

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FERNANDO MISCALA Y MAGTANONG, JR., ACCUSED-APPELLANT.

G.R. No. 91016. September 27, 1991

Ponente: SARMIENTO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-91016/>

SARMIENTO, J.:

On appeal is the decision of the Regional Trial Court, Third Judicial Region, Branch 12, Malolos, Bulacan finding the accused Fernando Miscala y Magtanong, Jr., alias "Boy Gapo" guilty of the crime of rape.[1]

The dispositive portion of the decision is quoted as follows:

WHEREFORE, finding herein accused guilty of the crime of rape as charged in the information beyond reasonable doubt, there being no circumstances attending the commission thereof that should mitigate the penalty provided for by law, the Court sentences him to suffer the afflictive penalty of reclusion perpetua and to indemnify the complainant or offended party and her family in the amount of Twenty Thousand Pesos (P20,000.00) by way of moral damages caused them by reason of the crime, upon which amount the filing fees for such civil action shall constitute a first lien as provided in Section 1, Rule III of the Rules of Court.

In the service of his sentence the accused shall be credited with the full time during which he has undergone preventive imprisonment which began on October 24, 1988, as shown from his written voluntary agreement to abide by the same disciplinary rules imposed upon convicted person, attached to the records, pursuant to Article 29 of the Revised Penal Code.

Let the accused, his counsel, the complainant or her natural guardian and the Asst. Provincial Prosecutor be furnished with copies of this decision upon its promulgation.

Costs de oficio.

SO ORDERED.[2]

This case commenced with an information filed by Asst. Provincial Fiscal Edsel M. Rutor based on a complaint filed by the offended party, Visitacion E. Pineda, accompanied by her "tiyahin" Lilibeth S. Escuto, in which Fernando Miscala y Magtanong, Jr., alias "Boy Gapo," was accused of the crime of rape, penalized under the provisions of Article 335 of the Revised Penal Code, committed as follows:

That on or about the 21st day of October 1988, in the municipality of San Jose del Monte, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously, by means of force and intimidation, with lewd designs, have carnal knowledge of the offended party Visitacion E. Pineda, a 10 year old girl, against her will and without her consent.

Contrary to law.[3]

Arraigned on December 9, 1988, the accused pleaded not guilty.[4]

The trial court in concluding that the accused-appellant was guilty of raping the complainant states, thus:

x x x [t]he Court so holds that accused is undoubtedly the man who could have committed the crime alleged in the information. The young victim points to him and says that he was her ravisher. She was firm then as she is firm now in branding him as her rapist. Immediately after going through that painful experience at her tender age and accused had left with his wanton lust satisfied, the poor child instinctively called out for her uncle in the adjacent room and in childlike honesty told him that accused they called "Boy Gapo" had just entered her room and molested her. Her uncle confirms such statement from the girl which, of course, is evidence against the accused commanding strong probative value as part of the res gestae (Sec. 42, Rule 128, Rules of Court.)

The accused thru his witnesses desperately tried to shift suspicion on somebody else, the brother-in-law of victim's uncle. Such attempt cannot overcome the direct and categorical accusation of victim herself that it was accused, and no one else, who raped her. She has not shown all throughout any indication that she could have been mistaken in identifying her tormentor. In fact she recognized him during the commission of the act inside her room, because the fluorescent light therein was on throughout the night. (TSN, p. 7, January 11, 1989; p. 6, January 18, 1989). And there appears no reason, as admitted by accused himself, why complainant should point her accusing finger at him, if, indeed, he was not the culprit but somebody else, unless he was in fact that culprit. In a similar case the Supreme Court finds that a 13-year old girl cannot possibly have an ulterior motive to charge appellant with rape (People vs. Daniel, 86 SCRA 511). Neither can the 10-year old victim in this case have any against the accused under the facts and circumstances established.[5]

In his appeal, the accused-appellant submitted the following assignment of errors:

