

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDUARDO TEAÑO Y RIMANDO, ACCUSED-APPELLANT.***G.R. No. 56356. March 12, 1984*

Ponente: RELOVA, J.

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Appeal from the judgment of the then Court of First Instance of Baguio and Benguet, Second Judicial District, Branch IV, by Eduardo Teaño y Rimando who was found guilty of the crime of Robbery with Rape and sentenced to suffer the penalty of reclusion perpetua and to indemnify Francisco Prats in the amount of P3,906.00 for the articles he lost and Mary Alabat in the sum of P960.00 for the money and watch she lost and P5,000.00 by way of moral damages, without subsidiary imprisonment in case of insolvency.

Prosecution evidence shows that complainant Mary Alabat was asleep in the bedroom of the house of the Prats couple located at No. 57 Bokawkan Road, Baguio City when at about two o'clock in the morning of April 11, 1976 she was awakened by a man wearing a sweater and a bonnet who entered her room. With her at the time was Joey, the seven year old son of Mr. and Mrs. Prats. Complainant asked the man who he was but the latter did not answer and instead, rushed at her and said: "Huwag kang maingay. Nasaan ang Mama na naghabol ng kapatid ko?" She answered that she did not know what he was talking about. The man told her that sometime in 1968 an American who lived in said house chased his brother who, as a consequence, became lame. She replied that they were new in the place. All the while, the man was holding a flashlight with his left hand and, thereafter, proceeded to search the room, closet and bathroom, and found that there was no other person aside from complainant and Joey. He then approached the complainant, focused his flashlight at her face and, pointing the knife at her, said: "Huwag kang maingay. Pagbigyan mo ako ngayon." She cried and trembled with fear as she saw the man take off his pants. She tried to get up from the bed but the man grabbed her blanket, folded her arms across her breast as he pointed a knife at the left side of her neck. Thereupon, he placed himself on top of her and warned her not to move or shout otherwise, he would kill her and the boy who was then sleeping in another bed. Afraid, she did not move or shout. He then lifted her skirt, removed her pantie and had carnal knowledge with her, after he had placed the flashlight on a small cabinet near the bed.

After appellant was through with his sexual act, he went to the closet and took from complainant's bag, a watch valued at P650.00 and cash amounting to P310.00. Before leaving the room, he warned her not to report the matter to anyone.

After the man had left the room, complainant hid Joey to the adjoining bathroom. Then she woke up the maids who were in the next room and told them about the intruder. Then they all hid themselves in the bathroom. Towards dawn they went to the room of Mr. and Mrs. Francisco Prats and with tears in her eyes, complainant, narrated to them what had happened to her. Mr. Prats called the police and when they arrived they went around the house and found that the intruder used a long ladder in entering the window at the second floor and removed seven pieces of the glass jalousies therein. The bag of complainant Mary Alabat was found at the living room, without the money and the watch. Also found missing in the house were (1) one TV set valued at P3,000.00; (2)

three bottles of Fundador worth P225.00; (3) four bottles of Marques del Riscal worth P292.00; (4) three bottles of Diamante wine worth P189.00; and (5) two floor pillows worth P100.00, all belonging to the Prats couple. The policemen lifted fingerprints from the ladder and from the different places in the house. In the afternoon, they interrogated Mary Alabat and, the following day, she gave a written statement. In the morning of April 13, 1976, the police invited Eduardo Teaño and his brother Alberto to the police station for investigation. Eduardo was sporting a long hair and a mustache, while his brother Alberto was observed to be limping when he walks. They called upon Mary Alabat who identified Eduardo as the one who sexually abused her in the morning of April 11, 1976.

On April 14, 1976, complainant was physically examined by Dr. Arturo G. Luczon, who, thereafter, issued the following medico-legal report, marked as Exhibit "C"

"Victim claims that the person in question allegedly entered victim's room and threatened to kill her and the child sleeping in the same room with the victim if she should not consent to his demands. The act was allegedly consummated once.

xxx xxx xxx

"INTERNAL EXAMINATION

Vagina - admits 2 fingers with accompanying pain.

