

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ERNESTO CASTILLO AND QUINTIN CASTILLO, DEFENDANT AND APPELLANTS.

G.R. No. L-1703. December 21, 1948

Ponente: PARAS, J.

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PARAS, J.:

Ernesto Castillo, Quintin Castillo, Leon Reyes, Cbrnelio Anonuevo and Emeterio Anonuevo were accused of the Court of First Instance of Laguna of the crime of robbery in band with rape. After trial (which, did not include Cornelio and Emeterio Añonuevo who were then still at large), Ernesto Castillo and Quintin Castillo were found guilty as charged, while Leon Reyes was found guilty only of robbery in band, and the first two were accordingly sentenced to life imprisonment, and the latter to an indeterminate penalty of from 8 years and 1 day to 12 years, prision mayor. In addition the three were sentenced to indemnify the offended party in the sum of P101.90 and to pay each one-fifth of the costs. Only Ernesto and Quintin Castillo have appealed.

The evidence for the prosecution has conclusively proved that at about midnight on April 1, 1947, Paula Diana, who was still awake in her house situated in barrio Sto. Niño, City of San Pablo, Laguna, heard her dogs barking. Peeping through the window, Paula saw the presence, of five persons armed with rifles and pistols, from whom the following threat came: "Don't move or you will be killed." Thereupon Cornelio Axionuevo and Emeterio Anonuevo entered the house and ordered the male inmates to go down. Paula had to wake up his step-father (Herman Alvarez), then still asleep, and the latter was dragged downstairs by Emeterio Afipnuevo. Upon Emeterio's return, Cornelio Anonuevo ordered, upon threat of death, Paula to open her wardrobe from which Cornelio took several belongings of Paula. After going downstairs, Cornelio returned to the house and, at the point of his revolver, forced Paula to go down where she saw Ernesto Castillo, Quintin Castillo and Leon Reyes, Cornelio and Emeterio Afionuevo then took Paula to a place about 200 meters away from her house where, after slapping, boxing and kicking Paula, Cornelio and Emeterio successively were able to ravish her by means of threats and intimidation. Coming to the scene after Cornelio had whistled, Ernesto and Quintin Castillo took their turns in forcibly having carnal knowledge of Paula. After these proceedings, Paula was ordered to go home, but not without the admonition not to make any revelation. Paula found her step-father near the fence of her house with hands tied behind his back. No sooner had Paula untied his step-father than four shots were heard which marked the disappearance of all the malefactors. Leon Aragon (Paula's husband who was then in the house of his cousin Isaac Gutierrez for treatment of his sickness) went to his wife and took the latter with him to the house of Isaac

Counsel for appellants contends that the theory of the prosecution is untenable because it took the offended party three days before denouncing the offense to the authorities, reference being made to the testimony of detective inspector Brion to the effect that Paula Diana and Herman Alvarez reported the incident on April 4, 1947. The criticism is obviously without merit. Spontaneity is sufficiently demonstrated by the fact that upon arrival at the place where Herman Alvarez was kept tied, Paula told the former that she had been raped by four men and by the

fact that Paula's husband reported the matter to the mayor on the day following the incident. The observation that Paula's husband could not probably have made such report in view of his admitted illness is of no moment, as there is nothing in the record to show that said illness was then of such a nature as to have completely disabled him.

Appellants' counsel also calls attention to an alleged material contradiction in the evidence for the prosecution, namely, that while Paula testified that she was abused by only four men, detective inspector Brion stated that Paula's report was to the effect that she was robbed and raped by five men. It is at once noteworthy that the latter testimony refers both to the robbery and to the rape, and cannot be said to have particularized the matter of rape.

It is also argued for the appellants that it is hard to believe that, as claimed by Paula, while she was being ravished by one of the malefactors, the others remained as onlookers. In other words, it is maintained that one would not have carnal knowledge of a woman in the presence of others. This should be true under normal conditions but not when, as in this case, the presence or cooperation of another or others was even necessary for the consummation of a common evil design. Indeed, such presence might have given the malefactors the assurance of safety.

The circumstance (also capitalized by appellants) that Herman Alvarez failed to corroborate Paula on the vital details of her testimony, far from indicating a weakness in the theory of the prosecution, shows lack of fabrication on their part. Indeed, Herman could not touch all the points mentioned by Paula, as he was handled differently by the malefactors.

The appellants have set up the defense that from March 30 to April 5, 1947, they were in barrio Trangka, Bay, Laguna, a defense which certainly cannot prevail over the testimony of Paula Diana and Herman Alvarez who positively identified the appellants. At any rate, it is not pretended that the witnesses for the prosecution had any motive in falsely incriminating the appellants, and no cogent reason exists why we should overrule the lower court which saw and heard all the witnesses testify.

Being in accordance with the facts and the law, the appealed judgment is affirmed, it being understood, however, that the appellants shall in addition indemnify jointly and severally Paula Diana in the sum of one thousand pesos. So ordered, with costs.

Moran, C.J., Feria, Pablo, Perfecto, Bengzon, Briones, Tuason, and Montemayor, JJ., concur.

Judgment modified, indemnify increased.

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