

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROLANDO GODINES, AND DANNY MORENO,
DEFENDANTS-APPELLANTS.**

G.R. No. 93410. May 07, 1991

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The herein defendants-appellants were convicted of the crime of rape by the Regional Trial Court of Masbate, Masbate and, accordingly, sentenced to suffer the penalty of reclusion perpetua and to pay P20,000.00 moral damages to the offended party. They appealed their case to this Court seeking an acquittal. Under the circumstances obtaining in this case, and considering the evidence on record, their acquittal is well-nigh beyond realization.

In an information filed with the trial court on September 28, 1988, the provincial prosecutor of Masbate accused the defendants-appellants Rolando Godines and Danny Moreno of having conspired in the commission of the crime of forcible abduction with rape as penalized under the Revised Penal Code.[1] Thereafter, the appellants were arraigned accordingly and they pleaded not guilty to the offense charged. In due time, a trial ensued.

Esther Ancajas, the private complainant, testified as follows: In the evening of March 17, 1988, she was sleeping in the house of one Alejandro Vilaksi at Sitio Sincamas, Sta. Cruz, San Pascual, Masbate. She was awakened by a commotion emanating from an adjacent room occupied by Vilaksi and his wife Milagros. She lit a kerosene lamp to ascertain what was going on. Thereafter, she saw the defendants-appellants talking to the couple. Godines eventually hacked Milagros. Moreno stood by the window to serve as a lookout person. The couple's son Vicente ran away from the house after seeing Godines hack Milagros. Godines got some money from the couple. Thereafter, the appellants prepared to leave the house. In the meantime, Ancajas tried to escape from the house with her small child. The appellants, however, saw her and grabbed her. The two men dragged Ancajas and the child out of the house and forcibly brought them to a nearby vacant lot with tall grasses, about 600 meters away from the Vilaksi residence. Both men were apparently armed; Godines had a pistol and Moreno had a knife. They threatened to Ancajas if she resisted their advances. As they were dragging her to the vacant lot, they fondled her private parts. Upon their arrival at the vacant lot, the appellants took turns in having carnal knowledge of Ancajas. Godines did it first. While one was raping the girl, the other was holding on to the child. All the while, the appellants threatened to kill Ancajas if she put up any resistance. Ancajas tried to resist but the appellants simply overpowered her. After the appellants had finished satisfying their carnal desires, they threatened her anew with death because they suspected that Ancajas recognized them. Ancajas knew who they were but for fear of losing her life, she denied knowing any of them. Thus, the appellants warned her not to report the incident to the authorities if she valued her life. Ancajas took refuge in the house of a neighbor, Elpidio Aballe. She fell unconscious there. She eventually regained her consciousness after which she narrated to Aballe the ordeal she went through. Ancajas later informed her parents and the authorities about the incident.

Ancajas submitted herself to a medical examination. Rizaliano Deliarate, the municipal health officer of San Pascual, Masbate prepared the following report --

"(1)

Scant pubic hair;

(2)

Labia Majora partially coaptate, which means that outer lip of sexual organ of the woman is partially opened;

(3)

Vagina easily admits two fingers, the forefinger and the middle finger; and

(4)

Physical Examination -- Abrasion multilinear or lateral aspect of left shoulder joint, which means that the abrasions were located on the lateral aspect and run across the chest, left shoulder joint, and this could have been caused by a hard object hitting the skin of the persons, such as stone, tip of wood, sand and even finger nails."^[2]

Deliarte later on testified that on account of these manifestations, it is possible that Ancajas had been raped.

The defense, however, had a different version of the story. The witness for the defense testified as follows: Sometime in the afternoon of March 17, 1988, the two accused attended a religious service at the local Iglesia Ni Cristo church with a number of friends and relatives. They were together with a certain Felomino Moreno, the wife of Godines, and two children. When the religious service was over, they proceeded to the house of Felomino Moreno. They passed for a certain Generoso Umpad along the way. Before they reached their destination, Godines declared that he was feeling ill. Upon their arrival at the house of Felomino Moreno, everyone in the household attended to Godines. Umpad gathered some medicinal herbs for him. Godines and his wife spent the night in the said house. They went home at 7 o'clock the following morning. Danny Moreno stayed up to 10 o'clock in the evening. He slept in the house of Generoso Umpad from 11 o'clock p.m. The next day, Vicente Vilaksi went to see Godines at the latter's house in order to borrow a hammock. Godines then accompanied Vicente to the Vilaksi residence. There, he saw Ancajas and Elpidio Aballe. Later on in the afternoon of the same day, police authorities arrested the accused.

