

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VICENTE MILLARPE, DEFENDANT-APPELLANT.

G.R. No. 69281. February 25, 1985

Ponente: RELOVA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-69281/>

RELOVA, J.:

Accused Vicente Millarpe was convicted by the then Court of the First Instance of Albay of the crime of rape and was sentenced to "suffer an indeterminate penalty of SIX (6) YEARS and ONE (1) DAY of Prision Mayor, minimum, to SEVENTEEN (17) YEARS, FOUR (4) MONTHS, and ONE (1) DAY of Reclusion Temporal, maximum, and to pay the costs. The defendant is directed to indemnify the offended party in the amount of P12,000.00 as moral and exemplary damages without subsidiary imprisonment in case of insolvency." (p. 203, Record)

The case was appealed to the Intermediate Appellate Court which affirmed the decision of the trial court but forwarded the records of the case to Us because "the penalty prescribed for the offense in view of the use of a deadly weapon (knife) is reclusion perpetua to death x x x jurisdiction of this case falls exclusively to the Supreme Court." (p. 41, Rollo)

Prosecution evidence shows that about 2:00 in the afternoon of December 29, 1974, Gloria Herrera, 25 years old, married and a housekeeper, was inside their residence at Daraga, Albay, sleeping with her seven-month old child. At the time, her husband, Rosito Herrera, was in Guinobatan of the same province in the house of his mother. Gloria was surprised by appellant Millarpe who entered the house and poked a knife at her neck. Her first impulse was to stand up and run but she was held by appellant at the door of the house, pushed towards her room following which he pinned her down to the floor. Gloria shouted for help and kicked appellant but, notwithstanding, failed in getting away from the hold of appellant who was already on top of her. Millarpe tore her dress until she was completely naked and succeeded in having sexual intercourse with her despite her resistance.

Appellant rested for a while and, thereafter, had another carnal knowledge with complainant. He then warned her not to report the matter to her husband otherwise he would kill her and her child. At that juncture, the twelve year old daughter of appellant entered the house of the complainant to get some left over feeds for the pigs. Opening the door, she saw her father (appellant) on top of complainant's body with a knife pointing at her. When appellant saw his child, he stood up and the two left together.

When complainant's husband, Rosito Herrera, arrived, Gloria immediately reported the matter to him. They went to the house of appellant but the latter was not there. Gloria saw the knife which was used against her when she was raped, hanging on the wall. They got it and gave it to the authorities. After they had filed a case, they went to the provincial hospital for medical examination.

In the meantime, appellant went into hiding and succeeded in eluding the authorities for sometime. He was apprehended by the police after a lapse of five (5) years.

Defense evidence as gathered by the trial court are as follows:

"x x x defendant denies having committed forcible sexual intercourse with the complainant further stating that at the time of the alleged commission of the offense, that is on December 29, 1974, in the afternoon, he was in Sipocot town, Camarines Sur; that he remembers having left Gapo, Daraga, Albay on December 29, 1974 after an incident which occurred whereby he went to the house of the complainant to get some feeds for his pig, and that was about 2:00 in the afternoon; that upon arrival at the house of the complainant, he found her with a young child although her husband was then in Guinobatan town; that when he was told that her husband was not around, they began to make amorous acts because prior to that they used to have romances; that even as far back as November of 1974, the complainant used to go to his house to have illicit relations with him; that as he and the complainant were necking with one another inside her house, his (defendant) daughter followed him and witnessed the two in a romantic embrace; that the complainant even expressed apprehension that his daughter might report the matter to her mother to which the defendant answered, 'Never mind, I will tell her not to tell her'; that in the evening of the same date, December 29, 1974, the complainant's husband Rosito Herrera, came to his house and told him the following: 'you come down as I already got the confession of my wife', and the husband was then brandishing a bolo; that Rosito Herrera also uttered the following to his (defendant) wife: 'that your husband and my wife had relationship'; that he denies having inflicted physical injuries upon the complainant and that the injuries found on the body of the complainant were actually inflicted by her husband because after having gone to his house and on the way home, the husband inflicted bodily harm on the complainant by delivering fistic blows; that he left for Sipocot town on December 29, 1974 because the husband of the complainant threatened to kill him as well as his wife; that on cross-examination, the defendant admitted that he left Daraga for Sipocot on the early dawn of December 29, 1974, after sleeping in the house of a cousin in Daraga; that from then on or for a period of about 5 years, he has not returned to Daraga except on occasional visits, but only for shorter periods of time." (pp. 200-201, Record)

In his appeal, appellant claims that the lower court gravely erred in not acquitting him of the crime charged on the ground of reasonable doubt.

This appeal is not impressed with merit.

Appellant's defense of alibi is palpably and miserably weak. He was positively identified by the offended party and immediately after the incident Gloria Herrera reported the matter to her husband. Thereafter, the two lost no time in going to the house of appellant and not finding him there, they repaired to the local authorities to file the complaint. Appellant's flight from his hometown in Daraga after his commission of the crime strongly indicates a guilty mind. As aptly stated by the trial court, "the mere fact that the defendant stayed away from Daraga town for a period of about 5 years in an apparent attempt to escape from justice poses a puzzling interrogation into his cry of innocence. For if he has nothing to do with the offense as he had testified to, then what could have prevented him from returning to Daraga after he had fled from the place on December 29, 1974?" (p. 203, Record) His explanation that he was afraid of his life because the husband of complainant may take revenge on him shows that he was afraid he had done a wrong against another; otherwise, his remedy is to report the matter to the police.

Between the testimonies of complainant and appellant, the trial court considers the declaration of the former "to be convincing as she was positive and emphatic in her narration, and there is no plausible reason to cast doubt on her testimony. x x x [C]omplainant also testified on rebuttal that there was no actual truth to the allegations of the defendant that she and the defendant were carrying out an illicit affair." (pp. 202-203, Record) Indeed, trial judges have vastly superior advantages for the ascertainment of truth and in the detection of falsehood over courts of review. The emphasis, gesture and inflection of the voice, are potent aids in ascertaining the credibility of the witnesses and the trial court has the opportunity and can take advantage of these aids. These observations are not usually incorporated into the record and all that the appellate court can do is to follow the cold words of the witness as transcribed upon the record, knowing at the same time that more or less what the witness actually did

say is lost in the process of transcribing. Thus, the appellate court would normally not disturb the findings of the trial court on the credibility of witnesses in view of the latter's advantage of observing at first hand their demeanor in giving their testimony.

The crime committed by appellant is rape penalized under the third paragraph of Article 335 of the Revised Penal Code, as amended by Republic Act No. 4111, to wit:

"Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death."

In the case at bar, the provision of the law quoted above is applied in view of the use by appellant of a deadly weapon. The indemnity given the offended party by the trial court was P12,000.00. We hereby increase the same to P20,000.00.

WHEREFORE, the judgment under review is **AFFIRMED** with the modification that appellant is accordingly sentenced to reclusion perpetua and ordered to indemnify complainant Gloria Herrera in the sum of P20,000.00. With costs.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Gutierrez, Jr., De la Fuente, and Alampay, JJ., concur.

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.