

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALFONSO PATALIN, JR., ALEX MIJAKE, AND NESTOR RAS, ACCUSED-APPELLANTS.

G.R. No. 125539. July 27, 1999

Ponente: MELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-125539/>

MELO, J.:

Accused-appellants Alex Mijaque and Alfonso Patalin, Jr. were charged before Branch 25 of the Regional Trial Court of the 6th Judicial Region stationed in Iloilo City, with the crime of robbery.*The Amended Information dated October 11, 1985 charged:

That on or about August 11, 1984, in the municipality of Lambunao, province of Iloilo, Philippines, and within the jurisdiction of this Court, the above named two (2) accused, conspiring, confederating and cooperating with three (3) others whose identities are still unknown and who are still at large, armed with bladed weapons by means of force, violence and intimidation, taking advantage of the nighttime to better realize their purpose, and in the dwelling of the offended party, did then and there wilfully, unlawfully and feloniously take, steal and carry away, with intent to gain, cash amount of Three Hundred (P300.00) Pesos, Philippine Currency, owned by the victim Corazon Aliman and the following personal property: one (1) adjustable wrench, one (1) vise grip, one (1) screw driver, one (1) pair of levis pants, one (1) travelling bag and one (1) wallet containing ten (P10.00) pesos, with a total value of Four Hundred (P400.00) Pesos, Philippine Currency, owned by the victims Reynaldo Aliman and Josephine Belesario, the over all total of cash and personal property being SEVEN HUNDRED (P700.00) PESOS, Philippine Currency, without the consent of the above-mentioned offended parties and to their damage and prejudice in the aforestated amount; that by reason or on the occasion of said Robbery, the above named two (2) accused did then and there hack victim Reynaldo Aliman twice hitting him and inflicting wounds which required medical attendance of more than thirty (30) days, as well as inflict physical injuries to the other victims Corazon Aliman and Josephine Belesario causing them to sustain injuries requiring medical attendance for several number of days.

CONTRARY TO LAW.

(pp. 92-93, II Record.)

In a Second Amended Information also dated October 11, 1985 and docketed as Criminal Case No. 18305, accused-appellants Alex Mijaque, Alfonso Patalin, Jr., and Nestor Ras were charged before the same court with the crime of robbery with multiple rape, thusly:

That on or about August 11, 1984, in the municipality of Lambunao, province of Iloilo, Philippines, and within the jurisdiction of this Court, the above-named three (3) accused, with deliberate intent, and without any justifiable motive, conspiring, confederating and working together with Richard Doe, Philip Doe and Robert Doe who are still at large, all armed with firearms and other deadly weapons, thereby performing [sic] themselves into a band, entered the dwelling of Jesusa Carcillar, and once inside, with intent to gain and with violence against, and/or intimidation of persons, did then and there wilfully, unlawfully and feloniously take, steal and carry away Five Hundred (P500.00) Pesos in cash, one (1) ring worth Two Thousand (P2,000.00)

Pesos, one (1) pair of earrings worth One Thousand (P1,000.00) Pesos, and one (1) Seiko wrist watch worth Three Thousand (P3,000.00) Pesos, making a total of Six Thousand Five Hundred (P6,500.00) Pesos, against the will and/or consent of the owner; that on the occasion thereof, the above-named three (3) accused, conspiring and working together with their companions who are still at large, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with Perpetua Carcillar, Juliana Carcillar, Rogelia Carcillar and Josephine Belesario, against their will and consent.

CONTRARY TO LAW.

(pp. 90-91, II Record.)

Upon arraignment on November 12, 1985, accused-appellants entered a plea of "not guilty" to both crimes charged (p. 103, II Record).

After trial on the merits, a joint judgment was rendered, disposing:

Wherefore, premises considered there being sufficient and satisfactory proof showing that the accused in these two cases are guilty beyond reasonable doubt of the charges filed against them, they are hereby sentenced as follows:

a) In Crim. Case No. 18376 for Robbery with Physical Injuries, accused Alfonso Patalin, Jr. and Alex Mijaque are penalized to suffer the indeterminate penalty of imprisonment of Ten (10) years, and One (1) day of Prison Mayor, as minimum, to Seventeen (17) years and Four (4) months of Reclusion Temporal, as maximum, to indemnify Corazon Aliman the amount of P700.00 representing the value of her property robbed from her and also to indemnify Reynaldo Aliman the amount of P8,000.00 representing the expenses he incurred for his medication and hospitalization due to the wounds he suffered.

b) In Criminal Case No. 18305 for Robbery with Multiple Rapes, accused Alfonso Patalin, Jr., Alex Mijaque and Nestor Ras are sentenced to a death penalty and to indemnify the members of the Carcillar family the amount of P6,500.00 representing the cash and articles taken from them.

In both cases the accused are also ordained to pay the costs.

SO ORDERED.

(p. 80, Rollo.)

The trial court arrived at the aforestated conclusion based on the following findings:

Criminal Case No. 18376

The crime of robbery (with physical injuries) was indeed committed by accused-appellants Alfonso Patalin, Jr. and Alex Mijaque, as well as by their unidentified companions, based on the positive identification made by complaining witness Corazon Aliman, and corroborated by her son Reynaldo and the latter's half sister Josephine Belisario (p. 77, Rollo).

Criminal Case No. 18305

Accused-appellants Alfonso Patalin, Jr., Alex Mijaque, and Nestor Ras, as well as an unidentified companion, acted in concert to commit the crime of robbery with multiple rape. They were positively identified by the following witnesses: Juliana Carcillar who was raped twice by Alex Mijaque; Josephine Belisario who was raped once by Alex Mijaque; Rogelia Carcillar who was raped by Alex Mijaque; and Perpetua Carcillar, who was raped by Nestor Ras, after Alfonso Patalin, Jr. failed in his attempt to rape her. Accused-appellant Patalin was likewise identified by Reynaldo Aliman who personally knew him as a former barangay-mate for along time, as well as by

Corazon Aliman, mother of Reynaldo. The identification of accused-appellants was facilitated and aided by a bright full moon and due to the fact that they tarried in the crime scene for a long period of time, thus allowing their victims to imprint in their memory the countenance or visage of accused-appellants. Said positive and clear identification by the complaining witnesses, who were not shown to have any ill motive to falsify the truth and to implicate accused-appellants, prevails over the latter's defense of denial. Band, nocturnity, and dwelling, were likewise appreciated against accused-appellants (pp. 78-79, Rollo).

