

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. MAXIMINO ARIARTE, DEFENDANT AND APPELLANT.

G. R. No. 40786. August 10, 1934

Ponente: HULL, J.

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HULL, J.:

The accused was convicted in the Court of First Instance of Agusan of the crime of rape.

We have had the benefit of a carefully prepared brief by the attorney de oficio as well as oral arguments by the attorney de oficio and the representative of the Solicitor-General.

It is an undisputed fact that on the afternoon of September 25, 1932, the defendant had carnal intercourse with the offended party. The prosecution claims that the act was committed through violence and intimidation, while the appellant contends that it was by consent. In the ultimate analysis, conviction, if sustained, must rest upon the uncorroborated testimony of the offended party. It is true that at the trial she presented a dress which was torn and which she claims she was wearing at the time of the act, but appellant denies that it was the dress that was worn at the time. There is no proof outside of the testimony of the offended party that the dress was in the same condition that afternoon as it was when it was presented to the court.

The offended party is a woman who has been married five years and presumably of a normal health and robustness. She admits that just before the attack she was armed with a bolo, but claims that she threw it away through fear.

Her account of the actual occurrence furnishes few details by which her story can be tested. In one breath she speaks of resistance and struggles, in the next that her resistance was overcome by threats and fear. In another place she states that the threat consisted of saying he would wound her with a bolo.

It is the theory of the prosecution that that evening she complained and related the details of the crime to the older brother of her husband. There are some conflicting proofs as to what took place at the house of her brother-in-law that evening. No real act was taken by the offended party or her relatives in making a formal complaint to the authorities for five days. According to the evidence there was no mark of violence, bruise or scratch on the body, face or hands of the offended party or of the assailant.

It is evident that the parties met that afternoon by agreement; that the elder brother was spying upon the actions of the accused; that a sister-in-law was sent to find the offended party that afternoon but search for her was apparently without success. A deafmute who accompanied the offended party to the field and was working there just prior to the alleged assault disappears from the picture without a word of explanation. The accused was a married man apparently living with his wife.

It is true that a conviction can be sustained on the uncorroborated testimony of the offended party. But it should never be done unless the story of the offended party is impeccable and rings true throughout. After a close and painstaking review of the evidence, it is impossible for us to say that the guilt of the accused has been proven

beyond a reasonable doubt.

Therefore, the judgment appealed from must be reversed and the accused discharged. So ordered, with costs de oficio.

Street, Abad Santos, Vickers, and Diaz, JJ., concur.

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