

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODRIGO VILLARUEL, WILSON APLOMENINA, FERNANDO FUENTES, POLOBRICO CABALLERO, ROMULO BASA, ALIAS “MUNDOY”, AND CARLING DEQUEÑA...

G.R. No. 105006. September 04, 1996

Ponente: MENDOZA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-105006/>

MENDOZA, J.:

This is an appeal from the decision rendered on April 24, 1991 by the Regional Trial Court of Iloilo City, Branch 35, finding accused-appellants Rodrigo Villaruel, Wilson Aplomenina, Fernando Fuentes, and Polobrico Caballero guilty of the crime of Robbery with Rape and sentencing each of them to reclusion perpetua and to pay jointly and severally to the offended parties P11,355.00 as actual damages and P50,000.00 as moral damages.

The victims, members of the Cacho family, went through the ordeal on the night of July 4, 1989, when six armed men barged into their house at Sitio Manlud, Barangay Sto. Rosario in Ajuy, Iloilo, hogtied and manhandled the head of the family, Ponciano Cacho, threatened his wife Letecia, ransacked their place and took cash and other personal effects, and four of the malefactors raped the thirteen-year old daughter of the couple, Lyneth.

Lyneth was taken to the Iloilo Doctors' Hospital in Iloilo City for examination. But her parents were advised to take her instead to the City Health Officer. They went there but they were told to have the examination made by the Rural Health Officer at Ajuy. But when they went to see the latter, he was not there. Finally on July 7, 1989, Lyneth was examined by Dr. Jeremiah Obañana of the Sara District Hospital in Sara, Iloilo. Dr. Obañana found her with a healed hymenal laceration at 8:00 o'clock position, although there was no human spermatozoa on direct smear.[1] The result of the examination was taken by Ponciano to the Philippine Constabulary Headquarters where he was advised to file a criminal complaint. In addition, he was given a mission order to enable him to look for the malefactors.[2]

In Balabag, Ponciano received information that certain individuals, named Wilson Aplomenina, Romulo Basa and Carling Dequeña, who had taken "gold bars" from a certain Ponciano Cacho, were there. Ponciano relayed the information to the PC headquarters but, when the PC soldiers went to the place in Balabag, the suspects had already fled. The PC later received report that the suspects had gone to Culasi where they sold a carbine. The person to whom the carbine had been sold informed them that the suspects had gone to Cadiz City. Three days later the PC in Cadiz City arrested Rodrigo Villaruel and Wilson Aplomenina.[3] They were brought to Ajuy and then committed at the Sara Jail. By August 27, 1989, the four accused-appellants had already been apprehended. The other two, Carling Dequeña and Romulo Basa, were not apprehended. Accused-appellants were pointed to by Ponciano, Letecia and Lyneth as the perpetrators of the crime. Polobrico Caballero confessed and pointed to the accused, with the exception of accused-appellant Rodrigo Villaruel, as the perpetrators of the crime.

They were charged with Robbery with Rape. When arraigned, they pleaded "Not Guilty." Thereafter trial was held.

The prosecution evidence is to the following effect:

On July 4, 1989, Lyneth Cacho, who had come from school, passed by her grandfather's house for a drink and then proceeded to her aunt's house where she stayed until her father, Ponciano Cacho, came and the two decided to go home. It was then a little past 5:30 in the afternoon.[4]

Ponciano decided to stop by their coconut plantation and told Lyneth to proceed home alone.[5] When Lyneth arrived home, she found six armed men inside their house.

Letecia Cacho, Lyneth's mother, testified that the six men had earlier entered their yard. One of the men poked a gun at her, while another pointed a knife at her nape. The man with the gun wore a mask and claimed they were members of the New People's Army (NPA). The man wielding a knife was recognized by Letecia as accused-appellant Rodrigo Villaruel, a resident of Sitio Nabaras, a neighboring sitio. Letecia was led inside their house and asked the whereabouts of her husband and a nephew. She told the men that her husband was not home, while her nephew was no longer staying with her family.[6] Only Letecia's sons Lester and Lee, daughter Grace, and a two-year old baby were with her.[7] The armed men then caused the aparador to be opened, took the P 250.00 cash in it and a sharpener made of bronze, and ransacked other places in the house.

