

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODOLFO QUERIDO ALSO KNOWN AS POLDO QUERIDO, ACCUSED-APPELLANT.*G.R. No. 95319. February 07, 1994*

Ponente: BELLOSILLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-95319/>**BELLOSILLO, J.:**

CHARGED with raping 13-year old Eva R. Tabadero, accused-appellant RODOLFO QUERIDO also known as "POLDO" QUERIDO fashions an alibi -- at the time of the offense he was not at the locus criminis but at the poblacion of Urdaneta some seven (7) kilometers away where he took his lunch in a local cafeteria. His pretense did not prevail however and the court a quo meted him the penalty of reclusion perpetua.[1] He was also ordered to indemnify complainant Eva R. Tabadero the sum of P30,000.00 for moral damages and P20,000.00 for exemplary damages, and to pay the costs.

We affirm.

On 29 November 1982, Eva, a Grade IV pupil at the San Jose Elementary School, Urdaneta, Pangasinan, lodged a criminal complaint for rape against the accused before the Municipal Trial Court of Urdaneta, docketed as Crim. Case No. 9026.[2] Similar complaints for rape were filed by complainant against Alfredo "Panting" Querido, Paulino "Pedring" