

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
PATERNO DE LA CRUZ, ET AL., DEFENDANTS, DEMETRIO MENDOZA,
ADRIANO MENDOZA, PACIFICO QUIBOYEN, FRANCISCO DUPILAS
AND MARCEL...**

G.R. No. L-1745. May 23, 1950

Ponente: BENGZON, J.

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BENGZON, J.:

In the night of January 6, 1947, a band of seven armed persons committed robbery and multiple rape in the barrio of Sinigpit, Municipality of Paniqui, Province of Tarlac.

As a consequence of the corresponding investigation by the authorities, an information was filed on January 17, 1947, Imputing the crime to Paterno de la Cruz, Demetrio Mendoza, Adriano Mendoza, Pacifico Quiboyen, Francisco Dupilas and Marcelino Valet. This information was subsequently amended to include Maximo Simbulan, who is still at large. The first six were tried and found guilty by the court of first instance of Tarlac. All of them except Paterno de la Cruz appealed to this Court.

Attorney Timoteo Duque filed a printed brief on behalf of appellants Demetrio Mendoza and Adriano Mendoza; Attys. Augusto Ilagan and Leonardo Abola submitted the brief for Pacifico Quiboyen; and Atty. P.J. Dayrit, as attorney de oficio, argued the cause of Francisco Dupilas and Marcelino Valet. The three briefs have been considered in connection with the Solicitor-General's reply.

As appellants'1 briefs do not raise any question that the robbery and the rapes actually occurred at the aforementioned barrio, we may adopt, as starting point, the findings of the trial judge which are as follows:

"The prosecution proved conclusively, that on January 6, 1947, at about midnight, seven individuals armed with rifles, pistols, and revolvers, went to a local sugar mill in barrio Sinigpit, municipality of Paniqui, Tarlac province, where the work of milling sugar canes to extract the juice and to cook it into sugar product called 'panocha' was in progress. The work was in full swing, for which reason, all the male inhabitants of the said barrio and some women, too, were gathered for cooperation. Upon arriving at the said place, the seven individuals called out all the males, twenty in all, and lined them in front of the mill. All these bandits and each and everyone of them were armed with guns and pistols. They announced that they were Huks that needed help from the barrio. Two of the bandits were left to guard the lined individuals with guns levelled at them. Five of them began to ransack the houses for their personal properties, money and other valuables. The first house ransacked, was that of Lupo Legarta, about fifteen meters away from the mill. From this house, the robbers took a necklace, three pairs of earrings, two pairs of shoes, three pants, two watches and seven hundred pesos in cash. The two pairs of shoes were valued fifty pesos. The evidence however does not show the value of the jewelries and the pants. These properties were taken by the bandits by force and intimidation and at the point of the gun. Then three of the armed bandits entered the house of Macario Legarta and by force and intimidation, took three pairs of earrings, valued P300.00, three necklaces valued P300.00, three earrings

valued P30.00, a watch worth P40.00, three pants worth P70.00, two pairs of shoes worth P50.00, and seven hundred pesos in cash. In all the amount taken from this house is P1,500.00. Again three of the same armed bandits went up the house of Donata Balmacena and, by force and intimidation, took from this house P300.00 in cash, two undershirts worth P40.00, two polo shirts valued P28.00, a pair of earrings costing P15.00, and a ring worth P15.00. In all the value of the property taken from this house is P366.00. The house of Teodora Soverano, was also robbed. From this house the bandits by force took one bolo worth P7.50, and P7.00 in cash and a ring valued P5.00. In all from this house the robbers netted P19.50. The house of Aquilina Domingo was also ransacked by force and from this house, the following personal properties were taken: One ring worth P15.00, a pair of earrings, which was snatched from the ears of Aquilina Domingo, valued P40.00, one bolo worth P7.00 and P26.00 in cash. In, all, the amount taken from this house is P88.00. The bandits also robbed the house of Villamor Undan and from there, they took by force and intimidation four rings worth P20.00, one pair of earring worth P5.00, and one necklace worth P16.00. In all the value of properties robbed from Villamor Undan is P41.00. Sixto Gervasio was also robbed in his house of P53.00 in cash and an earring worth P5.00 or P88.00, in all.

"On the occasion of this robbery, three armed-bandits, by force and intimidation, raped Aquilina Bacarro, a married woman who was in the sugar mill helping to mill sugar canes, and one of the said bandits also raped by force and threats Lorenaa Valdez another married woman helper of the sugar mill who was then in her sixth months pregnancy, and as a result, she had an abortion. Of the properties robbed only a watch worth P40.00, a necklace valued P35.00 and two pairs of earring valued P75.00, were recovered. So that the total value of properties recovered is P150.00. x x x ".

The issue in this Court as well as in the court below is reduced to the identity of the bandits. Appellants claim they were mistakenly Included.

As to Demetrio Mendoza and his brother Adriano Mendoza, the appealed decision made in part the following remarks:

"Now, as to the identity and guilt of the two brothers Demetrio Mendoza and Adriano Mendoza, the prosecution has not produced a single witness who has recognized these two brothers as among the seven robbers who committed the crime as charged in the information. But they have subscribed and sworn to a confession admitting their guilt. These confessions Exh. 'M' and Exh. 'N', of the defendants Demetrio Mendoza and Adriano Mendoza, respectively, have been duly identified and admitted as evidence against them. Each one of them admitted his guilt and participation in the crime of robbery committed as charged in the information. The defense of these two brothers Mendoza waived its right to present evidence in their favor. They did not even take the witness stand. Lieutenant Corsiga, testified very positively that these affidavits (Exh. 'M' and Exh. 'N'), were voluntarily and freely signed and sworn to by them and that they contained their exact statements and confessions, x x x ".

