

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROGELIO (GIGI) TORIO AND TEOGENES NARCELLES III Y ANGARA
(ARNS NARCELLES), ACCUSED-APPELLANTS.**

G.R. No. L-48731. December 21, 1983

Ponente: GUERRERO, J.

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GUERRERO, J.:

Where the medical examination of the fifteen-year old complainant showed one fresh laceration of the hymen at 6:00 o'clock (Exh. "B") which the admitting physician described as superficial (tsn, p. 3, Sept. 14, 1973), the claim of the victim herein that she was raped separately and successively by five different men is at once open to serious question. With such internal finding, her version of multiple rapes certainly calls for a careful and closer scrutiny. Initially, it strikes Us that according to the prosecution evidence, after the complainant was raped at the gasoline station by two accused, the girl met and talked with one, a friend of her family, but she made no outcry nor asked for help. She passed in front of the townhall, yet she made no report to the police. She had a cup of coffee at the house of another accused. Then disguised as a boy, she proceeded to the house of another accused where she was raped by three other accused, one after the other. After sleeping, she was discovered early the following morning inside the room by her mother, but she made no complaint to her. Brought to the Municipal Hall, the girl talked with the Chief of Police and the Municipal Judge, and still, she reported no sex abuse against her, insisting that nothing happened to her. Then her father caused her detention for disobedience, after which she was brought to the hospital. And seventeen (17) days later, the criminal complaint for rape was filed by the girl and her mother. From these facts and circumstances which are quite unnatural and inconsistent with normal human conduct and experience, the mandatory review of the death sentence is more than imperative and compelling for Us to scrutinize carefully the version of the prosecution and determine whether the testimony of the injured girl is tainted with insincerity and fabrication and, therefore, should not be received with precipitate credulity.

Based on the two criminal complaints filed on March 27, 1972 by the victim, Alma Casuga, then a 15-year old high school dropout, assisted "by her mother Amparo Casuga, the Assistant Provincial Fiscal filed two separate informations: the first against accused Ernesto Masabe, Eduardo (Apeng) Maganes, and Calixto (Alex) Domingo in Criminal Case No. A-248 for rape committed as follows:

"That on or about the 10th day of March 1972, in the Municipality of Rosario, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together, and mutually helping one another and taking advantage of their superior strength did then and there willfully, unlawfully and feloniously by means of force and intimidation, and by use of narcotic drugs which rendered the victim Alma Casuga unconscious and/or deprived of her reason, had carnal knowledge and sexual intercourse with the said complainant Alma Casuga, a fifteen-year old girl, against her will and without her consent, successively one after the other inside the Shell gasoline station of Rosario, La Union.

"That in the commission of the crime, the following aggravating circumstances were present:

(1) Abuse of superior strength, (2) nocturnity was sought to facilitate the commission of the offense.

"CONTRARY to Art. 335, par. 3, sub-paragraph 3 of the Revised Penal Code.

"Agoo, La Union, December 14, 1972";

and the second, against the accused Rogelio Torio, Teogenes Narcelles III, and Doody Gagawin in Criminal Case No. A-210, also for rape committed as follows:

"That on or about the 10th day of March 1972, in the Municipality of Rosario, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together, and mutually helping one another and taking advantage of their superior strength did then and there willfully, unlawfully and feloniously by means of force and intimidation, and by the use of narcotic drugs which rendered the victim, Alma Casuga unconscious and/or deprived of her reason, had carnal knowledge and sexual intercourse with the said complainant Alma Casuga, a fifteen year old girl, against her will and without her consent, successively one after the other inside the house or residence of one of the accused.

"That in the commission of the crime, the following aggravating circumstances were present:

(1) Abuse of superior strength, (2) nocturnity was sought to facilitate the commission of the offense.

"CONTRARY to Art. 335, par. 3, sub-paragraph 3 of the Revised Penal Code.

"Agoo, La Union, November 20, 1972."

Incidentally, the trial of the two subject criminal cases spanned over five (5) years, the hearings held before three (3) trial judges, namely: Hons. Antonio G. Bautista, Tomas P. Madella, Jr., and Corona Ibay-Somera. In the course of the trial, accused Doody Gagawin and Eduardo (Apeng) Maganes died resulting in the dismissal of the respective informations against them. Except for Judge Antonio G. Bautista who heard only the direct and part of the cross-examination of the first prosecution witness presented, Dr. Rodolfo Catbagan, and Judge Corona Ibay-Somera, who heard the testimonies of the accused Ernesto Masabe and Calixto Domingo, and the rebuttal testimony of the complainant Alma Casuga, the testimonies of the rest of both prosecution and defense witnesses, particularly the testimony-in-chief of the offended party Alma Casuga, were all heard by Judge Tomas P. Madella, Jr.

Counsel for the three (3) accused sentenced by the lower court to death, namely Rogelio (Gigi) Torio, Teogenes Narcelles III and Ernesto Masabe, assign the following errors:

I. That the Hon. Trial Court committed gross reversible error in finding accused Rogelio "Gigi" Torio, Teogenes "Arns" Narcelles III and Ernesto Masabe, guilty of the crime charged;

II. The Hon. Trial Court erred in not holding that the prosecution's evidences failed to overcome the presumption of innocence of all accused; and

III. The Hon. Trial Court erred in finding Alma Casuga was drugged.

Similarly, counsel for the accused Calixto "Alex" Domingo assails the decision of the trial court imposing reclusion perpetua to the latter by assigning the following errors:

I. The trial court erred in giving credence to the testimony of prosecution witness Alma Casuga;

II. The trial court erred in not believing the testimony of appellant Calixto Domingo alias Alex;

III. The court erred in convicting the appellant Calixto Domingo alias Alex.

The evidence adduced by the prosecution may be stated as follows, quoting from the People's Brief:

"At around 7:00 o'clock in the evening of November 23, 1973 (should be March 10, 1972), complainant Alma Casuga, then 15 years old, was in the store owned by her; familyjandl located at the public market of Rosario, La Union, (tsn, p. 53. Nov. 23, 1973). With her was her mother, Amparo Casuga, and her brothers and sisters. At that time, a friend of Alma, Virginia Dangca, came to the store, (tsn, p. 53 November 23, 1973). Virgie invited Alma to watch the Junior-Senior Prom of St. Mary's Academy being held at the town plaza which was about 250 meters away. When Alma consented, Virgie sought permission of Alma's mother. The latter agreed but cautioned the two not to stay out late. Virgie and Alma then proceeded to the plaza and watched the dance at the public auditorium, (tsn, p. 54, November 23, 1973). After viewing the event for about five minutes, Virgie pulled Alma away and told her that they were going somewhere else. Alma meekly followed, (tsn, p. 55, Nov. 23, 1973). After a while, she found herself in the Shell gasoline station beside the house of Dr. Narcelles. Virgie first went inside the two-storey stationhouse while Alma staved outside beside the door, (tsn, p. 55, Nov. 23, 1973). Then Virgie pulled Alma inside and thereupon whistled a signal. Dick Ladia appeared. Dick entered the station house and left after talking briefly with Virgie. (tsn, p. 56, November 23, 1973). Wary about the situation, Alma asked Virgie why they were there and what was going on. Alma then said that she wanted to go home already, but Virgie insisted that they wait for Dick, (tsn, p. 57, November 23, 1973).