In a while, Lyneth arrived. According to her she was accosted by two armed men. One of them (not one of accused-appellants in this case) poked a knife at her side, while the other stood by. The man led her to the bedroom, followed by another whom Lyneth later identified as accused-appellant Rodrigo Villaruel. She was asked where the family was keeping money. Upon indication of her mother, Lyneth gave the man P15.00. Another man wearing a mask, who had dark complexion and large eyes, entered the bedroom and also asked for money. As Lyneth had nothing more to give, the man pointed a knife at her throat. Another man, whom Lyneth described as of short build, with curly hair and pimples, and wearing a pair of denim pants and white T-shirt, ransacked the family aparador. She later identified the man as accused-appellant Wilson Aplomenina.[8]

At around this time, Ponciano arrived. According to him,[9] while he was near the Indian mango tree on the frontyard of their house, he was accosted by a man who pointed a gun at him. Another man poked a pointed instrument at him. Ponciano identified the man as accused-appellant Fernando Fuentes. Ponciano was asked to get inside the house where another man, later identified as Rodrigo Villaruel, held him by his hair and made him to lie, face down. His hands and feet were then tied. The men demanded money. He replied he had none and that if they wanted they could take his three carabaos. The men then left Ponciano but not after he had been threatened if he reported the incident to the authorities.

Meanwhile, according to Lyneth,[10] a man with a scar on his face forced her to undress. The man wrapped a blanket around Lyneth, dragged her to the coconut plantation, about fifty meters away from the house, and at the point of a knife, succeeded in abusing her. Lyneth kicked and scratched her assailant but she was no match to him. The man was not one of the accused-appellants.

Then Lyneth felt another man on top of her. She struggled against him and scratched him. She was able to pull the cover from the man's face. She later identified him as accused-appellant Polobrico Caballero. A third man followed in ravishing her, but Lyneth, who by then was weak and exhausted, failed to recognize him.

Lyneth's ordeal was not yet over. She felt a fourth man lie on top of her. A flashlight, focused on Lyneth, also illuminated the face of the fourth man. Lyneth saw the man's face. She later identified him as accused-appellant Wilson Aplomenina.

The malefactors left, carrying with them their loot, consisting of P250.00 and P15.00 cash, a bronze-made sharpener, two pairs of gold earrings, a wall clock, and trousers.

Ponciano was untied by his wife. They looked for Lyneth, whom they found in the ricefield, naked. She was crying and told her father that she had been raped by "three demons." Ponciano immediately went to the police authorities to report the incident.[11]

The defense evidence consisted of alibi and denial. Accused-appellants claimed that they had their own sources of livelihood and did not have to commit robbery to have a means of living.

Polobrico Caballero testified that he was a resident of the neighboring Sitio Kabarawan in Bgy. Sto. Rosario. He earned a living by making charcoal, gathering coconuts, and selling cocolumber and bamboo poles. He claimed that at the time of the incident, he was in Sitio Kabarawan.[12] He said that he went to Crossing Batuan on July 28, 1989 to take his sick child to his parents-in-law for treatment. He stayed there for one month and it was there where he was arrested.[13] He claimed to have been manhandled by the police and that his extrajudicial confession was obtained through force and violence.[14] On cross-examination, he testified that Crossing Batuan was sixty kilometers[15] away from Sitio Kabarawan and that it was his first time to stay there for a period longer than one week.[16]

Like Caballero, Fernando Fuentes claimed he earned a living by making charcoal, harvesting coconuts, gathering tuba, and cutting bamboo poles. He was 37 years old, married, also a resident of Sitio Kabarawan, Bgy. Sto. Rosario, Ajuy, Iloilo. He denied involvement in the crime.[17]

Wilson Aplomenina testified that he was 17 years old, single, a resident of Bgy. Velasco, Lemery, Iloilo. He took care of carabaos. He claimed he went to Cadiz City upon invitation of his aunt to engage in deep sea fishing.[18] It was in Cadiz City where he was arrested.[19] On cross-examination, he could not recall the address of his aunt in Cadiz City nor the date he left his residence to settle in Cadiz City.[20]

