

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
HERMENEGILDO PASCUAL, RICARDO CORPUS AND ROMAN
NICOLAS, DEFENDANTS. HERMENEGILDO PASCUAL AND RICARDO
CORPUS, DEFENDANTS AN...**

G.R. No. L-4801. June 30, 1953

Ponente: PADILLA, J.

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PADILLA, J.:

At about midnight of 22 September 1950 while Ciriaco Labrador, his wife Elisa Bagay and their children Leandra, Simona, Ines and Felipe, the first 15 and the last 5 years old, were sleeping in their house located in barrio No. 57, Ligsay, municipality of Laoag, province of Ilocos Norte, Dionisio Tapia came to the house and asked for a match stick. After a while Hermenegildo Pascual and Roman Nicolas forced open the door, the first aiming his gun at Ciriaco Labrador and asking for money. Roman Nicolas held a flashlight and took a club in the house and with it threatened Ciriaco Labrador. As the latter said that he had no money because he had loaned it (P1,000) to Martina Ancheta, Hermenegildo Pascual told him that if he did not give his money he would kill him. Ciriaco Labrador begged not to be killed and asked them to have a pity on his small children. Hermenegildo Pascual and Roman Nicolas told him "Go ahead and open the trunk." Hermenegildo Pascual took from the trunk a chest or savings box containing P10. He also asked Ciriaco to open the two drawers of the sewing machine but found no money there. Then Roman Nicolas brought Ciriaco down and guarded him while Ricardo Corpus went up. Meanwhile Ricardo Corpus asked Elisa Bagay to let him have sexual intercourse with her. Elisa told him that he should not do it because she was six months on the family way. Ricardo Corpus in answer to that refusal pushed her, took her son from her, threw her on the trunk, Elisa falling on a mat on the floor, and there after pulling down her panties lay with her, Hermenegildo Pascual holding her hands. After Corpus had satisfied his lust, Hermenegildo took his turn and while he was having sexual intercourse with her, Ricardo Corpus approached and caressed Leandra Labrador by touching her breast and genitals, but she pleaded not to be abused because she had menses. After Hermenegildo Pascual got through he and Ricardo Corpus went down and left the place. After the malefactors had left Ciriaco Labrador went up the house and inquired from his what the malefactors had done while he was down and his wife revealed to him that she had been raped by Ricardo Corpus and Hermenegildo Pascual. The following day seized by fear that the malefactors might do them some more harm, they left their house in Ligsay and moved to Curarig, municipality of Bacarra, Ilocos Norte, and on 5 October they went to seek the advice of attorney Rabago on who brought them and their daughter Leandra to the P. C. Headquarters and there signed affidavits recounting what happened to them in their house at midnight of 22 September. These affidavits were sworn to before the Justice of the Peace of Laoag and an information for robbery with rape was filed against Hermenegildo Pascual, Ricardo Corpus and Roman Nicolas. After trial the court found them guilty of the complex crime charged, except Roman Nicolas who was found guilty of robbery only and sentenced to suffer 4 years of prision correccional to 8 years and 6 months of prision mayor, and Hermenegildo Pascual and Ricardo Corpus sentenced to suffer reclusion perpetua, and all the three defendants sentenced to pay jointly and severally an indemnity of P26 and the costs. Only Hermenegildo Pascual and Ricardo Corpus have appealed.

All the arguments and reasons advanced in support of this appeal revolve around the point of improbability that the witnesses for the prosecution had recognized the appellants. But there is no improbability in their having been recognized by the victims because even if there was no light in the sala and in the room of the house the flashlight which Roman Nicolas held and used to locate Ciriaco Labrador and the trunk reflected upon their faces. Besides, the appellants were known to the inmates of the house. Hermenegildo Pascual had been to the house of Ciriaco Labrador to buy carabao meat and Ricardo Corpus is Ciriaco's third degree nephew and as carpenter had helped build Ciriaco's house.

Going over the transcript of the oral testimony given by the witnesses for the prosecution we noticed differences in some details, but some of these were due to the fact that the questions were not understood well and the answers were corrected after the questions were understood and the other differences instead of being badges of untruthfulness constitute signs of veracity. Witnesses react differently on what they see and hear depending upon their situation and state of mind. On the other hand, uniformity in details is a badge of untruthfulness.

The alibi set up by the appellants cannot be believed. Hermenegildo Pascual attempted to prove that on the night in question he was with Dominga de la Cruz and slept with her in barrio No. 2 of Laoag. But the testimony of Dominga de la Cruz cannot be relied upon because she is a common prostitute and of low morals. She gave the story that she had sexual intercourse three times with Hermenegildo Pascual that evening in a room of 5-1/2 square meters of Alejandra Asuncion where four other persons were sleeping. Ricardo Corpus testified that he went to bed at 9:00 o'clock and slept until 4:00 o'clock in the morning in his house located on the west side of the provincial high school at Laoag. To corroborate him Ricardo Corpus presented as witness Juan Maximo, the barrio lieutenant of Ligsay. But the testimony of Juan Maximo also cannot be believed. He testified that he never had revealed to anyone what he was to testify in court, not even to attorney Prieto who called him to the witness stand in the morning of the 10th of January.

There is no evidence that a bolo, a plow, a scythe and a chisel were taken by the appellants except the affidavit Exhibits 1 and 2 of Ciriaco Labrador and Elisa Bagay, respectively. But such exhibits were not presented in evidence by the prosecution but by counsel for Hermenegildo Pascual for the purpose of impeaching the testimony of Ciriaco Labrador and Elisa Bagay.

The commission of the crime was attended by the aggravating circumstance of nocturnity purposely sought.

The judgment appealed from being in accordance with law is affirmed, except as to the amount of indemnity which should be reduced to P10 only, with costs against the appellants.

Paras, C. J., Pablo, Bengzon, Tuason, Montemayor, Reyes, Jugo, Bautista Angelo and Labrador, JJ., concur.
Feria, J., no part.

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