The errors assigned by accused-appellants in their individual briefs are summarized as follows: (1) The trial court erred in finding that accused-appellants are responsible for the crimes charged; (2) The trial court erred in convicting accused-appellant Patalin notwithstanding the fact that the latter was arrested without a warrant; (3) Assuming without conceding that accused-appellants (Patalin and Ras) committed the crimes charged, the trial court erred in imposing the penalty of death as the same was suspended upon the ratification of the 1987 Constitution (pp. 86, 146, 204, Rollo).

The prosecution's version of the August 11, 1984 incident, based on the testimony of prosecution witnesses Dr. Edgardo Carmelo, Dra. Leticia Sitchon Santiago, Reynaldo Aliman, Corazon Aliman, Josephine Belisario, Juliana Carcillar, Rogelia Carcillar, and Perpetua Carcillar, is summarized in the Solicitor General's consolidated Brief, as follows:

At about 7:30 in the evening of August 11, 1984, while Reynaldo Aliman, his half sister Josephine Belisario, and their mother Corazon Aliman were having a conversation inside their house at Barangay Lumanay, municipality of Lambunao, province of Iloilo, appellant Alfonso Patalin, Jr., who was outside the fenced perimeter of said house, called out Reynaldo Aliman by his nickname and asked the latter to let him and the other persons with him in (pp. 5-6, TSN, Dec. 16, 1986).

Reynaldo Aliman opened the window and, because of the moonlight, saw appellant Alfonso Patalin, Jr. with (2) other persons. Appellant Alfonso Patalin, Jr. asked again Reynaldo Aliman to let them in (pp. 7-8, *ibid.*). Reynaldo Aliman opened the gate and Alfonso Patalin together with his companions, one of whom is appellant Alex Mijaque, entered the premises (pp. 8, 10-11, *ibid.*). Immediately upon entering, appellant Alfonso Patalin, Jr. pointed the beam of his flashlight at Reynaldo Aliman. At this juncture, appellant Alex Mijaque hacked Reynaldo Aliman twice with a bolo hitting the latter at the neck, right arm, and the chest (pp. 14-16, *ibid.*). Thereupon, Reynaldo Aliman immediately ran away (p. 17, *ibid.*).

Corazon Aliman and Josephine Belisario, who went to the balcony of their house, witnessed the hacking incident and the former shouted for help (p. 6, TSN, July 21, 1987; pp. 8-9, TSN, June 30, 1988). Two of the assailants, one of whom is appellant Alex Mijaque, pushed Corazon Aliman and Josephine Belisario inside their house, covered their mouth and told them not to make any noise. Later, appellant Alex Mijaque dragged Josephine Belisario to the house of the latter's aunt (sister of Corazon Aliman) which is beside their house. The other man stayed put and while holding a double-bladed knife, threatened to kill Corazon Aliman if the latter will not give him money. After Corazon Aliman gave him three hundred pesos (P300.00) cash, he ransacked the house and took one (1) wrist watch, one (1) vise grip, one (1) screw driver, one (1) pair of Levi's trousers, one (1) travelling bag, and one (1) wallet containing ten pesos (P10.00); the total value thereof is seven hundred pesos (P700.00) inclusive of the three hundred pesos (P300.00) cash. Thereafter, the man also dragged Corazon Aliman to her sister's house (pp. 6-8, TSN, July 21, 1987; pp. 11-12, TSN, June 30, 1988).

Josephine Belisario, who was dragged by Alex Mijaque to her aunt's house which is just twenty (20) meters away, saw six (6) persons, one of whom is appellant Alfonso Patalin, Jr., outside the house of her aunt. Josephine Belisario was forced to call out her aunt's name and ask that the door be opened for her. While the door was being opened, it was kicked by one of the six (6) persons. Alfonso Patalin immediately went in, boxed the aunt of Josephine Belisario on the body and announced that they are staging a hold-up. The other companions of appellant Alfonso Patalin, Jr., including appellant Alex Mijaque, who were armed with knives,

a bolo, and a gun also went in and restrained Josephine Belisario's cousins, namely Rogelia, Juliana, Perpetua, Roy, and Victoriano, who are all surnamed Carcillar (pp. 11-15, TSN, June 30, 1988; p. 11, TSN, June 29, 1989). Josephine Belisario together with her aunt and cousins were all forced to lie face down on the floor of the sala (p. 15, TSN, June 30, 1988; p. 7, TSN, Feb. 15, 1990). Appellant Alfonso Patalin got hold of Mrs. Carcillar (Josephine Belisario's aunt and the mother of her cousins), kicked and boxed the latter and exclaimed: "Money, money". "It is money we want." Appellant Alfonso Patalin forced Mrs. Carcillar into a room where the latter gave him money (p. 16, TSN, June 30, 1988; pp. 7-8, February 15, 1990). Then, appellants and their companions seized the following personalities of the Carcillars: (1) one Seiko 5 wristwatch worth three thousand pesos (P3,000.00), (2) two (2) pairs of lady's rings worth two thousand (P2,000.00), (3) one (1) pair of earrings, and (4) two (2) travelling bags (p. 9, TSN, February 15, 1990).