Godines asserted that he could not have committed the crime because he had to stay in the house of Felomino Moreno to recuperate from his illness and that he was able to go home the next day. He also asserted that the house of Felomino Moreno is about two kilometers away from the house of Alejandro Vilaksi where the incident in question took place. Godines likewise intimated that he knew Esther Ancajas since they were small children and that they never had a misunderstanding. For his part, Danny Moreno maintained that the house of Generoso Umpad is about three kilometers away from the house of Vilaksi. He also admitted that, like Danny Moreno, he knew Ancajas and that there was never any unpleasant relationship between them in the past. Both accused related that Ancajas knew the two of them as well.

The trial court did not sustain the version of the defense. The trial court observed that there were serious inconsistencies in the testimonies of the witnesses for the defense and that a distance of a few kilometers from the

scene of the crime is not a sufficient basis upon which to conclude that it was impossible for the accused to have committed the crime. Moreover, the trial court invited attention to the fact that alibi is a defense which is easily concocted and that the same cannot prevail against positive identification by credible witnesses. The trial court also found the version of the prosecution credible in that no Filipino woman will publicly admit that she has been raped unless the same is true because her natural disposition is to protect her honor. In addition, the trial court held that the crime of forcible abduction is absorbed in the crime of rape if the main purpose of the accused is to rape the victim.

As stated earlier, the trial court found both accused guilty of rape.

Both accused filed a motion for reconsideration on March 5, 1990. The trial court denied the motion on March 7, 1990.

The case was elevated to this Court by way of this appeal. The appellants raise the following errors allegedly committed by the trial court --

"I.

THE TRIAL COURT ERRED IN FINDING THAT THE CRIME OF RAPE WAS COMMITTED ON THE VICTIM.

"II.

HE TRIAL COURT ERRED IN FINDING THAT THE TESTIMONIES OF THE ACCUSED AND THEIR WITNESSES WERE INCONSISTENT AND CONTRADICTED EACH OTHER.

"III.

THE TRIAL COURT ERRED IN NOT FINDING THAT THE TESTIMONY OF THE COMPLAINANT AND HER WITNESSES WERE INSUFFICIENT AND INCREDIBLE.

"IV.

THE TRIAL COURT ERRED IN NOT FINDING THAT THERE WAS A DELAY IN THE FILING OF THE COMPLAINT.

"V.

THE TRIAL COURT ERRED IN NOT FINDING THAT THE COMPLAINANT AND HER WITNESS HAS (SIC) A MOTIVE IN FILING THE CHARGE OF RAPE.

"VI.

THE TRIAL COURT ERRED IN MISAPPREHENDING THE FACTS OF THIS CASE.

"VII.

THE TRIAL COURT ERRED IN NOT FINDING THAT THE GUILT OF THE ACCUSED WERE (SIC) NOT PROVEN BEYOND REASONABLE DOUBT."[3]

After a careful evaluation of the entire record of the case, the Court finds no reason to reverse the decision appealed from.

Inasmuch as the assigned errors are interrelated, the Court will consider them altogether.

The appellants insist that there are no conclusive medical findings that the complainant had indeed been raped.

This assertion is untenable. A medical examination is not an indispensable element in a prosecution for rape.[4] At any rate, the medical evidence discloses that the private complainant suffered abrasions on her body thereby confirming that she had been physically violated through the use of force.

The appellants contend that the testimonies of the prosecution witnesses were inconsistent and as such do not serve as valid grounds for their conviction.

The contention is untenable.

It is true that an accusation for rape can easily be fabricated because the nature of the crime is that it is difficult to prove. More often than not, only the victim and the accused are in a position to testify on the matter so much so that the conviction or acquittal of the accused hinges solely upon the credibility of the witnesses.[5] In the case at bar, the private complainant categorically identified the authors of the crime. She had no motive to conjure up a serious charge against the appellants. The appellants themselves admit that before the incident in question took place, there was no unpleasant relationship between the accused on the one hand and the private complainant on the other. The record, as a matter of fact, is devoid of inconsistencies on the part of the prosecution witnesses. The actuations of the private complainant after the commission of the rape upon her are consistent with that of a rape victim. What remains as the decisive factor is the positive identification of the appellants as the perpetrators of the rape.

