in Quiapo; that learning that the latter was in need of a job, Carmen brought Nelia to one Miss Gonzales at 714 Harrison; that Miss Gonzales (who was then looking for a cashier) interviewed Nelia in a room, but after a while Nelia came out indignant and angry; that thereafter Nelia explained the immoral nature of the work being offered by Miss Gonzales which Nelia could not accept; that Nelia was sore at Carmen who was supposed to be desirous of selling Nelia to Miss Gonzales; that Nelia's motive in falsely accusing Carmen was her resentment growing out from the belief that Carmen had attempted to corrupt Nelia through Miss Gonzales; that Carmen was asked to sign the sworn statement prepared in the Manila Police Department without its contents being read to her, and upon promise of being released.

We thus have before us the testimony of Nelia pitted against that of Carmen. In view of all the circumstances appearing in the record, we are convinced of the correctness of the decision of the court a quo. Nelia is a young working girl who, it is difficult to believe, would fabricate a story that would expose her to public notice and involve another woman in a capital offense. Indeed, the trial judge, undoubtedly because the one charged with the abominable crime of kidnapping is a woman, had taken such special concern in observing the witnesses as to be impressed, as to Nelia, "not only with her respectability, but also her dignity and her young age." Upon the other hand, he noted that Carmen "witnessed and heard the proceedings with indifference, if not contumacy, smiling sarcastically every now and then." We have found no valid reason for the reversal of his conclusions.

Counsel for Carmen considers the testimony of Nelia to be highly improbable, in that the crime was committed in Plaza Sta. Cruz frequented by pedestrians. Nelia, however, declared that at the moment the jeep in question stopped beside her and her unknown companion, the place happened to be deserted though there were people some distance away and cars were parked at the center of the Plaza. Counsel's conjecture cannot negative the actual fact testified to by Nelia; and we have only to add that the law of improbabilities is often matched by the rather suicidal and challenging audacity of criminals who, shall we say, have so progressed in their science as to enable them to carry out their designs even under adverse circumstances.

It is uncontroverted that Nelia was kidnapped, but it is contended for Carmen that the latter was incriminated in view of the incident which led Nelia to suppose that Carmen was selling her to Miss Gonzales for immoral purposes. We cannot believe that, assuming Nelia to have harbored some ill feeling, she would go to the extent of imputing to Carmen a crime so grave as that of kidnapping,—an arrangement that would bring to Nelia the humiliating features of a public trial. Upon the other hand, we have the very statement of Carmen to the effect that she and Nelia were together on the night of July 2, and the latter did not display animosity towards Carmen.

It is significant that no claim is here made that Nelia might have made a mistake in identifying the real culprit; and on this point it may be stated that, as Nelia was with her captors for a sufficient length of time and under such circumstances as to expose clearly their identity, she could not have made any error.

The fact that Nelia did not shout for help in Plaza Sta. Cruz cannot also affect her credibility, since the approach of Carmen's jeep was unexpected and the succession of events rapid, and natural fear could have seized Nelia completely, leaving her automatically under the control of her kidnappers.

Upon the other hand, we note some details in the testimony of Carmen which the trial judge found—and we think correctly—as detracting from her truthfulness, namely, (1) while she first referred to herself as being single, she later admitted that she was married to one Salvador Fabon; (2) that while in one instance she alleged having been married only for two months, in another part she placed the duration of her marriage at about one year; and (3) that although she claimed to have been a neighbor of Nelia in Grace Park for a year, she could not name any of her neighbor.

Carmen assails her sworn statement before Detective

Alberto Nieto, on the ground that it was signed by her without knowing its contents, but this claim cannot overcome the disinterested testimony of the police officer. At this juncture we may also state that Nel Japa and Dr. Angelo Singian have not been shown to have had any motive that would negative the probative value of their testimony.

The crime committed is kidnapping and serious illegal detention penalized by article 267 of the Revised Penal Code, as amended by Republic Act No. 18, with reclusion temporal in its maximum to death, the victim being not only a minor but also a female. In view of the presence of the three aggravating circumstances of nighttime, aid of armed women, and the use of a motor vehicle and the sole mitigating circumstance of lack of instruction, the penalty imposed by the trial court, which is death, is proper; but for lack of necessary votes, said penalty is reduced to life imprisonment.

It being understood that the defendant Carmen Licop y Suarez is hereby sentenced to reclusion perpetua, the appealed judgment is affirmed. So ordered with costs.

Pablo, Bengzon, Reyes, Jugo, Bautista Angelo, and Concepcion, JJ., concur.

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