Rogelia Carcillar was brought outside their house by appellant Alex Mijaque who was armed with a butcher's knife and threatened to kill her if she will not lie down. Because of fear, she did as she was told (pp. 10, 16-17, TSN, February 15, 1990). Appellant Alex Mijaque forcibly removed her underwear and placed himself on top of Rogelia. She tried to resist but appellant Alex Mijaque pressed the tip of his knife at the former's neck and succeeded in having sexual intercourse with her (pp. 11-12, *ibid.*). Thereafter, appellant Alex Mijaque brought her inside the house and ordered her to lie face down on the floor again (pp. 13-14, *ibid.*). Then, one of the companions of appellant Alex Mijaque who was armed with a gun took her outside and brought her to a place not far from where she was raped (p. 14, *ibid.*). This man, at the point of a gun, threatened to kill her if she will not obey his orders. Rogelia Carcillar, who feared for her life, was left with no choice but to obey the man's orders. There, she was raped for the second time by this gun-wielding man (pp. 15-16, *ibid.*). While Rogelia Carcillar was being raped, appellant Alfonso Patalin was also outside the house standing on guard (p. 18, *ibid.*).

Juliana Carcillar was likewise brought outside the house by appellant Alex Mijaque who, with his knife, tried to rape her but he initially failed because of her resistance. This angered appellant Alex Mijaque and he tried to kill Juliana Carcillar by stabbing the latter but was prevailed upon not to do so by one of his companions (pp. 12-15, TSN, June 29, 1989).

Appellant Alex Mijaque, after delivering fist blows on the body of Juliana Carcillar, turned her over to one of his companions who was in the garden outside the house and armed with a gun. This man threatened her with the gun and mauled her. She was overpowered and he undressed her. He inserted his finger on her sex organ and eventually succeeded in having sexual intercourse with her (pp. 15-17, *ibid.*). Then, this companion of appellant Alex Mijaque brought Juliana Carcillar back inside the house and ordered to look for money. When she told him that they have no more money, he kept on harming her. In the course thereof, he found and took a Seiko wristwatch owned by Perpetua Carcillar. Then, he brought her outside the house again where he had a brief conversation with appellants Nestor Ras and Alfonso Patalin. She was then brought back inside the house and ordered to lie face down on the floor again. While at this position, appellant Alex Mijaque approached her and brought her outside the house. She refused to obey appellant Alex Mijaque's order to lie down on the ground so he pushed her downwards. Her strength gave out and he succeeded in raping her twice. She was then brought back inside the house (pp. 18-21, TSN, June 29, 1989).

Josephine Belisario, while laying face down on the floor of the sala, was dragged by appellant Alex Mijaque inside one of the rooms. He threatened her with his knife and was able to undress her. He fondled her breasts, pulled her pubic hair and eventually succeeded in having sexual intercourse with her. She was then left inside the room. Two companions of appellant Alex Mijaque came in bringing with them her cousins Rogelia and Perpetua Carcillar. One of them saw Josephine Belisario and brought her to another room. The man demanded money from her but she was not able to give him money. The man was also carrying a knife and threatened her with the same. She resisted when he was forcing her to lie down on the bed but her strength finally gave out. He likewise succeeded in having sexual intercourse with her. After raping her, the man took a piggy bank which was at the foot of the bed and brought her back to the room where she was first raped. Her aunt and

cousins were also inside the said room (pp. 17-25, TSN, June 30, 1988).

Perpetua Carcillar suffered the same fate. While laying face down on the floor of the living room, she was pulled by the heir by appellant Alfonso Patalin and ordered to stand up. When she stood up, she realized that her sister were no longer there. Appellant Alfonso Patalin, armed with a double-bladed knife, brought her outside the house, ordered her to undress and lie down. Because of fear, Perpetua Carcillar, who was then only thirteen (13) years old, obeyed appellant Alfonso Patalin. He tried to force his penis into her vagina but did not succeed. Then, appellant Alfonso Patalin handed her over to appellant Nestor Ras, a member of their group who was only about two (2) arms length away. Appellant Nestor Ras, armed with a double-bladed knife which he was pointing at Perpetua Carcillar, ordered her to lie down. He fondled her breasts, kissed her, and succeeded in having sexual intercourse with her. After raping her, appellant Nestor Ras brought her back inside the house. When she was returned inside the house, the intruders were still demanding for money from her mother and were taking turns in beating the latter (pp. 4, 15-23, TSN, July 12, 1990).

Appellants left, together with the other assailants, taking with them the valuables stated earlier after threatening them not to report the matter to the police or else they will return and kill all of them (p. 19, TSN, February 15, 1990).

Reynaldo Aliman was brought to Ricardo Ladrado Memorial Hospital where he received first aid. He was then brought to West Visayas Medical Center located in Manduriao, Iloilo (pp. 18-20, TSN, December 16, 1986) and was treated by Dr. Edgardo Carmelo (p. 4, TSN, May 14, 1986). Reynaldo Aliman sustained the following injuries: (1) hack wound, mid forearm, area ulnar side middle third forearm, and (2) hack wound, left side of neck (pp. 5-6, *ibid*; Exhibit A). Reynaldo Aliman was confined in the hospital for almost three (3) months and he spent more than eight thousand pesos (P8,000.00) for medicines, food and other expenditures (p. 19, TSN, December 16, 1986).

Dr. Leticia Sitchon Santiago examined and treated Josephine Belisario two days after she was raped. A hematoma, about 3x4 inches in diameter, was found on the left shoulder of Josephine Belisario which could have been caused by forcing the latter to lie down on the ground. Josephine Belisario "vagina admits two (2) fingers". Further, hematoma was noted in the hymen at nine o'clock and three o'clock positions and fresh lacerations was also noted at nine, eleven, and three o'clock positions. These are indications that a foreign object, which could be a human penis, was inserted in the vagina and caused the lacerations of the hymen (pp. 6-9, TSN, September 3, 1986).

Rogelia Carcillar, Juliana Carcillar and Perpetua Carcillar were also examined and treated by Dr. Leticia Santiago but such was conducted three days after the incident (p. 17, *ibid*).

