

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PONCIANO ROQUE, ACCUSED-APPELLANT.

G.R. No. 53470. June 26, 1981

Ponente: AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-53470/>

AQUINO, J.:

Ponciano Roque appealed from the amended decision of Judge Emilio V. Salas of the Court of First Instance of Rizal, Pasig Branch I, convicting him of rape and sentencing him to an indeterminate penalty ranging from twelve years and one day of reclusion temporal to reclusion perpetua and to pay an indemnity of ten thousand pesos to the victim, Ligaya Alvarez (Criminal Case No. 24106).

Roque withdrew his appeal in his manifestation of November 23, 1980. This Court denied the withdrawal because the obviously erroneous penalty imposed by Judge Salas can be corrected only by resolving Roque's appeal. (See resolution of December 17, 1980, p. 66, Rollo.)

The evidence of the prosecution shows that at about nine o'clock in the morning of October 13, 1976, while Ligaya Alvarez, twelve years old (born on December 7, 1963 and finished Grade three), was washing clothes in a creek in Sitio Tabak, Barrio San Rafael, Montalban, Rizal, Ponciano Roque, who was separated from his wife and was Ligaya's neighbor, approached her, invited her to go to a certain place and asked her whether she loved him.

When she refused to go with Roque, he held her left arm, pulled her to a standing position, and, while she resisted by boxing him on the shoulder, dragged her along a distance of about fifteen meters to a place called Tibag and at the same time kissed her, covered her mouth and told her that he loved her.

Roque boxed Ligaya two times on the left jaw. She fell on the grass. He removed her panty and placed himself on top of her. She lost consciousness. Roque had sexual intercourse with her. When she regained consciousness, she felt weak and weary (*nanghihina at nanglambot*). She asked him why he ravished her. He did not make any comment.

Roque warned Ligaya that if she squealed, he would cut her neck. Because of fright, Ligaya did not inform her parents immediately of what Roque had done to her. She divulged the outrage when her father inquired from her why she was "*matamlay*" or without pep.

Her parents reported the incident to the police. Doctor Dario Gajardo, a medico-legal officer of the Constabulary crime laboratory, examined Ligaya four days after the incident and found that she had healed abrasions on her left arm; that she had a gaping labia majora and a hypertrophied labia minora, which on being separated, disclosed "deep, healed lacerations" on her hymen at the three, six and nine o'clock positions.

Ligaya's narrow vaginal canal had "slightly shallowed rugosities". Her vaginal and peri-urethral smears were negative for diplococci and spermatozoa. The doctor concluded that Ligaya was no longer a virgin. He remarked that his findings were compatible with the fact that she sustained injuries three to five days before the medical examination (Exh. B).

Ligaya filed with the trial court a complaint for rape dated October 5, 1977. It was sworn to before the fiscal who conducted the preliminary investigation.

In her affidavit before the municipal mayor dated October 17, 1976, she recounted that the rape was committed in this manner:

"Samantalang ako po noon ay naglalaba sa sapa na malapit sa aming bahay, ay akin na lamang na napansin na si Ponciano Roque ay lumapit sa akin at ako po ay kanyang niyaya na hindi ko po alam kung saan at ng ako po ay tumanggi ay ako po ay kanyang hinawakan sa aking kaliwang baraso at ako po ay binatak niya, pinilit, pinuwersa na madala doon sa tibag noong karsada na maraming talahib.

"At ng nahandoon na po kami ay ako po ay kanyang pinilit na ihiga sa talahiban at ng ako po ay maihiga niya, ay ako po ay kanyang pinatungan at pagkatapos po ay ako po ay kanyang pinaghahalikan sa pisngi at labi at iyon pong aking dalawang susu ay kanyang nilamas at pagkatapos po noon ay naramdaman ko po na lamang na iyong pong aking salawal ay kanyang binaltak hanggang sa maalís niya at pagkatapos po ay aking napuna na iyong kanyang short na suot ay ibinaba niya iyong zeeper at iyong kan-yang are (utin) ay kanyang inilabas at pinilit na maipasok niya sa aking are (puki)." (Exh. A).

Ligaya denied that she had been having an illicit sexual relationship with Ponciano for a long time. She said: "Hindi po totoo iyon at wala po kaming relasyon ni Ponciano Roque at noon po lamang niya ginawa sa akin iyon na ako ay kanyang asawahin." (Exh. A).

At the trial, Roque, 29, married with three children, testified that since April, 1976 (about six months before the incident) he had sexual intercourse with Ligaya about fifty times with her consent.

After their sexual intercourse on October 13, 1976, they allegedly agreed to live together and to tell her father of their love for each other. Roque, accompanied by his father, sister-in-law, brother-in-law, conferred with Ligaya's father and asked for her hand (pamanhikan). Bienvenido Alvarez, Ligaya's father, told them to come back on Saturday because his wife was not in the house.

Roque said that he was not able to return to Ligaya's house on Saturday because his father was ill. The next day he learned that he had been accused of rape.

Jose Roque, the father of the accused, and alleged kumpadre of Ligaya's father, testified that one Sunday in October, 1976, he talked with Bienvenido Alvarez and they allegedly agreed that the accused and Ligaya could live together as husband and wife and that, after the lapse of a few days, they could get married.

The trial court regarded as improbable the version of the accused that he and Ligaya were lovers. It reasoned out that if they had been having frequent sexual intercourse, then they would have just lived together without bothering to secure the consent of Ligaya's parents since the accused should know that he could not possibly marry Ligaya because he was already married.

The condition of Ligaya's genital organ belied the claim of the accused that he had frequent sexual congress with Ligaya. There was an indication of resistance when the doctor inserted his finger in her vaginal canal.

The trial court further observed that Ligaya's act of charging the accused with rape and her having undergone the trouble and shame of a public trial signified that she never consented to have carnal intercourse with the accused.

The accused contends in this appeal that the trial court made erroneous findings and conclusions, that the prosecution's evidence shows that the complainant girl had voluntary sexual intercourse with the accused and that his guilt was not proven beyond reasonable doubt.

Appellant's counsel meticulously refuted the trial court's remarks on the improbability of his version and cited

eight instances wherein Ligaya committed prevarications and inconsistencies or contradictions.

All those contentions were adequately answered in the Solicitor General's brief. It should be noted that the alleged rape was perpetrated when the complaining girl was twelve years old and that she testified more than eighteen months after the incident. She was rigorously grilled in the course of an intensive and lengthy cross-examination in three sessions.

It was inevitable that there would be discrepancies in her testimony, especially considering her immaturity, inexperience and low educational attainment. Those discrepancies are not sufficient to cast reasonable doubt on the guilt of the accused.

Sexual intercourse with a twelve-year-old girl is not far removed from voluntary carnal intercourse with an eleven-year-old girl which is regarded as statutory rape.

Judge Salas erred in imposing the indeterminate sentence of twelve years and one day of reclusion temporal to reclusion perpetua. The indeterminate sentence covers only divisible penalties and does not include an indivisible penalty.

The trial court's original sentence of life imprisonment is correct. It should be designated as reclusion perpetua. That is the penalty under article 335 of the Revised Penal Code, as amended, for simple rape, the crime committed in this case.

WHEREFORE, the judgment of conviction is affirmed but the penalty should be modified. The accused is hereby sentenced to reclusion perpetua. The indemnity of ten thousand pesos is affirmed. Costs de oficio.

SO ORDERED.

Barredo, (Chairman), Fernandez, Abad Santos, and De Castro, JJ., concur.

Fernandez, J., concur and designate to sit in the Second Division.

Concepcion, Jr., on leave.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.