

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NINOY MALBOG @ SATURNINO MALBOG, AMADEO VIERNES AND SALVADOR BAMBILLA, ACCUSED-APPELLANTS.

G.R. No. 106634. October 12, 2000

Ponente: PURISIMA, J.

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PURISIMA, J.:

Appeal interposed by the appellants from the decision, dated March 23, 1992, of Branch 42 of the Regional Trial Court in Dagupan City, finding them guilty of forcible abduction with rape and sentencing them to suffer the penalty of reclusion perpetua, to indemnify the victim in the amount of P50,000.00; and to pay the costs.

On August 28, 1990, Estela Eng y Ulalan lodged her criminal complaint for forcible abduction with rape against Ninoy Malbog, Amado Viernes and an unnamed suspect (John Doe).

Filed by on August 29, 1990 2nd Assistant City Prosecutor Daniel Terrado, the Original Complaint alleged:

"That on or about the 30th day of January, 1990, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, NINOY MALBOG, AMADO VIERNES and JOHN DOE, with violence and intimidation against persons, confederating together, acting jointly and helping one another, did then and there wilfully, unlawfully and criminally, forcibly abduct one ESTELA ENG y Ulalan, by dragging her inside a car and bringing her to INAWA LODGE-INN, Calasiao, Pangasinan and once inside, with the use of force, accused JOHN DOE have carnal knowledge of said ESTELA ENG y Ulalan, against her will and consent to the damage and prejudice of the latter." [1]

Upon arraignment thereunder on December 28, 1990, with the assistance of counsel de parte, Atty. Santiago Marcella, Ninoy Malbog @ Saturnino Malbog and Amado Viernes entered negative pleas.

Appellant Salvador Bambilla, who was a member of the Philippine National Police (then known as Integrated National Police) and whose case was first referred to the office of the Judge Advocate General (JAGO), was included in the charge in the Amended Complaint, dated January 10, 1991, alleging:

"That on or about the 30th day of January, 1990, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, NINOY MALBOG @ SATURNINO MALBOG, AMADO VIERNES and SALVADOR BAMBILLA, with violence and intimidation against persons, confederating together, acting jointly and helping one another, did then and there, wilfully, unlawfully and criminally, forcibly abduct one ESTELA ENG y Ulalan, by dragging her inside a car and bringing her to INAWA LODGE-INN, Calasiao, Pangasinan and once inside with the use of force, accused SALVADOR BAMBILLA have carnal knowledge of said ESTELA ENG y Ulalan, against her will and consent, to the damage and prejudice of the latter." [2]

With Bambilla pleading not guilty upon arraignment on June 17, 1991, trial proceeded.

Evidence for the prosecution consisted of the testimonies of the victim, Estela Eng y Ulalan, and Dr. Rico Reyes,

the examining physician.

Estela Eng y Ulalan, who was 19 years old at the time of the incident and a nursing student at Lyceum Northwestern University in Dagupan City, testified that at about six o' clock in the morning of January 30, 1990, she boarded a Balbin-Fernandez bus bound for Dagupan City to attend her classes at Northwestern University. Appellant Salvador Bambilla also boarded the same bus and sat beside her. Upon reaching Dagupan, the bus stopped in front of the Post Office. She was about to alight from the vehicle when Bambilla held her hand and threatened her. Bambilla continued to hold her hand tightly even after they had alighted. While standing in front of the Post Office, he told her that he would kill her if she shouted or made noise. Then, a blue car stopped in front of them and Bambilla opened the door of the car, pushed her inside and also boarded. Once inside the vehicle, she recognized appellant Ninoy Malbog as the driver. Seated beside him on the front seat was Amado Viernes. She recognized Malbog because he was their former family driver, and she recognized Viernes only by face until he was later identified. She shouted for help but kept quiet when Bambilla threatened her and poked his gun at her waist.

Upon the order of Bambilla, Malbog drove the car to Calasiao and stopped in front of what she later came to know as Inawa Lodge-Inn. Malbog drove the car into a garage, and a man immediately closed the gate after which Viernes and Malbog went out of the car and left while Bambilla pushed her (victim) out and forced her to go up a staircase. Upon reaching the door of a room, Bambilla pushed her inside, followed her and locked the door. She screamed and when nobody heard her, she kneeled in front of Bambilla and pleaded to him not to do anything to her. Bambilla pushed her to the bed, instead, went on top of her, and began kissing her cheeks, neck and lips. Then, he pulled her white uniform up to her waist and removed her underwear, after which he (Bambilla) took off his pants and brief. She struggled and fought against him but he was stronger. Thereafter, he tried to insert his penis into her vagina while making an up and down movement but she closed her legs. Later, she felt hot fluid on her thighs. According to her (victim), she did not know if Bambilla was able to penetrate her private parts because she was too tired and lost consciousness.

When she recovered, she went to the comfort room to wash her private parts. She looked for a window through which to escape but she found none. When she went out of the comfort room, Bambilla told her that he was leaving to buy for her a shirt because her uniform was all wet and dirty.

When Bambilla returned, he brought a skirt and T-shirt and ordered her to change her clothes, after which he told her that he was bringing her to Manila. When she had dressed up they left the Inawa Lodge and rode on the same blue car driven by Malbog earlier but this time, it was Bambilla who drove the car. On the way, she gyped Bambilla by telling him that she would go with him to Manila but he should first take her home to Pozorrubio to get some clothes. When they reached Pozorrubio at around 12:00 noon, she alighted at Barangay Talogtog and took a tricycle. Upon reaching their house, she told her brother Cesar what happened. The following day, January 31, 1990, she submitted herself for medical examination by Dr. Rico Reyes, at the Don Teofilo Memorial Hospital. Two days after the incident, or on February 1, 1990 to be precise, she reported the incident to the Pozorrubio Police and also to the Dagupan City Police.[3]

The victim-complainant denied the theory of appellant Salvador Bambilla that he was her boyfriend and she voluntarily went with him to Inawa Lodge-Inn on January 30, 1990.

The second prosecution witness, Dr. Rico Reyes, recounted that on January 31, 1990, the victim-complainant, Estela Eng, went to the Don Teofilo Memorial Hospital for physical examination, which examination revealed that there was:

"erythema on left labia minora xxx; hymenal laceration, healed at 6:00 o' clock and 10:00 o' clock position;

vaginal introitus admits 1 finger; cervix closed; uterus was small; adnexae-free; vaginal smear was done for detection of presence of spermatozoa and the findings was negative for spermatozoa."

Aside from the said findings, there was no other sign of physical injury. Dr. Reyes explained that "erythema on left labia minora" meant that there was reddening on the left labia which might be an irritation caused by tight underwears; and that the healed hymenal laceration at six o' clock and ten o' clock positions could have been sustained more than seven days prior to examination.[4]

Evidence for the defense consisted mainly of the testimonies of all the three appellants, Ninoy Malbog @ Saturnino, Amadeo Viernes and Salvador Bambilla.

According to appellant Bambilla, he and the complainant were sweethearts. He first met her in February 1988, when he was assigned as traffic policeman near complainant's bakery in Barangay Poblacion, Pozorrubio, Pangasinan. Since then, he began courting her and after she answered him on March 14, 1988, they began going out and he would take her to and from the school.

On January 30, 1990, at around six o'clock in the morning, as he was already off-duty, he boarded a Balbin-Fernandez bus bound for Dagupan City, to go home to Amagbagan. The bus was already half full when he boarded it. Upon seeing the complainant, Estela Eng, inside the bus, he sat beside her. They reached Dagupan at around seven o'clock a.m. and they alighted together in front of the Post Office. As Estela Eng was already late for her class, he invited her for a date and she acceded on condition that she was to be brought back to her school at 12:00 noon to attend her afternoon classes. He then told her that he was going to bring her to Inawa Lodge in Calasiao. She was reluctant at first, asking him if there was no other place where they could go to but later on she agreed to go with him but asked him not to touch her - ("Anggapoy galawan").

They were about to board a tricycle for Calasiao when an oncoming blue car blew its horn. He recognized the driver as Ninoy Malbog who used to drive a passenger mini-bus he usually rode on. He then approached the car and talked to Malbog. When he found out that Malbog was going to Dagupan City to buy materials for his employer, he requested him (Malbog) to take him and Estela to Calasiao. When Malbog agreed, he and Estela sat in the backseat. As they were leaving, they saw Amado Viernes, waving at them and asking them where they were going. Malbog told Viernes that he would first bring Bambilla and his companion to Calasiao, buy spare parts for his employer and then go back to Pozorrubio. Viernes asked Malbog if he could hitch a ride back to Pozorrubio. After asking permission from his mother, Amado also boarded the car and sat beside him (Malbog).

While they were on their way to Calasiao, Estela Eng was worried that Malbog and Viernes might tell her brother that she went with them to Calasiao. When they reached Inawa Lodge, he instructed Malbog to bring the car inside the compound. A man directed them towards a garage where they parked the car. He asked Estela to go ahead upstairs because he had to tell the two not to report to her brother. When Estela left, he asked Malbog to leave the car so people would not see him (Bambilla) and Estela when they leave the place. He assured Malbog that his employer, Rocky Cancino, was his good friend and he would explain to Cancino when he brings back the car to him. With such assurance, Malbog agreed to leave the car and he and Viernes left Inawa Lodge.

After the two left, Bambilla proceeded to pay the motel bills after which a roomboy accompanied him to Room B, handing him a towel and pitcher of cold water. When he went inside the room, he saw Estela sitting on the bed. When he asked her why she was quiet, she told him that she was worried that Malbog and Viernes might report to her brother. He told her not to worry and began to kiss her until both of them were lying on the bed. He then removed her dress, her bra and her panty and continued kissing her. Then he stood up to remove his clothes while Estela covered her body with her clothes because she was ashamed of his seeing her naked. When he was already undressed, he laid on top of her but Estela kept her legs closed. When he tried to open her legs, she told him "not

today because we have pregnancy test next week." [5] Thus, he simply inserted his penis in between her thighs just above her knees because she continued to clutch her dress and covered her body from the knee up. He ejaculated on her thighs.

Afterwards, Estela got up and went to the comfort room. After a few minutes, she went out of the comfort room, lied on the bed beside him, embraced him and told him "Do not abandon me." After assuring her that he will not because he loves her, he suggested that they leave Inawa Lodge as he was already hungry. While Estela was putting on her clothes, she noticed that they were all crumpled and told him that she needed new clothes. As he could not convince her to go with him, he went out alone.

Using the same car driven by Malbog, he went to Ang Ka Tong Store in Dagupan City and bought a shirt and a blouse. He went back to Inawa Lodge after about 45 minutes. The door to Room B was locked when he arrived so he knocked and called out to Estela. When Estela opened the door, he gave her the shirt and blouse he bought and asked her to change. However, she did not immediately put on the clothes; instead, she sat on the bed and told him, "If you truly love me, do not abandon me. I will go with you." It was at that point that they agreed to elope and go to Manila. After Estela was dressed, they checked out of Inawa Lodge riding in the same car that he (Bambilla) borrowed from Malbog. They agreed to go home first to Pozorrubio so they could get some clothes and money. They arrived in Pozorrubio around noontime and upon reaching Barangay Talogtog, Estela suggested that it would be better if she would get off there and take a tricycle home so nobody would see them together. They agreed to meet at one o' clock in the afternoon of the same day at the Pantranco bus terminal near the Pozorrubio town plaza.

While Estela took a tricycle and proceeded to her house, he also went home to Amagbagan to get money and some clothes. He was two minutes late when he arrived at their meeting place and he did not find Estela there. He waited for her for forty-five (45) minutes but she did not arrive. Thinking that she probably changed her mind, he went to her school, Northwestern University, in Dagupan City. He waited for her until 4:30 but he did not find her. He then went back to Pozorrubio and returned his clothes in his house, after which he drove to the house of Rocky Cancino to return the car.

He (Bambilla) reached the house of Cancino at around six thirty. While he was in the house of Cancino, two policemen, Patrolmen Mina and Perez, arrived and informed Bambilla that he was to go immediately to the police station because the family of Estela was there. They also instructed Ninoy Malbog and Rocky Cancino to go with him. Thus, he, together with Malbog and Cancino, went to the police station in Pozorrubio. Upon arrival at the station, he saw Estela Eng, her two brothers, her sister and their family maid inside the station. Outside the municipal hall, the Chief of Police P/Capt. Conrado Rosete asked him what happened and why he tried to elope with Eng (angipatik) and he told him that nothing happened between him and Estela. Bambilla also claimed that he tried to talk to Estela after the incident to ask her about the problem but to no avail. Later, he learned that Estela filed a criminal complaint against him. [6]