A hematoma was noted in the occipital region of the head of Rogelia Carcillar (p. 18, *ibid*). Her vagina admits two fingers snugly and the perineum has a lacerated wound which is one centimeter in length (pp. 18-19, *ibid*; pp. 2-3, TSN, November 10, 1986). Fresh lacerations were likewise noted in her hymen at eight, eleven and three o'clock positions (p. 3, TSN, November 10, 1986). Dr. Santiago further testified that a foreign object was inserted in the vagina of Rogelia Carcillar (p. 19, TSN, September 3, 1986; p. 3, TSN, November 10, 1986).

Juliana Carcillar, 22 years old, sustained a hematoma in the forehead, left and right side of the face, upper right arm, uppermost and lower portions of the left thigh, occipital region of the head and left side of the mouth. She also sustained the following injuries: (1) ½ cm. lacerated wound on the left side of the lower lip, (2) bite mark with hematoma on the left shoulder, (3) 1 cm. incised wounds on the right index finger and right thumb, (4) 4 inches incised wound on the right forearm, and (5) multiple abrasions at the back including the portion below the waistline, her vagina admits two fingers and fresh lacerations in the hymen were noted at eight, eleven, and four o'clock positions (pp. 10-15, TSN, November 10, 1986).

Perpetua Carcillar, 13 years old, sustained a 1 centimeter lacerated wound on the perineum which was also swollen. Her vagina admits two fingers snugly (pp. 8-9, *ibid*). A fresh laceration at six o'clock position and a

hematoma also at six o'clock position were noted on her hymen (Exhibit C, p. 15, Record).

(pp. 300-311, Rollo.)

Denial and alibi were set up by accused-appellants based on their testimony and that of their witnesses, Alejandro Tabucan, Felizardo Lebona, Rhodora Losaria, and Cristina Gumban. The denials, together with other arguments, are summarized as follows:

Alfonso Patalin

Accused-appellant Alfonso Patalin alleges that his name was only included by Jesus Larang, whom he described as the landlord of Jesusa Carcillar and the Carcillar sisters, to force him to reveal the names of the persons who staged the robbery and rape. Verily, he declared on the stand that when the victims saw him at the police station, two of them (Josephine Belisario and Reynaldo Aliman) even smiled at him (tsn, August 13, 1993, pp. 10-11, 19-20).

In his brief, he argues that he was not positively identified, rationalizing that when prosecution witness Josephine Belisario was asked on the stand if she recognized "the person who called [her] brother Reynaldo," said witness responded that she did not know the person who called her brother, and that she only recognized the caller's voice (tsn, August 11, 1988, pp. 30-31). Further, accused-appellant Patalin also alleges that he was arrested without a warrant.

Alex Mijaque

Accused-appellant Alex Mijaque argues that in the sworn statement of Reynaldo Aliman (p. 3, II Record), there is no mention of his name nor that of accused-appellant Patalin as the perpetrators of the crimes charged. Moreover, during the preliminary examination in the lower court, accused-appellant Mijaque was also not named as one of the malefactors. He likewise points out that in the police blotter, the first report mentioned that the alleged offenders were unknown persons. No rape was reported. In the second report, it was blotted that the alleged offenders were four unidentified persons. Again, no rape was reported. Accused-appellant Mijaque likewise takes note of the report given by Rogelia Carcillar who merely narrated the robbery but did not report any rape.

According to this accused-appellant, the police authorities of Iloilo, Manduriao (also referred to in the record as "Mandurriao") received a complaint from a resident thereat that his television set was stolen previous to the incidents herein involved. Accused-appellant Mijaque was suspected as the thief and was picked up by the agents of the Manduriao Police Station without any warrant of arrest and was thence detained for three days without any complaint (p. 93, Rollo). Meanwhile, the robbery at Lambunao, Iloilo was being flashed at all police stations in Iloilo. The arresting officers of the Manduriao Police Station, so accused-appellant Mijaque contends, in order to save themselves from charges of arbitrary detention, immediately referred him for custodial investigation in regard to the Lambunao robbery. Consequently, three days after his confinement, a criminal complaint for robbery with physical injuries and another for robbery with rape was filed against him by the Chief of Police of Lambunao, Iloilo.

Nestor Ras

The third accused-appellant, Nestor Ras, argues that his name was never mentioned by Dr. Edgardo Carmelo, and that Josephine Belisario was merely led by the public prosecutor into mentioning his name. He also states that the witnesses' declarations as regards his identification are confusing and inconsistent (pp. 208-210, Rollo).

Further, it is contended that Rogelio Carcillar himself, when asked by the public prosecutor about what happened to his sister Perpetua Carcillar, testified that "Nothing happened to them" (p. 210, id). And when Perpetua

Carcillar and the other female prosecution witnesses reported the alleged incident to the police authorities, they never mentioned that they were raped.

As mentioned, all three accused-appellants, aside from denying the charges, also presented their respective alibis. Accused-appellant Patalin testified that he was at home with his parents, wife, and children, at Pandan, Lambunao (tsn, August 13, 1993, pp. 16-17) at the time of the incident. As corroborative witness, he presented Felizardo Lebona, the person in charge of the plantation where he was working, who testified that accused-appellant Patalin did not leave the plantation house from August 9 to 12, 1984 (tsn, October 15, 1993, pp. 4-5).

For his part, accused-appellant Mijaque insists that he had no opportunity to get out of the farm where he was working which was located in Manduriao, Iloilo (tsn, May 6, 1993, p. 6). In July, 1985, he was arrested for theft of a television set and detained in the Lambunao jail for investigation. Although three of the herein complainants were brought in front of his detention cell, he was not identified. Instead, the policemen pointed to him and said, "That is Alex Mijaque who raped you. If you will not include him, he will file a case against you." Moreover, he testified that he was mauled in jail (tsn, July 29, 1993, pp. 10-13). Defense witness, Alejandro Tabucan, neighbor of accused-appellant Mijaque, corroborated the latter's alibi that on August 11, 1984, they had a drinking spree from 6 o'clock in the evening to 12 o'clock midnight, and accused-appellant Mijaque was not able to leave the premises in Manduriao. Tabucan also said that he saw Mijaque still asleep the following morning (tsn, August 6, 1993, pp. 4-5, 10).

