

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WARLITO FABRO, ACCUSED-APPELLANT.

G.R. No. 79673. November 15, 1990

Ponente: MELENCIO-HERRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-79673/>

MELENCIO-HERRERA, J.:

Convicted of Rape by the Regional Trial Court, Branch 38, Lingayen, Pangasinan,[1] in Criminal Case No. L-3172, Accused-appellant, Warlito Fabro, has interposed this appeal.

Despite repeated notices/orders to file Brief, Accused-appellant has failed to do so (Rollo, pp. 24, 25, 26 & 42). His father had withdrawn all documents from the Citizens Legal Assistance Office (CLAO), now the Public Assistance Office (PAO) on 24 August 1987 on the ground that they were hiring their own lawyer (Rollo, pp. 29, 31). They have not done so to date, however. This is a perfect example of a case delayed for reasons not attributable to this Court but by reason of the inaction of the very party who is normally interested in an early resolution. The Court has deemed it best, therefore, to decide the appeal without such Brief and to consider Accused-appellant as having waived his right to file the same. The Court cannot keep this case pending indefinitely in its docket subject to the pleasure of an accused and to the detriment of the prompt dispensation of justice.

The prosecution's version of the case follows:

On January 7, 1985 at around one o'clock in the afternoon, Josephine Blanco, who was then fifteen years old, single, and a third year high school student, was walking alone on a pathway in Barangay Cabangaran, San Quintin, Pangasinan, while on her way to attend her classes at the San Quintin High School. Passing by a tamarind tree, where accused-appellant Warlito Fabro was then hiding, the latter, armed with an eighteen-inch bolo, suddenly held her hands and pulled her to a nearby secluded and forested area where she was ordered by Warlito to undress and lie down or else be killed. When she shouted, he immediately covered her mouth. Fearful of Warlito's threat, Josephine had no choice but to obey his orders. He then went on top of her, embraced her, kissed her, and ravished her twice. After the second intercourse, she told him she had to urinate and, after pretending to do so, stood up and ran as fast as she could, completely naked, towards her house where she immediately recounted her ordeal to her brother Danilo, and her father Lorenzo (TSN, October 21, 1986, pp. 3-9). Lorenzo then ordered his sons, Danilo and Romeo, to look for the Accused-appellant at the crime scene but the latter was no longer there. Lorenzo then went to the police authorities to report the incident and to seek assistance. Advised by the police to submit Josephine to a medical examination (TSN, October 21, 1986, pp. 20-22), Lorenzo then took her to the Municipal Health Officer of San Quintin, Pangasinan. The following were the latter's

"Physical Findings:

"1. No signs of injuries in external parts of the genital and other parts of the body.

"2. New fresh bleeding lacerations (two) of the hymen at 6 o'clock and 8 o'clock positions which shows that the rupture is recent.

"Alleged case - Rape - Jan. 7, 1985 at about 1:00 P.M. in Bgy. Cabangaran.

"Period of Healing - 7-10 days barring complications" (Exhibit, B, Records, p. 3)

The next day, January 8, 1985, the sworn statements of Josephine (Records, p. 6), her father Lorenzo (ibid., p. 5) and a certain Lolita O. Mina, who saw accused-appellant running away from the crime scene (ibid., p. 7), were taken at the San Quintin Police Station. On January 10, 1985, Josephine and Lolita O. Mina again executed affidavits regarding the incident before Judge Pedro Suyat, Municipal Circuit Trial Judge of the 10th Municipal Circuit Trial Court of Natividad-San Quintin, Pangasinan (ibid., pp. 8-9).

For its part, the defense narrates:

On January 7, 1985 at around one o'clock in the afternoon, Accused-appellant was walking on his way home from Bgy. Nagapugan towards Bgy. Cabangaran, San Quintin, Pangasinan. When he stopped to urinate behind a tree, he saw Josephine walk by and when she saw him she remarked that he was "rude" ("Ukinnam, Bastos ka"). He answered Josephine by saying "Will you come near me and I want to show you how rude am I" (Ipakitak kenka ti kinabastos ko"). Josephine "responded" positively to his "invitation" and he then took her to a "camachili tree" where she removed her clothes and sat down. He then inserted his two fingers in her vagina twice after which he told her to put her clothes on and go home. Josephine stood up and ran away "without any clothes" on (TSN, February 19, 1987, pp. 36-43).

The Trial Court rejected the foregoing version of the defense as "too fantastic and utterly incredible to be believed," "inherently improbable, inconsistent with human experience and against the natural course of things," and "contrary to reason and common sense" (Records, p. 140). It considered the prosecution version as "more in conformity with experience and the natural course of things under the often repeated doctrine that no woman especially a 15-year-old, single, rural lass, would willingly expose herself to the embarrassment of a public trial wherein she would have not only to admit but to narrate the violation of her person as in the instant case" (ibid., pp. 139-140).

