

MAXIMINO VALDEPEÑAS, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 20687. April 30, 1966

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal by petitioner Maximino Valdepeñas from a decision of the Court of Appeals, affirming that of the Court of First Instance of Cagayan, convicting him of the crime of abduction with consent, and sentencing him to an indeterminate penalty ranging from three (3) months and twenty-five (25) days of arresto mayor to one (1) year, eight (8) months and twenty-one (21) days of prisión correccional, with the accessory penalties prescribed by law, to indemnify Ester Ulsano in the sum of P1,000, with subsidiary imprisonment in case of insolvency, and to pay the costs.

The only question raised by petitioner is whether "the Court of Appeals erred in not reversing the decision of the trial court, dated June 30, 1960, for lack of jurisdiction over the person of the accused and the subject matter of the action for the offense of abduction with consent".

The pertinent facts are: On January 25, 1956, Ester Ulsano, assisted by her mother, Consuelo Ulsano, filed with the Justice of the Peace Court of Piat, Cagayan, a criminal complaint[1], duly subscribed and sworn to by both, charging petitioner Maximino Valdepeñas with forcible abduction with rape of Ester Ulsano. After due preliminary investigation, the second stage of which was waived by Valdepeñas, the justice of the peace of Piat found that there was probable cause and forwarded the complaint to the court of first instance of Cagayan[2] in which the corresponding information for forcible abduction with rape[3] was filed[4]. In due course, said court of first instance rendered judgment[5] finding petitioner guilty as charged and sentencing him accordingly.[6]

On appeal taken by petitioner, the Court of Appeals[7] modified the decision of the court of first instance, convicted him of abduction with consent and meted out to him the penalty set forth in the opening paragraph of this decision.

A motion for reconsideration and new trial having been filed by petitioner contesting the finding, made by the Court of Appeals, to the effect that complainant was below 18 years of age at the time of the occurrence, said Court[8] granted the motion, set aside its aforementioned decision and remanded the case to the court a quo for the reception of additional evidence on said issue. After a re-trial, the court of first instance rendered another decision[9] reiterating said finding of the Court of Appeals, as well as its judgment[10] of conviction for abduction with consent and the penalty imposed therein. Petitioner appealed again to the Court of Appeals[11] which[12] affirmed that of the court of first instance[13] with costs against the petitioner. Again petitioner filed[14] a motion for reconsideration based, for the first time, upon the ground that "the lower court had no jurisdiction over the person of appellant and over the subject matter of the action, with respect to the offense of abduction with consent." Upon denial of the motion,[15] petitioner interposed the present appeal by certiorari.

Petitioner's theory is that no complaint for abduction with consent has been filed by either Ester Ulsano or her

mother, Consuelo Ulsano, and that, accordingly, the lower court acquired no jurisdiction over his person or over the crime of abduction with consent and had, therefore, no authority to convict him of said crime. We find no merit in this pretense.

Jurisdiction over the person of an accused is acquired upon either his apprehension, with or without warrant, or his submission to the jurisdiction of the court.[16] In the case at bar, it is not claimed that petitioner had not been apprehended or had not submitted himself to the jurisdiction of the court. Indeed, although brought before the bar of justice as early as January 25, 1956, first, before the then justice of the peace court of Piat, then before the court of first instance of Cagayan, later before the Court of Appeals, thereafter back before said court of first instance, and then, again, before the Court of Appeals, never, within the period of six (6) years that had transpired until the Court of Appeals rendered its last decision[17], had he questioned the judicial authority of any of these three (3) courts over his person. He is deemed, therefore, to have waived whatever objection he might have had to the jurisdiction over his person, and, hence, to have submitted himself to the Court's jurisdiction. What is more, his behaviour and every single one of the steps taken by him before said courts—particularly the motions therein filed by him—implied, not merely a submission to the jurisdiction thereof, but, also, that he urged the courts to exercise the authority thereof over his person.

