

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
MAXIMINO SULIT AND BRUNO LAGO, DEFENDANTS. MAXIMINO
SULIT, DEFENDANT AND APPELLANT.**

G.R. No. L-4919. January 21, 1953

Ponente: LABRADOR, J.

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LABRADOR, J.:

This is an appeal from a judgment of the Court of First Instance of Iloilo finding appellant Maximino Sulit guilty of robbery with intimidation of persons, with rape, and sentencing him to suffer imprisonment for not less than fourteen (14) years and eight (8) months, nor more than twenty (20) years of reclusion temporal, to indemnify Eva Rivera Vda. de Umali, Leticia Umali, and Ana Badol in the amount of P1,000 each, to indemnify the said Eva Rivera Vda. de Umali in the amount of P340, the value of the cash and articles taken, and to pay the costs.

The case was directly brought to the Court of Appeals, but certified to this Court on the ground that the penalty that should have been imposed is that of reclusion perpetua.

The facts proved at the trial show that Eva Rivera Vda. de Umali is a widow, 35 years old, residing at the barrio of Bongco, municipality of Pototan, Iloilo, on and previous to December 2, 1949. She was two daughters named Leticia and Elena, and two sons. On December 2, 1949, these children of hers were living with her in a house in the above-mentioned barrio, together with a boarder by the name of Ana Babol, 18 years old. At about 9:00 o'clock in the evening of December 2, 1949, while the said widow and her family and the boarder were about to finish eating their supper, five persons came up the house by the main door and came into the dining room where they were. They pointed their arms at them and required them to keep quiet and lie on the floor face downwards. One of them, who had the lower part of his face covered by a handkerchief, carried a Thompson submachine gun, another a bayonet, still another a dagger, and the other two, balisongs. The children did as ordered and so did Mrs. Umali, but as she was about to lie flat on the floor also, two of the intruders took her away, and with their weapons pointed at her, demanded that she give them her money. Out of fear Mrs. Umali brought them to the room where her things were, and opened her trunks and wardrobes. However, no money was found by the intruders, except P20. They demanded some more money from her, but she said she had no more. She even promised to give them P500, promising to raise the amount by mortgaging her land, provided they would not harm her and her children. The robbers took her money, gathered the many articles of wear, and still demanded that she give them P100, which they later reduced to P50. As they found her adamant, they had to give up.

It was while she was thus being harassed with demands for cash that she saw her daughters being brought to a bedroom of the house. Later on she was also brought to one of the bedrooms where she was made to lie down on the bed. One of the persons who brought her to the room is the accused-appellant herein Maximo Sulit. Sulit threatened to kill her unless she yielded herself to him, and because of fear she did not offer any resistance. Sulit raised her skirt, put down her panty, removed his trousers, and then lay upon her, having carnal access of her. For fear that she might be harmed, she did not put up any resistance, and Sulit was able to carry out his base desire.

When the act was over, Mrs. Umali went out and she found that her two daughters had also been raped, as well as her boarder Ana Babol. She found that the genital organ of Leticia, who was less than 12 years old, was bleeding, so she put her to bed. Nothing was done by them that night, but in the morning a nurse was called who gave injections to Leticia. Thereafter she was brought to the Mission Hospital in Iloilo City. There she was subjected to a physical examination by the president of the sanitary division, who found that her hymen had been ruptured, that there were clots of blood inside her organ, as well as signs of violence on her private parts. Thereafter Mrs. Umali filed the corresponding complaint for robbery with rape in the justice of the peace court against the appellant Maximino Sulit and one by the name of Bruno Lago.

The above facts were testified to principally by Mrs. Umali. Leticia Umali and Ana Badol also testified at the trial, corroborating substantially all the facts of the robbery as pointed out by Mrs. Umali. In addition, Leticia Umali declared that she was brought to one of the rooms of the house and there raped by one of the intruders, whose face she did not know. Ana Badol testified that she was brought inside one of the rooms of the house and there raped by two of the intruders, none of whom she could identify. All of the three witnesses for the prosecution, Mrs. Umali, Leticia Umali and Ana Babol identified Maximino Sulit as the one carrying the bayonet on the night of the robbery and one of those who brought Mrs. Umali into the room.