Rodrigo Villaruel, 26 years old, a resident of Sitio Balcon, San Dionisio, Iloilo, testified that he was also engaged in deep sea fishing. He claimed he went to Cadiz City because his wife hailed from that place and that they had gone there for a vacation.[21] It was there where he was arrested. He also denied participation in the crime charged[22] and claimed that he met the other accused-appellants only in jail. On cross-examination, he could not recall when he and his wife left their home for Cadiz City.[23]

The trial court found the testimonies of the prosecution witnesses credible, even as it found accused-appellants' defense "flimsy and frivolous." It therefore declared accused-appellants guilty of robbery with rape and sentenced them as stated in the beginning of this opinion. Hence this appeal.

Accused-appellants contend:

I

THE COURT A QUO ERRED IN NOT DECLARING AS INADMISSIBLE IN EVIDENCE THE EXTRA-JUDICIAL CONFESSION EXECUTED BY ACCUSED-APPELLANT POLOBRICO CABALLERO.

II

THE COURT A QUO ERRED IN GIVING UNMERITED VERACITY TO THE TESTIMONIES OF THE PROSECUTION WITNESSES RELATIVE TO THE IMPUGNED INCIDENT AND IN NOT GIVING EVIDENTIARY WEIGHT TO THE EVIDENCE PROFFERED BY THE DEFENSE.

III

THE COURT A QUO MANIFESTLY ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.

Polobrico Caballero claims that he was manhandled by the PC in order to make him confess[24] and that in giving

a confession (Exh. C) he was denied the assistance of counsel and was not informed of his constitutional rights.[25] The Solicitor General has not answered the charge and says instead that the confession was not used at all by the trial court in finding accused-appellants guilty. It hardly needs to be said that an extrajudicial confession which is made without the advice and assistance of counsel is inadmissible.[26] However, a perusal of the decision of the trial court reveals that in finding the accused-appellants guilty, the trial court did not in fact rely on Caballero's extrajudicial confession. Its findings are based solely on the oral testimonies of the witnesses for the prosecution. Accused-appellants' contention is, therefore, moot and academic.

With respect to the second and third assignments of errors, the accused-appellants argue that their identification as the alleged perpetrators of the crime was not clear, positive and convincing. They contend that their identification was not possible because of (1) inadequate illumination at the scene of the incident; (2) the perpetrators were wearing masks; (3) the complainants were overcome with fear; and (4) witness Ponciano Cacho was hogtied and lying with his face down.

These contentions are without merit. The Cacho residence was a one-storey house made of lawanit and bamboo. It had a sala and two bedrooms and a four-meter wide window. Three feet away from the window was a mango tree. At the time of the incident, the house was lighted by two wicklamps. The lamps threw their light up to the yard in front of the window. Identification of the accused-appellants, even when they were in the yard, was thus not impossible. As Ponciano Cacho testified on cross examination:[27]

Q Since it was already dark you made mentioned [sic] that these 6 persons were in your house, now since it was dark how did you happened [sic] to see them?

A I saw their faces thru the illumination of the lamp placed on top of our table near the window and then they took hold of me near the window.

Our cases[28] have held that wicklamps, flashlight, even moonlight and starlight may, in proper situations, be sufficient illumination, making the attack on the credibility of witnesses solely on this ground unmeritorious.

The contention that identification was impossible because the malefactors were wearing masks has no basis. The evidence regarding this point was supplied by the offended parties. But their claim was that only one of the malefactors covered his face with a handkerchief. This man was, however, recognized by Lyneth as accused-appellant Polobrico Caballero because the handkerchief fell off his face as he tried to overpower Lyneth in order to rape her.

Likewise, the circumstances that the witnesses were so overcome with fear and Ponciano was hogtied and made to lie with his face down do not cast doubt on their credibility. While the witnesses must have been afraid, there is no evidence to show that they were so frozen in fear as to have lost their senses.[29] It must be pointed out that the malefactors stayed for about two hours, thus allowing for their identification by their victims. Indeed, the witnesses met accused-appellants face to face. They went through a harrowing experience which must have been so etched in their consciousness that it left an indelible and vivid imprint in their memory. These witnesses were the victims of accused-appellants. They did not have any ulterior motive to testify against accused-appellants. All they wanted was to obtain justice,[30] especially for their daughter whose honor had been defiled. The trial court correctly, in our view, gave credence to the version of the prosecution.