Appellant Amado Viernes, a fish vendor, testified that in the morning of January 30, 1990, his mother Maria Viernes asked him to accompany her to get the fish she left with a fellow fish vendor in Dagupan City. They boarded the Balbin-Fernandez mini bus in front of their house in Barangay Talogtog, Pozorrubio. Inside the bus, he saw Salvador Bambilla, whom he knew to be a policeman, and Estela Eng, his townmate, seated together and talking to each other. He and his mother alighted in front of the Mele's Restaurant in Dagupan City. They found out, however, that the fish they left was already sent to Pozorrubio so they immediately walked back towards the bus stop to get a ride home. After waiting for some time and no bus arrived, they walked towards the Post Office. Upon reaching the said spot, he saw Bambilla and Eng talking. As he knew Bambilla to be a policeman, he greeted the latter by saying "Sir". Bambilla replied by asking him, "Where are you going?" and he told him that

they were going back to Pozorrubio. Fifteen more minutes passed but no bus arrived. When Eng and Bambilla were about to board a tricycle, a car arrived and Bambilla waved at the car, approached the same and talked to the driver whom he recognized as Ninoy Malbog. Thereafter, he saw Bambilla and Eng board the car. He (Viernes) also approached the car to ask Malbog where he was going. When he found out that he would be going back to Pozorrubio, he asked Malbog if he could hitch a ride back and when the latter agreed, he went back to his mother to inform her that he would be hitching a ride back to Pozorrubio with Malbog. When she agreed, he immediately boarded the car, on the front seat beside Malbog.

He learned that Malbog would first take Bambilla and Eng to Calasiao, buy spare parts for Rocky Cancino's truck, and then go back to Pozorrubio. When they reached Calasiao, they took the left route towards the place called Inawa Lodge Inn. Upon reaching the said place, Bambilla instructed him to leave and asked Malbog to leave the car, promising that he would be responsible for explaining what they did to Cancino. Afterwards, he and Malbog left Inawa Lodge together and took a ride back to Dagupan. Malbog told him that had he known that Bambilla would be asking him to leave the car, he would not have brought the two to Calasiao. When they reached Dagupan, Malbog walked towards Perez Boulevard to buy spare parts while he alighted in front of Carried Lumber to get a ride back to Pozorrubio.[7]

Amado Viernes' allegations were corroborated by his mother, Maria Viernes, who attested to the fact that she was with him on January 30, 1990; that her son went to Dagupan because she asked him to accompany her to get the fish they were supposed to sell which she left with a fellow fish vendor in Dagupan City; that while waiting for the bus to take them back to Pozorrubio, Malbog arrived in a blue car; that his son approached the car and talked to Malbog; that after a few minutes his son told her that he would be hitching a ride back to Pozorrubio with Malbog.[8]

Appellant Ninoy Malbog narrated his version of the incident as follows:

In the early morning of January 30, 1990, at around six o'clock in the morning, he was sent by his employer, Rocky Cancino, to buy spare parts for their delivery truck in Dagupan City. When he reached Dagupan City, he saw Bambilla with Estela Eng about to board a tricycle. Since he knew Bambilla, he honked the horn to get the latter's attention and Bambilla approached and asked him if he could take him and Estela to Calasiao. As it was early and the shop where he was supposed to buy the spare parts was still closed, he agreed. They met Amado Viernes on the way and the latter also hitched a ride. When they reached the Inawa Lodge, Bambilla asked him to leave the car because he did not want anybody to see him and Estela checking out of the motel. He was reluctant at first but when Bambilla assured him that he was a good friend of Cancino and he (Bambilla) would explain to Cancino when he returns the car later in the day, he (Malbog) agreed. He and Viernes then went back to Dagupan City and parted ways at the junction of Perez Boulevard and del Pilar Street. He proceeded towards Sampaguita Auto Supply to buy the spare parts while Viernes went to the Carried Lumber. After buying the spare parts, he took a ride back to Pozorrubio.[9]

Rocky Cancino, employer of Malbog confirmed that in the early morning of January 30, 1990, he sent the latter to Dagupan City to buy spare parts of a delivery truck and allowed him to use his blue car because he wanted the delivery truck repaired immediately. When Malbog went back around ten a.m., he was told that he (Malbog) lent his car to Bambilla so that he got angry; that around six o' clock in the evening of the same day, Bambilla arrived and explained to him what happened; that while he and Bambilla were still talking, two policemen came looking for Bambilla and the policemen told Bambilla to go with them to the police station such that he and Malbog went with Bambilla to the police station.

Cancino further testified that he was of the belief that Bambilla and complainant Eng were sweethearts because on

several occasions since the year 1988, he had seen the two together on dates.[10]

Willy Napacena, roomboy of Inawa Lodge Inn, testified that he was on duty in the morning of January 30, 1990; that about seven thirty a.m., Bambilla, with three companions, two males and one female, arrived in a blue car and he was the one who let them enter the garage; that upon getting out of the car, the two male companions of Bambilla left while the latter and his female companion went up to Room B; that after 30 minutes, Bambilla went out of the room alone and boarded the same blue car; that during the time Bambilla was out, he did not hear any call or buzzer from Room B, and neither did he hear any noise coming therefrom; that Bambilla returned at around nine a.m.; and about an hour after Bambilla was back, he and the lady checked out of the lodge.[11]

On March 23, 1992, the trial court found all the three appellants guilty beyond reasonable doubt of the crime of forcible abduction with rape and sentenced them accordingly. In finding for the prosecution, it ratiocinated:

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2. It is very unnatural for two lovers to have a date early in the morning, especially in the case of Estela who had to attend her classes.