Lastly, accused-appellant Nestor Ras declared that he was in the province of Antique (particularly, in Igbangkal, Dao) on August 11, 1984 (tsn, December 17, 1993, p. 4). As corroborative witness, he presented Cristina Gumban, a vendor who testified that on August 11, 1984, she bought cassava and sweet potatoes from accused-appellant Ras in Igbangkal, Dao, Antique from 3 o'clock to 5 o'clock in the afternoon, and that he saw Ras put the purchased items in a sack (tsn, March 4, 1994, p. 4).

We are not persuaded by the above posturings and are compelled to affirm.

Of primordial consideration in appellate matters is the legal principle that the assessment of the credibility of witnesses and their testimony is a matter best undertaken by the trial court because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct, and attitude under grilling examination (*People vs. Ombrog*, 268 SCRA 93 [1997]). We generally uphold and respect this appraisal since, as an appellate court, we do not deal with live witnesses but only with the cold pages of a written record (*People vs. Herbioto*, 269 SCRA 472 [1997]).

A close examination of the record convinces us of the prosecution witnesses' credibility, particularly the ravished victims, who, for approximately two agonizing hours, were subjected to a hellish nightmare occurring in the very privacy of their own homes.

As pointed out by the Office of the Solicitor General in its consolidated brief, the defense was not able to prove any motive on the part of the private complainants to falsely testify that they were robbed and raped by accused-appellants. In fact, two of the rape victims, Josephine Belisario and Rogelia Carcillar, were even married to first cousins of accused-appellant Patalin (pp. 327-328, Rollo), and would not ordinarily turn against a relative although this be by mere affinity unless they really suffered the fate they narrated.

Accused-appellants rely on the delay or vacillation on the part of the complaining witnesses. As discussed above in their individual defenses, they emphasize that Reynaldo Aliman failed to mention the names of the perpetrators in his sworn statement; that on August 11, 1984, Reynaldo instructed a relative, Jesus Larang, to report the hacking and robbery incidents at the Lambunao Police Department, as well as the robbery committed in the

Carcillar household, and that the police blotter stated that the alleged offenders were unknown persons but contained no report of any rape; and that Rogelia Carcillar's report did not mention that she was raped.

Time and again, we have ruled that delay in lodging a criminal accusation does not impair the credibility of a witness if such delay is satisfactorily explained (*People vs. Bugarin*, 273 SCRA 384 [1997]). An examination of Reynaldo Aliman's sworn statement (p. 3, I Record) shows that he clearly identified one of the callers as accused-appellant Alfonso Patalin. Anent his failure to mention accused-appellant Mijaque's name, he explained on cross-examination that he did not know yet the name of the person who attacked him with the bolo at the time he executed his sworn statement (tsn, Dec. 16, 1986, pp. 35, 38-39). It was only later that he found out that the name of his assailant was Alex Mijaque. As regards Jesus Larang, the fact that he mentioned "unknown persons" in his report does not affect Reynaldo's categorical and positive identification of accused-appellants Patalin and Mijaque as the perpetrators of the hacking and robbery incidents at his home.

Anent the rape victims, it was clearly explained that their assailants told them not to report the matter to the police, otherwise, the assailants will return and kill them (tsn, Feb. 15, 1990, p. 19). The victims were overcome by fear and shame (*ibid.*, p. 31). Besides, the delay in reporting the multiple rapes was not procrastination as this was only 3 days from the date of the incident (tsn, June 30, 1988, p. 22), a far shorter period than those mentioned in *People vs. Gecomo* (254 SCRA 82 [1996]) where we held that a delay of 17 or 35 days, or even 6 months, by a victim of rape in reporting the attack on her honor, does not detract from the veracity of her charge.

The defense also notes certain inconsistencies in the testimony of the complaining witnesses, as follows: (1) Juliana Carcillar testified earlier that the only light in the house came from a kerosene lamp placed on a small table which was extinguished as a result of it being knocked down, thus placing the house in darkness, while on the other hand, Perpetua Carcillar, earlier said that although there was no more light in the house coming from the lamp, yet she could still see because the light of the moon still illuminated their house, allegedly through the plastic roofing; and (2) the prosecution witnesses could not agree concerning the date they went to San Dionisio, Iloilo to identify accused-appellant Nestor Ras, as well as the date when Ras was arrested.

Inconsistencies in the testimony of witnesses, when referring only to minor details and collateral matters do not affect either the substance of their declaration, their veracity, or the weight of their testimony, and do not impair the credibility of such witnesses where there is consistency in relating the principal occurrence and the positive identification of the assailant (*Sumalpong vs. Court of Appeals*, 268 SCRA 764 [1997]). In fact, honest inconsistencies on minor and trivial matters serve to strengthen rather than destroy the credibility of a witness to a crime, especially so when the crime is shocking to the conscience and numbing to the senses (*People vs. Agunias*, 279 SCRA 52 [1997]).