Conviction was thus meted out by the Court a quo as follows:

"WHEREFORE, IN VIEW OF ALL THE FOREGOING, the Court finds the accused guilty beyond reasonable doubt of the crime of rape. There being no aggravating circumstance since the bolo allegedly used by the accused was not presented, nor mitigating circumstance, the accused is hereby sentenced to suffer the penalty of reclusion perpetua in accordance with law (Art. 63 and 335 of the Revised Penal Code). The accused is further ordered to pay Josephine Blanco an indemnity of TWENTY THOUSAND PESOS (P20,000.00) and the costs of this suit.

"SO ORDERED." (Decision, pp. 6-7, Records, pp. 140-141).

Under the attendant facts, the elements of Rape are indubitably present, namely: 1) that the offender had carnal knowledge of a woman, and 2) that such act is accomplished with the use of force and intimidation. Quoted below is an excerpt from Josephine's testimony attesting to the concurrence of those requisites:

"Q. Now, while you were going to school on January 7, 1985 at about 1:00 o'clock in the afternoon, do you remember anything that happened?

"A. There is sir.

"Q. Will you kindly state what is that incident?

"A. When I was going to school sir, I was walking at that time there was a person who was hiding behind a tamarind tree.

"Q. How far were you from that person when you saw him for the first time hiding behind the tamarind tree?

"A. I was still far.

"Q. What did you do after seeing that person behind the tamarind tree?

"A. I was frightened sir because he held my hand.

"Q. What did you do when he held your hand?

"A. I shouted, sir.

"Q. How about that person what did he do next after you shouted?

"A. He held me sir and then covered my mouth.

"Q. What did you do after you were held and covered on the mouth?

"A. I asked him sir if (sic) where will he bring me.

"Q. What was his answer, if any?

"A. He told me to just follow.

"Q. What did you do after you were ordered to follow him?

"A. I followed him sir.

"Q. Why did you follow him aside from being afraid?

"A. He was holding a bolo sir that is why I followed his order and that he said he is going to kill me.

"Q. Can you describe to this Court that bolo which he was holding when you said he was holding a bolo?

"A. Yes, sir.

"Q. Will you describe that bolo?

"A. There was no handle sir, it is very dull and rusty.

"Q. How long was that bolo?

"A. (Witness demonstrating about 18 inches long).

xxx xxx xxx

"Q. When you reached that place where he ordered you to go what happened there?

"A. He told me that I will remove my clothes.

"Q. What happened when he told you that you are going to remove your clothes?

"A. He told me that I will lie down.

"Q. What did you do?

"A. He does (sic) what he wanted to me.

"Q. When he ordered you to lie down did you comply with that order?

"A. No sir and he said that if I will not lay down he will kill me.

"Q. How about your clothes, what happened to your clothes?

"A. I removed it sir.

"Q. What kind of clothes were you wearing at that time?

"A. T-shirt and a skirt which I used in going to school.

"Q. After your clothes were removed what happened?

"A. He does (sic) what he wishes (sic) to me.

"Q. Specifically what was that done to you?

"A. He went on top of me.

"Q. After having been on top of you what did he do while on top?

"A. He was pushing up and down.

"Q. Aside from pushing up and pulling what else did he do?

"A. He embraced and kissed me.

"Q. Aside from kissing and embracing, what else happened to you?

"A. He levelled a bolo to me.

xxx xxx xxx

"Q. What is that that was done to you?

"A. He made a sexual intercourse with me.

xxx xxx xxx

"Q. Where was this bolo that he was holding at that time he was having sexual intercourse with you?

"A. He was at the same time holding it.

xxx xxx xxx

"Q. How many times did he have sexual intercourse with you?

"A. Two times, sir.

xxx xxx xxx

"Q. After having performed the second sexual intercourse what did he do, if any?

"A. I stood up sir because I told him that I will urinate. I pretended to urinate.

"Q. Were you able to stand up?

"A. Yes, sir.

"Q. After having stood up pretending to urinate, what did you do?

"A. I ran away, sir.

"Q. What was your appearance when you ran away?

"A. I was naked, sir.

"Q. Where did you go?

"A. I went towards home, sir." (TSN, October 21, 1986, pp. 4-9).

