

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. ILUMINADO MANASES, ET AL., DEFENDANT AND APPELLANT.*G.R. No. L-11322. May 16, 1958*

Ponente: LABRADOR, J.

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Appeal from a judgment of the Court of First Instance of Leyte, Honorable S. C. Moscoso, presiding, finding Iluminado Manases guilty of robbery with rape and sentencing him to reclusion perpetua and to pay one-fifth of the costs.

The evidence submitted by the prosecution shows beyond question that at about 7 o'clock in the evening of August 26, 1954, five persons armed with different kinds of firearms, suddenly and unexpectedly forced their way into the house of one Pio Magno, situated in the barrio of Dumalag, municipality of Burauen, province of Leyte. At that precise time, the people inside the house were Cresencia Magno, 26, single, Maxima Magno, 28, single, daughters of Pio, Rosita Magno, 13, single, granddaughter, Daniela Leona, 45, widow, and three nephews. Pio Magno was not in the house, for he had gone to work in a field some distance away from the house. The five persons forced open the doors and once inside they pointed their firearms at the inmates of the house, demanding money, and threatening to shoot them if they did not give up their money. Manases placed himself at one door of the house and another at another door, while the other three, after being told by the inmates that they had no money to give, began ransacking the trunk in the house. The trunk was owned by Pio Magno and was not locked. Upon searching it they found two 100-peso bills wrapped in a piece of paper. Pio Magno testified that this sum of money had been received by him in payment of a loan.

When the robbers came, some of the inmates were still awake and an oil lamp was still burning. Of the five persons who came in only one of them was recognized, the defendant-appellant Iluminado Manases, cousin of Cresencia and son of a sister of her mother. Manases lived in a house nearby, but in the afternoon he was not seen in the house. Cresencia, Maxima and Rosita Magno recognized him, as he made no attempt to mask his face or cover his identity. Daniela Leona also declared in an affidavit that she also recognized him, but at the trial she denied having recognized him.

The inmates of the house could not shout or cry for help as the firearms of the robbers were pointed at them, and they were afraid to make any outcry. When the robbers were through with ransacking the house for money, appellant Manases again stood as guard while his four companions held Cresencia Magno by the hands. They tore her dress, from the top downwards, and laid her on her back, and one after another had intercourse with her while the others held her down on the floor by the arms and legs. After they were through with their brutal act, they released her and went out of the house. As Cresencia was being raped, Daniela Leona and Maxima Magno were able to run away from the house and escape. Once the robbers were outside of the house, they fired some four or five shots, and then went away and disappeared.

Later in the evening, Maxima Magno was able to go back to her house alone. Pio Magno also arrived. Nobody

else came to the house as evidently the people leaving nearby had been frightened away by the shots that the robbers had fired before leaving the house. When Pio Magno arrived, the fact of the robbery and the rape of his daughter Cresencia was reported to him. So the following morning he went to the barracks to report to the Constabulary what had taken place in the house. Report was also made to the barrio lieutenant, who came and learned of the details of the robbery. The Constabulary also came the following morning and found four empty shells and one live shell near the house. Cresencia Magno was also brought before the municipal, health officer who examined her private parts and the latter found two lips of her vulva inflamed (Exhibit "B"). The affidavits of Daniela Leona and Rosita Magno were also taken down before the justice of the peace, marked Exhibit "D" and Exhibit "1".

The defense does not question the fact of the robbery or of the rape; but it claims that appellant Manases was not one among the five who had committed the robbery in question and abused the inmate Cresencia Magno. One of the witnesses presented by the appellant is Eladio Cadano who testified that after hearing some three shots in the evening at around 7 o'clock, he went down his house; while staying in the yard of his house he saw Pio Magno and Maxima Magno who invited him to go along with them to Pio Magno's house; that on their way they passed by the house of Iluminado Manases and that he saw Iluminado in his house with a kerosene lamp; that they proceeded to the house of Pio and there found that all the things inside the house had been ransacked; that he was not able to investigate Cresencia but that he was able to ask Maxima.