3. It is also unnatural that Estela would voluntarily go with him for a date in the company of the other two (2) accused, Ninoy Malbog and Amado Viernes.

4. There were no pictures, cards and letters allegedly given to him by Estela which he allegedly surrendered to her on January 31, 1990, because he was not foolish enough to return them to her considering that he was invited to the police station, together with Ninoy Malbog and Rocky Bell Cancino, to shed light on what happened between him and Estela in the early morning of January 30, 1990, and that on the same night he saw Estela, together with her brothers and sister and their maid, being interrogated by Pat. Credo, and considering that he appeared to be smart as borne out by the way he concocted his defense and the manner he answered questions; and considering further that the pictures, cards and letters were very important pieces of evidence.

5. Estela Eng immediately reported what the accused, Pat. Salvador Bambilla, and his companions did to her. For it is hard to believe that she would sacrifice her honor, being a good looking girl, to tell a story of defloration, allow the examination of her private parts and thereafter present herself to be the subject of a public trial.

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And the circumstances which negated his claim that Estela voluntarily went with him and made the Court to rule that there is evidence of forcible abduction, are:

1. The testimony of Estela Eng is clear and convincing, the complainant declaring that she and the accused Bambilla were never sweethearts; that when the mini-bus which she rode from Pozorrubio to Dagupan City stopped in front of the Post Office and she was about to alight, Bambilla held her hand and threatened her with bodily harm; that upon alighting from the mini-bus Bambilla again held her right hand with his left hand tightly and told her that he will kill her if she will shout or will make some struggle or noise; that just as the mini-bus moved forward, a car suddenly stopped in front of them and Bambilla pushed Estela inside; that she asked for help by shouting, but Bambilla immediately poked his gun to her waist and because of fear, she stopped and just cried. On the way to Calasiao she even asked (sic) help from Ninoy Malbog, but the latter ignored her.

2. And the fact that Bambilla at that time was armed with a hand gun.

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The Court believes that the following circumstances have sufficiently established the commission of the crime of

Rape:

a] The threat, which is continuing, by Salvador Bambilla, who is a policeman and at that time armed with a hand gun, against the life of Estela Eng from the time the latter was abducted in front of the Post Office up to the time said Salvador Bambilla satisfied his desire in having sex with Estela Eng, which threat put her to crouch in fear, keep silent and obey his orders.

b] There is resistance or struggle put up by Estela Eng against the intention of Bambilla to lie and have sex with her. This resistance or struggle is evidenced by the fact that once they entered the garage of the Inawa Lodge Inn, in Calasiao, Pangasinan, and after accused Ninoy Malbog and Amado Viernes have left upon instruction of Bambilla, the latter pushed Estela out of the car and into the room of the hotel and, thereupon, pursued his intention. Such resistance or struggle by private complainant is also evidenced by the fact that her white nursing uniform dress was, as testified by accused Bambilla, crumpled, got wet and dirtied. If really Estela Eng did not put up a resistance or struggle when Bambilla went on to satisfy his carnal designs, why was her dress crumpled, wet and dirtied? The Court believes that the foregoing circumstances are indications of the criminal intent of Pat. Bambilla to lie and have sex with Estela Eng, without the latter's consent and against her will.

c] There is consummated crime of Rape. This conclusion is evidenced by the findings of Dr. Rico Reyes who was the one who attended to and examined Estela Eng."^[12]

The lower court disposed thus:

"WHEREFORE, the Court finds the accused Salvador Bambilla, Ninoy Malbog, alias Saturnino Malbog, and Amado Viernes guilty beyond reasonable doubt of the crime of Forcible Abduction With Rape and are hereby sentenced to suffer the penalty of reclusion perpetua and to jointly and severally indemnify the offended party Estela Eng the sum of P50,000.00, and to pay proportionate costs.

SO ORDERED."^[13]

Hence, this appeal.

In criminal cases, the guilt of the accused must be proved by the prosecution beyond reasonable doubt on the strength of its evidence.^[14] Conviction of the accused must rest not on the weakness of the defense but on the strength of the prosecution's evidence;^[15] otherwise, the accused is entitled to an acquittal.

