

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JESUS SALDIVIA, ACCUSED-APPELLANT.

G.R. No. 55346. November 13, 1991

Ponente: DAVIDE, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-55346/>

DAVIDE, JR., J.:

Appellant was indicted for the crime of rape before Branch III the then Court of First Instance (now Regional Trial Court) of Aklan in an Information which was filed on 24 November 1973 and docketed as Criminal Case No. 394. The accusatory portion thereof reads:

"That on or about 3:00 o'clock in the afternoon of July 2, 1973, at Barrio Julita, Municipality Libacao, Province of Aklan, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by means of force and intimidation and against the will of the offended party, CONRADA Z. SABAY, did then and there willfully, unlawfully, and feloniously have sexual intercourse with the latter.

CONTRARY TO LAW."[1]

The Information is based on a sworn complaint filed by the offended party on 20 July 1973 before the then Municipal Trial Court of Libacao, Aklan.[2]

Upon arraignment on 20 March 1974, appellant entered a plea of not guilty.[3]

After trial on the merits, the lower court[4] promulgated on 19 October 1977 a decision[5] finding the appellant guilty beyond reasonable doubt of the crime charged and sentenced him:

"x x x to a penalty of TEN (10) YEAR of prision mayor to FOURTEEN (14) YEARS, EIGHT (8) MONTHS and ONE (1) DAY of reclusion temporal with costs against accused."

Appellant appealed from the said decision to the Court of Appeals[6] which docketed the case as C.A.-G.R. No. 21824-CR.

In his Brief[7] filed on 11 July 1978 with the Court of Appeals, appellant submitted the following errors:

"I. The lower court erred in finding the accused guilty beyond reasonable doubt of the crime of rape through the use of force.

II. The lower court erred in giving credence to the testimony of the offended party and her witnesses."

The People, in its Brief[8] filed by the Solicitor General on 13 December 1978, maintained that the guilt of the appellant for the crime charged was proved beyond reasonable doubt but asserted, however, that the trial court erred in applying the Indeterminate Sentence Law and in imposing upon appellant the penalty of 10 years of prision mayor to 14 years, 8 months and 1 day of reclusion temporal. Under Article 335 of the Revised Penal Code, simple rape is penalized by the single indivisible penalty of reclusion perpetua, which shall be applied regardless of any mitigating or aggravating circumstance that may have attended the commission of the

offense.[9] Accordingly, appellant cannot enjoy the benefits of the Indeterminate Sentence Law.[10]

It then recommended that the case be sent and certified to this Court for resolution pursuant to Sections 17 and 31 of the Judiciary Act, as amended, and Section 3, Rule 50 in relation to Section 17, Rule 124, and Section 1, Rule 125 of the Rules of Court.

On 18 September 1980, the Court of Appeals, per then Justice Emilio A. Gancayco,[11] who later became an Associate Justice of this Court, rendered judgment therein affirming the decision of the trial court convicting appellant for the crime of rape, but ruling, however, that the penalty to be imposed should be reclusion perpetua; and, conformably with the ruling in *People vs. Daniel*,[12] *People vs. Ramos*,[13] and *People vs. Traya*,[14] it did not enter the judgment but certified the case to this Court for review.

The action taken by the Court of Appeals is in compliance with the second paragraph, Section 13, Rule 124 of the Rules of Court which provides:

"Whenever the Court of Appeals should be of the opinion that the penalty of reclusion perpetua or higher should be imposed in a case, the court after discussion of the evidence and the law involved, shall render judgment imposing the penalty of reclusion perpetua or higher as the circumstances warrant, refrain from entering judgment and forthwith certify the case and elevate the entire record thereof to the Supreme Court for review. (12a)."

The full decision of the Court of Appeals (caption omitted) reads as follows:

"Gancayco, J.:

This is an appeal from a judgment of the Court of First Instance of Aklan convicting the accused-appellant of the crime of rape and imposing upon him the penalty of TEN YEARS (10) of prision mayor, to FOURTEEN (14) YEARS, EIGHT (8) MONTHS and ONE (1) DAY of reclusion temporal, with costs against the accused-appellant.

The assigned errors allegedly committed by the trial court are as follows:

I

THE LOWER COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE THROUGH THE USE OF FORCE.

II

THE LOWER COURT ERRED IN GIVING CREDENCE TO THE TESTIMONY OF THE OFFENDED PARTY AND HER WITNESSES.'