"Shortly, Dick returned, followed by appellant Alex Domingo. Dick talked to Virgie and thereafter the four of them went upstairs (tsn, p. 57, November 23, 1973). Virgie and Dick entered one of the two rooms and locked themselves hi while Alma and Alex went to the veranda and talked (tsn, p. 59, Nov. 23, 1973). As they neared the door downstairs, it suddenly opened and appellant Totoy Masabe barged in followed by Apeng Maganes. (tsn, p. 60, Nov. 23, 1973). 'Just wait a while, you go home by and by, Totoy said, (tsn, p. 61, Nov. 23, 1973). Alma insisted that they were going home. But Totoy was adamant and menacingly blocked the door. He ordered Apeng to get drinking water. Totoy then pulled Alma's hands in an effort to bring her upstairs, but Alma retreated. Apeng helped Totoy by holding Alma's legs but she resisted and broke loose, (tsn, pp. 62-63, Nov. 23, 1973). Totoy then produced a tablet and cajoled Alma into swallowing it. Alma refused to take it. So, Totoy used force. He slapped Alma, and with Apeng holding her, he pressed her cheeks to open her mouth and thereby forced her to swallow the tablet, (tsn, pp. 63-64, Nov. 23, 1973). Afterwards, Totoy and Apeng again tried to bring Alma upstairs. Finally, they succeeded, (tsn, p. 64, Nov. 23, 1973). Alma was brought to the room which Dick and Virgie had used a while ago. Onceinside, Totoy ordered Apeng to leave the room and stand guard outside, (tsn, p. 65, Nov. 23, 1973). When the door was closed and they were left alone, Totoy committed acts of lasciviousness on the person of Alma who incessantly resisted his lewd advances, (tsn, p. 66, Nov. 23, 1973). At one point, Alex entered the room and asked Totoy to stop what he was doing. But, Totoy told him to leave. Seeing Alex, Alma pleaded for help but Alex turned deaf ear to her pleas and left the room, (tsn, p. 66, Nov. 23, 1973). Totoy again resumed his lustful deeds and tried to remove Alma's dress. Because Alma resisted and fought like a cat. Totoy boxed and slapped her. Soon, Alma became tired and felt weak and dizzy. Still, she struggled to free herself from Totoy's clutches, (tsn, p. 68, Nov. 23, 1973). Totoy's brute strength, however, forced her to succumb. Then in quick succession, Totoy did the following: he undressed Alma, forced her to lie on her back on the floor; remove his own clothes; placed himself on top of Alma and had sexual intercourse with her. (tsn, p. 69, Nov. 23, 1973). Alma fought hard and when she tried to shout, Totoy slapped her and covered her mouth, (tsn, p. 3, Dec. 21, 1973). Alex, again, came knocking at the door. He told Totoy to stop; but, Totoy simply shouted back at Alex to leave them alone, (tsn, p. 4, Dec. 21, 1973). When he had satisfied his lust, Totoy got up, put on his clothes and went away, (tsn, p. 4, Dec. 21, 1973). Alex came in and found Alma still lying naked on the floor. She couldn't get up because of intense pain and her weak condition, (tsn, p. 4, Dec. 21, 1973). Instead of helping Alma, however, Alex found his bestial desires aroused. Quickly, he removed all his clothes, placed himself on top of Alma and copulated with her. Alma shouted and cried, unable to resist further. Her entire body was trembling and full of pain. When Alex was through, he got up and went away. Alma was left alone in the room. (tsn, pp. 5-6, Dec. 21, 1973).

"After a brief rest, Alma arose, dressed up and left the station house. On her way home, she met the accused

Rogelio (Gigi) Torio, Doody Gagawin and Teogenes (Arns) Narcelles III in front of the latter's house, (tsn, p. 7, Dec. 21, 1973). Alma weepingly related to Gigi what had happened to her. (tsn, p. 7, Dec. 21, 1973). Gigi told Alma that they would take her home, (tsn, p. 8, Dec 21, 1973). When the group passed by the town hall of Rosario, they met David Ortega, a family friend of the Casugas. (tsn, p. 8, Dec. 21, 1973). David informed Alma that her mother was worried because she was not home yet. Alma replied that she was on her way home all along thinking that it was where the three accused were bringing her. (tsn, p. 9, Dec, 21, 1973). To Alma's surprise, the three accused took her instead to the elementary school in front of the public market. Once inside, Arns pulled her to a faucet, (tsn, p. 9, Dec. 21, 1973). Then he took a small box from his boot and brought forth around five to six medicine-form tablets, (tsn, p. 10-11, Dec. 21, 1973). He asked Alma to take them. When Alma refused, Arns used force to make Alma swallow them. He took hold of Alma, pressed her cheeks and when her mouth opened, he placed all the tablets inside. Gigi in turn poured water into Alma's mouth and in the process forced her to swallow all the tablets, (tsn, pp. 11-12, Dec. 21, 1973). Thereafter, they took Alma into one of the rooms and there forcibly laid her down on a desk. Alma, however, stood up right away and ran. (tsn, p. 13, Dec. 21, 1973). After a brief chase, Gigi caught Alma, (tsn, p. 14, Dec. 21, 1973). The three men decided to bring Alma to the house of Dr. Narcelles, Arn's father, (tsn, p. 14, Dec. 21, 1973). Once there, Alma was given a cup of coffee to drink, (tsn, p. 15, Dec. 21, 1973). Then Alma was taken to Arn's room and was forced to don a pair of pants belonging to him, purposely, to disguise her as a boy. (tsn, pp. 15-16, Dec. 21, 1973). Alma was brought out of the Narcelles house and this time was taken to the house of Gigi. (tsn, p. 17, Dec 21, 1973). Inside Gigi's room, Alma was left alone to rest, (tsn, p. 18, Dec. 21, 1973). While Alma was lying in bed, Gigi suddenly entered the room and forcibly undressed Alma. Alma resisted feebly. Then, Arns entered the room, (tsn, p. 18, Dec. 21, 1973). Upon seeking the naked form of Alma, Arns immediately undressed then placed himself on top of Alma and had sexual intercourse with her. Alma struggled to resist but all her efforts were in vain. All she could manage to do was to cry and shout faintly, (tsn, p. 19, Dec. 21, 1973). Arns left after his sexual urge simmered down, (tsn, p. 19, Dec. 21, 1973). Shortly, Gigi entered the room. When she saw Gigi, Alma pleaded for help. But Gigi did not sympathize with Alma. Instead, his animal instinct prevailed. Seeing Alma naked he removed his clothes and copulated with her. (tsn, p. 20, Dec. 21, 1973). When the sexual act was finished, Gigi dressed up and left the room. After Gigi had left, Doody entered the room, undressed and laid on top of Alma. Doody likewise had sexual intercourse with Alma, against her will, (tsn, p. 21, Dec. 21, 1973). All the while, though Alma was weak, she could still recognize people, (tsn, p. 20, Dec. 21, 1973).

"Alma fell asleep due to sheer exhaustion. When she woke up the next morning, she found Arns lying beside her in bed and saw that her dress was put on improperly, (tsn, p. 5, Dec. 21, 1973). Then she heard knocking on the door. Gigi entered the room and told her to be quiet. Gigi threatened to strike Alma with a wooden club if she did not obey him. He then forced Alma to go underneath the bed. Gigi told Alma that her mother was there looking for her. (tsn, p. 26, Dec. 21, 1973). When Gigi left the room, Alma came out and sat on the bed. (tsn, p. 3, Jan. 3, 1974). At that moment, her mother entered the room and when she saw Alma she embraced her. (tsn, p. 13, October 1-2, 1973). Because she was afraid of what her abductors would do to her, Alma did not yet tell her mother what had happened to her. (tsn, pp. 3-4, Jan. 18, 1974).

