

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CONCORDIO SARDA, ACCUSED-APPELLANT.

G.R. No. 74479. April 24, 1989

Ponente: GUTIERREZ, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-74479/>

GUTIERREZ, JR., J.:

As in all rape cases, the issue in the instant case is whether or not the accused had indeed committed the crime of rape as charged, to merit a judgment of conviction.

In a decision rendered on October 30, 1985, the court a quo, after thoroughly evaluating the evidences presented and after observing the demeanor and listening to the testimony of the witnesses, found the accused guilty of the crime of rape. The dispositive portion of the decision reads:

"WHEREFORE, the court finds the accused Concordio Sarda guilty beyond reasonable doubt of the crime of Rape defined and penalized under Article 335 of the revised penal code committed with the use of a bolo a deadly weapon. There being an aggravating circumstance that the crime was committed in an uninhabited place which is not offset by any mitigating circumstance, the court has no alternative but to impose the capital punishment of DEATH. May the Lord have mercy on your soul. Accused is further ordered to pay Venus Sabornido the sum of P25,000.00 moral damages to fully compensate her for the suffering and humiliation undergone by her by reason of the sexual affront perpetrated upon her." (p. 51, Rollo)

Sabornido filed a complaint against the accused two (2) days after the alleged rape. The crime was said to have been committed as follows:

"That on or about the 31st day of March 1985, at about 1:30 o'clock in the afternoon more or less, in Barangay Pili, Almeria, Leyte, Philippines, and within the preliminary jurisdiction of this Honorable Court, the above-named accused, with deliberate intent to have sexual intercourse, did then and there willfully, unlawfully, and criminally hold the hands of one VENUS SABORNIDO, his step daughter, and removed his sharp pointed bolo and pointed it to her neck, and by saying 'do not shout or else I will kill you and while they were getting bamboos for the outriggers (catig) of the pump-boat in a certain isolated place of Barangay Pili, Almeria, Leyte. And by means of force succeeded in having sexual intercourse, an unmarried woman of good reputation and against her will.

"That in the commission of the crime the following aggravating circumstances were present, to wit: (1) abuse of superior strength and force (2) the crime was isolated (3) the victim is 12 years old (4) the perpetrator used sharp pointed bolo.

"Contrary to law." (p. 1, decision)

The facts attending the commission of the crime are summarized in the People's brief as follows:

"On March 31, 1985, at around 1:30 o'clock in the afternoon, 12-year old private complainant Venus Sabornido was in an isolated bamboo grove located at Barangay Pili, Leyte, together with her stepfather, appellant Concordio Sarda, cutting bamboos for banca outriggers. Her mother, Lilia de la Pena, had earlier

gone home to get food (p. 3, tsn., Sept. 12, 1985, testimony of Venus Sabornido).

"Appellant called private complainant to come near him. When she did, appellant held her right hand and said: 'Venus, I will use you and do not worry, I will be responsible for you.' At this point, private complainant cried and struggled to get free. Appellant unsheathed his bolo pointed the same to private complainant's neck and threatened to kill her if she made a noise or moved (p. 5, tsn., supra).

"Appellant pushed private complainant to the ground while repeating his threats. He removed her underwear with one hand and held the bolo to her neck with the other. Appellant then let go of the bolo and pulled down his trousers to his knees. He laid on top of private complainant who tried to close her legs. But appellant placed (sic) his knee between her legs to force them apart. Then with one hand, he inserted his sexual organ into that of private complainant, and with the other one hand immobilized her arms. When he finished, appellant loosened his grip on private complainant who thereupon sat up. While zipping his pants, appellant told the crying child: 'Do not worry, I will be the one responsible for you, I will give you everything which will make you happy, do not tell this matter to anybody or else I will kill you.' (pp. 6-10, tsn., supra).

"Private complainant left appellant and headed for home. On the way, she met her mother who was bringing food to them. Her mother inquired why she was crying. She replied that they would talk about it at their house. Upon reaching home, private complainant told her mother that she was raped by her stepfather in the bamboo grove.

"Appellant did not come home that night.

"The next morning, private complainant went to the police with her mother and gave a statement recounting her harrowing experience. Afterwards, private complainant and her mother proceeded to see Dr. Franco Redoblado who conducted a physical examination of her sexual organ (pp. 11-13, tsn., supra).

