

EGAP MADALI, SAJIRON LAJIM AND MARON LAJIM, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 179570. February 04, 2010

Ponente: PERALTA, J.

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PERALTA, J.:

This is an appeal from the Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00475, affirming the Decision of the Regional Trial Court (RTC) of Palawan, Puerto Princesa City, Branch 50, finding accused Sajiron Lajim and Maron Lajim[2] guilty beyond reasonable doubt of the crime of abduction with rape in Criminal Case No. 12281 and finding accused Egap Madsali and Sajiron Lajim guilty beyond reasonable doubt of the crime of serious illegal detention in Criminal Case No. 12309.

In view of our decision in *People v. Cabalquinto*,[3] the real name and identity of the rape victim, as well as the members of her immediate family, are withheld. In this regard, the rape victim is herein referred to as AAA; her mother, BBB; and her father, CCC.

In Criminal Case No. 12281, Sajiron Lajim (Sajiron) and Maron Lajim (Maron) were charged with the crime of abduction with rape in an Information[4] dated March 17, 1995, which reads:

That on or about the 1[st] day of July, 1994, in Barangay Malitub, Municipality of Bataraza, Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating together and helping one another and by means of force, threat, violence and intimidation, while armed with a bladed weapon known as "Badong", did then and there willfully, unlawfully and feloniously take and carry away one AAA, a girl of 16 years of age, against her will and consent and brought to the forest and on the occasion thereof the said accused by means of force, threat, violence and intimidation, and while armed with a knife, accused Sajiron Lajim, with lewd design, did then and there willfully, unlawfully and feloniously have carnal knowledge with said AAA, against her will and consent, to her damage and prejudice.

That on the occasion of the said Rape, accused Maron Lajim helped Sajiron Lajim by acting as look-out during the commission of the said crime.

CONTRARY TO LAW.

In Criminal Case No. 12309, Egap Madsali (Egap) and Sajiron Lajim (Sajiron) were charged with the crime of serious illegal detention in an Amended Information[5] dated August 28, 1995, which reads:

That on or about the 2[nd] day of July, 1994 in the morning up to December 15, 1994, at Barangay Malitub, Municipality of Bataraza, Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating together and mutually helping one another, with the use of force, violence and intimidation, did then and there willfully, unlawfully and feloniously take and detain AAA, an unmarried woman under 15 years of age in the house of Egap Madsali thereby depriving said AAA of her liberty all against her will and as a result of that illegal detention, said AAA was not able to go home to

her mother for a period of more than five (5) months.

CONTRARY TO LAW.

Upon motion of the private prosecutor and with the conformity of the Provincial Prosecutor's Office, Criminal Case No. 12309 was consolidated with Criminal Case No. 12281, pending before the RTC of Palawan, Puerto Princesa City, Branch 50.

Sajiron was arraigned on April 21, 1995 in Criminal Case No. 12281 and on September 21, 1995 in Criminal Case No. 12309. He pleaded not guilty to both charges. Egap was arrested and, thereafter, arraigned on March 8, 1996. He pleaded not guilty in Criminal Case No. 12309. Maron was arrested and, later, arraigned on March 11, 1996. He pleaded not guilty in Criminal Case No. 12281. A joint trial ensued. However, in July 1996, Egap escaped while under the custody of prison guards.

The evidence presented by the prosecution are as follows:

On July 1, 1994, around 3:30 o'clock in the afternoon, fifteen-year-old AAA and her aunt Inon Dama were fetching water in a cave in Barangay (Brgy.) Malitub, Bataraza, Palawan. Suddenly, Sajiron arrived, running towards them and carrying a badong (bolo). They tried to run away, but Sajiron overtook them. He held the hair of AAA and told her, "Sara, you go with me. If you will not go with me, I will kill you." Inon Dama came to AAA's rescue, but Sajiron tried to hack her. Luckily, she was able to shield herself with a plastic container. AAA was crying while she held her aunt's hand. Sajiron then drew his gun, which was tucked in his waist, pointed it at Inon Dama and said, "If you will not go, I will shoot you." Inon Dama went home and reported the incident to AAA's mother. When Inon Dama left the place, Maron, Sajiron's father, suddenly appeared with a gun and told AAA to come with them. When AAA refused, Sajiron and Maron tied her hands behind her back, covered her mouth with a piece of cloth, and brought her to the forest. There, AAA was untied and undressed, leaving only her bra on. While Sajiron was undressing AAA, she pleaded with him not to abuse her, but Sajiron told her that if she would submit to his desire, her life would be spared. Sajiron held her breast, touched her private parts and inserted his sex organ inside her vagina. AAA resisted, but to no avail. She felt pain and she noticed blood on her private parts. She was sexually abused three times on the ground, where she was made to lie down on a bed of leaves. During the entire time that AAA was being abused by Sajiron, Maron stood guard and watched them. They left the forest at around 10:00 o'clock in the morning of the following day and brought AAA to the house of Egap, where she was detained in a room. Sajiron instructed Egap to guard AAA and to shoot her if she would attempt to escape.