"Alma and Gigi were brought by her parents to the police authorities where Alma remained for half a day. (tsn, p. 14, Oct. 12, 1973). She was not yet in her proper senses and she could not properly answer questions propounded to her by the chief of police, (tsn, p. 5, Jan. 18, 1974). Later, Alma was taken to the Provincial Hospital in San Fernando, La Union. There she was confined for three to four days, (tsn, p. 18 and 21, Oct. 12, 1973). Alma was subjected to a physical examination, the results of which are shown in Exhibit B. At the time of her admission at the hospital, Alma complained, among others, of dizziness - the probable after-effect of depressant drugs, (tsn, pp. 29-30, Apr. 7, 1973). Depressant drugs cause the deprivation of reason or reduction of will power. Also, they lessen mental alertness and muscular quickness, (tsn, p. 33, Apr. 7, 1973). Resultantly, Alma's mother filed two complaints for rape" (People's Brief, pp. 3-10).

In the medical certificate dated March 23, 1972, Exh. "B," signed by Dr. Rodolfo Catbagan, Resident Physician at

the G.E. Antonino Memorial Hospital (La Union Provincial Hospital) the following findings were noted on the alleged rape victim upon her examination and treatment from March 11-14, 1972 at said hospital:

"INTERNAL EXAMINATION :

- Vagina admits two fingers;
- Fresh laceration of the hymen at 6 o'clock;
- Hematoma at 3 and 9 o'clock;
- Cervix closed;
- Uterus non-gravid.

PHYSICAL EXAMINATION :

- Hematoma left and right deltoid region;
- Hematoma shoulder left and right;
- Fully developed mammary gland.

LABORATORY RESULTS :

- Florence Test (no reagent)
- Smear for sperm cell - positive."

The accused Calixto "Alex" Domingo sets up the defense of alibi. According to him, in the evening of March 10, 1972, he was in his house located in the western part of the town of Rosario, La Union, less than a kilometer from the Municipal Hall of Rosario; that he never went out of his house that same evening, and that he was not aware of any affair in the school located in the town in the evening of March 10, 1972; and that it was not true that he committed the crime of rape against Alma Casuga. Further, said accused claims several discrepancies in the evidence of the prosecution, showing that his guilt was not convincingly proven to be beyond reasonable doubt, (tsn, pp. 259-260, 10 July 1976; Brief for Appellant Calixto Domingo, pp. 18, 27, 39).

Accused-appellants Teogenes Narcelles III, Ernesto Masabe and Rogelio Torio similarly rely upon a number of factual circumstances from the evidence of the prosecution which indicate or cast doubt as to the moral certainty of their guilt, more particularly from the alleged rape victim's conduct and utterances at the time when the alleged rape was committed and thereafter (Brief for Appellants Narcelles, Masabe and Torio, p. 51). Each of these defendants claims versions of what happened actually immediately before, during, and after the alleged commission of the criminal offense contrary to the theory of the prosecution.

Thus, the accused Teogenes "Arns" Narcelles III swore that about 8:00 o'clock in the evening of March 10, 1972, he was at home in Rosario, La Union preparing to accompany his mother, sisters and sweetheart, Elvira Zarandi, to attend the junior-senior prom of St. Mary's Academy at the town Auditorium. On their arrival at the Auditorium, they occupied their box. He did not notice much what happened at the gathering as he was much engrossed in talking with his girlfriend and dancing with her occasionally, (tsn, 14 March 1975, pp. 4-24; tsn, 21 March 1975, pp. 180-181). Together with his family, he stayed in the Auditorium until about 1:00 to 2:00 in the morning of March 11, 1972. They left together at about 2:00 o'clock that morning and proceeded home where they had snacks in the dining room, (tsn, 14 March 1975, p. 7, 22; tsn, 21 March 1975, pp. 181-182, 189). He then slept and woke up between 11:00 and 12:00 that same morning, (tsn, 14 March 1975, pp. 7, 22). That prior to going home with his parents, sisters and sweetheart, Arns Narcelles never left the Auditorium and stayed there

until they all left for home together, except when he went out with his girlfriend to buy cigarettes and refreshments and thereafter returned to the Auditorium to stay until their party went home, (tsn, 14 March 1975, pp. 4, 6, 12, 14, 15; tsn, 21 March 1975, pp. 181, 188). That Arns Narcelles learned of his involvement in this case only when told by his mother, Dra. Corazon A. Narcelles. Arns later learned that Gigi Torio had approached his mother and told her that the Casuga family was asking P10,000.00 to drop the complaint against Arns for rape. Other persons, Mrs. Avelina Perez and Mrs. Paz Ocampo, had also mentioned to Arn's mother about a possible settlement, the latter having met Mrs. Narcelles at the request of complainant's parents, (tsn, 14 March 1975, pp. 29, 30, 31, 35; tsn, 21 March 1975, pp. 186-187, 90-94). Believing in her son's innocence, Dra. Narcelles preferred to fight the case in court.

Accused Ernesto "Totoy" Masabe professes his innocence of the crime charged by claiming that he was at home in Rosario, La Union on 10 March 1972. About 4:00 o'clock in the afternoon of that day, he left his house with his co-accused Apeng Maganes, who died in the course of trial, bound for the Shell Gasoline Station in the same municipality, (tsn, 2 April 1976, pp. 285, 294). Said Shell gasoline station was no longer operating but its owner, Mrs. Masaganda, requested them to watch it. They arrived in the gas station about 7:00 o'clock that evening as they dropped first in the house of a certain Renato Posadas, (tsn, 2 April 1976, p. 295). Upon their arrival at the gas station, they closed its windows and door, and left the Auditorium to watch the junior-senior prom. They stayed in the Auditorium for one hour, and went back to the gas station, (tsn, 2 April 1976, p. 288). According to him, the Shell station is actually a two-storey house with two rooms on the second floor which he and Apeng Maganes used as their sleeping quarters, although Masabe sometimes sleeps at his home, (tsn, 2 April 1976, pp. 292, 298, 300, 302). When they entered their room on the second floor in order to sleep, they heard voices from the other room. They knocked at the door, and told its occupants to open it. As the room's occupants did not open it, they forced it open, as it was locked only by a small nail, (tsn, 2 April 1976, pp. 288-289). When they opened the door, they saw Virgie Dangca, Dick Ladia, Alma Casuga, and a companion whom Masabe could not recognize, as he was lying wrapped in a blanket. Said four persons inside the room were told by Masabe and Maganes to leave, (tsn, 2 April 1976, pp. 289-290). After that, Apeng Maganes went upstairs. Downstairs, Masabe saw Virgie, Dick and Alma leave and followed a man whom he could not recognize, (tsn, 2 April 1976, pp. 290, 309).

The evidence for the accused-appellant Rogelio "Gigi" Torio show that he is an hermaphrodite (bakla) and a beautician by profession. He was a former teacher of complainant Alma Casuga at the Union Institute of Rosario, La Union when the latter was then a first-year high school student. He declared that he could not have raped said complainant as she is more or less related to him, the brother of Alma's father being the husband of a sister of Mrs. Justita Torio, Gigi's mother, (tsn, pp. 11-12, 13 Dec. 1974) and that he does not lust for women but for men.