Josephine's testimony is firm, categorical, and straight-forward. The dastardly act perpetrated on her had compelled her to run home, stark naked, in fear and sheer desperation, just so she could escape the evil clutches of Accused-appellant. There is no indication whatsoever that she had any ill motive in filing the rape charge considering that Accused-appellant is a complete stranger to her. This Court has consistently held that the testimony of a rape victim is credible where she has no motive to testify against the accused (*People v. Esquillo*, G.R. No. 71311, March 31, 1989, 171 SCRA 571).

The absence of "injuries in external parts of the genital and other parts of (Josephine's) body" upon medical examination (Exhibit B, Records, p. 3) does not disprove the crime. Rape may be committed even if no physical force had been used. Intimidation is sufficient and this includes the moral kind such as the fear engendered by threatening an innocent teenager with an 18-inch bolo. Accused-appellant kept the bolo pointed at Josephine as he abused her. This fear is sufficient to terrify a 15-year-old into inaction (*People v. Hortillano*, G.R. No. 71116, September 19, 1989, 177 SCRA 729). The force used need not be irresistible. It suffices that it be present as long as it brings the desired result. All consideration of whether it was more or less irresistible is beside the point (*People v. Momo*, 56 Phil. 86 [1931]).

Josephine's conduct immediately after the assault on her person also inspires belief beyond doubt that, indeed, she was the victim of Accused-appellant's lust. The conduct of the woman immediately following the alleged assault is of utmost importance as tending to establish the truth or falsity of the charge of rape (*People v. Garcia, et al.*, G.R. Nos. L-45280-81, June 11, 1981, 105 SCRA 6). As the trial Court aptly put it:

"x x x It must be noted that immediately after she was abused she reacted to what is expected of one who is a victim of a heinous act. Because of her traumatic experience she even cast aside her shame to run home naked and upon reaching home reported to her brother and father what happened to her. On the same afternoon, she and her father and even her brothers on the order of her father began to look for the malefactor only to be discovered later that the culprit was already in the custody of the police authorities of San Quintin, Pangasinan. There at the police headquarters, the complainant identified the accused as the one responsible of deflowering her. Important, likewise, is her submission for medical examination just few hours after the incident with the result that she was indeed sexually assaulted" (Decision, pp. 5-6; Records, pp. 139-140).

We find apropos the observation in a host of cases that the traditional modesty of the Filipina, specially, a young and innocent country girl, would deter her from filing a complaint for rape and suffering the torment if not the ignominy of having to testify in a Court of justice if in truth she had not been really raped (*People v. Sacabin*, G.R. No. L-36638, June 28, 1974, 57 SCRA 707; *People v. Ignacio*, G.R. No. L-35494, September 18, 1974, 60 SCRA 11; *People v. Tejada*, G.R. No. L-42608, February 6, 1979, 88 SCRA 217; *People v. Oydod*, G.R. No. 61679, October 26, 1983, 125 SCRA 250). No young Filipina of decent repute would publicly admit she had been raped unless that were the truth (*People v. Sambangan*, G.R. No. L-44412, November 25, 1983, 125 SCRA 726).

We are not persuaded by Accused-appellant's story that Josephine voluntarily "acceded" to his "invitation" to come near him and undress herself without being forced or intimidated. Accused-appellant was a complete stranger to Josephine and it is inconsistent with human experience that she would submit herself willingly upon his mere "invitation."

We quote with approval the following observations of the Trial Court:

"The accused's defense that the complainant voluntarily went with him upon his invitation to prove his rudeness, then undressed herself without being forced and/or intimidated after which she sat down and the accused inserted his two fingers in her vagina for two times is too fantastic and utterly incredible to be believed. It is contrary to reason and common sense (People vs. Saylan, 130 SCRA 1591). It is inherently improbable, inconsistent with human experience and against the natural course of things. x x x In short, the story of the accused may be likened to a man cornered with no option but to try to minimize if possible his liability in the light of the situation where he is in." (Decision, pp. 5-6, Records, p. 140).

The penalty of reclusion perpetua imposed by the Trial Court is in order. However, contrary to the Trial Court's opinion, the bolo need not be presented to establish an aggravating circumstance. Under Article 335 of the Revised Penal Code, the use of a deadly weapon immediately calls for the penalty of reclusion perpetua to death. But with the abolition of capital punishment, it is reclusion perpetua that should be imposed.

In fine, the evidence on record convincingly measures up to the yardstick established by law to support conviction.

WHEREFORE, the judgment appealed from is AFFIRMED, with the modification that the payable indemnity is increased to P30,000.00 consistent with current case law. Costs against accused-appellant Warlito Fabro.

SO ORDERED.

Paras, Padilla, Sarmiento, and Regalado, JJ., concur.

[1] Judge Hugo B. Sansano, Jr., presiding.

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.