Daniela Leona, who was at the house of Pio Magno in the evening in question, testified that she did not recognize anyone of the five who entered the said house in the evening in question. When she was confronted with the affidavit that she executed before the justice of the peace on August 31, 1954 (Exh. "D-1"), she explained that they had forced her to make the affidavit, and upon further questioning she declared that it was Maxima Magno who had asked her to print her thumbmark on the affidavit. Maxima Magno on rebuttal however, denied that she had forced Daniela to make the affidavit, and the justice of the peace of the municipality of Burauen, before whom the affidavit was acknowledged, also declared in rebuttal that there was no force of any kind used to compel her to affix her thumbmark to her affidavit.

Another witness introduced by Iluminado Manases was Enrique Abordo who also testified that he was in the house of Manases around 7 o'clock that evening; that he heard shouts coming from the house of Pio Magno but as he met Maxima Magno that evening, and when he asked her if she could recognize any one of those who assaulted the house that evening, Maxima told him that she recognized "Dandoy," the appellant Manases; and that he asked her how it could be that "Dandoy" had been recognized when he was at his house.

The defendant-appellant curtly denied having participated in the robbery and explained that the accusation against him was caused by some trouble between his family and the family of Cresencia about a piece of land. According to him, and according to a witness presented, the mother of Manases had denounced Cresencia Magno's sister for grabbing this land and denounced the matter before the authorities, but the mother of Cresencia Magno did not heed the authorities when they called her for investigation.

The evidence presented by the defense to prove that defendant-appellant did not participate in the robbery is subject to the following objections: when witnesses Abordo and Cadano saw Manases in his house, the robbers had already gone away and disappeared. Both of these witnesses testified they were attracted by the shots and shouts that were heard from the house of Pio Magno; and as the shots and shouts took place when the robbers were already going away from the house, the fact that they then saw Manases in his house is no proof that he had not participated in the robbery as his house is very near that which was robbed. Besides, one of them, Cadano, positively declared that he left his house about one hour after he heard the firing of the shots, which declaration goes on to show that it was around 8 o'clock already when he and the other witnesses were in the house of

Manases and there saw the latter at home.

A second circumstance indicating the positive identification of the defendant-appellant by the inmates of the house is the fact that defendant-appellant was the one pointed out by the inmates to the authorities and he was arrested on the night following the day of the robbery, which shows that none of the inmates had ever come to doubt that Manases was one of the robbers.

A third circumstance is the admission by Cadano himself that when he saw Maxima Magno on the evening of the robbery, after the robbery had been perpetrated, Maxima had assured him that one of the robbers was Dandoy, defendant appellant Iluminado Manases.

Lastly, the explanation given by the defendant-appellant about the existence of some misunderstanding between appellant's mother and the mother of Cresencia Magno about a parcel of land, could not be any motive at all for the witnesses for the prosecution to have falsely accused Iluminado Manases. According to the latter, it was his mother who had a grievance against the mother of Cresencia Magno, because the latter had taken some land or part thereof which should belong to defendant-appellant's mother. It was the defendant-appellant, therefore, that had a grievance against the offended party, not the latter against defendant-appellant's mother. This is the reason why defendant-appellant must have conspired with some persons unknown to the family of the offended parties to rob the latter and to allow Cresencia Magno, his cousin, to be raped even in his presence, without his objection and evidently at his insinuation or encouragement.

By and large, we have examined carefully the record and we find that the identity of appellant Iluminado Manases as one of those who committed the robbery has been proved beyond reasonable doubt, the evidence submitted by him of his denial not being enough to overcome the positive testimonies of the inmates of the house that was robbed. The conclusion of the trial court that the crime was committed is, therefore, correct. However, we find that aside from the aggravating circumstance of nocturnity, which was found by the trial court, another aggravating circumstance, that of in band, was also present, as the five persons who committed the robbery were each and every one of them armed with firearms.

For the foregoing considerations, the court finds the defendant-appellant guilty of the crime of robbery with rape and affirms the sentence of reclusion perpetua imposed, upon him by the trial court, and further sentences him to indemnify Pio Magno in the amount of P200.00, to pay to offended party Cresencia Magno the amount of P2,000 as damages, and to pay the costs of this appeal.

Paras, C.J., Bengzon, Montemayor, Reyes, A., Bautista Angelo, Concepcion, Reyes, J.B.L., Endencia, and Felix, JJ., concur.

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