On July 2, 1994, AAA's mother came to get AAA, but Egap refused and threatened to kill her daughter if she would report the matter to the authorities. Out of fear of losing her daughter, she went home and did not report the incident to the police authorities.[6] Egap asked AAA if she wanted to marry Sajiron, but she refused. AAA was then forced to sign an unknown document, which she was not able to read.

Nine days after the abduction, or on July 11, 1994, upon instruction of Egap, AAA and Sajiron were married by Imam Musli Muhammad. The marriage was solemnized against AAA's will and without the presence of her parents. After the marriage, AAA and Sajiron lived in the house of Egap, together with the latter's wife, children and mother-in-law. AAA stayed in one room with Sajiron. While detained, AAA did not try to escape, because her house was very far from the place where she was held captive, and her captors threatened to kill her and her family if she would attempt to escape. During her detention, Sajiron abused her twice every night. She was free to roam within the vicinity of the house but she was usually accompanied by Egap's wife who served as her guard. She was also guarded and threatened by Egap's sons. She got pregnant after some time.

On November 24, 1994, BBB and Inon Dama went to Puerto Princesa City to report AAA's abduction to the proper authorities. AAA was detained at the house of Egap from July 2, 1994 until December 15, 1994. On December 16, 1994, Sajiron and Egap were arrested by the police.

The defense, on the other hand, denied having committed the crimes charged. Sajiron claimed that he and AAA were engaged for three years prior to their elopement. During the period of their engagement, Sajiron lived with AAA in her mother's house. AAA married Sajiron voluntarily and out of her own free will. The sexual intercourse between AAA and Sajiron was consensual. The defense further claimed that AAA merely filed criminal charges against Sajiron because he did not pay the dowry (dower) in the amount of P10,000.00 to AAA's parents. Sajiron asserted that he did not pay the dowry because he had already rendered services to AAA's family for about three years prior to his marriage with AAA. After the marriage, Sajiron and AAA were brought by the latter's father to his house in Balabac, Palawan. They stayed there for about four months. Then they went to Brgy. Malitub, Bataraza, Palawan and stayed at the house of Egap for about two weeks. Sajiron was thereafter arrested by the authorities. He only learned that a case for abduction with rape was filed against him by AAA when he was being interrogated by the Bataraza Police.

On July 25, 2002, the RTC rendered a Decision[7] finding Sajiron and Maron guilty beyond reasonable doubt of the crime of abduction with rape. Egap and Sajiron were also found guilty beyond reasonable doubt of the crime of serious illegal detention. The dispositive portion of the Decision is as follows:

WHEREFORE, premises considered, this Court finds the accused guilty beyond reasonable doubt of the crime charged, to suffer imprisonment as follows:

- In Criminal Case No. 12281, the accused Sa[j]iron Lajim and Maron Lajim are hereby sentenced to suffer the penalty of Reclusion Perpetua or forty (years) and each of the accused are ordered to indemnify the complainant AAA the same amount of P50,000.00 as and for civil indemnity;

- In Criminal Case No. 12309, the accused Egap Madsali and Sa[j]iron Lajim are hereby sentenced to suffer the penalty of Reclusion Perpetua and both accused are ordered to separately indemnify the complainant AAA the amount of P50,000.00 as and for civil indemnity.

SO ORDERED.

Petitioners filed a Notice of Appeal, and the records of the case were forwarded to this Court. However, pursuant to this Court's ruling in *People v. Mateo*,[8] the case was transferred to the CA. The CA rendered a Decision dated July 31, 2007 affirming the decision of the trial court in Criminal Case Nos. 12281 and 12309.

Hence, this petition assigning the following errors:

THE HONORABLE COURT OF APPEALS ERRED IN IGNORING THE IMPLICATION OF THE 5-MONTH INACTION BY THE PRIVATE COMPLAINANT'S MOTHER IN REPORTING THE ALLEGED ABDUCTION AND ILLEGAL DETENTION OF HER DAUGHTER; AND

THE HONORABLE COURT OF APPEALS ERRED IN IGNORING THE UNREBUTTED TESTIMONY OF THE PRIVATE COMPLAINANT'S OWN FATHER.

With respect to the first assigned error, petitioners allege that the five-month inaction of BBB through his failure to report the alleged abduction and illegal detention of her daughter is totally inconsistent with AAA's claim that she was abducted and illegally detained.

We are not persuaded.

Delay in reporting an incident of rape due to death threats does not affect the credibility of the complainant, nor

can it be taken against her. The charge of rape is rendered doubtful only if the delay was unreasonable and unexplained.[9] BBB explained that she did not immediately report the abduction, rape and detention of her daughter to the authorities, because Egap threatened to kill AAA,[10] who was then in his custody.

Further, BBB testified that, on another occasion, Egap threatened to kill her if she dared to report the matter to the authorities. True enough, when Egap learned that she did what he forbade her to do, he made good his threat and shot her at the back.[11] Thus, BBB's delay in reporting the incident for five months should not be taken against her.