Of course accused-appellants had explanations for being in places other than their respective residences. Accused-appellant Polobrico Caballero claimed that he went to Crossing Batuan to take his sick child to his parents-in-law for treatment. Wilson Aplomenina claimed that he went to Cadiz City to accept his aunt's invitation to engage in deep sea fishing. Rodrigo Villaruel claimed that he was in Cadiz City for a vacation. In the light of the evidence of the accused-appellants, however, the trial court correctly found the explanations to be

"flimsy and frivolous."

Indeed, alibi is a "defense that places the defendant at the relevant time of the crime in a different place than the scene involved and so removed therefrom as to render it impossible for him to be the guilty party." [31] Yet, in the case at bar, the accused-appellants failed to prove that on July 4, 1989 they were in a place other than the Cacho residence. Fernando Fuentes only denied having participated in the commission of the crime charged. [32] Wilson Aplomenina claimed that he went to live in Cadiz City but he could not tell when he left his residence to settle down in Cadiz City. [33] On the other hand, Rodrigo Villaruel said he went to Cadiz City for a vacation [34] but, like Fuentes, could not tell when it was that he and his wife had left their home for Cadiz City. [35] Instead of proving alibi, the defense evidence in fact proved flight by the accused-appellants, particularly by Polobrico Caballero, Wilson Aplomenina and Rodrigo Villaruel. Polobrico Caballero was a resident of Sitio Kabarawan, Bgy. Sto. Rosario, Ajuy, Iloilo but he was arrested in Crossing Batuan. Accused-appellant Wilson Aplomenina was a resident of Bgy. Velasco, Lemery, Iloilo but he was found in Cadiz City. And accused-appellant Rodrigo Villaruel was a resident of Sitio Balcon, San Dionisio, Iloilo, but he was tracked down in Cadiz City. It is settled that flight is evidence of guilt and a guilty conscience. [36]

The culpability of the accused-appellants notwithstanding, we find that the trial court erred in certain respects not assigned in the accused-appellants' brief.

First, the records reveal that accused-appellant Wilson Aplomenina was born May 10, 1973. In fact when he testified on August 21, 1990, he said he was only 17 years old. The prosecution did not dispute this claim. This means that at the time of the crime (July 4, 1989), he was only 16 years old. The mitigating circumstance of minority must, therefore, be appreciated in his favor reducing the penalty by one degree, as provided in Art. 68(2) of the Revised Penal Code. This point has not been raised either by the prosecution or the defense. But we consider it because an appeal in a criminal case opens it up for review on any question, including one not raised by the parties. [37]

Second, the trial court found all the accused-appellants guilty of robbery with rape despite the fact that only two of them, namely, Polobrico Caballero and Wilson Aplomenina, have been shown to have raped Lyneth Cacho. The other two had not been identified. There is neither allegation nor evidence that these other two accused-appellants, Fernando Fuentes and Rodrigo Villaruel, also raped Lyneth or that they assisted Caballero and Aplomenina in committing rape. Lyneth testified that the first man who raped her was not one of the accused-appellants while she did not recognize the third one.

Consequently, accused-appellants Fernando Fuentes and Rodrigo Villaruel cannot be held guilty of robbery with rape but only of robbery under Art. 294 par. 5, in relation to Art. 296 of the Revised Penal Code. As held in the case of *People v. Canturia*: [38]

The Court cannot, however, see its way to upholding the conviction of all the accused for robbery with rape. Of seeming relevance, to be sure, are two (2) familiar principles, i.e. (a) that in a conspiracy the act of one is the act of all -- a conspiracy being amply demonstrated by the proofs among the eight (8) accused in this case -- and (b) that when "more than three armed malefactors take part in the commission of robbery, it shall be deemed to have been committed by a band," in which case, any member of the band "who is present at the commission of a robbery by ** (said) band, shall be punished as principal of any of the assaults committed by the band, unless it be shown that he attempted to prevent the same." This notwithstanding, it is the Court's view that only Canturia should be held responsible for the crime because he alone perpetrated the detestable crime of rape. The others could not be held liable therefor. For while the evidence does convincingly show a conspiracy among the accused, it also as convincingly suggests that the agreement was to commit robbery only; and there is no evidence that the other members of the band of robbers were aware of Canturia's lustful

intent and his consummation thereof so that they could have attempted to prevent the same.

