

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CRISANTO OLIVER, ACCUSED-APPELLANT.

G.R. No. 123099. February 11, 1999

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-123099/>

PANGANIBAN, J.:

In denying this appeal, the Court reiterates the following doctrines: (1) the trial court's assessment of the credibility of witnesses and their testimonies is entitled to great respect; (2) the presence of spermatozoa in the sex organ of the victim is not necessary to prove rape; and (3) alibi is a weak defense and cannot overcome the positive identification of the appellant as the perpetrator of the crime.

The Case

Crisanto Oliver appeals before this Court the August 8, 1995 Decision[1] of the Regional Trial Court of Ligao, Albay,[2] which convicted him of rape and sentenced him to reclusion perpetua.

On January 10, 1995, Erlinda G. Olivario filed before the Fifth Municipal Circuit Trial Court (MCTC) of Ligao-Oas[3] a Complaint charging appellant with rape.[4] After conducting a preliminary investigation, the MCTC issued a Resolution dated February 28, 1995, finding "sufficient evidence which engenders a well founded belief that the crime of [r]ape xxx has been committed and the accused is probably guilty thereof, hence, he must stand for trial." [5]

Pursuant thereto, Assistant Provincial Prosecutor Benigno L. Tolosa filed before the Regional Trial Court of Ligao, Albay (Branch II) an Information charging appellant as follows:

"That on or about January 8, 1995, about 8:00 o'clock in the evening at Brgy. Tandarura, Municipality of Ligao, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, and by means of violence and intimidation, did then and there, wilfully, unlawfully and feloniously have carnal knowledge of the complainant Erlinda Olivario, against her will and consent, to the damage and prejudice of said Erlinda Olivario." [6]

With the assistance of Counsel Ingersoll Ramirez, appellant pleaded not guilty during his arraignment on May 23, 1995.[7] After due trial, the court a quo rendered on August 8, 1995 its assailed Decision which disposed as follows:

"WHEREFORE, this Court finds CRISANTO OLIVER guilty beyond reasonable doubt of the crime of RAPE, and hereby sentences said accused to suffer the penalty of RECLUSION PERPETUA with all the accessory penalties provided by law and to pay the victim the sum of THIRTY THOUSAND PESOS (P30,000.00) by way of moral damages." [8]

Hence, this appeal filed directly with this Court.[9]

The Facts

Version of the Prosecution

The Office of the Solicitor General[10] submits the following version of the facts:

"At about 8:00 o'clock in the evening of January 8, 1995, Erlinda Olivario answered the call of nature at the back of their house in Tandarura, Ligao, Albay.

"After relieving herself, Erlinda headed for the kitchen to wash. Her jogging pants and panty were still rolled down to her knees.

"On her way to the kitchen, Erlinda recognized appellant who suddenly came from behind, embraced and dragged her to a grassy portion, some ten (10) meters away from the house.

"At the grassy portion, Erlinda was pushed down by appellant who immediately pulled off her jogging pants and panty. Appellant used the jogging pants to wrap the victim's head, thereby covering her face.

"Appellant forcibly made Erlinda lie down, after which, he mounted her and had sexual intercourse with her.

"Afterwards, appellant taunted Erlinda to choose between life and death. The latter opted for life because she ha[d] a family to consider. Thereafter, appellant fled.

"With appellant gone, Erlinda ran to the house of her mother-in-law. She was still half-naked with only her checker[e]d blouse on. She told her mother-in-law that she was raped by appellant.

"Erlinda's mother-in-law sent for [her] son who was then on tanod duty in the pavilion where there was a dance. Thus, together with the other tanods, the victim's husband arrived, and from there, proceeded to the place of the incident to investigate.

"The next day, the Barangay Captain called for appellant. During the confrontation, the latter denied the accusation. The case was then referred to the police authorities for further investigation.