For the prosecution Conrada Sabay testified that on July 2, 1973, at about 3:00 o'clock in the afternoon while she was at home in Barrio Julita, Libacao, Aklan, lying down and feeding her baby, the appellant came to the house and asked her where husband Donato Sabay was and she informed him that he was not around. Appellant then went inside the room, sat on the bed and held the face of her baby. After this the appellant held her nipple and she brushed his arm aside. He held both of her shoulders and pinned her down placing himself on her top. The appellant unzipped his pants and had his penis out and he raised her dress (duster) up. She boxed him with her two hands and brushed him aside and she shouted, as he raised her dress, coupled with a blow on his body. As she shouted twice he took the pillow and covered her mouth and he did a push and pull movement. She struggled hard to stand up and the penis of the appellant was not able to penetrate her vagina because she was struggling although it was touching her vagina. The appellant knelt on her thigh and pinned down the pillow that was covering her mouth so she lost consciousness. And when she regained consciousness

the appellant was still doing the push and pull movement and his penis was able to penetrate her vagina. It was at that moment when Agripina Icutan arrived who asked (sic) her what happened to her. As Agripina was already climbing the ladder the appellant immediately stood up and jumped out of the window. Agripina went inside the room and she looked outside the window. She asked the complainant why she was crying and complainant told her that she was forced by the appellant. At 5:00 o'clock in the afternoon her husband arrived and then she told him that she was forced by the appellant. Her husband looked for the appellant around the house and when he failed to find the appellant he reported the matter to the Barrio Captain the following day (tsn., March 26, 1975, pp. 35-43).

The complainant is corroborated by Agripina Icutan who stated that at around 3:00 o'clock of July 2, 1973 while she was at the ricefield at Barrio Julita, about 50 arms stretch from the house of Conrada Sabay, she heard a baby crying so she went up to Sabay's house but upon reaching the stairs she saw Dioscoro Zaballero peeping at one side of the house out of the room. When the appellant jumped out she scolded him. She asked the complainant why she was crying and complainant told her that she was forced by the appellant by being made to lie down the (sic) floor with her face upward, her mouth was pinned with a pillow, and her two shoulders were pinned down on the floor. Complainant also told her that appellant was able to abuse her and she was even warned to keep quiet otherwise she will be in danger (tsn., June 27, 1974, pp. 2-5).

Dioscoro Zaballero also testified that on that fateful day, he went to the house of Conrada Sabay at Barrio Julita, when he heard then complainant crying and so he went to the corner of the house and peeped and he saw the appellant on top of the complainant who was continuously boxing him as he did the push and pull movement. Then Agripina Icutan, the mother-in-law of the complainant, arrived who (sic) asked Dioscoro why he was there and he told her to go up and see what happened. As Agripina went up, the appellant jumped out of the house through the window. He pulled up his trousers, and ran away towards his home down the stream which is over one (1) kilometer away. After this incident he went to the place where the nipa thatches are which he bought from Sabay which he tied and brought home (tsn., Feb. 4, 1975, pp. 2-5).

On the other hand the appellant testifying in his defense, stated that on July 2, 1973, at about 3:00 o'clock in the afternoon he went to the house of the complainant to inquire about the status of the mountain land he acquired from Donato Sabay, husband of the offended party. The land was verbally sold to him in 1967 for P200.00 after which he possessed the land. As there was no document covering the sale he went to their house to ask that it be documented. Therein he found the offended party and Agripina Icutan. He seated (sic) on the bench of the balcony of the house staying there for about half an hour to wait for Donato Sabay, as the offended party told him that her husband was at his work. He denied having sexual intercourse with the offended party much less that he was armed at the time. Before the incident, that is on June 27, 1973 he went to see Donato Sabay when he talked to him about the proposed instrument covering the sale of the land but Donato was not agreeable and was even angry. So he file (sic) a complaint with the Aklan PC Provincial Command on September 10, 1973 (Exh. 5). Dioscoro Zaballero testified against him because one Fiscal Arrieta mortgaged a land to him and he drove out Dioscoro Zaballero as overseer of said land because he was abusing it by cutting down the coconut trees and palms. The mortgage of the land is shown by letters he sent to the late Fiscal Arrieta (Exhs. 6 & 7). The consideration of the mortgage was P1,200.00 (tsn., Sept. 13, 1975, pp. 68-76).