ASSIGNMENT OF ERRORS

- THE TRIAL COURT ERRED WHEN IT HOLDS THAT THE ACCUSED IS UNDOUBTEDLY THE MAN WHO COULD HAVE COMMITTED THE CRIME ALLEGED IN THE INFORMATION;
- THE TRIAL COURT ERRED IN HOLDING THAT THERE WAS "A DIRECT AND CATEGORICAL ACCUSATION OF THE VICTIM HERSELF THAT IT WAS THE ACCUSED, AND NO ONE ELSE WHO RAPED HER";
- THE TRIAL COURT ERRED WHEN IT CONSIDERED THE DEFENSE OF THE ACCUSED OF ALIBI AS WEAK;
- THE TRIAL COURT ERRED WHEN IT FAILED TO TAKE INTO CONSIDERATION THE PROBATIVE VALUE OF THE ENTRY IN THE BARANGAY BLOTTER.[6]

Thus, the foregoing errors raised by the accused-appellant relate to the crucial and singular issue of whether or not the prosecution has presented sufficient proof to overturn the constitutional presumption of innocence in favor of the accused-appellant and thereby establish his guilt beyond reasonable doubt.

We believe so. Hence, we rule to deny the appeal.

Evidence on record proves beyond reasonable doubt that the complainant is the victim of rape and that the accused-appellant is the culprit.

Article 335 provides:

x x x x x x x x

When and how rape is committed — Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;

2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age, even though neither of the circumstances mentioned in the next two preceding paragraphs shall, be present. (Emphasis supplied).

x x x x x x x x

The medical examination reports prepared immediately after the alleged incident contained findings of healing laceration and swelling of the private genitals of the 10-year old complainant and the presence of sperm cells therein. Undoubtedly, she had been subjected to sexual intercourse.

The prosecution, without contesting the fact that rape had been committed, would like to convince this Court that the trial court convicted the wrong person and that the rapist could possibly be somebody else.

During the trial, accused-appellant Miscala testified as follows:

x x x x x x x x

Q: When you were being tried to be pointed (sic) by the PC authorities to the victim allegedly of the rape, what did you do, if you did anything?

A: I even asked the young girl if I was the one and I advised her, "Ine, ako ba talaga." She only kept on mentioning Boy Gapo, Boy Gapo, sir.

Q: When the PC authorities asked her who raped her, did she point to you as the alleged rapist?

A: No, sir.[7]

x x x x x x x x

We are unconvinced. Miscala dared to present the testimony of Francisco Dasilio, Jr. who would palm off a character named "Boy Nguso" as the rapist.

According to the defense, Miscala had been drinking with Dasilio at the house of a certain "Boy Nguso" from 8:00 o'clock to 10:00 o'clock in the evening of October 21, 1988. The group then proceeded to the store of Mang Simon where they played pool.[8] A little later, "Boy Nguso" brought Miscala along with him to the house of Arthur Escuto. Here, Miscala heard "Boy Nguso" say that he planned to rape somebody that evening.[9]

By 11:00 o'clock in the evening, according to Miscala, he had already gone home.[10]

Ironically, Miscala's alibi conflicted with the testimony of his witness in glaring, and material, points.

Miscala claimed that on the night of October 21, 1988, before 11:00 o'clock in the evening, he had not gone out at all. He was only at home. He woke up the next day at 6:00 o'clock to find out that he was going to be arrested.

As we have held in *People v. Muñoz*:

x x x alibi is one of the weakest defenses an accused can invoke. Easily lending itself to concoction and

‘embroidery,’ it must invariably be viewed with suspicion and may be considered only when established by positive, clear and satisfactory evidence. To be given credence, it must not only appear that the accused interposing the same was at some other place but also that it was physically impossible for him to be at the scene of the crime at the time of its commission. x x x[11]

It was a poorly orchestrated defense, made worse by the use of a flimsy alibi or excuse, as against the positive identification made by the victim in court.

x x x x x x x x

FISCAL:

Q:

On the 21[st] day of October, 1988 at about 11:30 o'clock in the evening, do you know your whereabouts Miss Pineda?

A:

Yes, sir.

Q:

Whereat?

A:

I was inside my house, sir.

Q:

While inside, what were you doing then?

A:

I was sleeping, sir.

Q:

And were you awoken on that night?

A:

Yes, sir. There was somebody who was rolling me over "nagpagulong-gulong" sir.

Q:

Did you come to know who was that person "na nagpagulong-gulong sa iyo?"

A:

Yes, sir.

Q:

The person whom you pointed just a little while?

A:

Yes, sir.