Upon the other hand, it is well settled that jurisdiction over the subject matter of an action—in this case the crime of abduction with consent—is and may be conferred only by law[18], that jurisdiction over a given crime, not vested by law upon a particular court, may not be conferred thereto by the parties involved in the offense; and that, under an information for forcible abduction, the accused may be convicted of abduction with consent[19]. It is true that, pursuant to the third paragraph of Article 344 of the Revised Penal Code,

"x x x the offenses of seduction, abduction, rape or acts of lasciviousness, shall not be prosecuted except upon a complaint filed by the offended party or her parents, grandparents, or guardian, nor, in any case, if the offender has been expressly pardoned by the above-named persons, as the case may be".

This provision does not determine, however, the jurisdiction of our courts over the offenses therein enumerated. It could not affect said jurisdiction, because the same is governed by the Judiciary Act of 1948, not by the Revised Penal Code, which deals primarily with the definition of crimes and the factors pertinent to the punishment of the culprits. The complaint required in said Article 344 is merely a condition precedent to the exercise by the proper authorities of the power to prosecute the guilty parties. And such condition has been imposed "out of consideration for the offended woman and her family who might prefer to suffer the outrage in silence rather than go through with the scandal of a public trial." [20]

In the case at bar, the offended woman and her mother have negated such preference by filing the complaint adverted to above and going through the trials and tribulations concomitant with the proceedings in this case, before several courts, for the last ten (10) years. Petitioner says that the complaint was for forcible abduction, not abduction with consent; but, as already adverted to, the latter is included in the former. Referring particularly to the spirit of said provision of Article 344 of the Revised Penal Code, we believe that the assent of Ester Ulsano and her mother to undergo the scandal of a public trial for forcible abduction necessarily connotes, also, their willingness to face the scandal attendant to a public trial for abduction with consent.

The gist of petitioner's pretense is that there are some elements of the latter which are not included in the former, and, not alleged, according to him, in the complaint filed herein,[21] namely: 1) that the offended party is a virgin; and 2) that she is over 12 and under 18 years of age. The second element is clearly set forth in said complaint, which states that Ester Ulsano is "a minor x x x 17 years of age x x x", and, hence, over 12 and below 18 years of age.

As regards the first element, it is settled that the virginity mentioned in Article 343 of the Revised Penal Code,[22] as an essential ingredient of the crime of abduction with consent, should not be understood in its material sense and does not exclude the idea of abduction of a virtuous woman of good reputation[23] because the essence of the offense "is not the wrong done to the woman, but the outrage to the family and the alarm produced in it by the disappearance of one of its members." [24]

The complaint in the case at bar[25] alleges not only that Ester Ulsano is a minor 17 years of age, but also that petitioner "willfully, unlawfully and feloniously" took her "by force and violence x x x against her will and taking advantage of the absence of her mother" from their dwelling and carried "her to a secluded spot to gain carnal intercourse with the offended party against her will, using force, intimidation and violence, with lewd designs." This allegation implies that Ester is a minor living under patria protestas, and, hence, single, thus leading to the presumption that she is a virgin[26] apart from being virtuous and having a good reputation,[27] for, as former Chief Justice Moran has aptly put it, the presumption of innocence includes, also, that of morality and decency, and, as a consequence, of chastity.[28]

Wherefore, the decision appealed from is hereby affirmed, with costs against the petitioner Maximino Valdepeñas.

Bengzon, C.J., Bautista Angelo, Reyes, J.B.L., Dizon, Regala, Makalintal, and Bengzon, J.P., JJ., concur.

[1] Which was docketed as Criminal Case No. 195 of said court.

[2] On May 31, 1956.