Appellant argues that as the offended party failed to submit herself to medical examination thus the prosecution failed to establish the alleged sexual intercourse. Suffice it to state here that the offended party and her husband are simple and uneducated people who are not expected to know the evidentiary value of such a medical examination. (tsn., April 3, 1975, p. 60) As a matter of fact when they learned of the need for such an examination, on July 6, 1975 she went to the Aklan Provincial Hospital for the purpose, but due to the length of time that elapsed, no sign of sexual intercourse of (sic) force inflicted could be found (tsn., March 1, 1975, p. 21). Nevertheless such a medical examination of the victim is not indispensable in a prosecution for rape. In the case of *People v. Selfaison*, 1 SCRA 235, 242, it was held --

‘In fact, it is not even necessary that there be a medical examination of the victim in cases of rape. Whether or not the charge will prosper depends upon the evidence offered and so long as such evidence convinces the court, a conviction for rape is proper.’

The appellant's theory is that, even assuming he had sexual intercourse with the offended party, it was committed by appellant with her consent, citing paragraph 4 of the sworn statement of the offended party of July 20, 1973 before the Municipal Judge of Libacao, Aklan (Exh. 2). Far supporting the theory of appellant, said portion of the statement show (sic) that the appellant tried to force his attention on the offended party. As she resisted, he placed a pillow over her mouth and pressed her by the shoulder placing himself on her top by pressing down her two legs and inserting his penis in her vagina. Indeed, in the other portions of the same statement the offended party stated that the appellant even threatened her to keep quiet or something will happen to her and that she could not shout because her mouth was covered with a pillow (pars. 5 & 8, Exh. 2).

While it is true that at the time the appellant went inside the room of the offended party she was breast feeding her baby she must have put down the baby to resist the advances of the appellant who started to touch her nipple and not as surmised by the appellant that she voluntarily put aside her baby at the moment.

The appellant also pointed out alleged material contradictions between the testimony of the offended party and her sworn statement (Exh. 2). While in her sworn statement she never alleged she lost consciousness in her testimony she stated otherwise. The omission of this fact in her sworn statement does not detract from the fact that she actually lost consciousness. Suffice it to say that affidavits, being ex parte are almost always incomplete and often inaccurate (People v. Pacala, 58 SCRA 370; People v. Jovellano, 56 SCRA 156).

Another alleged contradiction is that while the complainant testified she shouted twice in her sworn statement she said she was not able to shout as her mouth was covered with a pillow there is no contradiction in this aspect. She testified that she shouted so the appellant covered her mouth with a pillow when (sic) obviously she could not shout anymore.

At any rate, the issue boils down to the matter of credibility of witnesses and the traditional rule is that it is the province of the trial court to determine the credibility of witnesses because of its superior advantage of observing the conduct and demeanor of the witnesses while testifying on the witness stand, and that on appeal its findings shall not be disturbed unless some fact or circumstance may have been overlooked that may otherwise affect the result of the case. We find no reason to disturb the findings of the trial court in this issue.

However, the penalty imposed by the court a quo is incorrect. Since the prosecution has established that the crime of rape has been committed then the imposable penalty shall be reclusion perpetua in accordance with Article 335 of the Revised Penal Code. Under Section 2, of Act 4103 as amended by Act 4225, known as the Indeterminate Sentence Law, the said law shall not apply to persons convicted of offenses punished by death or life imprisonment. Under Article 63 of the Revised Penal Code, it provided as follows:

‘ART. 63. Rules for the application of indivisible penalties. - In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless any mitigating or aggravating circumstances that may have attended the commission of the deed.’

Thus the penalty that should be imposed for the offense should be reclusion perpetua.

Since under Section 5, (2) paragraph d, Article 10 of the Constitution, the Supreme Court has exclusive jurisdiction to review all criminal cases where the penalty imposed is death or life imprisonment, although this Court must render a judgment imposing the capital penalty based on the evidence, it should not enter the judgment but certify the case to the Supreme Court for review (People V. Daniel, 86 SCRA 532-540; People v. Ramos, 88 SCRA 486; People v. Traya, 89 SCRA 274).

WHEREFORE, the judgment appealed from is hereby affirmed convicting the accused of the crime of rape

with the modification that the penalty imposed is reclusion perpetua, with costs against accused-appellant. However, this judgment shall not be entered and the records of this case are hereby elevated to the Honorable Supreme Court for review as a matter within its exclusive appellate jurisdiction.