"The results of the examination are the following:

- "1. Hymen perforated with irregular edges and fresh laceration at both 5 & 8 o'clock portion of the vaginal opening.
- "2. She writhes in pain on insertion of the two fingers.
- "3. Colposcopy (w/a small vaginal speculum) reveals what appears to be semen in the vaginal fornix below the cervix.
- "4. Cervix slightly open.
- "5. Specimen taken still demonstrated some sperm cells no longer motile. (pp. 4-5, tsn., Sept. 11, 1985, testimony of Dr. Franco Redoblado) (pp. 3-6, Appellee's Brief)

The appellant denies the crime of rape, stating that he and the complainant had an amorous relationship and he was charged only because they were caught "in flagrante delicto."

Upon arraignment, the accused entered a plea of not guilty. He now assigns the following errors:

I

THE COURT A QUO ERRED IN NOT GIVING EVIDENTIARY WEIGHT AND CREDENCE TO THE TESTIMONIES OF THE ACCUSED AS WELL AS THE COMPLAINANT'S MOTHER.

II

THE COURT A QUO ERRED IN GIVING SO MUCH CREDIBILITY AND CREDENCE TO THE VERSION OF THE COMPLAINANT.

III

THE COURT A QUO ERRED IN FINDING THE ACCUSED GUILTY AS CHARGED INSTEAD OF ACQUITTING HIM. (pp. 1-2, Appellant's Brief)

The accused assigns as error the failure of the trial court to give weight and credit to his testimony and to that of the complainant's mother, his common-law wife.

On the basis of the facts and evidences in the records, this Court, like the trial court, considers said testimonies unworthy of belief. The accused's testimony, for one, is not only self-serving but contrary to human experience. What the accused would like the court to believe was that he and his twelve year old step daughter had an amorous relationship going on for three (3) months already and that the only reason why they could not indulge in sexual relations earlier was because the mother was in the house and that they only had an opportunity to do so on that fateful day of March 31, 1985.

This contention is unbelievable for if it were true that the two were really sweethearts, they would have indulged in sexual acts several times, and not only once (*People v. Moredo*, 127 SCRA 117 [1984]), Surely, there would have been similar opportunities during the span of time that the accused claimed their relationship had been existing. As stated by the trial court, there were more opportunities in the house than in a bamboo grove.

The acts of the complainant belie the allegation of the accused-appellant. If there was really consent on the part of Venus, the victim, she would not have immediately filed the charges the following day. No reason was given by the appellant except the contention that Venus would not have filed the case if not for her mother's arrival, which means she reported the incident only because she feared her mother. But Lilia herself, the victim's mother, reported the rape and had her daughter physically examined. It was to her mother that Venus first reported the abuse by her stepfather. If the mother really saw her daughter and common-law husband in an intimate embrace, she would not have accompanied her daughter to the police and to the doctor. At most, she would have charged the two and not the appellant alone.

There is no reason also for the victim to file charges against one who had not done anything wrong to her. There can be no direct benefit to her family, only harm. This explains the change of heart of the mother who did not want the man who had been her husband since 1979 to go to jail. There is an absence of motive of the complainant to file the rape charge against the accused (*People v. Rosario*, 159 SCRA 192 [1988]). On the contrary, for filing the case she will get shame and humiliation in return -- something unbearable to a barrio girl just emerging from childhood.

Lilia de la Pena's testimony cannot likewise be given merit. Her testimony appears perjured. The trial court did not give credence to the testimony of a witness whose statements are not only contradictory to her earlier spontaneous acts but also patently untruthful. In one instance, Lilia told the court that the accused was her husband and Venus, her daughter by her deceased husband. She later admitted on cross-examination that Pepe Sabornido her lawful husband was still alive and that she and the accused were not legally married. A court will find it difficult to believe a witness who cannot even tell the truth about her own personal circumstances. Evidence to be worthy of credence, must not only be credible but must also come from a credible source (*People v. Sunga*, 123 SCRA 327 [1983]).

Lilia's actions are likewise inconsistent. She reported the rape incident immediately, obviously to seek justice for her daughter. She later testified for the accused. She gave no reason for the change. Testimony coming from such a source is not worthy of credence.

The appellant assigns as another error the trial court's giving credence to the complainant's testimony.

Sarda contends that the victim never registered a strong outcry for help. The failure of the complainant to scream is fully and satisfactorily explained (See *People v. Mustacisa*, 159 SCRA 227 [1988]).

Apart from the fact that the place was isolated with the nearest house 150 to 250 meters away, there was the threat employed by the accused on the victim. There is moreover the moral ascendancy of the stepfather over the 12-year old stepchild. This also explains why the victim was not able to free herself and run for safety when the accused relaxed his guard on her.