Anent the second assignment of error, petitioners argue that the un rebutted testimonies of CCC and Imam Musli Muhammad cast a reasonable doubt on the charge against them. CCC testified that Sajiron courted his daughter and proposed marriage after their three-year courtship. He claimed that he gave his consent to the marriage of his daughter to Sajiron. Prior to the marriage, CCC said that he was even able to talk to his daughter and his wife, and both were amenable to the marriage. AAA never mentioned to him anything about having been kidnapped or raped. Neither did his wife tell him of their daughter's alleged harrowing experience. He and his wife were present during the marriage celebration.

Again, the testimony of CCC fails to persuade Us. AAA testified that she had never seen her father since she was a child, as her father had abandoned them.[12] BBB testified that she and her husband had been separated for a long time, and she did not know his whereabouts. She further said that CCC left their place in March 1983 to go to Malaysia, and that was the last time she saw him.[13] CCC's allegation that his wife was present during the marriage celebration was also controverted by the testimonies of AAA, her mother, and Imam Musli Muhammad. Thus, save for CCC's self-serving allegations, he could not muster any sufficient evidence to beef up those allegations. It is also very surprising that CCC, after his long absence, suddenly appeared and testified for the defense. CCC would like to impress upon this Court that he has maintained constant communication with his family; however, no single witness was presented to corroborate this claim.

Furthermore, CCC, in his Malayang Sinumpaang Salaysay[14] dated December 28, 1995, alleged that in 1991, his wife wrote and informed him that Sajiron asked for their daughter's hand in marriage. CCC replied that he was giving his permission for their daughter to marry. In the same salaysay, he also said that Egap wrote him a letter on July 4, 1994 and instructed him to proceed to Malitub, Bataraza to discuss the intended marriage of AAA and Sajiron. However, records are bereft of proof of the existence of these letters. Clearly, these allegations, being unsupported by evidence, are self-serving and cannot be given any probative value.

Moreover, Imam Musli Mohammad, while testifying as prosecution witness, attested that the parents of AAA and Sajiron were not present during the marriage,[15] thus controverting CCC's allegation that he was present and gave consent to the marriage. Although Imam Musli Muhammad, when presented as an accused witness, recanted his earlier testimony that CCC was not present at the wedding, the same cannot be given credit. Recantations are frowned upon by the courts. A recantation of a testimony is exceedingly unreliable, for there is always the probability that such recantation may later on be itself repudiated. Courts look with disfavor upon retractions, because they can easily be obtained from witnesses through intimidation or for monetary considerations. Hence, a retraction does not necessarily negate an earlier declaration. They are generally unreliable and looked upon with considerable disfavor by the courts.[16] Moreover, it would be a dangerous rule to reject the testimony taken before a court of justice, simply because the witness who has given it later on changes his mind for one reason or another.[17]

As to the defense of denial, the same is inherently weak. Denial is a self-serving negative evidence, which cannot be given greater weight than that of the declaration of a credible witness who testifies on affirmative matters. Like

alibi, denial is an inherently weak defense, which cannot prevail over the positive and credible testimonies of the prosecution witnesses. Denial cannot prevail over the positive testimonies of prosecution witnesses who were not shown to have any ill motive to testify against petitioner.[18]

The assertion of the accused that the reason why a criminal case was filed against him was his failure to pay the P10,000.00 dowry is too lame to be accepted as true. No young Filipina of decent repute would publicly admit she has been raped unless that is the truth. Even in these modern times, this principle holds true.[19] When the offended parties are young and immature girls from 12 to 16, as in this case, courts are inclined to lend credence to their version of what transpired, considering not only their relative vulnerability, but also the public humiliation to which they would be exposed by a court trial, if their accusation were not true.[20]

It is highly improbable that a young girl, such as AAA, would concoct a horrid story and impute to the accused a crime so grave and subject herself and her family to the humiliation and invasive ordeal of a public trial just to avenge the alleged non-payment of the dowry, unless she be impelled by a genuine desire to expose the truth, vindicate her honor and seek justice she so greatly deserves.

Neither is the Court convinced of the "sweetheart theory," the defense of the accused, by alleging that AAA and Sajiron were engaged for three years prior to their elopement and marriage. If there were indeed romantic relationship between AAA and Sajiron, as the latter claims, her normal reaction would have been to cover up for the man she supposedly loved. On the contrary, AAA lost no time in reporting the incident to the National Bureau of Investigation,[21] right after she was rescued by the authorities.