Under the criminal justice system in this country, the overriding consideration is not whether the court doubts the innocence of the accused but whether it entertains a reasonable doubt as to his guilt.^[16] Speculation, conjectures and probabilities cannot take the place of proof required to establish the guilt of the accused beyond reasonable doubt and suspicion, no matter how strong, cannot sway judgment.^[17]

In reviewing rape cases, this Court is guided by the following principles: (a) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused, though innocent, to disprove the charge; (b) considering that, in the nature of things, only two (2) persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (c) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense.^[18]

The lone testimony of the victim of rape, if it meets the test of credibility, may be made the basis of conviction.^[19] It is therefore incumbent upon the trial court to be very scrupulous in ascertaining the credibility of the testimony of the victim and to carefully sift through her allegations because such testimony, standing alone, if it passes the test of credibility, may lead to a finding of guilt.

As a general rule, the factual findings by the trial court deserve a high degree of respect and will not be disturbed on appeal in the absence of any clear showing that it overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which could alter the result of the case.[20]

A judicious review of the case under scrutiny, however, shows that the trial court did overlook some facts and circumstances of weight and substance which cast doubt on the truth and credibility of complainant's accusations.

The complainant alleged that while they (she and Bambilla) were still on the bus, the latter poked his gun at her and threatened to kill her if she shouts. She further claimed that she did, in fact, shout but the other passengers were probably frightened.[21]

Such allegation by the complainant cannot be given credence by the Court. It is belied by her very own testimony with respect to the time and place where the alleged forcible abduction took place. She herself admitted that the bus was already full when they left Pozorrubio.[22] Most of the passengers were her townmates from Pozorrubio and schoolmates from Lyceum Northwestern University. Moreover, the alleged threat happened in broad daylight. Given all these circumstances, the Court finds the testimony of the complainant incredible. If indeed Bambilla threatened her by poking his gun, it was impossible that nobody noticed if she put up a struggle against him. Then too, if she tried to shout as she claimed, somebody could have heard her and responded to her shouts. At the very least, if she shouted, as she theorized, a commotion inside the bus would inevitably occurred. If Bambilla carried a gun that day, it was sufficiently explained by his being a policeman, and at the time of the incident, he just got off from his duty and was on his way home.

Complainant likewise averred that Bambilla continued to poke his gun at her and to threaten her when they alighted from the bus in front of the Post Office. Again, such allegation is unworthy of belief. Complainant herself admitted that the bus regularly stops in front of the Post Office,[23] where she and Bambilla alighted because students of Lyceum usually get off thereat. The said testimony of complainant makes her allegations of "threat" unlikely because it would be impossible for anyone not to notice Bambilla poking a gun at her and threatening her. Not only that, a few meters across the Post Office was the Dagupan City Police Station. If there was truth to the allegation that she was forcibly abducted by Bambilla, her normal reaction would have been to resist and struggle against her abductor. And considering the circumstances of time and place where complainant was supposedly abducted, there was every opportunity for her to seek help by the simple expedient of shouting. As earlier mentioned, the road in front of the Post Office is a major bus stop and a lot of people alighted thereat, as it was already seven o'clock in the morning.[24] The police station was only a few meters from the Post Office and there were passenger jeepneys parked right in front of the Post Office.[25] All the aforesaid circumstances taken together negate the plausibility of the forcible abduction complained of.

Another significant circumstance overlooked below was the fact that Bambilla went out of the motel, left the complainant alone and was out for more than thirty (30) minutes. This fact was testified to by Bambilla,[26] corroborated by the testimony of Willy Napacena, the roomboy of the motel,[27] and admitted by the complainant herself.[28] What is more, Napacena attested to the fact that the doors to the rooms of Inawa Lodge did not have outside locks and could only be locked from inside.[29] Complainant cannot therefore claim that Bambilla locked her up. Said roomboy also testified that inside each room was a buzzer which could be used by customers calling for room service.[30] Napacena, declared under oath that he did not hear any call from the buzzer nor any shout for help coming from Room B where the complainant was left alone for at least half an hour.[31]

It is thus decisively evident that Estela Eng had ample opportunity to escape or, at least, to shout for help if she was really brought to the motel against her will and raped, as complained of. But she never tried to escape nor asked for help, something unnatural for a woman who had been forcibly abducted and raped. It would have been

different if the complainant was physically unable to get up and escape, because she was beaten up and rendered unconscious. Then, it would have been understandable why she could not escape even if there was an opportunity to do so. In the case under scrutiny, there were no signs that complainant Eng was too weakened to even get up and walk. Unacceptable is complainant's explanation why she did not try to go out of the room and escape, to wit:

"Q

You also mentioned in your previous testimony that the accused Salvador Bambilla went out for about 30 minutes?