"On January 10, 1995, Erlinda was examined at the Pio Duran Memorial District Hospital by Dr. Cornelio Villanueva. The physical examination yielded the following results:

"On physical examination, patient was noted to have abrasion, 1 cm., nasal ridge, R; abrasion, 1 [c]m., zygomatic area, L; and abrasion, 2 cm., anterior aspect L, auricular area. On IE, vagina introitus admits two fingers. No lacerations noted. Vaginal smear done."[11]

Version of the Defense

In his Brief,[12] appellant sets up the defense of alibi and alleges the following:

"The accused-appellant xxx knows Erlinda Olivario, being also from Barangay Tandarura, Ligao, Albay, his house being approximately around 300 meters away from the house of Erlinda. That xxx [at] 8:00 o'clock to 9:00 o'clock in the evening of January 8, 1995, he was at home, entertaining guests as it was the eve of Barangay Fiesta, and at around 9:30 in the evening he was at the Pavilion with several companions watching the dance, and [that he] returned home [a]t 11:00 o'clock in the evening; Tirso Pagayonan, also testified that at around 4:00 o'clock in the afternoon of January 8, 1995 he went to Barangay Tandarura, particularly [to] the house of the accused Crisanto Oliver, and stayed in the latter's house because the day following [he would] will act as sponsor in the baptism of the son of the accused; at around 9:00 o'clock in the evening of January 8, 1995, the accused and some others went to and witnessed the dance in the Barangay Pavilion, and at 11:00 o'clock in the evening they returned to the house of Crisanto Oliver, and stayed the whole night at the house of Crisanto Oliver, helped in preparing the foods and at 2:00 o'clock the next day, he went home to [T]upas; Bernardo Ros, also testified that on January 8, 1995 at around 4:00 o'clock in the afternoon he was at the house of Crisanto Oliver, help[ed] prepare the food, and at 9:00 o'clock of said date he together with the accused and others went to the pavilion and watch[ed] the dance and stayed there up to the 11:00 o'clock in the evening and returned to the house of Crisanto Oliver and started preparing the food and left the following morning."[13]

The Trial Court's Ruling

On the basis of the victim's candid and straightforward testimony which was corroborated by the physical evidence, the trial court convicted appellant of the crime charged. It also ruled that rape was committed when the male genitalia touched, however slightly, that of the woman; hence, the presence of spermatozoa was not an element of the crime. Lastly, the court disbelieved appellant's alibi.

Assignment of Errors

The defense argues that the trial court erred in the following manner:

"I. In not believing the testimony of the accused-appellant as corroborated by the witnesses;

"II. In relying on the testimony of the witnesses for the prosecution instead of weighing the evidences adduced during the trial in favor of appellant;

"III. In convicting appellant who at the time of the alleged incident was at home entertaining guests[.]"[14]

Simply put, the issues submitted for resolution are (1) whether the victim-witness is credible, and (2) whether the defense of alibi is worthy of belief.

This Court's Ruling

The appeal is without merit.

First Issue:

Credibility of the Victim

The defense submits five reasons to prove that the testimony of the victim is improbable and incredible. First, Erlinda sustained bruises that could not have been caused by the jogging pants allegedly wrapped around her face. Second, the victim could not have possibly identified her sexual assailant, as she was attacked from behind. Third, there is no evidence of violence or intimidation. Fourth, there is no proof of resistance from the victim. Lastly, the medical report conducted on the victim indicated the absence of sperms.

We cannot sustain the above contentions.

The trial court's assessment of a witness' credibility will not be disturbed on appeal, in the absence of palpable error or grave abuse of discretion on the part of the trial judge.[15] In the present case, the defense has given us no sufficient reason to reverse or alter this finding. Indeed, the clear, consistent and straightforward manner in which Erlinda Olivario narrated her ordeal confirms the trial court's assessment of her reliability.[16] She testified thus:

"Q

While there at that time and place, do you recall of any unusual incident that happened?

A

Yes, sir.

Q

What was that about?

A

This Crisanto Oliver raped me.

Q

How did he do it?

A

While my shorts and panty [were] down my knees, and on my way to the kitchen to wash because I ha[d] come from answering the call of nature, I was suddenly embraced.