The Court reiterates its oft-mentioned observation that it is very difficult to believe that a woman would be willing to undergo the expense, trouble, inconvenience and scandal of a public prosecution for rape, as well as an examination of the private parts of her anatomy, if her intention is not to bring her rapists to justice.[6] Besides, the trial court had the opportunity of a first hand assessment of the testimonies of the witnesses, an opportunity that is not available to this Court. Thus, the findings of the trial court on the credibility of witnesses in a prosecution of a crime against chastity commands the highest respect from the Supreme Court,[7] in the absence of valid reasons for holding otherwise. No valid reasons have been presented by the appellants to merit a deviation from this principle.

The defense of alibi raised by the appellants is of no value in the case at bar. In order for the appellants to establish alibi, they must show that it was impossible for them to have been present at the place where the crime was committed at the time of the commission of the same.[8] Alibi must be supported by clear and convincing evidence.[9] In the case at bar, the defense of alibi relied upon by the appellants does not preclude the possibility that they were present at the scene of the crime and at the time the same was committed. The distance between the alleged whereabouts of the appellants at the time of the commission of the crime and the scene of the crime itself may be easily negotiated by ordinary means. The defense witnesses themselves testified that Godines was not too ill to preclude his moving about the premises. As stated earlier, the material factor is that there is positive identification of the accused as the authors of the crime. Alibi cannot prevail over positive identification.[10] Needless to say, alibi is an issue of fact which is best resolved by the trial court.[11]

In view of these observations, the Court does not find it necessary to pass upon the assigned error as to the alleged delay in the filing of the complaint.

As to the crime committed by the appellants, the trial court correctly held that forcible abduction is absorbed in the crime of rape if the main objective of the appellant is to rape the victim.

The appellants are charged of conspiring and confederating with each other in the commission of the offense charged. No doubt the evidence show the appellants through force and intimidation and conspiring with each other successfully raped the victim by taking turns in raping her while the other held the child of the victim and

threatened her against resisting. Obviously two (2) rapes were committed by the appellants. In a conspiracy the act of one is the act of all.[12]

Under Section 3 of Rule 120 of the Rules of Court, it is provided:

"SEC. 3. Judgment for two or more offenses. - When two or more offenses are charged in a single complaint or information, and the accused fails to object to it before trial, the court may convict the accused of as many offenses as are charged and proved, and impose on him the penalty for each and every one of them setting out separately the findings of fact and law in each case."

In this case the appellants failed to object to the information filed and the evidence presented against them. Consequently the Court may convict them of as many offenses as has been charged and proven and may impose on them the penalty for the offenses committed.

An appeal in a criminal case opens the whole case for review and this includes the review of the penalty, indemnity and damages.[13] It may also include the nature and number of the offenses committed. Each of the appellants is guilty as principal of two (2) rapes, namely the rape he himself committed and the rape which his co-accused committed with his active and indispensable cooperation.

WHEREFORE, the Court hereby modifies the appealed judgment by finding each of the appellants guilty beyond reasonable doubt of two (2) rapes, so each of them is hereby imposed the penalty of life imprisonment for each rape and each to indemnify the offended party P50,000.00 with costs against defendants-appellants.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] The case was docketed as Criminal Case No. 5542.

[2] Page 15, Rollo.

[3] Page 93, Rollo.

[4] *People v. Manaay*, 151 SCRA 31 (1987).

[5] *People v. Manzano*, 118 SCRA 705 (1982).

[6] *People v. Munoz*, 163 SCRA 730 (1988); *People v. Viray*, 164 SCRA 135 (1988).

[7] *People v. Manzano*, *supra*, note 5.

[8] *People v. Quidilla*, 166 SCRA 778 (1988).

[9] *People v. Chavez*, 117 SCRA 221 (1982).

[10] *Ibid.*

[11] *Ibid.*

[12] *People vs. Policher*, 60 Phil. 770 (1934); *People vs. Soriano*, 35 SCRA 633 (1970).

[13] *Quemuel vs. Court of Appeals*, 22 SCRA 44 (1968).

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