The appellant put up the defense of alibi, and declared that on the night in question he was in the town of Cirallo, about 20 kilometers away from Bongco; that he had been living there for a long period of time; that about six o'clock in the evening in question he brought a carabao that he caught destroying his plantation to the barrio lieutenant, and denounced the owner of the carabao; that thereupon the barrio lieutenant called the owner of the carabao, and Sulit and the latter agreed to settle the matter by the owner paying one fanega of palay; that after that Sulit returned home, where he stayed the whole evening without going out. Sulit introduced as witness on his behalf the barrio lieutenant, who readily corroborated Sulit's testimony about his complaint against the owner of the carabao which destroyed his plantation, and the fact that they made an amicable settlement. He declared that he was able to settle the matter in a short time, so that by 7:30 in the evening Sulit had already gone away.

Sulit did not present any other witness to support his defense and to corroborate his claim that he stayed at his house that entire evening. The court found that Bongco, Pototan, is about 20 minutes by bus from Cirallo, and that there were many buses plying between the two places during the time the crime was committed. It found that appellant is a sensual old man who wanted to satisfy his sexual desires on one younger than his old wife, with the reputation of a bully, and, therefore, likely to have committed the crime charged. It, therefore, found the appellant guilty and sentenced him as above indicated.

One of the grounds raised in the appellant's brief is the declaration made by the court that it is probable that the accused committed the crime, because from his appearance he had a very strong sexual tendency, and inasmuch as his wife was already old and lacking the attractions of youth, naturally he had desired a younger and fresher woman to appease his sexual proclivities. The objection of the appellant to this finding seems to be well founded. From the mere fact that the appellant may have been of a healthy and virile disposition and had a wife already 60 years of age, no inference can properly be made that he was of a sensuous nature and disposed to satisfy his sexual urge on younger and more attractive women as the offended party appeared to be.

Objection is also made against the statement of the trial judge that the reputation of appellant was such as to induce the court that he must have committed the crime imputed to him. We find no ground for disturbing the consideration of relevancy given by the trial court to this point. The appellant himself declared that while living in Bongco and as a young man, he used to fight any one who would dare to question his physical superiority. As the appellant was a bravado, he must have had the necessary boldness to have led, or, at least to have participated in, the commission of the crime.

But the above points are not the only grounds or facts upon which the judgment of conviction is based. There is the testimony of Mrs. Umali, corroborated by those of Leticia Umali and Ana Babol, all of whom readily identified the appellant as one of the five persons that came into the house on the night in question and perpetrated the crime with the cooperation of his companions. Both Leticia Umali and Ana Babol also corroborated the statement of Mrs. Umali that she was carried into her room, and the fact that the other intruders took advantage of all the three other girls in the house, namely, Leticia, Elena, and Ana, indicates the probability that Sulit had also committed the rape on the person of Mrs. Umali. Besides, considering that Mrs. Umali would gain nothing but commiseration by divulging the perpetration of the outrage upon her, she would not have had the courage to disclose the incident unless it was really true. We are, therefore, fully convinced that she must have been herself the object of the outrage committed similarly on all the inmates of the house, and that it was appellant Sulit who ravished her.

As to the defense of alibi, we find it to be very weak and unbelievable. Even admitting that appellant was busy with the barrio lieutenant from 6:00 to 7:30 o'clock in the evening, this does not preclude the possibility or probability of his taking the bus to the neighboring town of Pototan, where the robbery was committed, because, as found by the trial court, said town is connected by buses with appellant's place of residence. And the absolute absence of any witness or evidence as to the whereabouts of appellant at 9:00 o'clock in the evening, the time of the commission of the robbery, fully convinces us of the futility of said defense. Any way, appellant's identity was testified to by three eyewitnesses, whose testimony we have no ground or reason to doubt.

FOR THE FOREGOING CONSIDERATIONS, we find that the commission of the offense has been proved beyond reasonable doubt, including the aggravating circumstances of nocturnity, dwelling, and in band. The appellant is, therefore, sentenced to suffer imprisonment of reclusion perpetua, to indemnify Mrs. Eva Rivera Vda. de Umali, Leticia Umali, and Ana Badol each in the amount of P2,000, to indemnify said Eva Rivera Vda. de Umali in the amount of P340, the value of the cash and articles taken, to support the offspring if any should result from the rape committed on Mrs. Eva Rivera Vda. de Umali, and to pay the costs of this appeal.

Paras, C.J., Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor, Jugo and Bautista Angelo, JJ., concur.

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