[3] Reading: "The undersigned, upon complaint filed by the offended party Ester Ulsano, assisted by her mother Mrs. Consuelo Ulsano, before the Justice of the Peace Court of Piat, Cagayan, appearing on page 1 of the record of the case, forming an integral part of this information, accuses, haximino Valdepeñas, of the crime of Forcible Abduction with Rape, defined and penalized by Articles 342 and 335, of the Revised Penal Code, committed as follows:

"That on or about January 5, 1956, in the Municipality of Piat, Province of Cagayan, and within the jurisdiction of this Court, the said accused, friaximino Valdepeñas by means of force, did then and there wilfully, unlawfully and feloniously, abduct the complaining witness Ester Ulsano, a virgin over 12 years and under 18 years of age, taking her away against her will and with lewd design, and detaining her in a vacant house wherein the said accused Maximino Valdepeñas by means of force and intimidation, did then and there wilfully, unlawfully and feloniously, have sexual intercourse with the said complaining witness Ester Ulsano against her will.

"Contrary to law."

[4] And docketed as Criminal Case No. 1539 of said Court of First Instance.

[5] On December 3, 1956.

[6] To an indeterminate penalty of from ten (10) years and one (1) day of prision mayor to eighteen (18) years of reclusion temporal, with the corresponding accessory penalties, to indemnify the offended party in the sum of P500.00 to acknowledge and support the offspring, if any, and to pay the costs.

[7] On May 21, 1958, in CA-G.R. No. 1948-R thereof.

[8] By resolution dated September 20, 1958.

[9] Dated June 13, 1960 and promulgated on June 14, 1960.

[10] Dated May 21, 1958.

[11] In which it was docketed as CA-G.R. No. 01306-CR.

[12] On June 11, 1962.

[13] Of June 13, 1960.

[14] On July 2, 1962.

[15] By resolution of the Court of Appeals dated Nov. 23, 1962.

[16] Banco Español vs. Palanca, 37 Phil. 921; Infante vs. Toledo, 44 Phil. 834; Nilo vs. Romero, 111 Phil. 540,

[17] On June 11, 1962.

[18] Manila Railroad vs. Attorney General, 20 Phil. 523; Perkins vs. Roxas, 72 Phil. 514.

[19] U. S. vs. Mallari, 24 Phil., 366; U. S. vs. Asuncion, 31 Phil., 614; U. S. vs. Yumul, 34 Phil., 169; See, also, Macondray Co. vs. Yangtze Ins. Ass., 51 Phil., 789.

[20] Samilin vs. Court of First Instance of Pangasinan, 57 Phil. 298, 304.

[21] Although explicitly alleged in the information.

[22] Reading: "x x x The abduction of a virgin over twelve and under eighteen years of age, carried out with her consent and with lewd designs, shall be punished by the penalty of prisión correccional in its minimum and medium periods."

[23] U.S. vs. Casten, 34 Phil., 803, 811-812.

[24] U.S. vs. Alvarez, 1 Phil., 351; U. S. vs. Reyes, 20 Phil., 510; U.S. vs. Reyes, 28 Phil., 352.

[25] Reading: "x x x The undersigned ESTER ULSANO, complainant and offended party, being a minor of 17 years of age, duly assisted by her mother MRS. CONSUELG UL5ANO, both having been sworn to according to law, hereby declares: That she accuses MAXIMINO VALDEPEÑAS of the crime of FORCIBLE ABDUCTION WITH RAPE, committed as follows:

"That on or about the 5th day of January, 1956, in the Municipality of Piat, Province of Cagayan, Republic of the Philippines, and within the jurisdiction of this Court, the said accused, did, then and there willfully, unlawfully, and feloniously, take by force and with violence the body of the complainant and offended party against her will take advantage in the absence of her mother, use superior strength the same dwelling of the offended party and caryy her to a secluded spot to gain carnal intercourse with the offended party against her will, using force, intimidation and violence, with lewd de- signs.

"That the commission of the crime or felony charged, the aggravating circumstances of Noctornity, use superior strength and use of motor vehicle are present. "Contrary to law."

[26] U.S. vs. Alvarez, 1 Phil., 351 353-354.

[27] Section 5(a) Rule 131 of the Revised Rules of Court.

[28] Moran, pp. 28-29 1863 Edition, citing In Re Mathew's Estate, 47 N.E. 901; and Adong vs. Cheong Seng Gee, 43 Phil., 43.

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