

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LEONARDA LEGONES AND ALFREDO LEGONES, DEFENDANTS-APPELLANTS.*G.R. No. L-30245. January 30, 1976*

Ponente: CONCEPCION JR., J.

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Appeal by Leonarda Legones and Alfredo Legones from a decision of the Court of First Instance of Misamis Occidental (Ozamis City), convicting them of the crime of kidnapping with serious illegal detention and sentencing them to life imprisonment with the accessory penalties of the law; to indemnify the offended party, Myrna Roxas Garguña, in the sum of One Thousand Pesos (P1,000.00); without subsidiary imprisonment in case of insolvency and to pay the costs.[1]

Appellants Leonarda Legones and Alfredo Legones, are the mother and brother respectively of Roberto "Locloc" Legones whom the complainant herein, a seventeen year old girl, charged in the City Court of Ozamis City on February 20, 1968 with the crime of rape allegedly committed against her person on February 14, 1968.[2] On several occasions appellants went to the house of Felisa Gargueña, grandmother of the complainant, to plead and ask for mercy in order that the rape case may be amicably settled but their pleas were in vain.[3]

In the late afternoon of April 22, 1968 while the complainant was riding in a tricycle driven by Felipe Pabon on her way home from the public market of Ozamis City, the appellants, Leonarda Legones and Alfredo Legones, stopped the vehicle near the City Kitchen. Thereupon, the appellants immediately boarded the tricycle, placed complainant in between them in such a way as to prevent her from escaping. The complainant became tongue tied and scared for fear that the appellants might be armed just as Roberto "Locloc" Legones, the man who had raped her two months earlier, was. Nevertheless, she managed to struggle by moving her body sidewise but to no avail as both her arms are firmly held by the appellants. Upon reaching the port area, appellants pulled down the complainant from the tricycle and dragged her inside the Port Canteen, a carinderia owned by appellants, where she was detained in one of its rooms. Not long after, the complainant was transferred to the mezzanine, the window shutter of which was nailed. For two days, appellants detained the complainant and kept her tightly guarded in the Port Canteen. During her detention, Leonarda Legones, in the presence of Attys. Daguman and Dajalos, forced the complainant to sign an affidavit which among other things asked for the dismissal of the rape case that she had filed. On the following day, April 24, 1968, Alfredo Legones with the aid of three waitresses brought the complainant to a boat named "Sweet Ride" where Alfredo talked to a man who acted as her guard in the boat. When the boat started to pull out, Alfredo threw to the complainant a bundle containing two dresses and a twenty peso bill, then left. In the boat, the man who acted as complainant's guard tried to sleep beside her. To avoid him she transferred to a place near a woman passenger. The complainant related her story to the woman who advised her to alight in Cebu City and to report the incident in question to the police authorities in Mabolo Police Station. Consequently, upon reaching Cebu City, the complainant alighted from the boat and thereafter, proceeded to the police station where she reported her sad experience. At the start, the policemen did not believe the complainant and thought that she was insane. But when the complainant narrated her story to Loreto Barbajo

of the Fire Department of Cebu City, the latter brought her to their Chief, Capt. Parijinog, who instructed Fireman Ramos to send a wire to Myrna's father in Ozamis City. A telegram[4] was sent to Myrna's father who came to Cebu City and fetched his daughter.

A day after their arrival in Ozamis City, Myrna and her father filed the present case against herein appellants.[5]

In exculpation, both appellants deny the commission of the crime imputed against them.

Leonarda Legones claimed that in the late afternoon of April 22, 1968, the complainant voluntarily came to the Port Canteen and introduced herself as the woman who filed the rape case against her son, Roberto "Locloc" Legones; that Myrna told her that she ran away from home because she was whipped; that Myrna informed her that she was willing to give a statement withdrawing the rape case against her son because he was not the one who abused her and that she filed the rape case thru the insistence of her grandparents; that upon suggestion of Myrna who refused to be taken to the Fiscal, Florentino Legarbe, a bookkeeper in the Port Canteen, took down Myrna's statement; that Attys. Daguman and Dajalos came in the canteen and asked Myrna to sign an affidavit[6] that complainant's stay in the canteen for two days was voluntary; and that Myrna left the canteen in the early morning of April 24, 1968 without her knowledge. Attys. Dajalos[7] and Daguman[8] were presented as defense witnesses to substantiate the voluntariness of the execution of complainant's affidavit.[9]

Testifying in his own behalf in the court below, Alfredo Legones interposed the defense of alibi denying the commission of the offense. He claimed that on April 17, 1968, he went to their land in Guintolan, Malagas, Zamboanga del Sur, to supervise the work there; that he stayed in that place until 8:00 o'clock in the morning of April 23, 1968; and that on the same date, he returned to Ozamis City and arrived at about 6:30 in the evening. To substantiate his claim, he presented Jose Pidros, a tenant in their land in Guintolan.