A

Yes, sir.

Q

When he was out, do you mean to say that he left you from the room?

A

Yes, sir.

Q

And for that 30 minutes what did you do in order to escape?

A

I was trying to open the door by turning the knob but I could not and how could I also escape since my clothes were wet and dirty and the jalousies because there are also jalousies, there is still a screen covering the said window, so how could I go out, sir."[32]

It is simply unlikely for a woman who has just been robbed of her honor and chastity to still think of wet and dirty clothes instead of seizing upon every opportunity to escape from her malefactor. In the case under consideration, the complainant admitted that she waited for Bambilla to return:

"Q

Do you mean to say that you waited for Salvador Bambilla to return?

A

It is like this, before he left he told me to stay because according to him he will buy me a skirt and a t-shirt, sir.

xxx xxx xxx

Q

In other words, you want to tell the Honorable Court that it was Salvador Bambilla who suggested to buy you skirt and t-shirt?

A

Yes, sir.

Q

And you trusted him to still come back and give you the skirt and t-shirt, am I correct?

A

Yes, sir."[33]

As to the accusation of rape, the trial court did not consider the fact that complainant herself did not know if Bambilla was able to insert his penis into her vagina:

"Q

Did he ever make any movement while on your top and his penis reached your vagina?

A

He tried to insert his erect penis into my vagina but I don't know if it was inserted because I lost consciousness, sir."[34]

"Q

You also stated that he ejaculated on your thigh?

A

Yes, sir.

Q

Do you mean to say that his penis was not able to penetrate your vagina?

A

That's what I don't know anymore because I was already tired and had lost my consciousness, sir."[35]

Then too, the findings of the medico-legal officer who examined the complainant indicated the probability that no rape was committed. The medical certificate stated that there was no sign of external physical injuries on the whole body of the complainant, no spermatozoa was found but there were erythema and healed lacerations.[36] When asked to explain, the medico-legal officer opined that the erythema or reddening on the left labia could have been caused by tight underwears and the hymenal lacerations could have been sustained more than seven days prior to examination or several days before the alleged rape happened.[37]

In light of the foregoing circumstances coupled with complainant's admission that her legs were closed all the time she was inside the motel,[38] the fact that she did not try to escape although a second assault was very likely, did not try to shout for help and instead, waited for Bambilla to return, effectively contradict the protestation of complainant that she was raped. If there was sexual intercourse, evidence is utterly wanting to show that the same was against her will.

Equally unaffirmable is the lower court's finding that all the three appellants conspired together to forcibly abduct complainant Eng against her will and to bring her to Inawa Lodge so that Bambilla could have carnal knowledge with her. As sufficiently shown in the testimonies of the appellants, the fact that they were together on January 31, 1990 was a mere coincidence. Malbog's presence in Dagupan City that morning was duly explained by Rocky Cancino, his employer, who attested under oath that he sent Malbog to Dagupan City on that day to buy spare parts for his delivery truck. The presence of Viernes in the same place was likewise adequately explained by his mother, Maria Viernes, who recounted that her said son accompanied her to Dagupan City upon her request.

While the Court has, time and again, stressed that if a woman states that she was raped, she in effect says all there is to show that she was indeed raped, experience has also shown that it is not at all impossible that unfounded

charges of rape may be proffered by women who are actuated by some sinister, ulterior or undisclosed motive.[39]

And as held by this Court in the case of *People vs. Alvario*,[40] judges must free themselves of the natural tendency to be overprotective of every woman decrying her having been sexually abused, and demanding punishment for the abuser. While they ought to be cognizant of the anguish and humiliation the rape victim goes through as she demands justice, judges should equally bear in mind that their responsibility is to render justice according to law.[41]

Where the inculpatory facts and circumstances are susceptible of two or more interpretations, one of which is consistent with the innocence of the accused while the others may be compatible with the finding of guilt, the court must acquit the accused because the evidence does not fulfill the test of moral certainty required for conviction.[42]

In the case under review, the prosecution has not proven beyond reasonable doubt that appellants Salvador Bambilla, Amado Viernes and Ninoy Malbog forcibly abducted complainant Estela Eng y Ulalan, brought her to the Inawa Lodge and had carnal knowledge with her. With the inability of the prosecution to discharge its burden of proof, the presumption of innocence in favor of appellants prevails and therefore, pursuant to law all the three appellants are entitled to acquittal.