With respect to the defenses of denial and alibi, significantly, these defenses, if unsubstantiated by clear and convincing evidence, are negative and self-serving, deserve no weight in law, and cannot be given evidentiary value over the testimony of credible witnesses who testify on affirmative matters (*People vs. Gayon*, 269 SCRA 587 [1997]). Positive identification, where categorical and consistent and without any showing of ill motive on the part of the eyewitnesses testifying on the matter, prevails over alibi and denial (*People vs. Javier*, 269 SCRA 181 [1997]). Verily, even if the defense of denial is supported by the testimony of friends of the accused, it deserves the barest consideration (*People vs. Gamiao*, 240 SCRA 254 [1995]). It will be given weight only if it would preclude any doubt that the accused could not have been physically present at the place of the crime or its vicinity at the time of commission (*People vs. Daquipil*, 240 SCRA 314 [1995]; *People vs. De Roxas*, 241 SCRA 369 [1995]; *People vs. Morin*, 241 SCRA 709 [1995]; *People vs. Rivera*, 242 SCRA 26 [1995]; *People vs. Dela Iglesia*, 241 SCRA 718 [1995]; *People vs. Umali*, 242 SCRA 17 [1995]; *People vs. Dayson*, 242 SCRA 124 [1995]; *People vs. Espinosa, Jr.* 243 SCRA 7 [1995]; *People vs. Parica*, 243 SCRA 557 [1995]; *People vs. Escoto*,

244 SCRA 87 [1995]).

Accused-appellant Mijaque testified that on August 11, 1984, he was in Manduriao, Iloilo. The overland travel time from the town of Manduriao to Lambunao is approximately one hour and twenty minutes. Accused-appellant Patalin testified that he was in Barangay Pandan, which is merely adjacent to Lambunao. Lastly, accused-appellant Nestor Ras testified that he was in Antique, a province neighboring Iloilo, which is approximately two hours away therefrom via overland transportation. The defense tried to corroborate these alibis by presenting witnesses who testified on details which happened ten years prior to the date their testimony was given, and hence of naturally doubtful credibility.

Mutatis Mutandi People vs. Queliza (279 SCRA 145 [1997]), considering that the places where accused-appellants alleged they were at could be traversed by motorized vehicles, it was not impossible that accused-appellants could not have been at the crime scene by 7 o'clock or 7:30 o'clock in the evening on August 11, 1984. More importantly and damming yet is the positive identification of their presence thereat by the victims.

The trial court correctly appreciated the aggravating circumstances of nighttime and dwelling in Criminal Case No. 18376 considering that nighttime facilitated the commission of the crime and the evidence shows that accused-appellants took advantage of the darkness to successfully consummate their plans (*People vs. Apduhan, Jr.*, 24 SCRA 798 [1968]). Dwelling is clear from the abuse of confidence which the victims reposed in the offenders by opening the door to them, as well as the violation of the sanctity of privacy in the victims' homes. He who goes to another's house to slander him, hurt him, or do him wrong, is more guilty than he who offends him elsewhere (Reyes, *The Revised Penal Code - Criminal Law*, Vol. I, 1993 ed., citing the dissenting opinion of Justice Villareal in *People vs. Ambis*, 68 Phil. 635 [1939] and Viada, 5[th] ed., Vol. II, pp. 323-324). We further affirm the trial court's finding on the presence of the aggravating circumstance of band considering that Reynaldo Aliman testified that accused-appellants Patalin and two other companions (one of whom was later identified as accused-appellant Mijaque) entered his home (tsn, p. 7, Dec. 16, 1986). This was corroborated by Josephine Belisario who even saw four (4) persons enter their gate, one of whom was accused-appellant Patalin (tsn, p. 10, June 30, 1988). These same aggravating circumstances likewise attended the commission of the crime of robbery with multiple rape in Criminal Case No. 18305 and this was clearly testified to by the victims thereof who stated that five persons, including accused-appellant Patalin, armed with a bolo, a knife, and a long gun, entered their dwelling that unfortunate night (tsn, June 29, 1989, p. 10; February 15, 1990, p. 5).

With respect to accused-appellants Patalin and Mijaque's defense that they were arrested without warrants, suffice it to say that any objection, defect, or irregularity attending an arrest must be made before the accused enters his plea (*Padilla vs. CA*, 269 SCRA 402 [1997]). As correctly pointed out in the People's consolidated brief, the record shows no objection was ever interposed prior to arraignment and trial (p. 324, Rollo).

It is indubitable that there was conspiracy in the commission of the crimes in both Criminal Cases No. 18376 and 18305. In the first criminal case, the evidence clearly shows that accused-appellants Patalin and Mijaque, together with unidentified companions, committed the crime charged. Said culprits shared the common criminal objective of robbing the victims and inflicting wounds upon Reynaldo Aliman on the occasion of the robbery. In the second case, all three accused-appellants (together with unidentified companions), who were positively identified by the victims themselves, undoubtedly had the common criminal design of robbing the household of Jesusa Carcillar, and of committing multiple rape on the occasion of the robbery. Accused-appellant Mijaque dragged Josephine Belisario to her aunt's house and the other culprits followed suit. Accused-appellant Patalin boxed Jesusa Carcillar and announced that they were staging a hold-up. After robbing the household, they proceeded in ravishing the four young female victims, Rogelia, Juliana, Josephine, and Perpetua, one after the other, thus truly exhibiting their concerted acts.

Conspiracy exists when two or more persons came to an agreement concerning the commission of a felony and decide to commit it (*People vs. Abarri*, 242 SCRA 39 [1995]). It cannot be merely presumed. Similar to the physical act constituting the crime itself, the elements of conspiracy must be proven beyond reasonable doubt.

In the case at bar, although there was no proof of previous actual agreement among accused-appellants adduced at the trial -

...direct proof is not essential to show conspiracy. It need not be shown that the parties actually came together and agreed in express terms to enter into and pursue a common design. The existence of the assent of minds which is involved in a conspiracy maybe, and from the secrecy of the crime, usually must be, inferred by the court from proof of facts and circumstances which, taken together, apparently indicate that they are merely parts of some complete whole. If it is proved that two or more persons aimed by their acts towards the accomplishment of the same unlawful object, each doing a part so that their acts, though apparently independent, were in fact connected and cooperative, indicating a closeness of personal association and a concurrence of sentiment, then a conspiracy maybe inferred though no actual meeting among them to concert means is proved (*People vs. Carbonel*, 48 Phil. 868; See also *People vs. Viray*, 147 SCRA 146; *People vs. Balignasay*, G.R. No. 76743, May 22, 1992; *People vs. Galit*, 230 SCRA 486)...