This Court has consistently held that rape is committed when intimidation is used on the victim (*People v. Daniel*, 86 SCRA 511 [1978]).

The appellant's attempt to establish an intimacy between him and the victim by the fact that the latter addressed him simply as Cording, must not likewise be given credence.

As held in the case of *People v. Manalo* (145 SCRA 9 [1986]) familiarity between the accused and the offended party does not create an inference that an amorous relation existed between them. It can even be a sign of disrespect or disregard for the person who took the place of her father and who has now ruined her future.

Similarly, the appellant contends that the resistance offered by the victim should have been strong and genuine to prove rape. That it must have been tenaciously carried throughout is not necessary. The records show that the victim offered resistance by closing her legs and pushing the appellant but she finally succumbed because of the appellant's superior strength and threats. The moral ascendancy and influence of the appellant over the victim enabled him to select a time and place where rape could be effected unnoticed by other persons. We consider that Venus treated the accused as her father as manifested in her testimony.

The accused submits that the force and intimidation used are not sufficient to prove that he committed the crime of rape. The records belie this argument. The evidence sufficiently establishes the elements of the crime.

As compared with the self-serving testimony of the accused and the highly doubtful testimony of the complainant's mother, the testimony of the complainant was given in a simple, straight-forward and spontaneous manner reflecting the truth (*People v. Ausan*, 152 SCRA 52 [1987]). It has been a long-established rule that in a prosecution for rape, the accused may be convicted even on the complainant's testimony alone, if credible (*People v. Monteverde*, 142 SCRA 668 [1986]).

Moreover, it is a principle that "conclusions as to credibility in rape cases lie heavily on the trial court". (*People v. Partulan*, 156 SCRA 489 [1987]) and *People v. Malate*, 116 SCRA 487 [1982]) for it is the court which has observed the behavior and deportment of the witnesses.

Lastly, the appellant claims that the prosecution evidence failed to prove his guilt beyond reasonable doubt considering that the complainant's version is questionable and not totally believable.

There is no reason for us to disbelieve the complainant's testimony and to reverse the trial court's finding.

As earlier stated, the testimony of Venus was given in a straight-forward, convincing, and consistent manner. The trial court stated:

"Venus is not the personification of the Goddess of Beauty carried in her name. She is fairly built, barely five

feet tall, untouched by modern make-up. Twice she came to court in the same cheap T-shirt and skirt and worn rubber sandals. Her nails were strangers to pedicure and manicure; her hair was unkempt perhaps due to the dusty road from her native town of Almeria and to the capital town of Naval where the court holds sessions. Yet she had all the charming Filipina beauty in her brownness. She was the typical country lass.

"The court observed her give a positive straight, and candid replay of the criminal assault upon her by the accused. The court did not find any improbabilities in her entire testimony. There is no reason not to believe her. The incidents that followed after her ravishment add more credibility to her said story.

"Rape victim's testimony was given in a convincing manner and cor-roborated by the events which followed after the rape. (People v. Resano, 132 SCRA 392).'

Her going home in tears; her undelayed report to her mother; their complaint to the police the following day; the Medical examination of Venus; the failure of the accused to return home. . . all these indicate truth of the sexual violation of Venus by the accused." (p. 49, Rollo)

There is likewise no reason for an innocent 12-year old step daughter to fabricate the serious charge of rape against the common-law husband of her mother, a man whom she already considered having the authority of her father. As held in People v. Lopez (131 SCRA 548 [1984]), it is unthinkable that a 13-year old girl would willingly submit her body to a common-law husband of her aunt.

It cannot likewise be said that the victim merely concocted the details of the rape incident because the victim's testimony as shown by the records was consistent and full of details. A 12-year old child would not have been able to concoct such an explicit account of rape if she had not truly experienced it (People v. Susan, 152 SCRA 52 [1987]; and People v. Dadaeg, 137 SCRA 500 [1985]).

In the light of the evidence presented, there is sufficient proof to sustain a judgment of conviction.

Since the present Constitution provides that the death penalty may not be imposed, the appellant's sentence should be reduced to reclusion perpetua.

WHEREFORE, the judgment appealed from is hereby AFFIRMED in toto except for the reduction of the penalty from death to reclusion perpetua, and the increase of the moral damages from P25,000.00 to P30,000.00.

SO ORDERED.

Fernan, C.J., (Chairman), Feliciano, Bidin, and Cortes, 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.