

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
ALBERTO JORE, ISIDRO SUPOSO, PACIFICO BOOC, EPIMACO AROA
AND CARMINO CODIÑERA, DEFENDANTS AND APPELLANTS.**

G.R. No. L-5366. October 29, 1953

Ponente: BENGZON, J.

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BENGZON, J.:

Accused of robbery with rape, Alberto Jore, Isidro Suposo, Pacifico Booc, Epimaco Aroa and Carmino Codiñera were tried by the Court of First Instance of Cebu and sentenced to 12 years of prision mayor as minimum, and 17 years, 4 months and 1 day of reclusion temporal as maximum, to indemnify the offended party Anisia Pilit in the sum of P430, and to pay the costs.

Originally elevated to the Court of Appeals the record was later forwarded here, because said court opined that the crime should be penalized with life imprisonment.

According to the evidence, Anisia Pilit lived in her house in Barrio Managase, Tabogon, Cebu, with her children Juan, Dominga, Tomasa, Remigia, Epimaco and Tranquilino, all surnamed Urot and a niece, Irinea Puyot. At about 10:00 in the night of March 17, 1948, Pacifico Booc approached said house and called "Nang, Nang, Nang". When no one answered, he again shouted "Ting, Ting, Ting" referring to Juan Urot. The latter answered, and was asked if they had tuba. Juan replied in the negative. Booc then requested water. So Juan aroused his mother, Anisia Pilit, to light the lamp. Carrying the lighted lamp Juan and his sister Dominga opened the door only to face at the threshold, about a meter away, Pacifico Booc, Alberto Jore, Epimaco Aroa, Isidro Suposo. The latter with a handkerchief partly covering his face held a rifle pointed at them. Carmino Codiñera, stepping forward with a mask and revolver in hand, warned Juan and Dominga, that they would be killed if they shouted. Then Codiñera and Suposo climbed up the house while Booc, Jore and Aroa remained as guards downstairs on orders of Codiñera. Taking Suposo's rifle, Codiñera ordered the later to tie the inmates of the house. After tying the hands of Juan, Dominga, Tomasa, Epimaco, Remigia, Anisia and Irinea behind their backs he herded them together in the middle of the sala. Demanding money from Juan and his mother, Codiñera was informed there was none in the dwelling. Codiñera then approached Juan seized his hair and bumped his head against a post. Realizing that money was not worth his life, Juan asked his mother to surrender their funds. Anisia then got from his son Epimaco a canvass belt containing paper bills amounting to P400. Codiñera grabbed the belt, tore it, pocketed the loot. He demanded from Anisia Pilit the rest of the cash and when the latter replied they had no more, she was required to hand over her keys. As she did not stand up immediately, Codiñera raised his gun saying she would be shot, if she refused. It was then that Codiñera dropped his mask accidentally, and his face was seen. Picking it up and putting it on again, he ordered Anisia to open the trunk, from which he extracted coins amounting to P30. Still unsatisfied he demanded their jewelry, and pulled the earrings worn by Remigia and her mother valued at P30.

Anisia Pilit was then tied again and all those bound in the center of the sala were ordered by Codiñera into the room. Juan, Dominga and Tomasa on the other hand were left tied to the posts, threatened with death if they

moved.

Codiñera then untied Tomasa, 22, from the post, fondled her breasts, took her down to the baraka (a room leading to the kitchen), raised her dress, and had carnal knowledge with her by force. After the act, Codiñera covered Tomasa's face with his hat and called one of his guards to come up. When she moved, the hat covering her face slipped down enabling Tomasa to recognize Epimaco Aroa as he passed the baraka door which was illuminated by the bright light from the sala only six meters away. Aroa placed himself on top of her and again the hat on her face fell even as Tomasa vainly fought his advances. Tomasa stood up after she had been abused, and returned to her room.

Dominga, 28, was Codiñera's next victim. She was brought to the baraka with hands tied at her back, forced to lie down, threatened with death and then ravished.

Alberto Jore, whom Dominga recognized by the light from the sala as he passed thru the baraka door duplicated Codiñera's deed and had sexual intercourse with Dominga Against her will.

A little later Codiñera took 16-year old Remigia from the room brought her to the baraka and thru violence destroyed virginity. Afterwards, Codiñera also led her cousin, Irinea Puyot 21, toward the baraka, and told Suposo it was his turn. Suposo conducted Irinea to the baraka, where he pushed her to the floor. She resisted, but Suposo threatening to shoot enjoyed her flesh. His lust satisfied, Suposo invited Codiñera to take over. However, Codiñera summoned another guard "because they could no longer resist". Pacifico Booc, responding to Codiñera's call had sexual intercourse with Irinea thru intimidation.

Before leaving, the outlaws warned the inmates not to report to the authorities or they will all be killed and their house burned. Afraid of a repetition, the entire family of Anisia Pilit hid in the bushes all night, after the defendants had departed.

Alberto Jore and Pacifico Booc returned the following morning and repeated the threat that if they complained to the authorities, they would be massacred.

The foregoing version was established by the testimonies of Juan Urot, Dominga Urot, Tomasa Urot, Remigia Urot, Epimaco Urot and Irinea Puyot.

Isabelo Semblante, cousin of defendant Pacifico Booc reinforced it, because, testifying for the prosecution he declared that in the afternoon of March 16, 1948, he overheard Codiñera, Aroa and Booc discussing their plan to rob Anisia Pilit; and that such conversation took place in the house of Alberto Jore where Semblante had gone a visiting.

