

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. DAMASO PADERNAL, DEFENDANT AND APPELLANT.

G.R. No. 24667. February 23, 1926

Ponente: VILLAMOR, J.

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VILLAMOR, J.:

The appellant was sentenced by the Court of First Instance of Iloilo to the penalty of fourteen years, eight months, and one day reclusion temporal, to the accessories of the law and to pay the costs of the action, for the crime of rape, inasmuch as the accused, according to the complaint, on March 15, 1925, taking advantage of the occasion when Maria Belgera was alone, intentionally and criminally attacked her, throwing her to the floor, leaving her almost senseless, and lay with her against her will.

According to the prosecution, on the afternoon of March 15, 1925, the accused went up to Belgera's house in the barrio of Arak, municipality of Passi, Iloilo, and asked Maria Belgera where her husband was; and upon being informed that he was in town, the accused approached her and asked her to have sexual intercourse with him. The offended party refused, but the accused forcibly took hold of her arm and threw her on the floor, mounted her, and in spite of her resistance, succeeded in raping her. According to the offended party, while the accused was still upon her, the witnesses Alejandro Panila and Lope Palmares arrived.

Alejandro Panila testified having arrived at Belgera's house on the afternoon mentioned and saw the accused seated close to the offended party, buttoning his trousers, which were smeared with blood. He also saw that the offended party had fainted, with her chemise smeared with blood, and instead of pursuing the accused, who had jumped through the window and was running towards a bamboo grove, he gave his attention to the offended party.

The other witness, Lope Palmares, in turn, testified that from where he was standing on the ground he saw the offended party, through the door of the house, in the same position in which Alejandro Panila saw her, having seen the accused jump through the back window.

According to the witnesses for the defense, the following occurred in Belgera's house on the afternoon mentioned: A woman named Catalina Padernal came from the cockpit somewhat intoxicated and wanted to pass by Belgera's house in order to ask for something to chew, and just as she was about to go upstairs Lope Palmares gave her a push, the stairway falling on top of her. Catalina Padernal thereupon shouted for help and picked up a piece of wood and tried to beat the one who had hurt her. Maria Belgera, who was upstairs in the house, also shouted at the same time that Catalina Padernal was calling from below. This incident brought the people of the neighborhood to the scene and Maria Belgera, who had delivered five months before, suffered a hemorrhage from the shock. This is substantially the testimony of the witnesses Matea Deocadiz, Catalina Padernal, and Cayetano Dapiado. The latter testified that he lived in Belgera's house about March 15, 1925, and that on the day following the quarrel he overheard a conversation between the Belgeras to the effect that if they attributed the offended party's shock to Catalina Padernal who was intoxicated, the accused Damaso would not be involved in the affair; but if they

accused Damaso of the rape, then he might be punished. The same witness testified that on the afternoon of the incident Lope Palmares, Pablo Belgera, and his wife Maria Belgera and a younger sister of the latter were in a house.

According to this witness, the following day Alejandro Panila, who appears to be a quack, came to the offended party's house and while there he discussed with the Belgeras the question as to the action that must be taken in order to insure the conviction of Damaso, Panila believing that if they prosecuted him for drunkenness only, it would result in nothing for either party, but if they said that Damaso fought with Maria, he might be convicted.

There are two other witnesses for the defense who merit special attention. We refer to Jose Paloma, president of the municipality of Passi. This witness states that on the night of March 15, 1925, Pablo Belgera, the offended party's husband, in company with Lope Palmares came to his house in order to consult him as to what he must do, for on that afternoon an intoxicated woman wanted to come upstairs in their house and Lope Palmares pushed her and she fell to the floor. As the intoxicated woman might cause trouble, Pablo's wife become frightened and later had a hemorrhage, as she had just delivered. The president advised him to find some person who would take care of his wife, as there was no nurse available at night in the municipality. The president states that Pablo Belgera said nothing to him that night about the supposed raping of his wife. The following day the said municipal president sent a policeman to the place to investigate the cause of the disturbance and the sergeant of police reported that there really had been some trouble there. Pablo Belgera and Lope Palmares tried to discredit the municipal president stating, in rebuttal, that they had informed the president of the rape on the night of March 15, 1925.

The other witness to whom we refer is Diego Jimenez, a Spaniard residing in that barrio, in charge of the hacienda where Pablo Belgera works. The testimony of this witness has exceptional weight inasmuch as he has no relations with the persons involved in this affair, nor is he interested in the outcome of the same. This witness testifies that on the afternoon in question he came from the cockpit with Cristeto Padernal and Catalina Padernal, the latter being somewhat intoxicated. The witness left them in front of his house while Catalina Padernal told him that she wanted to pass by the offended party's house in order to ask for something to chew. Hardly had the witness arrived at his house when he heard shouts for help, ran and found Catalina close to Pablo Belgera's house with her mouth bleeding. He asked her what had happened and she told him that Lope Palmares had kicked her. He then questioned Lope Palmares and the latter replied that Catalina had fallen downstairs because she was intoxicated. The witness tried to pacify Catalina and convince her that she should return to her house in Arak. The following day Pablo Belgera went to Jimenez's house to inform his master that he would not be able to work because his wife was sick and had had a hemorrhage, and in speaking about the affair of the day before, the witness suggested that he make an amicable settlement of the trouble and appears to have succeeded to some extent in the way of making the people of Arak pay Pablo the 67 centavos which he earned daily, and the value of the milk for Pablo Belgera's baby.

The accused denied having gone up into the offended party's house on the afternoon in question and raped her, or having been in the offended party's house on that date, because he was fishing in the river in company with Felipe Palma. The latter confirms the testimony of the accused saying that they were fishing in the river and returned to their homes very late that night.

In view of the evidence, the trial court gave no credit to the witnesses for the defense and found the accused guilty of the crime of rape, imposing upon him the penalty above indicated.

We have carefully considered the evidence introduced in this case and find no good reason for the absolute rejection of the testimony presented in defense of the accused. The two witnesses, Dapiado and Jimenez, testify

that Pablo Belgera, the offended party's husband, was in his house on the afternoon in question, which testimony makes the perpetration of the criminal act improbable. Neither do we find any reasonable ground for discrediting the testimony of the president of the municipality of Passi.

It appears certain to us that the offended party had delivered five months before, that she had a hemorrhage, which was due, according to the defense, by the shock cause by the disturbance made by the intoxicated Gatalina near the offended party's house. Catalina tried to go upstairs in Belgera's house and the witness Palmares pushed the stairway of the house which fell on Catalina, injuring her lips, which gave rise to the disturbance that afternoon.

The only acceptable theory in order to reconcile the statements of the witnesses for the prosecution and the defense would be that the rape took place before the incident between Catalina and Palmares. But the record does not contain any positive data as to the time of the commission of the crime; and, supposing that the rape preceded the said incident, we have the testimony of Matea Deocadiz, according to which, while Catalina was shouting from below on account of having been pushed downstairs by Palmares, the offended party was shouting upstairs, which indicates that she had not fainted as a result of being raped, as stated by Panila. And, if we take into consideration the testimony of Diego Jimenez and the municipal president above cited, we cannot say with certainty from the evidence that the guilt of the accused was proven beyond a reasonable doubt.

We are of the opinion that the accused is entitled to the benefit of the doubt; and therefore the judgment appealed must be, as it is, hereby reversed, and the appellant Damaso Padernal acquitted with the costs de oficio. So ordered.

Avancena, C. J., Johnson, Malcolm, Ostrand, Johns, Romualdez, and Villa-Real, JJ., concur.

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