Moreover, the "sweetheart theory" proffered by the accused is effectively an admission of carnal knowledge of the victim, which consequently places on him the burden of proving the supposed relationship by substantial evidence.[22] The "sweetheart theory" hardly deserves any attention when an accused does not present any evidence, such as love letters, gifts, pictures, and the like to show that, indeed, he and the victim were sweethearts.[23] In the case at bar, Sajiron was unable to present any evidence to prove their relationship. Clearly, the "sweetheart theory" is a self-serving defense and mere fabrication of the accused to exculpate himself and his cohorts from the charges filed against them. It bears stressing that during her testimony before the trial court, AAA vehemently denied that she and Sajiron were sweethearts and firmly declared that the latter never lived in their house.[24]

More importantly, in rape cases, the credibility of the victim's testimony is almost always the single most important factor. When the victim's testimony is credible, it may be the sole basis for the accused's conviction.[25] This is so because, owing to the nature of the offense, in many cases, the only evidence that can be given regarding the matter is the testimony of the offended party.[26]

In the case at bar, the trial court found AAA's testimony credible. The trial court held that AAA's testimony was clear, categorical and consistent. She remained steadfast in her assertions and unfaltering in her testimony given in court on the unfortunate incident.[27] The trial court found that AAA positively identified Sajiron and Maron as her abductors and narrated how she was taken and thrice raped by Sajiron in the forest. AAA recounted her sordid experience as follows:

AAA on Direct-Examination by Private Prosecutor Narrazid.

Q:

On July 1, 1994 more or less at 3:30 p.m. do you remember where you were?

A:

Yes ma'am.

Q:

Where were you?

A:

We fetched water on July 1, 1994.

Q:

Where?

A:

In a cave, ma'am.

Q:

Was there anything unusual that happened during that time?

A:

Yes ma'am.

Q:

What was that incident?

A:

I noticed that Sahiron Lajim run towards me and held me by my hair. He was carrying a Barong and he was forcing me to go with him but I refused ma'am.

Q:

And what did you do if any when he forced you to go with him?

A:

He threatened me to kill me if I will not go with him. What I did was to hold the hair of Inon Dama who came to my rescue, ma'am.

Q:

What did Sahiron Lajim do if any?

A:

He hacked Inon Dama but was not hit and it was the container that was hit, ma'am. And Sahiron Lajim left and I was forced to go with him telling me, "go with me if you do not want to die."

Q:

When this Inon Dama left what happened next and you were left alone with Sahiron Lajim?

A:

His father suddenly appeared who was also carrying a gun.

Q:

What happened next?

A:

The father of Sahiron Lajim told me to go with them but I refused. What they did was to tie my hands behind my back and my mouth was covered by them by a piece of cloth, ma'am.

Q:

And after that what happened next?

A:

Then they brought me to the forest ma'am.

Q:

And when you were in the forest what happened next?

A:

Sahiron Lajim raped me while his father was watching ma'am.

Q:

And how did Sahiron Lajim raped you?

A:

When we reached the forest my hands were untied and my dress were removed and only my bra was left ma'am.

Q:

Who removed your dress?

A:

Sahiron Lajim ma'am.

Q:

And you stated that it was only your bra that was left in your body how about your panty?

A:

It was already removed.

Q:

While Sahiron Lajim was undressing you what did you do, if any?

A:

I pleaded to him not to pursue his intention and Sahiron Lajim threatened me that if I will allow him to do such thing to me he will not kill me, ma'am.

Q:

And did he hold the private parts of your body?

A:

Yes ma'am. (witness pointing to her bust, and the lower part of her body)

Q:

What other part did Sahiron Lajim touch in your body?

A:

My private part, my vagina, ma'am.

Q:

What else did he do to you?

A:

He inserted his organ to my vagina. Then after raping me he required me to wear my blouse. He repeated the act again for two times up to the following day, ma'am.

Q:

How long was the private part of Sahiron Lajim inside your private part?

A:

A little bit long. Nearing one (1) hour.

Q:

That was the first time his organ entered your private part?

A:

Yes ma'am.

Q:

Did you notice anything in your private part?

A:

I have seen blood. I was even pushing him away.

Q:

How did you feel at that time when his organ was inside your private part?

A:

It was painful, ma'am.

Q:

And you stated that his organ entered your private part again for the second time, how long?

A

I did not notice anymore how long was it, ma'am.

Q:

And you stated Madam Witness that you were repeatedly raped that night, is that correct?

A:

Yes ma'am.

Q:

Up to what time?

A:

The first time that he raped me was about 7:00 o'clock in the evening, the second was midnight. And the third was 3:00 o'clock in the morning.

Q:

Were you able to sleep that night?

A:

No ma'am.

Q:

At the time when you were raped for the first time where was the father of Sahiron Lajim?

A:

He was guarding ma'am.

Q:

How far was his father?

A:

He was near a tree which was 10 meters away from us.

Q:

Now, the place where you were brought by Sahiron Lajim is a forest?

A:

Yes ma'am.

Q:

Was there a hut in that forest?

A:

None ma'am, we were at a place where there were big trees, ma'am.

Q:

So, you mean to say you were raped on the ground?

A:

Yes ma'am.

Q:

Without any blanket?

A:

He got some leaves of trees, ma'am.

Q:

What did he do with that leaves of trees?

A:

He secured some leaves and placed it on the ground, which served as mat, ma'am.

Q:

Now, the second and the third time that Sahiron Lajim raped you where was his father?