(*People vs. Miranday*, 242 SCRA 620 [1995]).

Verily, the participation of each of the accused-appellants was exhibited by the straightforward testimony of the victims themselves.

This brings us to the crucial issue raised by accused-appellants on the death penalty. At the time the crimes charged were committed in 1984, robbery with rape was punishable by death (Art. 294, Revised Penal Code). However, by virtue of the ratification of the 1987 Constitution, specifically Paragraph (1), Section 19 of Article III thereof, the death penalty was abolished. Hence, the argument that it could not be imposed upon accused-appellants. Said provision reads as follows:

Sec. 19 (1) Excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted. Neither shall death penalty be imposed, unless, for compelling reasons involving heinous crimes, the Congress hereafter provides for it. Any death penalty already imposed shall be reduced to reclusion perpetua.

The constitutional abolition of the death penalty immediately took effect upon the ratification of the 1987 Constitution. However, said provision left the matter open for Congress to revive capital punishment at its discretion, "for compelling reasons involving heinous crimes." Simply stated, it did not prevent the legislature from reimposing the death penalty at some future time (Bernas, *The 1987 Constitution of the Republic of the Philippines: A Commentary*, 1996 ed., pp. 507-508).

Congress eventually restored the death penalty by virtue of Republic Act No. 7659 or the Death Penalty Law which took effect on January 1, 1994.

Accused-appellants are of the position that since the Constitution's abolition of the death penalty had retroactive effect, being beneficial to the accused, the restoration or imposition of the death penalty on January 1, 1994 would no longer cover them notwithstanding the fact that the decision was rendered by the trial court on June 14, 1995, when the Death Penalty Law had already taken effect.

Article 21 of the Revised Penal Code provides that no felony shall be punishable by any penalty not prescribed by law prior to its commission. At the time of the commission of the crime in 1984, as held by the trial court, robbery with rape, if committed with the use of a deadly weapon or by two or more persons, was punishable by reclusion perpetua to death (Article 294[2], Revised Penal Code [as amended by Presidential Decree No. 767]).

True, in 1987, the Constitution abolished the death penalty subject to Congress' future restoration thereof "for compelling reasons involving heinous crimes." At the time of such ratification, the instant case was still at its trial stage. No penalty had as yet then been imposed. Considering that the provision provides that "[a]ny death penalty already imposed shall be reduced to reclusion perpetua," it is clear that the framers intended said provision to have a retroactive effect on cases pending without any penalty of death having been imposed yet. Consequently, upon ratification of the 1987 Constitution, any death penalty already imposed is automatically - without need for any executive action - commuted (Bernas, *The 1987 Constitution of the Republic of the Philippines: A Commentary*, 1996 ed., p. 508).

The instant case poses the following issue: When the death penalty was abolished in 1987 and was retroactively applied to herein accused-appellants, did they gain a vested right thereto so that any future act restoring the death penalty would no longer cover them? An affirmative answer would free accused-appellants from the fatal clutches of the death penalty.

Ours is a government of laws and not of men. The idea that an individual may be compelled to hold his life (or lose it), or the means of living, at the mere will of another, is intolerable in any country where freedom prevails (*Villavicencio vs. Lukban*, 39 Phil 778 [1919]). Before us is a heinous crime indeed where People were harmed, robbed, ravished, and abused in the defaced sanctity of their own homes. It is but human nature to feel some measure of loathing, disgust, and hatred for the offenders considering the inhuman aspect of the crime committed. However, the ascendancy of the law is axiomatic in our type of government. Every official act must be based on and must conform to the authority of a valid law, lacking which the act must be rejected (Cruz, *Phil. Political Law*, 1996 ed., p. 51). The nobility of our intention is insufficient.

There is no doubt that the abolition of the death penalty in 1987 retroactively affected and benefited accused-appellants. Article 22 of the Revised Penal Code provides that "[p]enal laws shall have a retroactive effect insofar as they favor the person guilty of a felony, who is not a habitual criminal . . . although at the time of the publication of such laws a final sentence has been pronounced and the convict is serving the same."

A statute is penal when it imposes punishment for an offense committed against the state (Aquino, *The Revised Penal Code*, Vol. I, 1987 ed., p. 5). The above-cited provision of the Constitution is penal in character since it deals with the penalty to be imposed for capital crimes. This penal provision may be given retroactive effect during three possible stages of a criminal prosecution: (a) when the crime has been committed and the prosecution began; (b) when sentence has been passed but the service has not begun; and (c) when the sentence is being carried out (Gregorio, *Fundamentals of Criminal Law Review*, 1988 ed., p. 167, citing *Escalante vs. Santos*, 56 Phil 483 [1932]).

In the light of the discussion above, there is no question that the abolition of the death penalty benefits herein accused-appellants. Perforce, the subsequent reimposition of the death penalty will not affect them. The framers of the Constitution themselves state that the law to be passed by Congress reimposing the death penalty (Republic Act 7659) can only have prospective application (Bernas, *The 1987 Constitution the Republic of the Philippines: A Commentary*, 1996 ed., p. 508, citing *I RECORD*, p. 748; Bernas, *The Intent of the 1986 Constitution Writers*, 1995 ed., p. 227, citing *I Record*, p. 747-748).

There is no question that a person has no vested right in any rule of law which entitles him to insists that it shall remain unchanged for his benefit, nor has he a vested right in the continued existence of a statute which precludes its change or repeal, nor in any omission to legislate on a particular matter. However, a subsequent statute cannot be so applied retroactively as to impair a right that accrued under the old law (*Agpalo*, *Statutory Construction*, 1986 ed., p. 264, citing *Benguet Consolidated Mining Co. vs. Pineda*, 98 Phil 711 [1956]; *Laurel vs. Misa*, 76 Phil

372 [1946]). Courts have thus given statutes strict construction to prevent their retroactive operation in order that the statutes would not impair or interfere with vested or existing rights. Clearly, accused-appellants' right to be benefited by the abolition of the death penalty accrued or attached by virtue of Article 22 of the Revised Penal Code. This benefit cannot be taken away from them.