SO ORDERED."[15]

The case was docketed in this Court as G.R. No. 55346 and was declared submitted for decision on 27 October 1980.[16] However, Atty. Alejandro S. Bonifacio, who entered his appearance as collaborating counsel for appellant, filed on 21 April 1981 a motion for leave to file a supplemental brief for the appellant,[17] which this Court granted on 13 May 1981.[18] In the Supplemental Brief,[19] which was filed on 19 May 1981, appellant attributes to the trial court the following errors:

"I. The lower court committed an error in finding rape (sic) was committed.

II. The lower court committed an error in not sustaining the defense claim of sufficient motive on the part of the complainant to concoct this charge.

III. The lower court committed an error in its finding that the guilt of the accused was proven beyond reasonable doubt."

In the review of rape cases, this Court has consistently adhered to the following established principles: a) an accusation of rape can be made with facility; it is difficult to prove, but more difficult for the person accused, though innocent, to disprove; b) in view of the intrinsic nature of the crime where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and c) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[20] Conviction for such a crime should not be sustained without clear and convincing proof of guilt.[21] For, as We said in the recent case of *People vs. Pido*,[22] under our democratic system of Government, a mere accusation is not synonymous with guilt.[23] Every accused is presumed innocent until the contrary is proved; that presumption is solemnly guaranteed by the Bill of Rights.[24] The contrary requires proof beyond reasonable doubt, or that degree of proof which produces a conviction in an unprejudiced mind;[25] short of this, it is not only the right of the accused to be freed; it is, even more, the constitutional duty of the court to acquit him.[26]

It is, nevertheless, an equally settled principle that when a woman says that she has been raped, she says in effect all that is necessary to show the rape had been committed and that if her testimony meets the test of credibility, the accused may be convicted on the basis thereof.[27] The reason for this is that a rape victim would not publicly disclose that she had been raped and would not undergo the troubles and humiliations of trial if her motive was not to bring to justice the person who had abused her.[28]

We have carefully examined the records in this case, painstakingly read the transcript of the stenographic notes of the testimonies of the witnesses of both the prosecution and the defense, and judiciously weighed the evidence. We are in full accord with the findings and conclusion of the Court of Appeals and, therefore, We do not hesitate to affirm its decision.

The evidence for the prosecution conclusively established all the elements of the crime of rape. Appellant had carnal knowledge of the complainant against her will and through force. As found by both the trial court and the Court of Appeals, sufficient force was used by appellant. The latter, however, contends that, granting for the sake of argument that there was force, it was not irresistible. The rule is well-settled that the force employed in rape need not be irresistible, as long as it is present and brings the desired result;[29] all that is necessary is that the force used by the accused is sufficient to consummate his evil purpose,[30] or that it was successfully used.[31] It

need not be so great or of such a character that it could not be repelled.[32]

In his main brief, appellant bases his assertion of absence of force on the mere failure of complainant to submit herself to a medical examination after the incident.[33] However, as correctly ruled by the Court of Appeals, a medical examination is not indispensable in a prosecution for rape.[34] We find no rule of evidence which imposes such a requirement. Were it so, grave and irreparable injustice would be inflicted upon hapless victims of the most detestable crime committed in remote areas of the country where no doctors who could conduct the medical examination immediately after the commission of the crime would be available. We are not likewise unmindful of the fact that it is with the utmost reluctance that a victim of rape submits herself to a medical examination immediately after the commission of the crime for, in many instances, what pre-occupies her mind is not the filing of a complaint but rather the fear of what the assailant would further inflict upon her by a revelation of her harrowing experience, or the embarrassment and humiliation that a trial would visit upon her as she publicly bares the ignominy undergone which would forever affect her honor and reputation.

The second assigned error in the Supplemental Brief is a delayed after-thought. In his main brief, appellant did not even intimate that the trial court erred in not sustaining the defense claim of sufficient motive on the part of the complainant to concoct the charge. The basis for this claim is the alleged land dispute between appellant and the family of the Sabays which, according to the former, "was more than sufficient motive on the part of the Sabays to concoct this charge." The testimony of the appellant both on direct examination[35] and on cross-examination[36] fails even to remotely suggest such a conclusion. Moreover, as correctly ruled by the trial court:

"x x x While the Court finds that there exists bad blood between the accused and Donato Sabay, to the mind of the Court such a circumstance could not give rise to a fabrication of the charge of rape in which the person of the offended party, her honor and good name would be subject to ridicule and contempt by the people who might hear her having been ravished by another man. And much more, a husband in his right senses would hardly allow that to happen to his wife.