A:

He was also there, ma'am.[28] (Emphasis supplied)

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As a rule, this Court gives great weight to the trial court's evaluation of the testimony of a witness, because the trial court had the opportunity to observe the facial expression, gesture, and tone of voice of a witness while testifying, thus, putting it in a better position to determine whether a witness was lying or telling the truth.[29]

However, the Court does not agree with the findings of the CA affirming the trial court's judgment finding Sajiron and Maron guilty of abduction and rape in Criminal Case No. 12281. An appeal in a criminal case opens the entire case for review on any question, including one not raised by the parties[30] Article 342 of the Revised Penal Code spells out the elements of the crime of forcible abduction, thus: (a) that the person abducted is a woman, regardless of her age, civil status, or reputation; (b) that the abduction is against her will; and (c) that the abduction is with lewd designs.

A reading of the Information in Criminal Case No. 12281, for abduction with rape, would readily show that the allegations therein do not charge the accused with forcible abduction, because the taking, as alleged, was not with lewd designs. The only act that was alleged to have been attended with lewd design was the act of rape. Upon further perusal of the allegations in the information, it appears that the crime charged was actually the special complex crime of kidnapping and serious illegal detention and rape, defined and penalized under Article 267 of the Revised Penal Code.

Although the information does not specifically allege the term "kidnap or detain," the information specifically used the terms "take" and "carry away." To "kidnap" is to carry away by unlawful force or fraud or to seize and detain for the purpose of so carrying away.[31] Whereas, to "take" is to get into one's hand or into one's possession, power, or control by force or stratagem.[32] Thus, the word take, plus the accompanying phrase carry away, as alleged in the information, was sufficient to inform the accused that they were charged with unlawfully taking and detaining AAA.

Further, the real nature of the criminal charge is determined not from the caption or preamble of the information or from the specification of the provision of law alleged to have been violated, they being conclusions of law

which in no way affect the legal aspects of the information, but from the actual recital of facts as alleged in the body of the information.[33] Simply put, the crime charged is determined by the information's accusatory portion and not by its denomination.

The accusatory portion of the information alleges that AAA was taken and carried away by Sajiron and Maron against her will and brought to the forest; and, on the occasion thereof, Sajiron -- by means of force, threat, violence and intimidation -- had carnal knowledge of AAA.

The elements of kidnapping and serious illegal detention under

Article 267 of the Revised Penal Code[34] are: (1) the offender is a private individual; (2) he kidnaps or detains another or in any other manner deprives the latter of his liberty; (3) the act of detention or kidnapping is illegal; and (4) in the commission of the offense, any of the following circumstances are present: (a) the kidnapping or detention lasts for more than 3 days; or (b) it is committed by simulating public authority; or (c) any serious physical injuries are inflicted upon the person kidnapped or detained or threats to kill him are made; or (d) the person kidnapped or detained is a minor, female, or a public officer.[35]

In the case at bar, Sajiron and Maron, who are private individuals, forcibly took and dragged AAA, a minor, to the forest and held her captive against her will. The crime of serious illegal detention consists not only of placing a person in an enclosure, but also of detaining him or depriving him in any manner of his liberty.[36] For there to be kidnapping, it is enough that the victim is restrained from going home.[37] Its essence is the actual deprivation of the victim's liberty, coupled with indubitable proof of the intent of the accused to effect such deprivation.[38] In the present case, although AAA was not actually confined in an enclosed place, she was clearly restrained and deprived of her liberty, because she was tied up and her mouth stuffed with a piece of cloth, thus, making it very easy to physically drag her to the forest away from her home.

The crime of rape was also proven beyond reasonable doubt in this case. Sajiron succeeded in having carnal knowledge of AAA through the use of force and intimidation. For fear of losing her life, AAA had no choice but to give in to Sajiron's beastly and lustful assault.

Clearly, conspiracy between Sajiron and Maron attended the commission of forcible abduction and the subsequent rape of AAA. Conspiracy exists when two or more persons come to an agreement concerning a felony and decide to commit it.[39] It may be inferred from the acts of the accused before, during or after the commission of the crime which, when taken together, would be enough to reveal a community of criminal design, as the proof of conspiracy is frequently made by evidence of a chain of circumstances. Once established, all the conspirators are criminally liable as co-principals regardless of the degree of participation of each of them, for in the contemplation of the law, the act of one is the act of all.[40] In the case at bar, it was proven that Sajiron and Maron cooperated to prevent AAA from resisting her abduction by tying her hands behind her back and putting a piece of cloth in her mouth. Maron watched and stood guard to make sure that no one would interrupt or prevent the bestial act perpetrated by his son against AAA. Maron did not endeavor to prevent his son from raping AAA thrice. The next morning, Sajiron and Maron brought AAA to the house of Egap to detain her there.

The last paragraph of Art. 267 of the Revised Penal Code provides that if the victim is killed or dies as a consequence of the detention, or is raped or subjected to torture or dehumanizing acts, the maximum penalty shall be imposed. In *People v. Larrañaga*,[41] the Court explained that this provision gives rise to a special complex crime:

This amendment introduced in our criminal statutes, the concept of 'special complex crime' of kidnapping with murder or homicide. It effectively eliminated the distinction drawn by the courts between those cases where the killing of the kidnapped victim was purposely sought by the accused, and those where the killing of the

victim was not deliberately resorted to but was merely an afterthought. Consequently, the rule now is: Where the person kidnapped is killed in the course of the detention, regardless of whether the killing was purposely sought or was merely an afterthought, the kidnapping and murder or homicide can no longer be complexed under Art. 48, nor be treated as separate crimes, but shall be punished as a special complex crime under the last paragraph of Art. 267, as amended by R.A. No. 7659."