We quote hereunder the summary of his defense as We cited in his Brief under the heading: Statement of Fact, pp. 17-39, to wit:

"7. . . . That 10 March 1972 evening he was also at home in Rosario, La Union, (tsn, 18 Oct. 1974, p. 4; tsn, 13 Dec. 1974, p. 4) preparing his make up. (tsn, 18 Oct. 1974, p. 4; tsn, 13 Dec. 1974, p. 4; tsn, 10 Jan. 1975, pp. 3, 8) 1/2 inch long, (tsn, 18 Oct. 1974, p. 4) false eyelashes,, (tsn, 18 Oct. 1974, p. 4; tsn, 13 Dec. 1974, p. 4) and shoulder length, (tsn, 18 Oct. 1974, p. 4) wig (13 Dec. 1974, p. 4) as he had also wanted to attend said St. Mary's Junior-Senior Prom, (tsn, 18 Oct. 1974, p. 4; tsn, 8 Nov. 1974, pp. 10-11; tsn, 10 Jan. 1975, p. 3) at the Auditorium of the Rosario Public Plaza. (Notes, 18 and 19, supra). His purpose was to dance, (tsn, 10 Jan. 1975, p. 3) and to flirt, (tsn, 18 Oct. 1974, p. 5) with men, his action and make up being that of a lady, (tsn, 18 Oct. 1974, p. 5; tsn, 8 Nov. 1974, pp. 10, 11), Being a 'bakla.' (tsn, 10 Jan. 1975, pp. 4, 17) he likes men. (tsn, 18 Oct. 1974, p. 6) dancing with them in dancing halls, (tsn, 10 Jan. 1975, pp. 5, 17, 18) sometimes bringing them to his house in Rosario, La Union, (tsn, 10 Jan. 1975, p. 5) and making proposals to them, (tsn, 10 Jan.

1975, p. 5). As to women, he considers them only as friends, (tsn, 18 Oct. 1974, p. 6).

"8. That 10 March 1972 evening, Gigi Torio left his house alone for the auditorium, (tsn, 18 Oct. 1974, p. 6; tsn, 10 Jan. 1975, p. 8) dressed in a woman's attire, (tsn, 14 March 1975, p. 15). On reaching the Auditorium, he saw Modesto Dangca. (tsn, 18 Oct. 1974, p. 6; tsn, 8 Nov. 1974, pp. 11-12) nicknamed Igo. (tsn, 18 Oct. 1974, p. 6) and danced with him immediately, (tsn, 18 Oct. 1974, p. 6; tsn, 14 March 1975, pp. 15,17). After dancing with Igo, he went around to flirt with other men. (tsn, 18 Oct. 1974, p. 6) 'with the winks of my eyes and the movement of my hips.' (tsn, 18 Oct. 1974, p. 7) and danced with them (Ibid.). He danced with men until about 11:00 o'clock that evening, (tsn, 18 Oct. 1974, p. 7) when the coronation ceremonies started, (tsn, 21 March 1975, pp. 180, 181).

"9. About between 10:00 and 11:00 o'clock that 10 March 1972 evening, complainant Alma Casuga came to the Auditorium and talked to Gigi Torio and Modesto Dangca, (tsn, 18 Oct. 1974, p. 7; tsn, 8 Nov. 1974, p. 12; tsn, 20 Sept. 1974, pp. 6, 7) who had just then finished dancing (tsn, 18 Oct. 1974, p. 8). Gigi Torio considers Alma Casuga his sisterly friend, (tsn, 18 Oct. 1974, p. 3) as he used to go to the canteen owned by Alma's mother for snacks, (tsn, 18 Oct. 1974, p. 3; tsn, 8 Nov. 1974, p. 9) while Gigi was still teaching from 27 September 1971 to 4 January 1972 (tsn, 18 Oct. 1974, p. 33) at the Union Institute of Rosario, La Union, (tsn, 18 Oct. 1974, p. 3; tsn, 8 Nov. 1974, p. 9) where Alma was a student (Ibid.). The subjects Gigi handled were Economics, History and World Literature (Note 80-A, supra). Alma was in first year High School then, (tsn, 18 Oct. 1974, p. 36) and she became a student of Gigi when. "he took over as her Class Adviser, when the latter became pregnant (Ibid.) and taught Grammar and English (Ibid.) for one month only (ibid.).

"10. While talking to Gigi at that time in the Auditorium, (Notes 77 and 78, supra) Alma was crying at the same time, telling Gigi she wanted to sleep in his house that evening, (tsn, 18 Oct. 1974, p. 8; tsn, 8 Nov. 1974, p. 12; tsn, 20 Sept. 1974, p. 7). Asked by Gigi why she was crying, (tsn, 18 Oct. 1974, p. 8) Alma replied she was spanked by her mother, (tsn, 18 Oct. 1974, pp. 8, 9; tsn, 8 Nov. 1974, p. 12; tsn, 20 Sept. 1974, pp. 7, 14) referring to Mrs. Amparo Casuga, (tsn, 18 Oct. 1974, p. 8) and she naturally did not like to go home, (tsn, 20 Sept. 1974, p. 7).

"11. Gigi Torio initially did not like the idea of Alma sleeping in his house, (tsn, 18 Oct. 1974, p. 9; tsn, 8 Nov. 1974, pp. 12, 16, 18; tsn, 20 Sept. 1974, pp. 7, 14) for not only Alma has also a house of her own (tsn, 18 Oct. 1974, p. 9) but, more importantly, he liked more of boys than girls to come with him to his house that night, (tsn, 18 Oct. 1974, p. 9). Alma insisted, however, telling Gigi 'Please help me, sir, because my mother loves 1984, other people more than us.' (tsn, 18 Oct. 1974, p. 9). So Gigi told her that if she really wanted to sleep in his house that night, she had to wait as he wanted to dance some more, (tsn, 18 Oct. 1974, p. 10; tsn, 8 Nov. 1974, p. 12). So Alma went out of the Auditorium, (tsn, 18 Oct. 1974, p. 10) Gigi not knowing where she went to, (Ibid.) as he really did not care then wherever Alma might be going (Ibid.)

"12. After sometime, Alma came back and, for the second time, talked to Gigi Torio at the back of the Auditorium of the Rosario public plaza, (tsn, 18 Oct. 1974, pp. 10, 11). 'Please, Sir, help me, please let me sleep in your house, anyway they (will) not get mad because we are related.' (tsn, 18 Oct. 1974, p. 11; tsn, 8 Nov. 1974, pp. 13, 17, 19) Alma at the same time holding on to Gigi Torio's arms, (tsn, 18 Oct. 1974, p. 11). Alma mentioned they are related because the brother of Alma's father is the husband of a sister of Mrs. Justita Torio, Gigi's mother, (tsn, 13 Dec. 1974, pp. 11-12). Alma was crying and sobbing, (tsn, 18 Oct. 1974, p. 12; tsn, 8 Nov. 1974, p. 13) telling Gigi 'Please let us go so that I could sleep so that they could not see me here,' (tsn, 18 Oct. 1974, p. 12) repeating these many times (Ibid.) Gigi told Ahna to go to the canteen, (tsn, 18 Oct. 1974, p. 13) referring to the store of Alma's mother located in the public market of Rosario, La Union, (tsn, 12 Oct. 1974, p. 32) which also served as the family dwelling place, (tsn, 25 Jan. 1974, pp. 90,. 91) since Mrs. Casuga tends to said store day and night, (tsn, Ibid., pp. 5, 7, 33) and it is there where her children were sleeping (tsn, 19 Oct. 1974, pp. 15, 16). But Alma told Gigi, 'I do not want to go there because mama spanked me.' (tsn, 18 Oct. 1974, p. 13).

