

## THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. JOSE MATELA (ALIAS JOTE), DEFENDANT AND APPELLANT.

*G.R. No. 37736. November 13, 1933*

Ponente: STREET, J.

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### STREET, J.:

This appeal has been brought to reverse a judgment of the Court of First Instance of Leyte, finding the appellant, Jose Matela, guilty of the offense of rape with homicide and sentencing him to undergo imprisonment for twenty years, reclusion temporal, with the accessories prescribed by law, and requiring him to indemnify the heirs of Rosario So Puaco in the amount of one thousand pesos, and to pay the costs.

The soul stands transfixed in contemplating the horror of this crime. The victim was an innocent girl of sixteen years, who lived with her maternal grandmother, Gregoria Agosto, just out of the limits of the poblacion of the municipality of Alangalang, Leyte. Not far away in the same municipality, but in the poblacion of Alangalang, lived the family of the appellant, Jose Matela, whose wife, Emilia Alcober, was an aunt of Rosario. On the morning of November 29, 1931, Emilia Alcober went over to visit at the house of Gregoria Agosto, who was her own mother. Upon departing for her own home, Emilia asked Rosario to go along to carry Emilia's baby. This Rosario did. Having arrived at Matela's house, Rosario there took luncheon and passed the siesta.

The appellant, Jose Matela, had that day received a message from an uncle, Cornelio Morales, asking him to come out to the house of Morales to harvest maize. This invitation Matela accepted; and at about two o'clock, or sooner, he set out for Morales's place taking Rosario along with him. This place is distant two hours by foot from the poblacion of Alangalang. On the way Matela and Rosario were joined by other three persons bound on the same mission, and the five proceeded together on their way. Arriving at their destination, the visitors went into the field and began gathering the corn. It was noticed by some of those present that Jose Matela was very attentive to Rosario during the afternoon, remaining constantly close by her side. As the afternoon wore off, Matela, pretending to have some occasion for early departure, took Rosario and left, notwithstanding the fact that some of the others insisted that Matela should wait and all return together. But the appellant left, carrying a sack of corn, while Rosario carried camansi fruit in a bundle. The two reached Alangalang, and were seen on Blumentritt Street about nightfall. Nothing more was ever seen of Rosario So Puaco alive, to be reported by any living witness. But at about eight o'clock Jose Matela returned alone to his home. On arriving he threw into a corner the sack of corn in ear which he had brought, and asked immediately for a coconut shell with which to dip up water. As the appellant received this utensil, Remedios So Puaco, a 14-year-old sister of Rosario, stood near him with a lamp in her hand, and she took note of the fact that his hands were then stained with blood. Meanwhile Emilia Alcober asked where Rosario was, and the appellant replied that she had gone home to her grandmother's house, by taking a short cut from Blumentritt Street.

It appears that Rosario was an exceedingly timid girl and especially afraid in the dark, so much so that she could

not be induced willingly to go fifty yards in the dark without some one with her. Knowing this fact and possibly divining that something was wrong, Emilia at once sent Jose So Puaco, a young brother of Rosario, to ascertain whether the girl had arrived at her grandmother's house, directing him on return to bring some of the camansi fruit which Rosario had brought from the country. When Jose arrived, he learned from his grandmother that Rosario had not been there, and the boy at once went back to Jose Matela's house, accompanied by Gregoria Agosto. The alarm was then given among the neighbors that Rosario was lost, and many friends turned out to search for her in Alangalang. It was noticed that the appellant did not go with the others on this search, but he went alone appearing nervous and worried; and he returned from the search sooner than the others.

Meanwhile what had become of Rosario? The evidence reveals her fate only too certainly. As she arrived in Alangalang in company with her uncle, the appellant Jose Matela, he took her aside into a clump of shrubbery and raped and murdered her by strangulation. The girl evidently resisted to the limit of her strength. Her body, when found the next morning, contained numerous bruises in various places. The face was stained with blood issuing from the nose, and on the chin there was a horizontal wound with irregular borders one and a half inches long, an inch wide, and a half inch deep. This wound reached the bone. The upper part of the chest was swollen and the skin blue. The genital organ showed clearly that the crime of rape had been consummated. The external parts of the organ were scratched and torn, and the hymen broken. Death had been caused by choking.

On the other hand, the extent of the resistance made by the unfortunate girl appeared in the numerous scratches made by her hands and finger nails on the body of the appellant as she writhed under his superior strength. Having accomplished his purpose, the appellant left the girl dead on the scene of the crime and proceeded to his home, as already stated. We have already mentioned the fruitless search that was made for the girl that night, but another incident is revealed by Alipio Villamor, one of Matela's neighbors. This witness had occasion to arise at about ten o'clock and go out. Passing the house of Matela he overheard Emilia Alcober saying to her husband, "For the sake of God, Jose, tell where Rosario is." Jose replied, "Shut up, wench (h. de p.), or I will include you in the slaughter." Attracted by the unusual tenor of these words, Villamor approached close to the house and overheard the mother of Jose address to him these words, "For God's sake, Jose, tell us at once where Rosario is, (so that) if you have killed her, her body may be found and putrefaction prevented." To this Jose replied, "What am I to do, mother? Rosario is already dead."

After this Villamor, evidently deeply impressed, went on to his own house, where he found it impossible to sleep. Before long he went out again and, as he passed up the road, he saw the appellant going in the direction of Blumentritt Street, but he soon turned off and crossed a small stream, entering an area covered by shrubbery. A few moments later the witness, standing at the side of the path, saw Jose Matela emerge, carrying under his right arm a bulky object which the witness took to be the body of the dead girl. The witness was frightened and did not accost the appellant, and as the latter recrossed the branch, the witness went home. Early the next morning the body of Rosario was found on the side of a path or cross-road not far from where Villamor had seen the appellant bringing the body out.

We incline to credit the testimony of Alipio Villamor, for it fits in well with the other incidents in the case. The body of the girl was evidently not in the place where it was found when search was made on the night of her disappearance, because several persons had passed along that way in the course of the search, and as it was a moonlight night, if the body had then been there, it would probably have been found.

A careful review of the evidence leaves no doubt in our mind that the appellant is guilty. The crime committed consisted of the double offenses of rape and homicide. In connection with the crime of rape is to be estimated the aggravating circumstance of abuse of confidence, due to the fact that the victim was a niece of the appellant's wife, was a frequent visitor in his home, and on the afternoon in question was confided to his care. In connection

with the homicide is to be estimated the aggravating circumstance of abuse of superior strength. No mitigating circumstance was present; and we are of the opinion that the appellant merits the extreme limit of the penalty provided by law for each of the two crimes committed, namely, twenty years, reclusion temporal.

We note that the rape and homicide are here treated as separate offenses, because, while it is certain that both crimes were committed, there is nothing before us to show that they were so connected as to constitute a complex crime under article 48 of the Revised Penal Code. The appellant therefore receives separate sentences for two distinct offenses.

It being understood, therefore, that the appellant is sentenced to twenty years, reclusion temporal, for the crime of rape, and to a further period of twenty years for the crime of homicide, the judgment appealed from is in other respects affirmed. So ordered, with costs against the appellant.

Avanceña, C. J., Abad Santos, Vickers, and Butte, JJ., concur.

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