Where the law provides a single penalty for two or more component offenses, the resulting crime is called a special complex crime. Some of the special complex crimes under the Revised Penal Code are (1) robbery with homicide, (2) robbery with rape, (3) kidnapping with serious physical injuries, (4) kidnapping with murder or homicide, and (5) rape with homicide. In a special complex crime, the prosecution must necessarily prove each of the component offenses with the same precision that would be necessary if they were made the subject of separate complaints. As earlier mentioned, R.A. No. 7659 amended Article 267 of the Revised Penal Code by adding thereto this provision: "When the victim is killed or dies as a consequence of the detention, or is raped, or is subjected to torture or dehumanizing acts, the maximum penalty shall be imposed; and that this provision gives rise to a special complex crime. (Italics in the original)

Thus, we hold that Sajiron and Maron are guilty beyond reasonable doubt of the special complex crime of kidnapping and serious illegal detention with rape in Criminal Case No. 12281.

In Criminal Case No. 12309, we also find Sajiron guilty beyond reasonable doubt of the crime of serious illegal detention.

All the elements of the crime of serious illegal detention are present in the instant case: AAA, a female and a minor, testified that on July 2, 1994, after she was raped in the forest, she was brought to and detained at the house of Egap and forced to cohabit with Sajiron. From the very start of her detention on July 2, 1994, Egap directed Sajiron to guard her, and shoot her if she attempted to escape.[42] She did not dare to escape because the accused threatened to kill her and her family if she attempted to flee.[43]

AAA was also guarded by Egap's wife.[44] Even the two sons of Egap, upon the latter's instruction, constantly guarded and threatened her to keep her from leaving.[45] In fine, the accused had successfully instilled fear in AAA's mind that escaping would cause her not only her own life, but also the lives of her loved ones.

To give a color of legitimacy to AAA's detention, Sajiron married AAA. However, the marriage between her and Sajiron is considered irregular under the Code of Muslim Personal Laws (Presidential Decree No. 1083). Art. 15 (b) of said the law provides that no marriage contract shall be perfected unless the essential requisite of mutual consent of the parties be freely given. And under Art. 32 of the same law, if the consent of either party is vitiated by violence, intimidation, fraud, deceit or misrepresentation, the marriage is considered irregular (*fasid*) from the time of its celebration.

AAA did not give her consent to the wedding.[46] The marriage was solemnized only upon the instruction of Egap.[47] She was also forced to sign the marriage contract without the presence of her parents or any of her relatives.[48] She did not want to marry Sajiron because she did not love him.[49] The Imam who solemnized their marriage did not even ask for the consent of the parties.[50] He was merely compelled to solemnize the marriage because he was afraid of Egap, and the latter threatened him.[51] Clearly, the marriage ceremony was a farce, and was only orchestrated by the accused in an attempt to exculpate themselves from criminal responsibility.

Anent Criminal Case No. 12309, the prescribed penalty for serious illegal detention under Art. 267 of the Revised Penal Code, as amended by Republic Act (R. A.) No. 7659, is *reclusion perpetua* to death. There being no aggravating or modifying circumstance in the commission of the offense, the proper penalty to be imposed is *reclusion perpetua*, pursuant to Art. 63 of the Revised Penal Code.

As to Criminal Case No. 12281, the penalty for the special complex crime of kidnapping and serious illegal detention and rape is death. However, R.A. No. 9346, entitled "An Act Prohibiting the Imposition of Death Penalty in the Philippines," which was approved on June 24, 2006, prohibits the imposition of the death penalty. Thus, the penalty of death is reduced to reclusion perpetua,[52] without eligibility for parole.[53]

As to accused Egap, his act of escaping from his police escort during the pendency of his case and his subsequent unexplained absence during the promulgation of the decision convicting him of the crime charged has divested him of the right to avail himself of any remedy that may be available to him, including his right to appeal. In a recent case, this Court held that once an accused jumps bail or flees to a foreign country, or escapes from prison or confinement, he loses his standing in court; and unless he surrenders or submits to the jurisdiction of the court, he is deemed to have waived any right to seek relief from it.[54] Hence, insofar as accused Egap is concerned, the judgment against him became final and executory upon the lapse of fifteen (15) days from promulgation of the judgment.

As to the award of damages.