WHEREFORE, the decision appealed from is AFFIRMED with the MODIFICATION that (1) accused-appellant WILSON APLOMENINA is sentenced to 10 years and 1 day of prision mayor, as minimum, to 17 years, 4 months and 1 day of reclusion temporal, as maximum; (2) accused-appellants FERNANDO FUENTES and RODRIGO VILLARUEL are each sentenced to 4 years and 2 months of prision correccional, as minimum, to 10 years of prision mayor, as maximum, for the crime of robbery. In all other respects, especially the sentence of reclusion perpetua against POLOBRICO CABALLERO, the appealed decision is AFFIRMED.

SO ORDERED.

Regalado (Chairman), Romero, Puno and Torres Jr. JJ., concur

[1]Exh. A, Records, p. 13.

[2]Testimony of Ponciano Cacho, TSN, pp. 17-20, March 28, 1990.

[3]Id.

[4]Testimony of Lyneth Cacho, TSN, pp. 14-15, June 25, 1990.

[5]Id.

[6]Testimony of Letecia Cacho, pp. 7-10, March 13, 1990.

[7]TSN, pp. 17-20, June 25, 1990.

[8]TSN, p. 20, June 25, 1990.

[9]TSN, pp. 8-11, March 28, 1990.

[10]TSN, pp. 21-25, June 25, 1990.

[11]Id.

[12]Testimony of Polobrico Caballero, TSN, p. 5, July 10, 1990.

[13] Id., p. 17.

[14]Id., pp. 6-7.

[15]Id., p. 9.

[16]Id., p. 14.

[17]Testimony of Fernando Fuentes, TSN, pp. 3-7, Aug. 21, 1990.

[18]Testimony of Wilson Aplomenina, TSN, pp. 11-14, Aug. 21, 1990.

[19]Id.

[20]Id., p. 16.

[21]Testimony of Rodrigo Villaruel, TSN, p. 21. Aug. 21, 1990.

[22]Id., p. 22.

[23]Id., p. 16.

[24]TSN, pp. 6-7, July 10, 1990.

[25]Rollo, p. 150.

[26]People v. Surigawan, 228 SCRA 458 (1993); People v. Enrile, 222 SCRA 586 (1993).

[27]TSN, pp. 22-23, March 28, 1990.

[28]In People v. Gamboa, 145 SCRA 289 (1986) and in People v. Pueblos, 127 SCRA 746 (1984), this Court ruled that the light of the moon is sufficient for a person to identify another. In People v. Vacal, 27 SCRA 24 (1969), the light of the stars may provide fair visibility. In People v. Gapasin, 145 SCRA 178 (1986), kerosene lamps were considered enough illumination, and in People v. Nopis, 113 SCRA 599 (1982), People v. Porcare, 120 SCRA 546 (1983), and People v. Boado, 103 SCRA 607 (1981), flashlight may be adequate to provide illumination for purposes of recognition and identification.

[29]Cf. People v. Arias, 102 SCRA 303 (1981).

[30]Cf. People v. Panganiban, 241 SCRA 91 (1995); People v. Macagaling, 237 SCRA 299 (1994).

[31]People v. Acob, 246 SCRA 715, 723 (1995), citing Black's Law Dictionary, Sixth Ed., p.71.

[32]TSN, pp. 3-7, Aug. 21, 1990.

[33]Id., p. 16.

[34]TSN, p. 21. Aug. 21, 1990.

[35]Id., p. 16.

[36]People v. Lopez, Jr., 246 SCRA 95, 105 (1995).

[37]See People vs. Villagrancia, 226 SCRA 374 (1993)

[38] 245 SCRA 275, 285 (1995)

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.