Since the retroactive application of a law usually divests rights that have already become vested (*Benzonan vs. Court of Appeals*, 205 SCRA 515 [1992]), the rule in statutory construction is that all statutes are to be construed as having only a prospective operation unless the purpose and intention of the legislature to give them a retrospective effect is expressly declared or is necessarily implied from the language used (*Balatbat vs. Court of Appeals*, 205 SCRA 419 [1992]).

By analogy, we apply the rule in labor law which provides that benefits accruing to workmen under the old law cannot be taken away from them by a succeeding law. In the case at bar, there is greater reason to apply this principle since the very taking of life is involved and is at issue.

As regards accused-appellant's civil liability, the trial court, in Criminal Case No. 18376, correctly awarded P700.00 to Corazon Aliman representing the total value of the cash and personal property forcibly taken, and P8,000.00 to Reynaldo Aliman representing expenses incurred for medication and hospitalization. However, in Criminal Case No. 18305, the trial court failed to order indemnification for the multiple rapes. Thus, in line with the pronouncement in *People vs. Victor* (G.R. No. 127903, July 9, 1998) wherein we said:

One other point of concern has to be addressed. Indictments for rape continue unabated and the legislative response has been in the form of higher penalties. The Court believes that, on like considerations, the jurisprudential path on the civil aspect should follow the same direction. Hence, starting with the case at bar, if the crime of rape is committed or effectively qualified by any of the circumstances under which the death penalty is authorized by the present amended law, the indemnity for the victim shall be in the increased amount of not less than P75,000.00. this is not only a reaction to the apathetic societal perception of the penal law and the financial fluctuations over time, but also an expression of the displeasure of the Court over the incidence of heinous crimes against chastity.

accused-appellants should be made to pay P375,000.00 as indemnification for five counts of rape (considering that Juliana Carcillar was twice raped by accused-appellant Mijaque) in addition to the sum of P6,500.00 representing the value of the cash and articles that were taken from the victims. In line with the recent ruling in *People vs. Prades* (G.R. No. 127569, July 30, 1998), moral damages in the amount of P50,000.00 for each count of rape, or a total of P250,000.00 is likewise awarded. Lastly, so that the instant case may serve as an object lesson to the public, exemplary damages in the amount of P10,000 per count of rape is further awarded (*People vs. Burce*, 269 SCRA 293 [1997]).

Because of the findings of conspiracy, accused-appellants Patalin and Mijaque are jointly and severally liable for the amounts awarded in Criminal Case No. 18376; whereas all three accused-appellants are solidarily liable for the amounts awarded in Criminal Case No. 18305.

WHEREFORE, finding the conviction of accused-appellants justified by the evidence on record, the Court hereby AFFIRMS said judgment, with the following modifications:

(a) In Criminal Case No. 18376, for purposes of the Indeterminate Sentence Law, considering that the aggravating circumstances of band, nighttime, and dwelling attended the commission of the crime, accused-appellants Patalin and Mijaque are hereby sentenced to an indeterminate penalty ranging from six (6) years of prision correccional, as minimum, to fourteen (14) years, eight (8) months, and one (1) day of reclusion temporal, as maximum;

(b) Accused-appellants Patalin and Mijaque are jointly and severally held liable for the amounts awarded by the

trial court in said criminal case, particularly, the amount of P700.00 representing the total value of the cash and articles taken from Corazon Aliman, and P8,000.00 representing the expenses incurred by Reynaldo Aliman for medication and hospitalization;

(c) In Criminal Case No. 18305, the penalty imposed is reduced to reclusion perpetua; and

(d) Aside from the amount of P6,500.00 already awarded by the trial court to the Carcellar family representing the value of the cash and articles taken, the victims in Criminal Case No. 18305 are hereby awarded an additional P75,000 as indemnity for each count of rape, P50,000.00 for each count of rape as moral damages, and P10,000 for each count of rape as exemplary damages, for which amounts all three accused-appellants are jointly and severally liable.

SO ORDERED.

Romero, Bellosillo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur.

Davide, Jr., C.J., on leave.

* On January 21, 1985, an information for robbery with multiple rape was filed against Alfonso Patalin and was docketed as Criminal Case No. 18305. Said criminal case was consolidated with Criminal Case No. 18376 based on an Information for robbery with physical injuries against the same accused and was heard by Branch 25, Regional Trial Court, Iloilo City (pp. 1-2, 53-55, II Record).

On July 1, 1985, a motion for consolidation was filed by private prosecutor Rodolfo Valera Cabado manifesting that another Information was filed against Nestor Ras for robbery in band with multiple rape, docketed as Criminal Case No. 18835, which was founded on the same facts presented in the first two criminal cases. Eventually, the three cases were consolidated. Later, Alex Mijaque was identified and apprehended as an additional conspirator in the aforesaid Criminal Cases No. 18305 and 18835. Subsequently, a motion to admit Amended Information and to dismiss Criminal Case No. 18835 was filed by the prosecution. As a result, two cases were jointly tried by the lower court, namely, Criminal Case No. 18305 entitled "The People of the Phils. v. Alfonso Patalin, Alias `Alpoc', Nestor Ras, and Alex Mijaque, Alias `Aprik" for Robbery in band with rape, and Criminal Case No. 18376 entitled "The People of the Phils. v. Alfonso Patalin, Jr. Alias `Alpoc', and Alex Mijaque, Alias `Aprik" for robbery with physical injuries (pp. 74-76, 86, 88-93, II Record).

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.