Q

[Y]ou were suddenly embraced by whom?

A

I was suddenly embraced by Crisanto.

Q

What happened next when he embraced you?

A

After embracing me, he pulled or dragged me towards the grassy portion [at] a distance of ten (10) meters, and upon reaching that point, he pushed me down.

Q

While [he was] dragging you to that particular place about 10 meters from your house, what was your position?

A

I was dragged backward.

Q

How about your panty and your pants, in what particular [part] of your body was it when you were dragged?

A

A little up the knee.

x x x x x x x x

Q Were you wearing shorts or long pants?

A Jogging pants.

x x x x x x x x

PROSECUTOR VEGA:

Q

Now, you said that you were pushed down by the accused, what happened next when you were pushed down?

A

He removed my jogging pants and wrapped it around my head and my eyes were covered.

Q

Then afterwards what did he do?

A

After that he [lay] on top of me.

Q

Then what else happened after he [lay] on top of you?

A

After he was through, he asked me which I would choose, life or death. I answered him that I [would] choose life because I have a family.

Q

What happened after he was through, what did he do to you?

A

He put his organ inside.

Q

Inside where?

A

In my organ also.

Q

When you told him that you still want[ed] to live, what else happened?

A

I felt he was already leaving or fleeing.

Q

Then when he fled, what did you do?

A

When he ran away, I stood up. I touched my private part and smelled it, but I did not smell anything coming from a man.

Q

By the way, how many minutes or seconds did this accused, Crisanto Oliver, do this thing to you?

A

About two (2) minutes.

Q

And he was not able to ejaculate?

A

He was not able to ejaculate.

COURT:

Q What were you trying to find when you felt for your private organ?

A I wanted to know whether there was something left.

Q What was this something left which you wanted to know?

A His sperm, whether there was a sperm left in me.

x x x x x x x x

PROSECUTOR VEGA:

Q Now, after sensing that there was no sperm, what did you do?

A I ran away towards the house of my parents-in-law naked.

COURT:

Q Were you completely naked at that time?

A

I was still wearing the blouse. The panty and the jogging pants were no longer with me. I was half-naked.[17]

Furthermore, the defense failed to show that Erlinda had any ill motive to testify falsely or to accuse the appellant, her own neighbor, of so grave a felony.[18] Besides, no woman will cry rape, allow an examination of her private parts, subject herself to humiliation, go through the rigors of public trial and taint her good name if her claim is not true.[19]

We are not persuaded by appellant's argument capitalizing on the absence of spermatozoa in the victim's organ. Erlinda testified that while there was penile penetration of her sex organ, there was no seminal discharge. Indeed, the presence of sperms is not a requisite for rape.[20] Such crime is consummated when the penis touches the pudendum, however slightly.[21]

As to who had defiled her, Erlinda positively identified Oliver as the culprit. On cross-examination, she clearly and consistently declared that when appellant embraced and dragged her away from her house, he was "in front" of her.[22] There is no better way for a victim to get a good look at her rapist than to see him face to face.

As an element of rape, force or intimidation need not be irresistible, but just enough to bring about the desired result.[23] Further, it should be viewed from the perception and judgment of the victim at the time of the commission of the crime. Force is therefore sufficient if it produces fear in the victim as when the latter is threatened with death.[24]

In this case, fear and helplessness gripped Erlinda. With her jogging pants wrapped around her head, her ability to raise a defense was impaired. She was also terrorized into choosing between life and death. She thought appellant would kill her if she did not give in to his lust. Clearly, the sexual congress was without her consent. As intimidation was established, physical resistance did not have to be proven.[25]

Second Issue:

Alibi

Appellant contends that the court a quo erred in belittling the defense of alibi. Though weak and easily fabricated, his claim that he was at home when the crime was committed was allegedly corroborated by the unbiased and independent witnesses he presented in court.

We do not agree.

Alibi is inherently weak and easily contrived.[26] This is why the accused must prove with clear and convincing evidence that it was physically impossible for him to have been present at the place and the time the felony was committed.[27] This the appellant failed to do.