Q:

How were you able to recognize him?

A:

Because the light was on, sir.[12]

Further on, the victim was asked.

Q:

What kind of lights were you using?

A:

Like this light, sir. (Witness pointed to the fluorescent light in the ceiling of the courtroom).[13]

Moreover, the complainant's detailed and straightforward narration of how she had been raped bears earmarks of credibility.[14]

Even if the complainant's testimony is uncorroborated, it is enough to convict the accused.[15]

For the uncorroborated testimony of the complainant to suffice, her competence as a witness must be established in the trial court.

x x x x x x x x

The evidentiary rule is that in crimes against chastity, the testimony of the injured woman should not be received with precipitate credulity, and when the conviction depends at any vital point upon her uncorroborated testimony, it should not be accepted unless her sincerity and candor are free from suspicion.[16]

In the case at bar, the records show that the young victim-complainant-witness had been properly placed in voir dire.[17]

The trial judge questioned the witness and complainant-victim before she gave her testimony on the bestial assault on her person.

Q:

Visitation, do you know that telling a lie is bad?

A:

Yes, your Honor.

Q:

Why do you think that it is bad to tell a lie?

A:

That if you tell a lie, you will be imprisoned, Your Honor.

Q:

What else? Do you go to church?

A:

Yes, your Honor.

Q:

Do you believe in God?

A:

Yes, Your Honor.

Q:

Now that you go to church and you believe in God, what are the reason (sic) do you know why telling a lie is bad?

A:

It is bad to tell a lie because God will punish you, your Honor.

Q:

So all questions that will be asked of you must be answered by only whole truth and nothing but the truth?

A:

Yes, Your Honor.

Q:

Otherwise as you say, you will not only be imprisoned but God will also punish you?

A:

Yes, your Honor.[18]

Voir dire literally means to speak the truth, and denotes in American jurisprudence, preliminary examination under oath of prospective jurors. The examination is conducted to determine the competency or qualifications of the witness in case it is objected to.

When the court subjects the witness to voir dire, the court reminds him or her about the consequences of the truth. When the court is satisfied that the influence of fear or hope has been ruled out, then the confession of the witness can be deemed voluntary. In the case at bar, the requisites of voir dire have been met.

The facts of this case vary significantly from *People v. Ganduma*, in which there were strong indications pointing to the possibility that the rape charges were merely motivated by some factors except the truth.[19]

Moreover, the Court generally desists from disturbing findings which have been established by the trial court, considering that the best forum to pass upon matters of fact and the credibility of witnesses is the trial court.

WHEREFORE, the appealed Decision is AFFIRMED in all respects with exception to the award of damages which is hereby INCREASED to P30,000.00 in keeping with the latest jurisprudence.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] "*People of the Philippines v. Fernando Miscala Magtanong, Jr.*," Crim. Case No. 1934-M-88, promulgated on September 20, 1989, Hon. Crisanto C. Concepcion, Presiding Judge.

[2] Rollo, 122-123.

[3] Criminal complaint, dated November 16, 1988, sworn to by complainant before Assistant Provincial Fiscal Edsel M. Rutor; Records of the case, Volume I, 1.

[4] *Id.*, 6.

[5] Rollo, 121-122.

[6] Brief for the Appellant, 6.

[7] TSN, August 4, 1989, 8.

[8] TSN, March 20, 1989, 5.

[9] *Id.*, 6.

[10] *Id.*, 10.

[11] No. 61152, July 29, 1988, 163 SCRA 739-740.

[12] TSN, January 11, 1989, 7.

[13] TSN, January 18, 1989, 6.

[14] TSN, January 11, 1989, 9-11.

[15] *People v. Rosario*, G.R. 73534, March 25, 1988, 159 SCRA 196 citing *People v. Rogeras*, 56 SCRA 666, U.S. v. Ramos, 1 Phil. 81, *People v. Dazo, et al.*, 58 Phil. 420.

[16] *People v. Villapaña*, No. 53984, May 5, 1988, 161 SCRA 79.

[17] See *People v. Broso*, No. 72028, November 9, 1987, 155 SCRA 484.

[18] TSN, January 11, 1989, 5.

[19] See *People v. Ganduma*, G.R. No. 64507, April 18, 1988, 160 SCRA 799.

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.