

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CLAUDIO VELOSO, JULIO DALUMPIENES, RENATO TORRES, ISRAEL RAPOTE, REY TORRES, JOHN DOE ALIAS “ROLLY” AND “PETER DOE”, ACCUSED, ...

G.R. Nos. L-38551-53. February 27, 1987

Ponente: CRUZ, J.

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CRUZ, J.:

Three young and innocent girls went to the park on a Sunday evening to relax and enjoy each other's company. Before the night was over, they would be brutally attacked and deflowered and seared with ugly memories that will probably outrage them for the rest of their lives.

These unfortunate girls were Rosita Rubio, fifteen years old, Constancia de los Reyes, fourteen, and Rosanna Rodriguez, who was only twelve at the time.[1]

At about seven o'clock in the evening of June 22, 1972, while they were seated near the fountain at a public park in Lucena City, they were approached by a group of men composed of Claudio Veloso, Julio Dalumpienes, Renato Torres, Israel Rapote, Rey Torres, one Gerry, and a seventh who remains unidentified to date. Gerry introduced himself to Rosanna and then the men left.[2] At 10 o'clock of the same evening, the same group was to return to the three girls in the park, but this time with a more malevolent purpose.

This time there were no amenities. The men surrounded the girls. Veloso held the hand of Constancia, who pushed him to the ground. His 8-½ inch bolo fell. Constancia ran but Dalumpienes caught and detained her. The three girls were then pulled by the group to the Capitol Building, their mouths covered to prevent them from shouting for help. As it happened, the lights in the park temporarily went out at that precise time, and nobody saw or succored them.[3]

Upon reaching the second floor of the building, Veloso and Renato Torres dragged Rosita to a dark corner, where they raped her in succession. Veloso threatened her with his bolo.[4] Meanwhile, about seven meters away, Constancia was struggling with Dalumpienes, who subdued and violated her while she was being held by his two companions, who thereafter also satisfied their lust on her while also held by the others in turn.[5] Nearby, Rosanna met a similar fate from the seventh man in the group.[6]

After ravishing them, the men called a jeep to take the girls home but instead they proceeded directly to the police station, where they reported their harrowing experiences.[7] Constancia was then taken by a policeman to the railroad station, where she saw and pointed to Veloso as one of her assailants.[8] Veloso was arrested. After investigation, he signed an extrajudicial confession.[9] In the morning of the following day, the three girls were physically examined by Dr. Imelda de Imus, who was to testify later that she found hymeneal lacerations in the complainants that were caused within the past twenty-four hours from her examination.[10]

The above narration is based on the testimony of the three girls,[11] as well as the examining physician,[12] the

several policemen who received the reports of the three victims and investigated Veloso[13] and his extrajudicial confession.[14]

In his defense at the joint trial of the three complaints for rape filed against him and his companions, Veloso denied the accusations, saying he and Rosita were sweethearts and that they did have sexual intercourse on the night and in the place in question but by mutual consent.[15] This is not believable. In the first place, he offers no evidence other than his self-serving statement. Rosita flatly rejects it.[16] Moreover, it is not likely that, if they were really sweethearts, they would have had sexual intercourse only a few meters from where the other two girls were being violated. The act of love is not that perverse and vulgar. It is a private communion. This blatant lie, which would convert a brutal rape into an amorous fulfillment, does not even have the charm of fantasy.

The extrajudicial confession[17] is admissible against him, having been made before January 17, 1973, when the right to counsel was not yet in effect under the Magtoto doctrine.[18] Significantly, he presented no medical or other evidence of his alleged manhandling by the police and did not complain about it to the fiscal or any other officer.[19] By contrast, the policemen he claimed had mauled him were presented at the trial and testified to deny his allegations.[20]

Indeed, even if the confession were to be disregarded, the rest of the prosecution evidence would still be overwhelming against Veloso. The trial judge[*], who had the firsthand opportunity to observe all the witnesses and assess their credibility, considered those for the prosecution more reliable, especially the complainants themselves. While it may be conceded that there were certain inconsistencies in their testimony, the tale they narrated of that terrible night is on the whole credible. The imperfections were on mere insignificant details that do not detract from the veracity of the basic accusation.[21] One could hardly expect that these three naive girls would concoct it out of pure imagination, implicating without reason people they did not even know, and, worse, exposing their own ravishment and testifying publicly on all the embarrassing details.

Veloso also faults the trial court for convicting him of the other rapes, considering that he was alleged to have raped only Rosita. The defense forgets that he is responsible also for the other rapes because he was a co-conspirator along with his six other companions, whose guilt he must also share. The conspiracy among them has been amply established by the facts that they together approached the three girls earlier that night as one of them introduced himself; that they returned about three hours later and without much ado dragged the three girls into the Capitol Building; that they successively raped their hapless victims, helping each other as each forced himself upon a victim; and that they later released the girls after they had satisfied their lust and sent them home in a jeep they had flagged.

A conspiracy exists when two or more persons come to an agreement to commit a crime and decide to commit it.[22] While it is desirable that the conspiracy be proved by direct evidence, like an express understanding among the plotters affirming their commitment and defining their respective roles, it may nevertheless be established at times by circumstantial evidence only.[23] Thus, to repeat established doctrine, where the accused move in concert toward a common purpose, conspiracy may be inferred from their joint acts and design, without need of direct evidence of the criminal agreement.[24] We have held in many cases that the conduct of the accused before, during and after the commission of the crime, are circumstances that can show whether or not there was a conspiracy among them.[25]

In a conspiracy, the guilt of one is the guilt of all. Therefore, Veloso is responsible not only for the rape he committed against Rosita but for all the other rapes committed by his companions, with whom he had conspired. In other words, he is liable also for the rape of Rosita by Renato Torres, of Constancia by Dalumpienes and two others, and of Rosanna by another of the conspirators, or a total of six rapes, including the one he actually

committed.

