

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. PEDRO BELANDRES AND JACINTO MAÑACOP, DEFENDANT AND APPELLANTS.

G.R. No. L-2801. March 31, 1950

Ponente: TORRES, J.

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TORRES, J.:

Upon an information which charged the above-named accused with the complex crime of robbery with rape, after proper proceedings, the Court of First Instance of Nueva Ecija found the appellants guilty of said crime and sentenced each of them to an indeterminate penalty of from twelve (12) years of prision mayor to twenty (20) years of reclusion temporal with the accessory penalties of the law, to indemnify Pedro Valdez in the sum of P130, and to pay the costs. The lower court further sentenced Jacinto Mañacop (alias Principe) to recognize any offspring Paulina Valdez may have as a consequence of her rape by said appellant.

Upon petition of defendants, the lower court granted a new trial, during which Juan Pascua, a fellow detention prisoner of appellants at the provincial jail, in Cabanatuan, Nueva Ecija, testified that he and other members of a Hukbalahap unit were the ones responsible for the crime of which these accused were convicted? but the court did not believe his testimony, and in a resolution dated February 10, 1948, reaffirmed its previous decision of August 19, 1947.

Counsel for the accused appealed from said judgment to the Court of Appeals, and the latter in turn, after careful consideration of the case, in a resolution promulgated by its Fourth Division, came to the conclusion that, under the set of facts proven herein and in view of the attendance of the aggravating circumstances of night-time and the taking advantage by the offenders of their public positions, without any mitigating circumstance to offset the same, these appellants should have been sentenced by the trial court to life imprisonment, and in accordance with the provisions of Section 34 of Republic Act No. 296, the Judiciary Law of 1948, it resolved to refrain from entering judgment herein and to certify this case to this Court for final determination.

It appears that at about one o'clock In the morning of August 23, 1946, Pedro Valdez, who, with his wife and daughter, was residing at Pinagbariohan, municipality of Laur, province of Nueva Ecija, was awoken by voices of people calling: "tao po, tao po." Valdez got up, lighted a match and saw three persons in front of the house, one of whom shouted that all the members of the household should come down. Valdez recognized two of those persons, who were standing in front of the stairway as municipal policemen of Laur. The third was a total stranger to him. The appellant Jacinto Mañacop was carrying a long firearm, while Belandres had a short one. Valdez lighted a kerosene lamp and he and his family were ordered to come down under threats of being shot. Valdez, his wife and daughter Paulina, then about 19 years of age, complied with the order, and appellants, in the meantime, covered their faces. While Mañacop was guarding Valdez, and the latter's wife and daughter, Belandres went up the house and stayed there for about twenty minutes. In the meantime, Mañacop brought Paulina to a place about twenty meters distant from the house under a mango tree, and taking off his mask, queried Paulina if her father had a gun.

When she answered in the negative, Mañacop told the girl that she would be shot if she would refuse to abide by his wishes. Mañacop pushed her violently and when she felt, he untied her drawers and placed himself on top of her and, under threat of bodily harm, assaulted her criminally.

It was then that the other accused Belandres came down from the house to relieve Mañacop, and Paulina, fearing that the other man who was coming towards her from the house might also rape her, fled and escaped, running away until she took refuge in the house of a couple, located in the poblacion of Laur. When the criminals left the scene of their crime, Valdez and his wife returned to their house to find all their things scattered and the sum of P130 missing from their trunk. It was already daybreak when their daughter returned home, weeping and telling them that she had been outraged by the accused Mañacop.

Under the influence of fear, Valdez did not report the incident immediately to the proper authorities. Instead, the next morning he started to build another house in the poblacion of Laur, while his family was staying in the barrio, but sleeping in the house of a neighbor at night. Even if the new house was not yet finished, Valdez moved his family to it after September 2, because on that date, the accused Mañacop appeared in the barrio and pelted Pedro Valdez with bullets.

The record further shows that a few days afterwards, and upon learning that the municipal mayor was looking for him, Valdez went to see the town executive. However, the mayor, upon noticing that Valdez, because of fear, could not make a full disclosure of what happened to him, referred him to the chief of police for further questioning. But Pedro Valdez could not freely state the facts to the chief of police on account of the threatening attitude of these two appellants, who were then present and were pointing their guns at the offended party during the investigation, for which reason, Valdez had to seek cover behind the chief of police.

Upon those circumstances, Valdez decided to lodge his complaint with the Provincial Fiscal of Cabanatuan, who, in the light of the sworn statements made by Valdez and his daughter Paulina, petitioned the Court of First Instance of Nueva Ecija that the original complaint be admitted, and the corresponding preliminary investigation be conducted by the Court of First Instance. By an order issued on September 25, 1946, the Judge of First Instance authorized the filing of the information with the Court of First Instance and instructed the Justice of the Peace, of Cabanatuan to conduct the necessary preliminary investigation and to issue the warrant for the arrest of the defendants.