And explaining why these Mendoza brothers had not been specified by the robbery victims, His Honor reasoned that these two were obviously the brigands who had been posted as guards, did not enter the houses, and consequently could be recognized by none of the household owners.

Their attorney in his brief contends that said confessions Exhs. M and N have no probative value, because Lt. Corsiga testifying in connection with the same alleged that they had been translated in Ilocano to the accused by some of his soldiers, but said lieutenant admitted that he did not understand that dialect. Counsel's objection would be valid if the lieutenant had attempted to inform the court in his own language what those Mendoza brothers had confessed to him through the soldier-interpreters* But here the gist of his testimony is that the two

brothers voluntarily signed Exhs. M and N after these had been translated to them. It must be presumed that the soldiers complied with their official duty to translate faithfully. And inasmuch as these Mendoza brothers had voluntarily signed the exhibits they are bound by the tenor thereof. Of course, unless they prove that they were misled, or did not understand the documents, which they failed to do, because they elected not to take the witness stand.

There is nothing to the contention that said confessions are insufficient to convict the accused-appellants. It has been held several times that a confession may be the basis of conviction provided it is corroborated by proof of the corpus delicti, which in this case is undisputed, since there is no doubt that the robbery and the rapes have all occurred as pictured at the beginning of this decision.

The case against appellant Pacifico Quiboyen affords more room for argument. It appears that the witnesses for the Government at first included one Baldo (Bernardo Facun) among the plunderers, but subsequently they pointed to the herein appellant, explaining that these two, Pacifico and Bernardo, looked very much alike.

His attorneys made much of this circumstance and in connection with other details, constructed an apparently strong defense of his innocence. But having carefully studied the record, we are convinced of the sincerity of the complaining witnesses who had no reason falsely to incriminate him. The raped woman Aquilina Bacarro (18 years) positively named him as one of her rapists, and there is no tenable ground to doubt her veracity.

The following official written statement of the justice of the peace at the preliminary investigation has not escaped our notice:

"Bernardo Facun and Pacifico Quiboyen have the same stature and almost same facial appearance excepting that Quiboyen has a scar on the face, so that when Bernardo Facun was shown to the victims they mistook him for Quiboyen, but when the accused were shown to the victims in court, they pointed to Pacifico Quiboyen as the 'Baldo' they were referring in their affidavits, the basis of their identification was the scar on the face of Pacifico Quiboyen, x x x ".

Needless to add, his confession Exh. I freely signed before the justice of the peace of Paniqui clinches the testimonies against him.

The appellant Francisco Dupilas was emphatically identified as among the malefactors by Lupo Legarta, Donata Balmacina, Aquilina Domingo and Aquilina Bacarro. Lorenza Valdez (21 years, married), one of the ravished women, pointed to him as the very bandit who had forcibly used her, notwithstanding her advanced pregnancy, in the kitchen of Aquilina Domingo's home.

On the other hand, Marcelino Valeté was more than sufficiently identified by Lupo Legarta, Donata Balmacina and Alejandro Fronda, and particularly by Aquilina Bacarro whom he ravished in the house of Aquilina Domingo. His connection with this felonious expedition is conclusively proven by his own confession Exh. J and by the discovery in his possession of two firearms used in the robbery plus a piece of the looted jewelry.

Declaring that the accused had committed robbery in band with multiple rape, the lower court sentenced them to life imprisonment, to indemnify the offended parties in the amount of P2,009.50 and to pay the costs.

The Solicitor-General submits that the accused had committed eight different robberies, because the evidence shows distinct and different acts of spoliation in different houses, with several victimized persons. He cites decisions of the Supreme Court of Spain to support his contention. We do not believe, however, that the several acts herein-before related were absolutely unconnected and entirely distinct one from another. They formed,

instead, component parts of the general plan to despoil all those within the vicinity. And the fact that the accused were indicted and tried under one information would seem to confirm that view, for it discloses the same factual impression of the local prosecuting officer.

There was no error in considering the offense as robbery with rape committed by a band. However, it was a mistake not to require the appellants solidarily to indemnify the women who had been violated. That indemnity is fixed in the amount of P5,000.00 for each woman. As to the amount of compensation for the goods carried away by the robbers (P2,009.50) it should be made clear that the sum is to be distributed among the victims in proportion to their losses herein described.

The principal provisions of law applicable are found in Article 294, paragraph 2, and Article 296 of the Revised Penal Code. The penalty fixed therein is reclusion temporal in its medium period to reclusion perpetua. This must be applied in its maximum, because of the aggravating circumstances of nocturnity, dwelling and band. Consequently the sentence of life imprisonment meted out to appellants is appropriate and lawful.

Modified as to the indemnities as above indicated, the appealed decision is affirmed, with costs against appellants. So ordered.

Ozaeta, Pablo, Tuason, Montemayor, and Reyes, JJ., concur.

Bengzon, J., I hereby certify that the Chief Justice voted to affirm with modifications.

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