Rape is punished with reclusion perpetua to death where it is committed with the use of a deadly weapon or by two or more persons, as in this case.[26] The trial court, appreciating the aggravating circumstance of superiority mitigated by voluntary surrender, imposed the penalty of life imprisonment on Veloso in each of the three cases filed against him, or three life sentences.[27] This was erroneous.

The accused-appellant did not voluntarily surrender but was in fact arrested at the railroad station in the morning after the rapes he and his companions had committed.[28] Voluntary surrender should therefore not have been appreciated. On the other hand, the crime was aggravated not only by superiority but also by evident premeditation, which the court did not consider. The record shows that after approaching the three girls in the park at 7 o'clock of that fateful night, the same group returned about three hours later, obviously according to plan, and without much ado surrounded their victims and dragged them into the Capitol Building and raped them.[29]

With the above aggravating circumstances and no mitigating circumstance, the applicable penalty is death, to be imposed not for each of the three victims but for each of the six rapes committed on them by Veloso personally and his companions. Fortunately for him, however, these six death penalties will now each have to be reduced to life imprisonment in accordance with Article III, Section 19(1) of the 1987 Constitution.

This decision affects only Claudio Veloso because Julio Dalumpienes, who was convicted with him, did not appeal. As for the others, we note that they have not been arrested and tried, allegedly because of the protection and immunity they are enjoying from the police of Lucena City.[30] Let a copy of this decision be sent to the Chief, PC-Integrated National Police, for investigation of this charge.

WHEREFORE, the appealed judgment as above modified is AFFIRMED, with costs against the accused-appellant. It is so ordered.

Yap, (Chairman), Narvasa, Melencio-Herrera, Feliciano, Gancayco, and Sarmiento, JJ., concur.

[1] Rollo, p. 58.

[2] Ibid., p. 63.

[3] Id., p. 64.

[4] id., p. 59.

[5] id., p. 60.

[6] id.

[7] id., pp. 64-65.

[8] id., p. 65.

[9] Exh. "G".

[10] Rollo, p. 24; Exh. "A".

[11] Rollo, pp. 33-42; pp. 44-46.

[12] Ibid., pp. 24-27.

[13] Id., pp. 28-30; pp. 56-58.

[14] Exh. "G".

[15] Rollo, p. 46.

[16] TSN, p. 65, Dec. 1, 1972.

[17] Exh. "G".

[18] 63 SCRA 4.

[19] Appellee's Brief, p. 11.

[20] Rollo, pp. 56-57.

[*] Judge Manolo L. Maddela, Court of First Instance of Quezon, Ninth Judicial District, Branch II.

[21] *People v. Manalo*, 135 SCRA 84; *People v. Casundo*, 134 SCRA 197; *People v. Canoy*, 137 SCRA 124; *People v. Pacabes*, 137 SCRA 158; *People v. Jesus*, 137 SCRA 166; *People v. Agudo*, 137 SCRA 516; *People v. Arbois*, 138 SCRA 24; *People v. Naz*, 138 SCRA 420; *People v. Escoltero*, 139 SCRA 218; *People v. Pielago*, 140 SCRA 418; *People v. Verzo*, 21 SCRA 1403; *People v. Selfaison*, 1 SCRA 235.

[22] Art. 8, Revised Penal Code; *People v. Roxas*, G.R. No. L-46960-62, Jan. 8, 1987, citing *People v. Ogapay*, 66 SCRA 209; *People v. Alonzo*, 73 SCRA 484; *People v. Alviz*, 122 SCRA 815.

[23] *People v. Roxas*, supra, citing *People v. Alcantara*, 33 SCRA 812; *People v. Colman*, 103 Phil. 6; *People v. Mejia*, 55 SCRA 453; *People v. Candado*, 84 SCRA 508; *People v. Cercano*, 87 SCRA 1; *People v. Roncal*, 79 Phil. 509.

[24] *People v. Roxas*, supra, citing *People v. San Luis*, 86 Phil. 485; *People v. Tian*, 77 Phil. 1090; *People v. Saulog*, 74 Phil. 536; *People v. Ging Sam*, 94 Phil. 139; *People v. Acet Kindo*, 95 SCRA 533; *People v. Padilla*, 132 SCRA 682.

[25] *People v. Roxas*, supra, citing *People v. Serrano*, 136 SCRA 399; *People v. Tawat*, 126 SCRA 362; *People v. Ramos*, 122 SCRA 138; *People v. Pajenado*, 69 Phil. 172; *People v. Villanueva*, 128 SCRA 488; *People v. Ong*, 108 SCRA 267; *People v. Cabiltes*, 25 SCRA 112; *People v. Timbol*, G.R. No. 47471-73, Aug. 4, 1987.

[26] Art. 335, Revised Penal Code.

[27] Decision, p. 51.

[28] *Ibid.*, p. 65.

[29] *Id.*, pp. 63-64.

[30] Appellant's Brief, p. 7.

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