In this instance, counsel for defendants assigned several errors allegedly committed by the trial court concerning its findings.

From the outset, the defense contends that the testimony of Paulina Valdez can not be made the basis of the conviction of appellants, because of its improbability. Paulina testified that upon reaching the mango tree, Mañacop disclosed his identity to her by taking off his mask. It should be taken into account that Mañacop was not unknown to her. He had been courting her and according to Paulina, she did not reciprocate his feelings towards her on account of the fact that he was a married man. Mañacop was, therefore, playing the role of a rejected suitor, who, in his desire to humiliate Paulina Valdez, and undoubtedly taking advantage of his position as a municipal policeman, thought that he could, with impunity, accomplish his evil purpose of ravishing the girl who dared to reject his offer of love, by staging a robbery. It is very significant that, from the very beginning of the raid, Mañacop paid his exclusive attention to his victim Paulina, while his co-accused Belandres went up to the house to ransack and rob the same of personal properties and the sum of P130 mentioned in the information.

While it is true that it is the right of the accused, through counsel, to subject the prosecution witness to rigid questioning in order to bring forth the truth, yet the exercise of such right has its limitations. After her ordeal on the night of August 23, 1946, the merciless manner in which the cross-examination of Paulina Valdez was

conducted, when she was quizzed about the details of the criminal assault upon her and her subsequent reaction, as if she were expected to live over again her terrible experience, has the effect of adding insult to injury. Paulina is not a woman of experience or of loose morals, but a simple barrio girl, a maiden, the victim of a satyr, who could not be reasonably expected that in her distress and abject misery, after having been raped, should still think of finding out whether she had any blood stains on her clothes or any substance in her body. As aptly remarked by the Solicitor General—"Is it reasonable to expect from her so much worldly wisdom and experience as to have realized the need of washing herself after she was ravished?" And the trial Judge—who could have properly stopped this kind of questioning,—after having observed Paulina Valdez on the witness stand, made this finding:

"En este caso particular, Paulina Valdez, una sencilla campesina, declaro su infortunio con una tal sinceridad y aire de veracidad, que parecia inspirada tan solo por el deseo de decir la verdad; pues no habia ni siquiera hiel en su palabra."

The sufficiency of the lone testimony of Paulina Valdez to sustain the conviction of the accused for the crime of rape, is also attacked by the defense. Her testimony is so clear and free from serious contradictions that, as ruled in *People vs. Dazo* (58 Phil. 420), there can be no doubt, In Our opinion, of her veracity, particularly in view of the fact that she was corroborated by her father Pedro Valdez, who stated that her daughter was taken away on the night in question by appellant Mañacop, and when she returned home at daybreak the next morning, she wept and told her parents that she had been raped by Mañacop. This testimony of Pedro Valdez, according to *People vs. Momo* (56 Phil., 86), may be considered corroborative of that given by his daughter.

The lack of physical examination of Paulina Valdez is also alleged by the defense fatal to the prosecution. We should not forget that Pedro Valdez and his family were practically terrorized by the accused, who were members of the police force of their town; We have stated elsewhere in this decision that they were subdued by their fear of the offenders, and their feeling was intensified by the antagonism shown by the very officials who should have given them protection and help in their distress. Lack of; medical examination has been held to be not an indispensable element in the prosecution of the crime of rape, because according to the doctrine in *People vs. Suarez* (40 Off. Gaz., 11th Suppl., No. 15, page 28), it all depends upon the evidence offered and as long as such evidence convinces the court, a conviction by the crime of rape is proper.

Regarding the defense of alibi put up by appellants, who had the backing of almost all of the officialdom of Laur, evidence was presented to the effect that these accused were on duty in the municipal building of Laur during the night of August 22 until the following morning of August 23. The mayor and the chief of police, testifying for the defense, said that at about 10 o'clock on the night of August 22, 1946, they went to the municipal building to make their usual rounds of inspection, and found the two appellants there. But, according to the evidence, the mayor and the chief of police stayed in the municipal building for ten or twenty minutes only, and another defense witness said that neither the mayor nor the chief of the police came back to the municipal building after the 10 o'clock inspection of August 22. It appears, therefore, that if these two appellants were seen by the mayor or the chief of police in the municipal building at about 10 o'clock, their testimonies can not support their alleged alibi after their round of inspection in the municipal building. They could not, therefore, give credible testimony that these appellants stayed in the municipal building during that night until the morning of August 23. On the other hand, we have the testimony of appellant Mañacop who said that he mounted guard in the municipal building from 8 o'clock to 12 o'clock midnight of August 22 and, from then on, he was off duty until 7 o'clock in the morning of August 23. According to the evidence for the prosecution, Belandres and Mañacop, with their firearms and with another unknown person, visited the house of Pedro Valdez at about 1 o'clock in the early morning of August 23.