In interposing the present appeal, it is claimed by the accused-appellants that the lower court erred in holding that the complainant was kidnapped and illegally detained by them in the Port Canteen located at the port area where the accused are residing; in holding that they forced the complainant to sign an affidavit withdrawing her complaint of rape against Roberto Legones, son and brother of the appellants, respectively, with the help of two lawyers before whom the affidavit was subscribed; in giving too much probative value to the evidence for the prosecution and in discrediting that for the defense; and in not acquitting them of the crime charged on the ground of reasonable doubt.

Clearly, the focal issue presented here revolves around the credibility of witnesses, i.e., whether or not the trial court was correct in giving weight to the testimony of the prosecution witnesses. And the well-established rule on this point is that the factual conclusion reached by the trial court, which had the opportunity more than the reviewing tribunal to observe and gauge the demeanor and conduct of the witnesses while testifying and to properly appreciate the same, is not to be disturbed, unless there is proof of misappreciation of evidence.[10]

In this case, we find no sufficient reason to disagree with the ruling of the court below. The identification of the appellants who took part in the commission of the offense was established by the direct and positive declaration of the complaining witness and the tricycle driver, Felipe Pabon. Complainant's testimony on the circumstance of her kidnapping on April 22, 1968 by the appellants and of her detention for two (2) days in the Port Canteen is clear and conclusive. Not only was her narration of events coherent and plausible but it remained unshaken even by the extensive cross-examination of the defense counsel.

Appellants point out that it would be highly improbable if not impossible for them to board the tricycle being ridden by the complainant because a tricycle can accommodate only two (2) persons of average build. They also claim that it was unusual to say the least why the complainant did not shout for help in order to invite the attention

of passers-by at the time of her alleged kidnapping.

There is no merit to these allegations. Suffice it to state that Felipe Pabon, the tricycle driver, categorically stated that his tricycle can accommodate three persons. This is also the observation of the trial court.[11] The fact that Myrna did not shout for help when they were on their way to the Port Canteen is easily understandable and can be well explained. She became tongue tied and was afraid. Furthermore she was ordered by the appellants not to make any noise. However, she struggled by moving her body in a sidewise motion, but to no avail.

It is also contended that it was an error for the court a quo to consider that the appellants forced the complainant to sign the affidavit withdrawing the rape case that she filed against Roberto Legones, and that in doing so appellants were aided by Attys. Dajalos and Daguman.

The contention is untenable. Appellants herein had all the motive and interest to desire the withdrawal of the rape case against Roberto Legones. For after all, Leonarda and Alfredo are the mother and brother, respectively, of Roberto Legones. Naturally, their interest in the withdrawal of the rape case is understandable. In fact, they tried hard to settle the case amicably.

The defense of alibi offered by Alfredo Legones is without merit. Jose Pidros who was presented by Alfredo Legones as a witness in support of his alibi merely testified that Alfredo stayed at his house in Guintolan, Malagas, Zamboanga del Sur from April 18 to 23, 1968. This unembellished declaration cannot serve to dent the direct and positive testimony of the complainant and the tricycle driver who identified Alfredo as one of the culprits and definitely placed him at the situs of the crime.

The guilt of appellants for the crime of kidnapping or serious illegal detention has been proven beyond a reasonable doubt.

Wherefore, the decision appealed from is hereby affirmed in toto at appellants' costs. So ordered.

Fernando (Chairman), Barredo, Aquino, and Martin, JJ., concur.

[1] pp. 21 & 22, Rollo.

[2] Exh. A.

[3] pp. 105-107, t.s.n., October 4, 1968.

[4] Exh. C.

[5] p. 62, t.s.n., July 25, 1968.

[6] p. 190, t.s.n., September 16, 1968.

[7] Atty. Dajalos was the one who prepared the typewritten affidavit of complainant, Myrna Gargueña.

[8] Atty. Daguman was the notary public who notarized the affidavit of Myrna Gargueña.

[9] Exh. 4.

[10] People vs. Baduso, 60 SCRA 61; People vs. de la Victoria, 64 SCRA 400; People vs. Cariño, 55 SCRA 516-517; People vs. Dorado, 30 SCRA 53.

[11] p. 123, t.s.n., October 4, 1968.

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