The differences existing between the accused and Donato Sabay was (sic) nevertheless settled at Camp Martelino by the Philippine Constabulary authorities to (sic) whom the accused, the records show, had filed a complaint against Donato Sabay after a complaint of rape was filed against the accused. Donato Sabay had paid the accused, it was a pure indebtedness."

The suggestion of appellant that complainant was used by her husband to exact vengeance on appellant is entirely unacceptable, not only because it is pure speculation, but also because it is so unnatural. It makes a mockery of the sanctity of the relationship of husband and wife in an inviolable social institution, the Filipino family, and of the traditional high regard and respect the Filipino male has for his wife.

Finally, and in relation to the third assigned error in the Supplemental Brief, the testimonies of the prosecution witnesses Dioscoro Zaballero and Agrifina Icutan were not indispensable to prove the commission of the crime of rape in this case. In short, their testimonies may even be disregarded, for the testimony of the complainant is sufficient enough to produce conviction in an unprejudiced mind.

We finally rule that the award of moral damages, which neither the trial court nor the Court of Appeals granted, is in order. Rape necessarily brings to the victim mental anguish, fright, serious anxiety, besmirched reputation, moral shock, and social humiliation. Accordingly, We award to the complainant the sum of P30,000.00 as moral damages.

WHEREFORE, judgment is hereby rendered AFFIRMING the decision of the Court of Appeals in C.A.-G.R. No. 21824-CR which finds the appellant JESUS SALDIVIA guilty of the crime of Rape and imposes upon him the

penalty of reclusion perpetua, with the modification that he is further ordered to pay to the offended party, CONRADA SABAY, the sum of P30,000.00 as moral damages.

Costs against the appellant.

IT IS SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Bidin, and Romero, JJ., concur.

[1] Original records, 38.

[2] Original Records, 2.

[3] Id., 64.

[4] Per Judge Gerardo M. Pepito.

[5] Loc. cit., 370-382; Rollo, 30, et, seq.

[6] Id., 386; Id., 28.

[7] Id., 38, et seq.

[8] Rollo, 48, et seq.

[9] Article 63, Revised Penal Code.

[10] Section 2, Indeterminate Sentence Law.

[11] Concurred in by then Associate Justices Milagros A. German and Lino M. Patajo.

[12] 86 SCRA 532.

[13] 88 SCRA 486.

[14] 89 SCRA 274.

[15] Rollo, 55-60.

[16] Id., 62.

[17] Id., 67.

[18] Id., 69.

[19] Rollo, 71.

[20] People vs. Aldana, 175 SCRA 635; People vs. Capilitan, 182 SCRA 313; People vs. Alburo, 184 SCRA 655; People vs. De Guia, 185 SCRA 336; People vs. Leoparte, 187 SCRA 190; People vs. Giron, 192 SCRA 141.

[21] People vs. Geneveza, 169 SCRA 153; People vs. Abonada, 169 SCRA 530.

[22] G.R. No. 92427, 2 April 1991.

[23] People vs. Dramayo, 42 SCRA 60.

[24] Section 14 (2), Article III, 1987 Constitution.

[25] Section 2, Rule 133, Rules of Court.

[26] *People vs. Maisug*, 27 SCRA 742.

[27] *People vs. Avero*, 165 SCRA 130; *People vs. Cariño, Jr.*, 167 SCRA 285; *People vs. Pocolan*, 167 SCRA 176; *People vs. Abonada*, 169 SCRA 530; *People vs. Rosell*, 181 SCRA 679; *People vs. Barcelona*, 191 SCRA 100.

[28] *People vs. Muñoz*, 163 SCRA 730; *People vs. Viray*, 164 SCRA 135; *People vs. Robles*, 170 SCRA 557.

[29] *People vs. Bugtong*, 169 SCRA 797.

[30] *People vs. Arengo*, 181 SCRA 344; *People vs. Barcelona*, 191 SCRA 100.

[31] *People vs. Tumulad*, 188 SCRA 302; *People vs. Pocolan*, 167 SCRA 176.

[32] *People vs. Viray*, 164 SCRA 135; *People vs. Mercado*, 190 SCRA 452.

[33] Brief for Appellant, 3.

[34] Citing *People vs. Selfaison*, 1 SCRA 235. See also *People vs. Dolores*, 188 SCRA 660; *People vs. Camasis*, 189 SCRA 649.

[35] TSN - Peniano, 30 September 1975, 68-76.

[36] TSN - Fernando, 12 May 1976, 2-12.

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.