Hymen - shows laceration at 3 o' clock, with hematoma; laceration at 6 o'clock position which bled on removal of the clot and hematoma at the 9 o'clock position.

Rugae on vaginal floor are still prominent.

Fourchette shows a continuation of the laceration at the 6 o'clock position.

Smears were taken for identification of sperm and gram negative organisms.'

RESULT: Negative for sperm cells. Smear reveals gram (+) rods and few pus cells and epithelial cells. (p. 448, Rec.)"

Defense evidence is alibi. On the night April 10, 1976 until the following morning of April 11, he was at home sleeping, together with the family of his elder brother Alberto, his mother Felicidad, and his younger brother Joseph. The bed where he slept was only about a foot away from that of his mother who was a light-sleeper and could have noticed if he had left the house that evening.

The defense also presented Jose P. Abaya, Jr., who, at the time, was a Patrolman of Baguio Police Department. When he was assigned to investigate the case, he promptly proceeded to the Prats' residence to question the complain-ant, Mary Alabat. In the presence of Cpl. Alejandre Layagan, complainant told them that she might not identify the offender even if presented to her again because at the time of the incident the man was focusing the flashlight directly at her face.

The other witness presented by the defense was Rosalina Veloso, a maid in the Prats' household. She testified that she was able to recognize the intruder but denied that it was herein appellant.

The question before the Court hinges on whether or not appellant Eduardo Teaño y Rimando has been sufficiently identified as the perpetrator of the crime charged.

The defense argued that with respect to the charge of robbery, the prosecution failed to present any evidence, direct or circumstantial, to link herein appellant. There were several items which were allegedly lost, namely:

One (1) 19-inch television set and eleven (11) bottles of liquor and wines, but not one single item was found in the possession of Teaño. The ladder allegedly used in entering through the window of the Prats residence and which was left at the scene of the crime was presented as evidence but the police failed to trace its ownership to appellant. The culprit was without gloves and handled various objects in the Prats' residence like complainant's bag, door knob, closet and other objects and from which as many as 36 fingerprints were lifted. Not one matched any of the specimen prints of the ten (10) fingers of herein accused. Hereunder is the testimony of Arturo Marasigan, Fingerprint Examiner, Philippine Constabulary Crime Laboratory, relative to his examination of the lifted latent prints (Exhibits "Q-1" to "Q-36") and the standard fingerprints of appellant Eduardo Teaño:

"Q The purpose of this examination is to find out whether there are fingerprints from the standard fingerprint charts which are the same or similar with any of the fingerprints in the latent and developed prints, is that correct?

A Yes, to establish identity or non-identity.

Q Did you find any similarity or the same fingerprints?

A No, sir.

Q Will you tell us why you did not or you were not able to find any similar characteristics between the standard fingerprint charts and the latent and developed fingerprints lifted from the scene of the crime?

A May I see my record. Because, I was not able to establish the coinciding base characteristics of both prints, questioned and standard prints. There are no coinciding on the latent with the standard fingerprints.

Q From Q-1, Q-5, Q-13, Q-14, Q-17, Q-20, Q-31, Q-32, Q-33 and Q-35?

A Yes, sir.

Q What is the reason for this?

A Well, because it does not tally with the characteristics appearing in the standard. The characteristics appearing in the latent prints were not identical with the standard fingerprints.

FISCAL BALAJADIA:

Q Would you say that the questioned prints which I have already enumerated are clear enough to be compared with the standard fingerprints?

A Yes.

Q However, questioned fingerprints Q-2, Q-3, Q-4, Q-6 and Q-12, inclusive; Q-15, Q-16, Q-21, to Q-30, inclusive; Q-34 to Q-36 are blurred and their impressions are fragmentary?

A Yes." (pp. 15-16, June 20, 1978 hearing)

With respect to the charge of rape, the defense claims that the prosecution relied completely on the identification of the appellant by Mary Alabat. The defense considered her identification as incredible because -

1. Mary Alabat identified appellant only after he was made to put on the sweater (Exhibit "M") which however did not belong to him because his sweater was a cardigan which opens in front down to the waist, unlike Exhibit "M" which has to be pulled down the head.
2. The identification of the accused in the police station was stage-managed. The police line-up was conducted in the afternoon of April 13 but before that appellant was presented to Mary Alabat in the Prats' residence and, in both instances, she could only say "kasing laki niyan."