The reality of the robbery is not denied. That the women were actually ravished is confirmed by the doctor's certificate, Exhibit E of April 2, 1948, finding lacerated hymens with scars about a week old. On the witness stand the physician said that the lacerations had been inflicted about two weeks before April 2nd.

The only issue concerns the identity of the malefactors. The complaining witnesses positively recognized these appellants and pointed them out to the trial judge. And having no motive falsely to incriminate, they should be, and were credited. It is not even insinuated that, before the event, they entertained any ill-feeling against these prisoners. On the contrary, Booc, Jore and Aroa were their neighbors and regular tuba buyers. Furthermore, "considering the loss of reputation which a woman suffers by a sexual crime" as defense counsel says, it is hard to imagine these unmarried girls (Tomasa Urot, Dominga Urot, Remigia Urot and Irinea Puyot) concocting a story of defloration—and by married men at that.[1]

The vigorous effort of the attorney-de-officio to subject their account to critical scrutiny has been duly noted. Yet

a discriminating appraisal of the important facts bearing on the trustworthiness of their crucial testimony yields no sufficient basis for rational disbelief.

In this connection we are reminded that when Juan Urot reported the incident to the authorities he did not mention the rape nor the names of the robbers—notwithstanding assertions of the victims that they had recognized their assailants. However, Pablo Armoco, the chief of police declaring for the defense admitted that Juan Urot had named the outlaws. At any rate judges know that a sense of shame has at times compelled families to keep silent at first about sexual offenses committed against one of their number. And it often happens that the victim knows the criminal by face only, and afterwards, upon inquiry, ascertains his real name.

Isidro Suposo presented no defense. Jore, Booc and Aroa put their wives on the stand to swear that the prisoners had slept with their respective spouses during the night in question. Yet as the prosecution argues, such witnesses are necessarily partial and the husbands could have sneaked out, their felonies to perform, while their wives blissfully slumbered.

Beato Mondejar, brother in law of Carmino Codiñera testified that the latter passed the night at his house in Cebu.

But he could not have spoken truly, because contrary to his assertion that Codiñera was in Cebu, Cebu, in the evening of March 16, Codiñera was seen by Juan Urot at the wedding of Maximo Cruz in Tabogon in the very evening of the 16th of March.

Pedro Rivera, a friend of Mondejar, related to the Court that Codiñera and Mondejar were among his guests in a party given by him on March 17, 1948. He also testified that they arrived at his house at about 6:00 o'clock and stayed there about three to four hours.

Bitaliano Cosedo, another witness for the defense, corroborated the testimony of Pedro Rivera that Codiñera was at Rivera's house attending a party on March 17, 1940. This witness also testified that Codiñera and Mondejar spent around three hours at the house of Rivera.

As the crime took place about 10 o'clock, it is not impossible that Codiñera after attending the party of Rivera in Cebu, proceeded to Tabogon to lead the raiders.

The attorney-de-officio argues:

"5. We are led to believe a story that Carmino Codiñera raped three girls (virgins) in relays of 15 minutes each.

6. It simply cannot be done. Hormones, which control the erection of the male organ, cannot be manufactured that fast; and there is a limit to male endurance".

The prosecution replies:

"That appellant Codiñera was able to rape three girls one after the other, devoting 15 minutes for each girl, can only be ascribed to his strong physical constitution and endurance. Besides appellant Codiñera did not rape the three girls one after the other, for after he was through with each girl, he was followed by one of his confederates who necessarily must have consumed also 15 minutes, giving him that much time for respite."

Now, as nobody timed the performance, what was thought as fifteen minutes could have been twenty or thirty minutes or more. Anyway judicial records disclose similar instances of abundant vitality of sex offenders:

In *Vogel vs. State* 138 Wis. 315, 119 N.W. 190, "The evidence showed that one defendant forcibly took the prosecutrix to a clump of trees, that the other defendants followed and all raped the prosecutrix, that defendants thereafter took her down the road about five hundred feet where they again raped her, that thereafter she was brought back to the first place, where the offense was repeated, this series of acts taking place between 11

o'clock at night and 1 o'clock in the morning." (See also *People vs. Manguiat*, 51 Phil. p. 406.)

And on the matter of sexual outlet there are undoubtedly high-rating individuals belonging to the so called "sexual athlete" class of men. Intervals between climaxes may range from 10 seconds to 30 minutes. (See Kinsey, *Sexual Behavior in the Human Male* pp. 213, 179.)

From the evidence it is clear beyond reasonable doubt, that all the defendants were guilty as principals of robbery with rape penalized by Art. 294 par. 2 of the Revised Penal Code. Having pretended to ask for drink to induce the inmates to open the door, the accused are deemed to have employed craft and disguise, which, coupled with the circumstance of nighttime requires the imposition of the maximum period of the penalty prescribed by law.

Wherefore the appealed decision will be modified by sentencing each of the appellants to life imprisonment. They are also sentenced jointly and severally (1) to indemnify Anisia Pilit in the sum of P460, and (2) to endow each of the ravished women in the sum of P2,000.

Modified as indicated, the judgment will be affirmed, with costs. So ordered.

Paras, C.J., Pablo, Padilla, Tuason, Montemayor, Reyes, Jugo and Labrador, JJ., concur.

[1]Incidentally it maybe observed that the defendants "confessed their guilt" in the justice of the peace court of Tabogon, according to official written statement of the justice of the peace, Pacita P. Jabagat. And in the court of first instance, they did not take the stand.

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