"13. Probably because Alma was his former student (Notes 80-A, 81 to 82-A, *supra*) whom he considers a sisterly friend, (Notes 79 and 80, *supra*) Gigi Torio took pity on Alma (tsn, 20 Sept. 1974, p. 7) and, at about 11:00 o'clock that evening, he finally decided to go home bringing Ahna with him. (tsn, 18 Oct. 1974, p. 13)." On entering Gigi's house, Ahna said, 'I am ashamed because your sister is here,' (tsn, 18 Oct. 1974, p. 14; tsn, 8 Nov. 1974, p. 14; tsn, 6 Dec. 1974, p. 4) referring to Evangeline or Vangie Torio, (tsn, 18 Oct. 1974, p. 14) a teacher at the Philippine Military Academy in Baguio City, (tsn, 18 Oct. 1974, p. 14; tsn, 8 Nov. 1974, pp. 14, 15) who was then busy making her lesson plan, (tsn, 18 Oct. 1974, p. 16; tsn, 8 Nov. 1974, p. 16) she being at the time of the incident a substitute teacher at the Rosario Elementary School, Rosario, La Union, (tsn, 6 Dec. 1974, p. 19) as a guidance counsellor. (Ibid.) Gigi retorted, 'Why be ashamed. You told me a while ago we are relatives.' (tsn, 18 Oct. 1974, p. 15; tsn, 8 Nov. 1974, p. 15). Alma's reaction was only to say, '*Oo nga pala.' (Ibid.).

" 14. Sometime later, Alma said, 'I want to sleep Gigi. (tsn, 18 Oct. 1974, p. 15; tsn, 8 Nov. 1974, p. 15). Asked by Gigi whether she wanted to sleep upstairs, (Note 112, *supra*) Alma replied 'No, I want to sleep in your room,' (Note 112, *supra*) which Alma must have known as she used to drop by the house of Gigi and to fetch him. (tsn, 10 Jan. 1975, p.7) when Gigi was still teaching at the Union Institute of Rosario, La Union, (tsn, Ibid.) where Alma was his student. (Notes 82-B to 82-E, *supra*). Gigi then told Alma, ' . . . then, if you want to sleep, anyway my sister will sleep with you here,' (tsn, 18 Oct. 1974, p. 15; tsn, 8 Nov. 1974, pp. 15, 21, 22; tsn, 6 Dec. 1974, p. 5). Vangie then told Alma she could sleep in Gigi's room, (tsn, 18 Oct. 1974, p. 15; tsn, 8 Nov. 1974, pp. 15, 20) while Vangie was still doing her lesson plan, (tsn, 18 Oct. 1974, p. 16; tsn, 8 Nov. 1974, p. 16). So Alma entered Gigi's room (tsn, 18 Oct. 1974, p. 16; tsn, 8 Nov. 1974, p. 14) while Vangie did her lesson plan in the sala. (tsn, 18 Oct. 1974, p. 16; tsn, 8 Nov. 1990, 1974, p. 16). After finishing her lesson plan, Vangie changed the beddings in Gigi's bedroom, (tsn, 6 Dec. 1974, pp. 15, 16) and slept there together with Alma, (tsn, 6 Dec. 1974, pp. 6, 15, 20; tsn, 13 Dec. 1974, p. 7; tsn, 27 Sept. 1974, p. 215).

"15. Meanwhile, Gigi Torio returned back to the Auditorium to dance again, (tsn, 18 Oct. 1974, p. 16; tsn, 6 Dec. 1974, p. 6). Sensing that Gigi was about to leave, Alma told him, 'Alright, but don't tell to the house that I am here.' (tsn, 18 Oct. 1974, p. 16).

"16. So Gigi returned later to the Auditorium, (tsn, 18 Oct. 1974, p. 16; tsn, 8 Nov. 1974, p. 20; tsn, 6 Dec. 1974, pp. 5, 6) not only to dance again (Note 123, *supra*) but to accompany his cousin Leticia Torio (tsn, 18 Oct. 1974, p. 16). Leticia, a former faculty member of St. Mary Academy, (tsn, 18 Oct. 1974, p. 17) had asked Gigi to wait for her until 3:00 o'clock that morning (tsn, 18 Oct. 1974, p. 16) as she was instructing the dancers who were performing at the said Junior-Senior's Prom, (tsn, Note 129, *supra*, P. 17).

"17. Evangeline or Vangie Torio usually slept in her room located in the upper storey of their house, (tsn, 6 Dec. 1974, pp. 15, 16; tsn, 10 Jan. 1994, 1975, p. 10). At about 2:00 A.M. of 11 March 1972, her mother, Justita Torio (tsn, 13 Dec. 1974, p. 2) who was sleeping upstairs woke up, (Note 132, *supra*, p. 5). She went to Vangie's bedroom, situated just across her bedroom (Note 132, *supra*, pp. 6,7) to see if Vangie was already sleeping, (tsn, 13 Dec. 1974, pp. 6, 7; tsn, 10 Jan. 1975, p. 10) as she knew she was writing something before. (Note 135, *supra*, p. 7). Not finding Vangie, she went downstairs, (tsn, 13 Dec. 1974, p. 7; tsn, 10 Jan. 1975, p. II) went to Gigi's room and saw Vangie in there sleeping with a woman (tsn, 13 Dec. 1974, p. 7). Mrs. Torio woke up her daughter and asked who the woman was (Note 138, *supra*). Vangie answered, 'Alma,' (Note 138, *supra*; tsn, 10 Jan. 1975, p. 11) referring to complainant Alma Casuga. After that, Mrs. Torio went back upstairs and slept (tsn, 13 Dec. 1974, p. 8).

"18. Gigi and Leticia left the Auditorium about 3:00 o'clock in the morning of 11 March 1972 (tsn, 18 Oct. 1974, p. 17). After bringing Leticia to her own house, which is neighboring that of Gigi's (Note 141, *supra*) Gigi returned home. Arriving home, he saw Alma still sleeping (tsn, 18 Oct. 1974, pp. 17, 18) with his sister Vangie (tsn, 8 Nov. 1974, p. 22) inside his own bedroom.

"19. At about a little past 4:00 o'clock that morning of 1 March 1972, Alma's mother, Amparing Casuga came

(tsn, 18 Oct. 1974, p. 18). She knocked at the front door. (Note 145, supra) and when Gigi opened it, Mrs. Casuga immediately entered and asked for Alma, (tsn, 18 Oct. 1974, p. 18; tsn, 8 Nov. 1974, p. 23). Gigi was about to say Alma was inside the room, (Note 145, supra) when Alma said, ' . . . Tell her I am not here,' (tsn, 18 Oct. 1974, p. 18; tsn, 8 Nov. 1974, p. 23; tsn, 13 Dec. 1974, p. 8; tsn, 10 Jan. 1975, pp. 12, 13) to which Mrs. Casuga answered, ' . . . so you are here, gaga you fool.' (tsn, 18 Oct. 1974, p. 19; tsn, 8 Nov. 1974, pp. 23, 36). 'Why, what is wrong if I am here? You are my relative,' replied Alma, (tsn, 18 Oct. 1974, p. 19) referring to Gigi Torio as a relative, (Note 152, supra).

"20. Mrs. Casuga then told Alma to come out so that they could all go to the Municipal Hall, (tsn, 18 Oct. 1974, p. 20; tsn, 8 Nov. 1974, pp. 34, 35, 36). 'For what,' Alma asked, (tsn, 18 Oct. 1974, p. 20). Alma then came out saying, Let us go Gigi, anyway nothing happened (tsn, 13 Dec. 1974, p. 9; tsn, 10 Jan. 1975, p. 9).[^]Why do they have to bring us to the Municipal Hall.' tsn, 18 Oct. 1974, p. 20; tsn, 15 Nov. 1974, p. 226). After that, Alma, her mother; Mrs. Casuga, and Gigi Torio went to the Municipal Hall; (tsn, 18 Oct. 1974, pp. 20-21, 22) riding in a tricycle, (tsn, 8 Nov. 1974, pp. 23, 35, 36).