3. It was impossible for complainant to have a good look at the face of the culprit considering that there was no light in the room of the complainant save a night lamp which was dim and the culprit, upon entering the room, directed the beam of his flashlight at her face. When she gave a statement to the police the following day, April 12, 1976, she made no mention of the culprit having a mustache which is the most noticeable feature of a man's face notwithstanding the fact that he did the sexual act for about ten (10) minutes (tsn., p. 9, November 15, 1976 hearing). It was only on April 13, 1976 after appellant, who sported a mustache, was shown to her twice that she gave another statement that the culprit was bemustached.

4. Fingerprints were lifted from complainant's bag and they did not match those of herein appellant's.

The trial court principally based its conviction of Eduarco Teaño upon the testimony of complainant Mary Alabat. We have gone over the records of the case and, unhappily, Our minds cannot rest easy on the evidence of guilt addressed against the appellant. The incident happened in the early morning of April 11, 1976 and at 8:45 in the morning of April 12, 1976, she gave a statement to the police wherein she described her assailant as one who "stands about 5'4", regular built, long hair, brown complexion, wearing light brown sweater and colored bonnet" (Exhibit "K"). She could not tell the color of his pants and shoes. However, at 6:00 in the evening of April 13, 1976, she gave another statement (Exhibit "L") pointing to appellant Eduardo Teaño as the one who raped her, giving the following description:

"First, his mustache.

Second, his sweater and bonnet which are similar with the sweater and bonnet he was wearing that night of the incident.

Third, I am particular of his voice because he had a chance to be talking and asking questions with me.

Fourth, that while he was doing the act of sexual intercourse with me, I smelt his hair and it smells the same pomade when I had the chance to smell his hair in the Baguio Police Station.

Fifth, that he looks exactly the same in appearance, size and features." (p. 444, Record).

On the basis of the two (2) statements given by complainant to the police can it be said that she made a clear and positive identification of the appellant? In her first statement she made no mention that appellant has a mustache which she could not have escaped mentioning when she was interrogated by the police the day after the incident. The next day, or on April 13, appellant was brought by the police to the Prats' residence and shown to the complainant (p. 13, tsn., February 3, 1977 hearing). In the afternoon, appellant appeared in a police line-up where he was identified by Mary Alabat who, thereafter, gave a second statement pointing to appellant who sports a mustache as the perpetrator.

The manner by which accused was presented to Mary Alabat at the Prats' residence in the morning and then her identification of appellant in a police line-up in the afternoon of the same day do not speak well of complainant's reliability as an eye witness. Indeed, it is perplexing why Eduardo Teaño would still be placed in the police line-up for the purpose of his identification by Mary Alabat if in the morning of the same day he was already pointed to by her in the Prats' residence. It is hard and dangerous for Us to accept her identification of the rapist and this includes her testimony in court considering that of the many fingerprints lifted at the Prats' residence none tallies with those of the appellant's.

Although the alibi offered by appellant Teaño may stand searching scrutiny, We will merely repeat the well-settled rule that alibi is the weakest defense an accused can avail of. However, it acquires commensurate strength, where, as in this case, no positive and proper identification has been made by the offended party. The prosecution has the onus probandi in establishing the guilt of the accused and the weakness of the defense does

not relieve it of this responsibility (People vs. Baquiran, 20 SCRA 451, 460-461). Stated differently, the prosecution must stand on the strength of its evidence and not on the weakness of the defense.

ACCORDINGLY, the judgment of the court a quo is REVERSED and appellant Eduardo Teaño y Rimando is hereby ACQUITTED on reasonable doubt. Costs de oficio.

SO ORDERED.

Melencio-Herrera, (Acting Chairman), Plana, Gutierrez, Jr. and De La Fuente, JJ., concur.

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