Furthermore, in their efforts to bolster up their alleged alibi, appellants presented copies of the police blotter for

August 22 and August 23, 1946, But instead of supporting their contention, those documents (Exhibit 1-A and 2-A) constitute the best refutation of their alibi, because Exhibit 1-A, the copy of the police blotter for August 22, 1946, shows that policemen Pulante and Agustin were the ones on guard duty in the municipal building from 7 o'clock p.m. on August 22 to 7 o'clock a.m. on August 23, while appellants Belandres and Mañacop, together with policeman Palara were on patrol from 7 o'clock p.m., of August 22 to 12 o'clock a.m., of August 23.

Regarding the apparent delay in the prosecution of this case, while in numerous decisions this Court has strongly condemned the unexplained delay in instituting a criminal prosecution, because it creates suspicion about the motives of the supposed offended party, unless it is explained (U. S. vs. Reyes, 18 Phil., 495; U. S. vs. Cardona, 36 Phil., 438; U. S. vs. Pagaduan, 37 Phil., 90; People vs. Gallego et al., 44 Phil., 192; People vs. Manguiat, 51 Phil., 406), yet it has also been ruled in U. S. vs. Briones (28 Phil., 367), that—

"Such delay, when explained, however, is not sufficient to create a reasonable doubt of the guilt of the defendants. The law justly provides the period within which a criminal action may be brought in most cases. The fact that the prosecution did not commence his action earlier is no proof that the facts stated in the complaint are not true." (Syllabus.)

As already stated, the circumstances surrounding this case are such that, although the crime was committed early in the morning of August 23, 1946, the criminal action was taken by the prosecution only on September 9, 1946, the date of the original information, because of the inability of the offended party to secure protection and help from the very officials who were called upon by law to extend to Pedro Valdez and his family the facilities which they needed. The offenders were officers of the law and had threatened Pedro Valdez and his family with bodily harm if they should make a report of their offense to the proper authorities. In fact, after the filing of the information by the provincial fiscal, the latter had to make the necessary arrangements with the Military police in Cabanatuan for the protection and security of the offended parties during the pendency of this case in the lower court.

In view of all the above, We have come to the conclusion that these appellants are beyond reasonable doubt guilty of the complex crime of robbery with rape, defined and penalized in Article 294, paragraph 2 of which it provides that "the penalty of reclusion temporal in its medium period to reclusion perpetua" shall be Inflicted "when the robbery shall have been accompanied by rape * * * ."

The offense under consideration has been perpetrated with the accompaniment of the aggravating circumstance of night-time (People vs. Manaba, 58 Phil., 665) and the taking advantage by the offenders of their public position (U. S. vs. Fernandez, 3 Phil., 380), without any mitigating circumstance to offset the same. Following, therefore, the recommendation of the Solicitor General, the penalty that should be meted out to these culprits shall be in the maximum period of that provided in the above-quoted provision of the Revised Penal Code, that is, reclusion perpetua.

Our attention is correctly invited by the Solicitor General, to the fact that the trial court failed to provide for the payment of indemnity to Paulina Valdez, as provided in No. 1 of Article 345 of the Revised Penal Code, which in accordance with the decision rendered in People vs. Feliciano (77 Phil., 526), should be in the amount of P4,000, the appellant Belandres being jointly liable therefor with his co-appellant Mañacop.

On the other hand, it appears that the lower court erred in sentencing Mañacop to acknowledge the offspring, if any, of the offended party, pursuant to No. 2 of Article 345 of the Revised Penal Code, notwithstanding the fact that he is legally prevented from doing so on account of his married status (Civil Code, Art. 135). Mañacop is, however, sentenced to support such offspring for which the lower court failed to provide (People vs. Mañaba, supra; Civil Code, art. 845).

The imprisonment penalty of these appellants is therefore increased, and each of them is hereby sentenced to reclusion perpetua, and to jointly and severally indemnify Paulina Valdez in the sum of four thousand pesos, without subsidiary imprisonment on account of the nature of the main penalty. Appellant Jacinto Mañacop shall support the offspring, if any, of the offended party. With such modifications, the judgment of the lower court is affirmed. With costs.

Moran, C.J., Ozaeta, Pablo, Bengzon, Padilla, Tuason, Montemayor, and Reyes, JJ., concur.

MORAN, C. J.:

Mr. Justice Paras, for the reasons given in this opinion, voted for the modifications of the judgment appealed from, but, on account of his being on leave at the time of the promulgation thereof, his signature does not appear herein.

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