The distance between the appellant's house and the locus criminis is approximately 300 meters[28] (or one-third kilometer) only.[29] Thus, it was not impossible for Oliver to leave and, after raping Erlinda, to return to his house without his guests noticing his absence.

Even Defense Witnesses Tirzo Pagayonan[30] and Bernardo Ros[31] failed to establish the whereabouts of the appellant at the time the victim was ravished. Both testified that they were at the appellant's house around four o'clock in the afternoon of January 8, 1995, and stayed there until the next day. Further, both attested that, with Oliver and a few others, they went to the dance at nine o'clock in the evening of January 8, 1995. However, neither was able to state positively that appellant was entertaining his guests at the very time the rape was being committed.

In any event, alibi cannot overcome the categorical and credible testimony of the victim identifying the appellant as the rapist. Basic is the rule that positive identification prevails over alibi.[32]

Civil Liability

Although we affirm the findings and conclusion of the trial court, we cannot sustain the award of indemnity. In conformity with prevailing jurisprudence,[33] the P30,000 awarded to the victim should be increased to P50,000.

WHEREFORE, the assailed Decision is hereby AFFIRMED with the MODIFICATION that the indemnity ex delicto is increased to P50,000. Costs against the appellant.

SO ORDERED.

Romero (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

[1]Rollo, pp. 18-24.

[2]Penned by Judge Emmanuel R. Real.

[3]Presided by Judge Aurora Binamira-Parcia.

[4]Records, p. 1.

[5]Records, pp. 18-19.

[6]Rollo, p. 6; records, p. 20.

[7]Order dated May 23, 1995, issued by the RTC, and Certificate of Arraignment; records, pp. 32-33.

[8]Decision, p. 7; Rollo, p. 24.

[9] The case was deemed submitted for decision on August 12, 1998, when the Appellee's Brief was received by this Court. The filing of a reply brief was deemed waived, as none was submitted within the reglementary period.

[10] The Appellee's Brief was signed by Solicitor General Ricardo P. Galvez, Assistant Solicitor General Magdangal M. De Leon and Solicitor Bernardo G. Hernandez.

[11]Brief for Appellee, pp. 2-4; Rollo, pp. 72-74.

[12]The six-page Appellant's Brief was signed by Atty. Ingersoll T. Ramirez.

[13]Appellant's Brief, p. 3; Rollo, p. 38.

[14]Appellant's Brief, pp. 1 and 4; Rollo, pp. 35 and 39.

[15]People v. Barredo, GR No. 122850, October 7, 1998; People v. Gaddi, 170 SCRA 649, February 27, 1989; People v. Pascual, 204 SCRA 618, December 5, 1991; People v. Naparan, 225 SCRA 714, August 30, 1993; People v. Deopante, 263 SCRA 691, October 30, 1996; and People v. Escandor, 265 SCRA 444, December 9,

1996.

[16]People v. Rosare, 264 SCRA 398, 410-411, November 19, 1996; People v. Excija, 258 SCRA 424, 439-440, July 5, 1996; People v. Gecom, 254 SCRA 82, 96, February 23, 1996; People v. Umali, 242 SCRA 17, 22, March 1, 1995; and People v. Nuestro, 240 SCRA 221, 232, January 18, 1995.

[17]TSN, July 3, 1995, pp. 5-10.

[18]People v. Abrecinoz, 281 SCRA 59, 72, October 17, 1997; People v. Romua, 272 SCRA 818, 828, May 29, 1997; People v. De la Torre, 272 SCRA 615, 624, May 27, 1997; People v. Igdanes, 272 SCRA 113, 123, May 5, 1997; People v. Malabago, 271 SCRA 464, 476, April 18, 1997; and People v. Ligotan, 262 SCRA 602, 610, September 30, 1996.

