

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. CASTOR DE GUZMAN ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 47228. June 17, 1940

Ponente: LAUREL, J.

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LAUREL, J.:

The appellants, Castor de Guzman, Prudencio de Guzman and Fernando Pifigul, jointly with Mateo Culala, Galacio Suba, Lorenzo Mereao, Salustiano Fernandez, Ruperto Lizarte, Josel Manliclic and Fermin Lescano, were charged in the Court of First Instance of Pampanga with the crime of robbery in band with rape alleged to have been committed on or about October 7, 1938 in the municipality of Bacolor, Pampanga. After trial the Court of First Instance of Pampanga found the appellants guilty of the aforesaid crime and sentenced each to undergo imprisonment for an indeterminate period ranging from ten years prison mayor to fourteen years, eight months and one day of reclusion temporal to indemnify Julia Lacsamana in the sum of P500, for the commission of rape, and Valentin Bungca and Julia Lacsamana in the sum of S78, the value of the stolen articles, and to pay the costs proportionately. The other defendants were acquitted.

Counsel for appellants Castor de Guzman and Fernando Pifigul contends that the trial Court erred in finding the latter guilty beyond a reasonable doubt of the crime of robbery in band with rape and in imposing upon them the penalty above stated, the court being without jurisdiction of the crime, charged by reason of the fact that the crime was not prosecuted upon a complaint filed by the offended party. Counsel de oficio, appointed for appellant prudencio de Guzman, admits the "correctness of the appealed judgment so far as concerns appellants Castor de Guzman and Prudencio de Guzman, but is of the opinion at the participation of appellant Fernando Pifigul has not been satisfactorily established by the evidence. that he was not conclusively identified, and that his conviction rests upon the uncorroborated testimony of the offended party.

The evidence shows that while the spouses Valentin Bungca and Julia Lacsamana and their three small children were sleeping on the night of October 7, 1938 in their house in barrio Malibualu, municipality of Bacolor, Pampanga, Julia Lacsamana was awakened by the noise produced by the opening of their door. Finding the unexpected presence of three men armed with bolos and canes and hearing the detonation of a gun discharge in the neighborhood, she woke up her husband, Valentin Bungca, but before the latter could get on his feet he was pinned to the floor by one of the intruders and ordered to remain in a lying position face downward. Whereupon the three wrapped Valentin's head in a blanket and tied his hands together. At this juncture, two more men, one armed with a bolo and the other with a cane, appeared on the scene and, as Julia Lacsamana was then shouting, they warned her that they would kill her if she did not stop and forthwith they asked for her key. Upon Julia's refusal to deliver the keys, they made a search in the room and with the help of their flashlights they succeeded in locating one hanging on a door with which they opened a wardrobe belonging to Valentin Bungca and Julia Lacsamana. The articles taken away from the wardrobe, including cash in the sum of \$15, had a total value of S75. No sooner had this act of robbery been accomplished than three of the intruders pulled Julia away to the kitchen, pressed her throat when she called for help, and threatened her with death if she did not let them have

sexual intercourse with her. As she struggled and offered resistance, one of the men, later identified as Castor de Guzman, delivered a punch to her stomach which caused her to be in a sitting position. Whereupon she was stretched on the floor, face upward and while others held her hands and feet, Salustiano Fernandez raised her skirt and had sexual intercourse with her. Successively, Castor de Guzman, Prudencio de Guzman, Fernando Pingul, Mateo Culaia, Fermin Lescano, Tereso Mercado and Jose Manlielie followed, taking turns in holding Julia down and in watching her helpless husband. Their abominable mission fulfilled, all the malefactors left after which Julia Lacaamana, succeeded in liberating her husband, Valentin Dungca who thereupon called for help. The chief of police and the mayor of Bacolor came to the scene of the crime and conducted the necessary investigation

Appellants claim that their identity has not been sufficiently established, much less their participation in the crime of which they were convicted. We have 3 G.R. No. 47228. Carefully examined the record and are convinced that the appellants were among those who perpetrated the robbery against Valentin Bungca and -Julia Lacsamana and who mercilessly raped Julie Appellants "were well known to Julia and the latter identified them. Julia, also, had sufficient time to recognise their features while they were successively abusing her While the appellants sought the darkness of the night detection on the part of the offended woman was facilitated by the moonlight then piercing the house As regards the appellants Castor de Guzman and Prudencio de Guzmans there is furthermore the confirming testimony of Elena Sevilla} who has not been shown to have any motive whatsoever for testifying falsely against them and in whose house Prudencio de Guzman was at the time living, that, attracted by the noise in Julia's Housej she saw these two appellants emerge therefrom Prudencio de Guzman, lastly, has against him his own damaging affidavit (Exhibits E and E-1") „ All the three appellants have set up the that they were sleeping in their respective houses on the night in question, Castor de Guzman and Fernando Pingul being corroborated by their respective wives Prudencio de Guzman is contradicted by Elena Sevilla, owner of the house where he was living. The defense of alibi is always received with caution (People v. Badilla, 48 Phil, 718o) It should be proved by probable evidence which reasonably satisfies the court of the truth of such defense. (U. S. v. Olais, 3G Phil. 828i U. S. v. Oxiles, 29 Phil, 587; People v Limbo, 49 Phil. 94.) Alibis cannot stand and prevail ever clear and convincing testimonies of credible witnesses (People V. De Asia et al., G, E, No. 4286S, pcciii, April 17, 1936, citing People v. Cabantufe, 48 Phil. 484-4.86} People v. Palamos, 49 Philo 601, 604-5 People s Medina, 59 Phil. 3305 D. S. v. Garcia, 26 Phil 289), and this is true in the present case.

As the crime of robbery with rape is specially define in paragraph 2 of article 294 of the Revised Penal Code, not as two distinct, offenses but as an indivisible complex crime, and penalized with a single penalty, there is consequently no force in the argument that the present prosecution should have been commenced upon a complaint signed and filed by the offended party, Julia Lacsamana, victim of the rape.

The offense committed by the appellants falls under paragraph 2 of article 294 of the Revised Penal Code which fixes, the penalty of reclusion temporal in its medium period to reclusion perpetua There being present in this case the aggravating circumstances of nocturnity and that the crime was committed by a band and in the dwelling of the offended parties, without any mitigating circumstance, the appropriate penalty is reclusion perpetua which is hereby imposed upon the appellants.

As thus modified, the appealed judgment is affirmed, with costs of both Instances proportionately against the appellants. So ordered.

Avanceña, C.J., Imperial, Diaz, Concepcion, and Moran, JJ., concur.

Judgment modified.

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