"21. When they arrived in the Municipal Hall, Alma's father, Manuel Casuga, (tsn, 18 Oct. 1974, pp. 22) was already there with two (2) policemen, (Note 158, supra) and he immediately spanked, kicked, and boxed Alma, (tsn, 18 Oct. 1974, p. 22; tsn, 3 Nov. 1974, pp. 28, 29, 36) in the head, face and stomach, (tsn, 18 Oct. 1974, p. 22) causing Alma to fall down near the table of the Chief of Police, (tsn, 18 Oct. 1974, p. 23). Manuel Casuga also boxed Gigi Torio, (tsn, 18 Oct. 1974, p. 22; tsn, 8 Nov. 1974, pp. 27, 28, 29) causing his wig to fall down, (tsn, 18 Oct. 1974, p. 22) and his eyelashes to crumple, (tsn, 8 Nov. 1974, pp. 23, 24, 27).

"22. Mrs. Amparo Casuga later instructed the policeman on duty, 'You lodge that girl in jail,' (tsn, 18 Oct. 1974, p. 24; tsn, 19 Oct. 1973, p. 39; tsn, 25 Jan. 1974, p. 93; tsn, 12 Oct. 1973, pp. 14, 15, 38, 39; tsn, 8 Nov. 1974, p. 24) referring to her own daughter Alma. Alma: 'Alright, you put me in jail and if I come out there will be trouble among us,' (Note 165, pp. 24-25) with mother and daughter shouting at each other during that incident, (tsn, 18 Oct. 1974, p. 31).

"23. It is important to note, in this connection, that after Gigi Torio was arrested with the filing of the Information against him, Mrs. Casuga used to visit and talk to the Chief of Police, (tsn, 8 Nov. 1974, p. 32). She also talked to Gigi Torio, telling him that if he becomes a witness, he will be out of the case (Note 168, supra). Gigi told her, ' . . . why do you take me as a witness when I did not see anything and I do not know?' (Note 168, supra). To which Mrs. Casuga answered he will have to fabricate words. (Note 168, supra). 'Yes, she told me that I will tell that her daughter was raped,' (Note 168, supra) were Gigi Torio's clear recollection.

"24. Early that 11 March 1972 morning, Rosalio Almazan, the incumbent Police Chief of Rosario, La Union since 1955, (tsn, 15 Aug. 1975, p. 235) reported for work, (tsn, 15 Aug. 1975, pp. 236, 242). He saw Alma Casuga in his Office, (tsn, 15 Aug. 1975, pp. 236, 242) but did not see her mother, Mrs. Amparo Casuga, who was known to him. (tsn, 15 Aug. 1975, pp. 242, 243). In fact he did not see Mrs. Casuga in his Office that whole morning. (Note 175, supra).

"25. Inquiring from the guards on duty why Alma Casuga was in his Office at that time, (tsn, 15 Aug. 1975, pp. 236, 242, 252) Police Chief Almazan was informed that it was Alma's own parents who requested her to be placed in the Office of the Chief of Police for protective custody. (Note 177, supra).

"26. At about 11:00 o'clock that morning, (tsn, 15 Aug. 1975, p. 236) Alma's father, Manuel Casuga, arrived in the Office of Police Chief Almazan and formally asked the latter to place her daughter in jail (Note 1780-A, supra, pp. 236, 237, 242, 252, 255). There being no formal charge against Alma as to warrant her confinement in jail, Police Chief Almazan requested from Manuel Casuga for a written request (tsn, 15 Aug. 1975, pp. 237, 238). Manuel Casuga obliged by giving the following authority in his own handwriting: (tsn, 15 Aug. 1975, pp. 237-238; Exh. 2 - Masabe)

11 March 1972

1100 Hrs.

The Chief of Police

Rosario, La Union

I have the honor to request to the Police Dept. of Rosario, La Union to detain my daughter in the Municipal Jail of the

said town due to disobedience. Request confinement of my daughter Alma Casuga until further decisions by the

undersigned.

(Sgd.)

,MANUEL C. CASUGA'

(Exh. "2," handwritten on yellow pad sheet by Manuel Casuga)

"27. It being his usual procedure to interview litigants or parties regarding complainants brought before his Office, (Note 181, p. 238) Police Chief Almazan inquired about the matter from Mr. Manuel Casuga, (tsn, 15 Aug. 1975, p. 239) who said he was asking for his daughter's confinement in jail for disobedience. (Note 183, supra).

"28. Police Chief Almazan next turned his attention to Alma Casuga, asked her why her father charged her for disobedience (tsn, 15 Aug. 1975, p. 239). He further asked. (Note 185, supra) what happened in the house of Gigi, (Note 185, supra) and Alma answered, 'There was nothing happened' (Note 185, supra). Only matter

talked about that morning in Police Chief Almazan's presence was Alma's disobedience, (tsn, 15 Aug. 1975, p. 243), i.e. her failure to go home the immediately previous night. (Note 189, p. 240). No mention was ever made of Alma having been sexually abused the night before (tsn, 15 Aug. 1975, p. 240).

"29. Police Chief Almazan's above testimony was confirmed by Alma Casuga herself, who testified that from Gigi Torio's house, she, her mother and Gigi Torio proceeded to the Office of the Chief of Police (tsn, 18 Jan. 1974, p. 4; tsn, 25 Jan. 1974, p. 93; tsn, 1 March 1974, pp. 123, 124). The Police Chief asked Alma what happened to her (tsn, 18 Jan. 1974, p. 5). So she told what happened to her to the Police Chief, (tsn, 7 June 1974, p. 201) i.e., that 'they brought me to the house of Gigi.' (Note 191-C, supra).

"30. Meanwhile, Judge Marianito Licudan, the incumbent Rosario Municipal Judge since 1968; (tsn, 27 Sept. 1974, p. 211; tsn, 8 Aug. 1975, p. 217) reported for work in his Court at the Municipal Building 8:00 o'clock that morning of 11 March 1972 (tsn, 8 Aug. 1975, p. 218). After reporting for work, he went to the Office of the Chief of Police, (tsn, 27 Sept. 1974, p. 212) as it was customary for him to visit the Municipal Jail to see if there are prisoners wanting to be bailed, (tsn, 8 Aug. 1975, p. 218). Arriving in the Office of the Chief of Police, he saw Alma seated on a table in front of the Chief of Police (tsn, 8 Aug. 1975, pp. 218, 219; tsn, 27 Sept. 1974, p. 212). Police Chief Rosalio Almazan told Judge Licudan Alma was ordered incarcerated by her own parents (tsn, 8 Aug. 1975, pp. 219, 224; tsn, 27 Sept. 1974, p. 213). Judge Licudan asked why, (tsn, 8 Aug. 1975, p. 219; tsn, 27 Sept. 1974, p. 220) and Alma answered she got lost last night {Note 198, supra}. As there was an affair of St. Mary's Academy at the Auditorium of the public plaza, (tsn, 8 Aug. 1975, p. 219) she joined her friends, (Note 200) and did not go home as she slept in the house of one Gigi Torio (tsn, 8 Aug. 1975, p. 220; tsn, 27 Sept. 1974, p. 214; tsn, 15 Aug. 1975, p. 239).

"31. Judge Licudan was led to remark, 'imagine a young woman sleeping in the house of a man,' (tsn, 8 Aug. 1975, pp. 220, 225; tsn, 27 Sept. 1974, p. 215) to which Alma quickly retorted: 'Well what is wrong, nothing happened to me, nothing happened to me,' (Note 203, supra) as she slept according to her with Gigi's own sister, Vangie (tsn, 27 Sept. 1975, p. 215).