[19]People v. Mamalayan, 280 SCRA 748, 760, October 16, 1997 and People v. Cristobal, 252 SCRA 507, 516, January 29, 1996. See also People v. Gomez, 279 SCRA 688, 696, September 29, 1997; People v. Adora, 275 SCRA 441, 460, July 14, 1997; and People v. De Guzman, 265 SCRA 228, 242, December 2, 1996.

[20]People v. Barrera, 262 SCRA 63, 77-78, September 19, 1996; People v. Gabris, 258 SCRA 663, 674, July 11, 1996; People v. Dones, 254 SCRA 696, 708, March 13, 1996; and People v. Cañada, 253 SCRA 277, 284, February 6, 1996.

[21]People v. Caballes, 274 SCRA 83, 95, June 19, 1997; People v. Andan, 269 SCRA 95, 119, March 3, 1997; and People v. Masagana, 259 SCRA 380, 401, July 26, 1996.

[22]TSN, July 3, 1995, pp. 25-26.

[23]People v. Adora, 275 SCRA 441, July 14, 1997; People v. De Guzman, 265 SCRA 228, December 2, 1996; People v. Traverro, 276 SCRA 301, July 28, 1997; People v. Edualino, 271 SCRA 189, April 11, 1997.

[24]People v. Cañada, 253 SCRA 277, 285 February 6, 1996; People v. Antonio, 233 SCRA 299, June 17, 1994; People v. Matrimonio, 215 SCRA 613, November 13, 1992; People v. Grefiel, 215 SCRA 506, November 13, 1992; People v. Pamor, 237 SCRA 472, October 7, 1994.

[25]People v. Rabosa, 273 SCRA 142, 150, June 9, 1997; People v. Igdanes, 272 SCRA 113, 120, May 5, 1997; and People v. Corea, 269 SCRA 76, 92, March 3, 1997.

[26]People v. Pareja, 265 SCRA 429, 440, December 9, 1996; People v. Balamban, 264 SCRA 619, 631, November 21, 1996; People v. Layno, 264 SCRA 558, 574, November 21, 1996; People v. Magana, 259 SCRA 380, 391, July 26, 1996; People v. Ocsimar, 253 SCRA 689, 695, February 20, 1996; People v. Danao, 253 SCRA 146, 153, February 1, 1996; People v. Lapuz, 250 SCRA 250, 255, November 23, 1995.

[27]People v. Villaruel, 261 SCRA 386, 396, September 4, 1996; People v. Tazo, 260 SCRA 816, 820, August 22, 1996; People v. Ramos, 260 SCRA 402, 410, August 7, 1996; People v. Caguioa Sr., 259 SCRA 403, 408, July 26, 1996; People v. Bracamonte, 257 SCRA 380, 392, June 17, 1996; People v. Porras, 255 SCRA 514, 526, March 29, 1996; and People v. Cañada, 253 SCRA 277, 286, February 6, 1996.

[28]TSN, July 25, 1995, p. 5.

[29]TSN, July 3, 1995, pp. 21-22.

[30]TSN, July 6, 1995, pp. 3-13.

[31]TSN, July 7, 1995, pp. 3-33.

[32]People v. Panlilio, 255 SCRA 503, 512, March 29, 1996; People v. Ferrer, 255 SCRA 19, 35, March 14, 1996; People v. Banal, 254 SCRA 659, 670, March 13, 1996; People v. Trilles, 254 SCRA 633, 642, March 12, 1996; People v. Juan, 254 SCRA 478, 489, March 7, 1996; People v. Patrolla Jr., 254 SCRA 467, 475, March 7, 1996; People v. Mendoza, 254, SCRA 61, 75, February 23, 1996; People v. Abrenica, 252 SCRA 54, 62, January 18, 1996.

[33]People v. Bernaldez, GR No. 109780, August 17, 1998; People v. Betonio, 279 SCRA 525, 552, September 26, 1997; People v. Adora, 275 SCRA 441, 470, July 14, 1997; People v. Caballes, 274 SCRA 83, 100, June 19, 1997; and People v. Dones, 254 SCRA 696, 710, March 13, 1996.

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.