In Criminal Case No. 12281, AAA is entitled to civil indemnity in line with prevailing jurisprudence that civil indemnification is mandatory upon the finding of rape.[55]

In *People v. Quiachon*,[56] even if the penalty of death is not to be imposed because of the prohibition in R.A. No. 9346, the civil indemnity of P75,000.00 is proper, because it is not dependent on the actual imposition of the death penalty but on the fact that qualifying circumstances warranting the imposition of the death penalty attended the commission of the offense. As explained in *People v. Salome*,[57] while R.A. No. 9346 prohibits the imposition of the death penalty, the fact remains that the penalty provided for by the law for a heinous offense is still death, and the offense is still heinous. Accordingly, the civil indemnity for AAA is P75,000.00.

In addition, AAA is entitled to moral damages pursuant to Art. 2219 of the Civil Code,[58] without the necessity of additional pleadings or proof other than the fact of rape.[59] Moral damages is granted in recognition of the victim's injury necessarily resulting from the odious crime of rape.[60] Such award is separate and distinct from the civil indemnity.[61] Therefore, the Court awards the amount of P75,000.00 as moral damages.

In Criminal Case No. 12309, for serious illegal detention, the trial court's award of P50,000 civil indemnity to AAA was proper, in line with prevailing jurisprudence.[62]

We also find that AAA is entitled to moral damages pursuant to Art. 2219 of the Civil Code, which provides that moral damages may be recovered in cases of illegal detention.[63] This is predicated on AAA's having suffered serious anxiety and fright when she was detained for more than five months. Thus, the Court awards the amount of P50,000.00 as moral damages.[64]

Finally, AAA was sexually abused on July 1, 1994 and gave birth on April 8, 1995. There was no showing that AAA had previously been sexually abused or had sexual relations with other men. Further, Dr. Ma. Rebethia Alcala, a Municipal Health Officer of Bataraza, Palawan, testified that since AAA gave birth on April 8, 1995, the baby must have been conceived sometime in July 1994, which was at or about the time of the commission of the rape. Therefore, it can be logically deduced that Sajiron is the father of the child. Under Art. 345 of the Revised Penal Code,[65] he is civilly liable for the support of his offspring. Hence, he is directed to provide support to the victim's child born out of the rape, subject to the amount and conditions to be determined by the trial court, after due notice and hearing, in accordance with Art. 201 of the Family Code.[66]

WHEREFORE, the appeal is DENIED. The Decision of the Court of Appeals in CA-G.R. CR-HC No. 00475 is AFFIRMED with MODIFICATIONS as follows:

(a) In Criminal Case No. 12281, accused Sajiron Lajim and Maron Lajim are found guilty beyond reasonable doubt of the special complex crime of kidnapping and serious illegal detention with rape under Article 267 of the Revised Penal Code, as amended by Republic Act No. 7659, and are sentenced to suffer the penalty of reclusion perpetua, without eligibility for parole, and to pay jointly and severally, the offended party AAA, the amounts of P75,000.00 as civil indemnity and P75,000.00 as moral damages. Accused Sajiron Lajim is further ordered to support the offspring born as a consequence of the rape. The amount of support shall be determined by the trial court after due notice and hearing, with support in arrears to be reckoned from the date the appealed decision was promulgated by the trial court; and

(b) In Criminal Case No. 12309, accused Sajiron Lajim is found guilty beyond reasonable doubt of the crime of kidnapping and serious illegal detention under Article 267 of the Revised Penal Code, as amended by Republic Act No. 7659, and is sentenced to suffer the penalty of reclusion perpetua and to pay the amounts of P50,000.00 as civil indemnity and P50,000.00 as moral damages.

SO ORDERED.

Corona, (Chairperson), Carpio[*], Velasco, Jr., and Nachura, JJ., concur.

[*] Designated to sit as an additional member in lieu of Associate Justice Jose C. Mendoza per Special Order No. 818 dated January 18, 2010.

[1] Penned by Associate Justice Jose C. Reyes, Jr., with Associate Justice Jose L. Sabio, Jr., and Associate Justice Myrna Dimaranan Vidal, concurring; rollo, pp. 11-25.

[2] Also referred to as "Majiron Lajim" in some parts of the records.

[3] G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[4] Records I, pp. 1-2.

[5] Records II, pp. 30.

[6] Sinumpaang Salaysay, Records I, pp. 153.

[7] Records I, supra note 3, at 244-255.

[8] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640, modifying Secs. 3 and 10 of Rule 122, Sec. 13 of Rule 124, and Sec. 3 of Rule 125 of the Revised Rules on Criminal Procedure.

[9] People v. Hilario Opong y Tañesa, G.R. No. 177822, June 17, 2008, 554 SCRA 706.

[10] TSN, August 17, 1995, p. 6.

[11] Id. at 8-9.

[12] TSN, August 18, 1995, p. 16.

[13] Supra note 9, at 13.

[14] Supra note 3, at 234..

[15] Supra note 3, at 234.

[16] People v. Ceniza, G.R. No. 144913, September 18, 2003, 411 SCRA 304.