"32. Inquiring further from Alma about her being asked to be jailed by her own parents, (tsn, 8 Aug. 1975, p. 222) Alma answered 'Mga katok ang ulo eh.' (Note 206, supra). Judge Licudan asked what her parents did to her (tsn, 8 Aug. 1975, pp. 222, 224). Alma responded, 'Binogbog ako,' (Note 208, supra) showing at the same time to Judge Licudan a Diuish portion of her arm's upper part, (tsn, 8 Aug. 1975, pp. 222, 225, 229) by raising her T-shirt sleeves (Note 210, pp. 222, 225) as she was wearing at that time a white t-shirt and ma-ong shorts (Note 210, p. 222).

"33. Judge Licudan's conversation with Alma lasted only about three minutes, (tsn, 8 Aug. 1975, p. 223) during which Alma never mentioned she was raped or abused. (Note 213, supra). Alma's answers to Judge Licudan's questions were fluent, (tsn, 27 Sept. 1974, p. 216) as she was in her normal senses at that time (Note 215). And while Alma was not behaving in a manner consistent with a girl of her age, i.e., rude, impolite and belligerent, (tsn, 27 Sept. 1974, pp. 216, 217) that was before she learned that Judge Licudan was the Municipal Judge of Rosario, La Union (tsn, 8 Aug. 1975, p. 232). Judge Licudan's observation as to Alma's behaviour towards him that morning of 11 March 1972 is very important, since Alma herself admitted that after Judge Licudan asked '. . . why I was there' in jail, (tsn, 18 Jan. 1974, p. 7) 'I answered him because I was not yet in my right senses, I uttered embarrassing words to Judge Licudan.' (tsn, 18 Jan. 1974, p. 8). It was only later on that she asked Judge Licudan who he was, (Note 218-B, supra) and it was only, hence, after that she came to know of Judge Licudan's position in the town of Rosario, after which she already behaved-as inferred clearly from Judge Licudan's own testimony.

"34. Judge Licudan's above testimony on his conversion with Alma Casuga that 11 March 1972 morning in Police Chief Almazan's Office, was affirmed by Alma Casuga herself. Asked to admit on cross-examination that when brought that morning to Judge Licudan, and when asked by the latter what happened to her, she said 'nothing,' (tsn, 15 Feb. 1974, p. 124) Alma did not answer, (Ibid.) prompting Atty. de la Rosa to 'make it of

record that the witness will not answer.' (Ibid.). Directed by trial Judge Tomas P. Maddela, Jr. to answer, Alma answered, (tsn, 15 Feb. 1974, pp. 124-125, 126).

'COURT:

'Answer.

'A. I did not say that. I told them all what happened to me.

'ATTY. DELA ROSA:

'Q. On March 11, 1972, you told everything that happened to you before Judge Licudan?

'A. Yes.'

(tsn, 15 Feb. 1974, pp. 124-125; *Italic ours*)

which clearly shows that Alma related all that happened to her, to Judge Licudan during their U March 1972 meeting in Police Chief Almazan's Office, and which Judge Licudan in turn related as above testified by him.

"35. Present throughout the conversation between Judge Licudan and Alma Casuga was Chief of Police Ahnazan (tsn, 15 Aug. 1975, pp. 245, 247). He confirms that Alma never complained to Judge Licudan she was ever raped or abused, (Note 219, p. 245) altho she complained about being beaten by her own mother (tsn, 15 Aug. 1975, p. 245). Police Chief Almazan learned later on that her mother beat Alma for her failure to go home that previous night (Note 221, p. 246).

"36. During the time Judge Licudan was talking to Alma, (tsn, 8 Aug. 1975, p. 224) Gigi decided to leave, and when he left, Alma told him, 'Don't leave me Gigi,' (tsn, 18 Oct. 1975, p. 25; tsn, 15 Aug. 1975, p. 256) saying this many times. (Note 225, *supra*) Gigi hadjo leave because after seeing Alma already inside the jail, (tsn, 8 Nov. 1974, p. 26) he asked the Chief of Police to also place him in jail as he was sleepy (Note 227, *supra*). The Chief of Police, however, told Gigi to go home as he was not a prisoner (Note 227, *supra*)."

Tracing the movements of the complainant in the evening of March 10, 1972 up to the following morning, it is established by her testimony that (1) she was at the gasoline station house together with Virginia Dangca and Dick Ladia and later, the accused Masabe and Maganes; (2) after what happened at the station, Alma went out, passed by the townhall and met David Ortega, a family friend who told her that her mother was worried because she was not home yet; (3) that she was at the house of the accused Narcelles where she drank a cup of coffee; (4) that she was at the house of the accused Torio, going there disguised as a boy; (5) that she slept that night in the house of the accused Torio; (6) that she was found by her mother in Torio's house early the following morning; and (7) that she was in the office of the Chief of Police Rosalio Almazan and Municipal Judge Marianito Licudan.

It was at the gasoline station that Alma claimed to have been raped, first by Masabe and then by Domingo after she was forced to swallow a tablet by the two accused. And it was at the house of Torio that Alma also claimed that the three accused Torio, Narcelles and Doody Gagawin raped her, one after the other. All these claims

together with her version that she was forced to take five to six tablets given by Narcelles, are strongly denied by the defense.

2044, Judging the testimony of the complainant, her conduct and utterances at the time the rapes were committed against her and subsequently thereafter, We must expect and exact the normal behavior, the natural reaction of a girl thus brutally violated of her womanhood, her pristine virtue and honor. For indeed, a little insight into human nature is of utmost value in judging matters of this kind. (People vs. Fernando Fausto, 51 Phil. 852).

Thus, immediately after the alleged rape at the gasoline station, and coming out therefrom, she met David Ortega, a family friend, and the following conversation took place between them:

"DIRECT EXAMINATION OF ALMA CASUGA

By Fiscal Quero:

Q -

When you met David Ortega, what happened?

A -

When we met David Ortega, he said saying: you go home, they have been looking for you, your mother is looking for you.

Q -

And what did you do?

A -

After David Ortega said - you go home, I answered Yes, I am going home now. I thought they are bringing me home, but instead directed me and brought

me to the Elementary School." (tsn, p. 9, 21 Dec. 1973).

"CROSS EXAMINATION OF ALMA CASUGA

By Atty. Narcelles:

Q -

And when you were able to talk to David Ortega who was according to you in a hurry you could have shouted to him and tell him your predicament if you

have done so?

A -

When I met David Ortega, I did not think something will happen to me and I thought Gigi will accompany home.

Q -

So that when Ortega was a little bit far away that was the time you were lead to the Elementary School?

COURT:

Q -

Before you met David Ortega nothing happened to you previously?

A -

Something happened already.

COURT:

Proceed.

ATTY. NARCELLES:

Q -

And you stated something happened to you already you stated before the Court you have been abused in the shell station why did you not tell the policeman

and the other people you have met that you should ask for their succor?

A -

Because I was afraid.

Q -

From whom were you afraid?

A - Totoy Masabe because I was threatened. That is why I asked help from Gigi Torio.

Q - Yes but when you went to the Elem. School Masabe was no longer with the group?

A - Yes.

Q - So the bad intention and the threat was no longer existing? A - No more." (tsn, p. 160-161, March 15, 1974)

That the complainant did not report the rape to the family friend, David Ortega, nor shout for help from him, nor to inform other passers-by and to the police at the Municipal Hall where she had passed is certainly a strong circumstance that tends to show that no such rape was committed against her. If she had sexual intercourse at the gasoline station, she was not unwilling to do the act for she had accompanied her friend Virginia Dangca to a tryst apparently with Dick Ladia at the gasoline station. Her claim that she was threatened by Masabe and Domingo is not believable for both had already left and gone, and more so her reason that David Ortega was in a hurry so she did not tell him to help her.