Once again, the Court has occasion to quote what Alfonso El Sabio was reputed to have said a long time ago[43] "[m]as vale que queden sin castigar diez reos presuntos, que se castigue uno inocente".[44]

WHEREFORE, the appealed judgment of conviction is REVERSED, and on the ground of reasonable doubt, appellants Saturnino Malbog, Amado Viernes[*] and Salvador Bambilla are hereby ACQUITTED of the crime charged.

The Director of Prisons, National Bureau of Prison, Muntinlupa City, is ordered to cause the immediate release of appellants unless there be any other legal ground for their continued detention, and to report to this Court within ten (10) days the action taken under the premises. With costs de oficio.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Gonzaga-Reyes, JJ., concur.

[*] Also referred to as Amado in the records of the case.

[1] Rollo, p. 23.

[2] Rollo, p. 24.

[3] TSN, pp. 5-28, July 25, 1991.

[4] TSN, Sept. 5, 1991, pp. 81-83.

[5] RTC Decision, p. 18, Rollo p. 40.

[6] TSN, pp. 387-450, February 17 and 25, 1992.

[7] TSN, pp. 94-121, August 29 and 30, 1991.

[8] TSN, pp. 210-239, September 11, 1991.

- [9] TSN, pp. 143-179, September 10, 1991.
- [10] TSN, pp. 288-386, September 30, 1991, October 22-24, 1991, December 5, 1991 and February 14, 1992.
- [11] TSN, pp. 241-285, September 24, 1991.
- [12] RTC Decision, pp. 21-27, Rollo pp. 43-49.
- [13] RTC Decision, p. 30, Rollo, p. 52.
- [14] *People vs. Galera*, 280 SCRA 492, 504-505.
- [15] *People vs. Rugay*, 291 SCRA 692, 699 citing: *People of the Philippines vs. Teddy Quinao, Rolando Sidro and Baltazar Ortiz*, G.R. No. 108454, March 13, 1997.
- [16] *People vs. Vasquez*, 280 SCRA 160, 164 citing: *People vs. Pedro Pagaura y Ticling*, G.R. No. 95352, January 28, 1997.
- [17] *People vs. Balderas*, 276 SCRA 470, 484 citing: *People vs. Jumao-an*, 230 SCRA 70 and *People vs. Clores*, 125 SCRA 67.
- [18] *People vs. Ramirez*, 266 SCRA 335, 347 citing: *People vs. Guamos*, 241 SCRA 528, 531.
- [19] *People vs. Adora*, 275 SCRA 441, 467 citing: *People vs. Gapasan*, 243 SCRA 53, 57 and *People vs. Abo*, 230 SCRA 612, 619.
- [20] *People vs. Jagolingay*, 280 SCRA 768, 774.
- [21] TSN, July 26, 1991, pp. 42-43.
- [22] TSN, July 26, 1991, p.39.
- [23] TSN, July 26, 1991, p. 39.
- [24] TSN, July 26, 1991, p. 44.
- [25] TSN, July 26, 1991, p. 45.
- [26] TSN, February 25, 1992, p. 434.
- [27] TSN, September 24, 1991, pp. 250,256.
- [28] TSN, July 26, 1991, pp. 60-64.
- [29] TSN, September 24, 1991, p. 254.
- [30] TSN, September 24, 1991, pp. 252-253, 273-275.
- [31] TSN, September 24, 1991, p. 252.
- [32] TSN, July 26, 1991, pp. 60-61.
- [33] TSN, July 26, 1991, pp. 63-64.
- [34] TSN, July 25, 1991, pp. 17-18.
- [35] TSN, July 26, 1991, p. 60.
- [36] TSN, September 5, 1991, pp. 81-82.

[37] TSN, September 5, 1991, pp. 82-83.

[38] TSN, July 25, 1991, p. 15.

[39] *People vs. Salarza, Jr.*, 277 SCRA 578, 588.

[40] 275 SCRA 529.

[41] *People vs. Alvario*, supra p. 537 citing: *People vs. Godoy*, 250 SCRA 676.

[42] *People vs. Ferras*, 289 SCRA 94, 108 citing: *People vs. Fider*, 223 SCRA 117, 134 (1993).

[43] *Frases, Ideas y Pensamientos de Varios Autores recopilados por Pablo Buill*, p. 112.

[44] *People vs. Cunanan*, 19 SCRA 769, 784.

[*] Also referred to as Amado in the records of the case.

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