- [17] *People v. Junio*, G.R. No. 110990, October 28, 1994, 237 SCRA 826, 834.
- [18] *Gan v. People*, G.R. No. 165884, April 23, 2007, 521 SCRA 550, 575.
- [19] *People v. Loyola*, G.R. No. 126026, February 6, 2001, 351 SCRA 263, 267.
- [20] *People v. Antonio*, G.R. No. 157269, June 3, 2004, 430 SCRA 619, 627.
- [21] *Supra* note 3, at 154-155.
- [22] *People v. Antonio*, G.R. No. 157269, June 3, 2004, 430 SCRA 619, 626.
- [23] *People v. Salvador*, G.R. Nos. 136870-72, January 28, 2003, 396 SCRA 298.
- [24] TSN, June 10, 1996, pp. 23-24.
- [25] *People v. Talan*, G.R. No. 177354, November 14, 2008, 571 SCRA 211, 217.
- [26] *People v. Gan*, L-33446, August 18, 1972, 46 SCRA 667, 678.
- [27] *Supra* note 3, at 254.
- [28] *Supra* note 11, at 9-10.
- [29] *People v. Pillas*, G.R. No. 138716-19, September 23, 2003, 411 SCRA 468.
- [30] *Edgar Esqueda v. People*, G.R. No. 170222, June 18, 2009, 589 SCRA 489.
- [31] Webster's Third New International Dictionary of the English Language Unabridged, 1241 (1993).
- [32] *Id.* at 2329.
- [33] *Buhat v. Court of Appeals*, G.R. No. 119601, December 17, 1996, 265 SCRA 701, 716-717.
- [34] ART. 267. Kidnapping and serious illegal detention. - Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of reclusion perpetua to death;
- If the kidnapping or detention shall have lasted more than three days.
 - If it shall have been committed simulating public authority.
 - If any serious physical injuries shall have been inflicted upon the person kidnapped or detained; or if threats to kill him shall have been made.
 - If the person kidnapped or detained shall be a minor, except when the accused is any of the parents, female or a public officer.
- The penalty shall be death where the kidnapping or detention was committed for the purpose of extorting ransom from the victim or any other person, even if none of the circumstances abovementioned were presented in the commission of the offense.
- When the victim is killed or dies as a consequence of the detention or is raped, or is subjected to torture or dehumanizing acts, the maximum penalty shall be imposed.
- [35] *People v. Nuguid*, G.R. No. 148991, January 21, 2004, 420 SCRA 533.
- [36] *People v. Domasian*, G.R. No. 95322, March 1, 1993, 219 SCRA 245, 253.
- [37] *People v. Acbangin*, G.R. No. 117216, August 9, 2000, 337 SCRA 454, 461.

[38] *People v. Obeso*, G.R. No. 152285, October 24, 2003, 414 SCRA 447, 454.

[39] Revised Penal Code, Article 8.

[40] *Go v. Sandiganbayan*, Fifth Division, G.R. No. 172602, April 13, 2007, 521 SCRA 270, 290.

[41] 466 Phil. 324 (2004), citing *People v. Ramos*, 297 SCRA 618 (1998), and *People v. Mercado*, 346 SCRA 256 (2000).

[42] *Supra* note 11, at 10-11.

[43] TSN, June 10, 1996, p.12.

[44] *Id.* at 19.

[45] *Id.* at 12; TSN, June 11, 1996, pp. 12-13.

[46] *Supra* note 11, at 13.

[47] *Id.* at 13-14.

[48] *Id.* at 14.

[49] TSN, June 10, 1996, *supra* note 23; TSN, June 11, 1996, *supra* note 22.

[50] TSN, June 11, 1996, *supra* note 30.

[51] TSN, August 4, 1995, p. 10.

[52] Sec. 2, R.A. No. 9346.

[53] Sec. 3, R.A. No. 9346.

[54] *People v. Joven De Grano, Armando De Grano, et al.*, G.R. No. 167710, June 5, 2009, 588 SCRA 550.

[55] *People of the Philippines v. Pedro Nogpo, Jr.*, G.R. No. 184791, April 16, 2009.

[56] G.R. No. 170236, August 31, 2006, 500 SCRA 704, 719.

[57] 500 Phil. 659, 676 (2006).

[58] Civil Code, Article 2219. Moral damages may be recovered in the following and analogous cases: x x x

(3) Seduction, abduction, rape, or other lascivious acts; x x x.

[59] *People v. Ospig*, G.R. No. 141766, November 18, 2003, 416 SCRA 32..

[60] *Id.*

[61] *People v. Sabardan*, G.R. No. 132135, May 21, 2004, 429 SCRA 9, 29.

[62] *People v. Solangon*, G.R. No. 172693, November 21, 2007, 537 SCRA 746, 758.

[63] Civil Code, Article 2219. Moral damages may be recovered in the following analogous cases:

x x x

(5) Illegal or arbitrary detention or arrest; x x x.

[64] *People v. Garalde*, G.R. No. 173055, April 13, 2007, 521 SCRA 327, 355.

[65] Civil liability of persons guilty of crimes against chastity. ¹ ° Persons guilty of rape, seduction or abduction shall also be entitled: x x x 3. In every case to support the offspring. X x x x.

[66] People v. Pagsanjan, G.R. No. 139694, December 27, 2002, 394 SCRA 414.

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