It is likewise unusual and unnatural, if not incredible and out of this world, that upon finding the complainant that early morning of March 11, 1972 in the house of the accused Gigi Torio, sitting or lying in bed (according to the testimony of the mother, tsn, p. 13, Oct. 12, 1973), said complainant did not immediately report, relate or complain to her mother that she had been sexually abused, nor at anytime thereafter when both mother and daughter were in the Torio house for at least ten minutes. We find no plausible reason for this significant omission, unless nothing really happened to the girl in the house as she later remarked that morning to Municipal Judge Licudan in the Office of the Chief of Police. Again, We cite the testimonies of Amparo Casuga, the mother, and the Municipal Judge on these points:

"CROSS-EXAMINATION OF MRS. AMPARO CASUGA

By Atty. Dela Rosa:

Q - So this is your first time to declare that your daughter Alma Casuga was brought by Gigi Torio to his house?

A - Yes, sir.

Q - How long did you stay in the house of Gigi Torio?

A - Around ten minutes.

Q - And within ten minutes Alma Casuga had never told you that Gigi Torio did something wrong to her, am I correct?

A - Alma did not say anything.

'DIRECT EXAMINATION OF JUDGE MARIANITO LICUDAN

By Atty. Flores:

Q - Did you go further to ask her regarding her whereabouts?

A - Yes.

Q - What did you ask?

A - I asked her 'where did you sleep last night' and she said "I slept in the house of Gigi Torio."

Q - What else besides telling you she slept in the house of Gigi Torio, did she tell you?

A - Well, she told me that she slept in the house of Gigi Torio. I told her 'Imagine a young woman sleeping in the house of a man.'

Q - And what did she tell you?

A - Well, what is wrong. Nothing happened to me, nothing happened." (TSN, p. 220, August 8, 1975)

The testimony of the complainant's father, Manuel Casuga, who was present in the office of the Chief of Police where Alma and Gigi Torio were brought in the morning of March 11, 1972 and even authorized the detention of his daughter for disobedience, corroborates his daughters failure to report or complain of anything that happened to her in the house of Gigi Torio. On cross-examination by the defense, Manuel Casuga was asked: "Q - For how long did you stay in the office of the Chief of Police? A - Only about 20 to 30 minutes. Q - Within the period of 30 minutes that you were inside the office of the Chief of Police, your daughter Alma was with you, am I correct? A - She was already placed she was already placed in the cell as per request of my wife. Q-With the period of 30 minutes that you stayed in the office of the Chief of Police, your daughter Alma never said anything that happened to her in the house of Gigi Torio, is that correct? A- No" (TSN, p. 168-169, Aug. 2, 1974).

2092, There are many more circumstances which tend to belie the sincerity and candor of the complainant's version, impelling Us to doubt her credibility, not only because they are uncorroborated but also because of previous contradictory and inconsistent statements given to the authorities and not satisfactorily explained:

- Alma's story that she was drugged with a tablet given by the accused Masabe and Maganes and thereafter forcibly taken upstairs at the gasolinem station could have been corroborated by her companions Vangie Dangca and Dick Ladia who were present at the time but these witnesses were not called to testify and no reason is offered for their absence or unavailability;

- The records disclose that Alma was placed in jail and detained in the morning of March 11, 1972 upon ihe request and written authority of her father, Manuel Casuga, for disobedience. But the real reason as admitted by Alma herself was that she did not want to state that she was raped while her mother insisted on her to state that she was raped. This is clear from her testimony as follows:

"CROSS-EXAMINATION OF ALMA CASUGA

By Atty. Flores:

Q - Do you know why you were placed inside the jail?

A - Yes, I know.

Q - Why were you placed inside the jail?

A - Yes, because I did not go home on that night I was invited by Virgie.

Q- Is it not a fact that the reason why you were there was because you do not want to tell that you were raped and your motherwas insisting that you will state that you were raped during that night?

A - Yes." (TSN, p. 94, 25 Jan. 1974)

- The delay in the filing of the criminal complaints by Alma and her mother on March 28, 1972 when the crime took place on March 10, 1972 is a circumstance that engenders suspicion, doubt and vascillation which do not sustain, if not weakened the cause of the prosecution;

- The records do not disclose any blood test taken of the complainant in the light of her claim that she was drugged at the Shell station with one tablet and again with five to six tablets at the Elementary School. According to the doctor admitting her, she was 'coherent and drowsy" but it was the father and the mother who reported the alleged rape to the doctor, not the victim herself as shown in the testimony of Dr. Catbagan:

"Q - It was the father and mother who informed you that she was raped, is it not?

A - Yes.

Q - It was not Alma Casuga herself who told you definitely that she was raped because it was the father and mother who told you, was it not?

A - Yes. (TSN, 7 April 1973, p. 34)

- It complainant was no longer conscious when she was allegedly brought to the house of the accused Gigi Torio in the evening of March 10, 1972 as testified to by her, (tsn, pp. 119-120, March 1, 1974) it is doubtful and questionable that she can remember the rapes allegedly committed by the accused Torio, Narcelles and Gagawin at the Torio house and give detailed description of what happened. (People vs.Dayag, 56 SCRA 439, 449).

- While the medical report, bxh. "B," indicated "hemaoma, left and i ielt deltoid region; hematoma shoulder left and right" on the person of [he complainant, there is evidence that the father beat her up which is not denied but admitted by Alma in her statement to the Municipal Judge, saying "Binogbog ako." The father's anger in beating her daughter in the office of the Chief of Police is indeed a natural reaction of a parent to a daughter's conduct of not coming home at night and then found lying in a man's bed in his house early the following morning by her mother.

True it is that the defense of all the accused is alibi and alibi is known to be the weakest of all defenses. It is easy to concoct, difficult to disprove. Nonetheless, where the evidence for the prosecution is weak and betrays lack of concreteness on the question of whether or not defendant is the author of the crime charged, alibi as a defense assumes importance. (People vs.Bulawin, 29 SCRA 710, 721).

But We cannot convict the accused-appellants because of the weakness of their alibi for the reason that it is still the duty of the prosecution to prove their guilt, by the strength of its evidence and not by the weakness of that of the accused. As this Court ruled in People vs.Fraga (L-12005, 109 Phil. 241): "The rule that alibi must be satisfactorily proven was never intended to change the burden of proof in criminal cases; otherwise, We will see

the absurdity of an accused being put in a more difficult position where the prosecution's evidence is vague and weak than where it is strong."

In the case at bar, as We review, scrutinize and analyze the evidence on record in its totality, tried and tested by the wisdom of human experience, by the moral standards and values of which humankind normally acts and reacts to similar events or occurrences which usually arose feelings of protest and anger, resentment and hatred as well as its conformity to our knowledge, observation and behavior, and subjecting the prosecution evidence to the classic rule that "Evidence to be believed must not only proceed from the mouth of a credible witness but it must be credible in itself such as the common experience and observation of mankind can approve as probable under the circumstances,

"We hold and rule that the prosecution has not proved the guilt of the accused beyond reasonable doubt. The constitutional presumption of innocence in favor of the accused has not been overcome, hence, the accused-appellants are entitled to acquittal.

WHEREFORE, IN VIEW OF ALL THE FOREGOING, the decision under review is hereby REVERSED and SET ASIDE. The accused-appellants Rogelio (Gigi) Torio, Teogenes Narcelles III y Angara (Arns Narcelles), Ernesto Masabe y Medina alias "Totoy" and Alex Domingo y Milana are hereby acquitted.

Costs de oficio.

SO ORDERED.

Fernando, C.J., Makasiar, Concepcion Jr., AbadSantos, De Castro, Plana, Escolin, Relova and Gutierrez, Jr., JJ., concur.

Teehankee and Melencio-Herrera, JJ., took no part.

Aquino, J., reserves his vote.

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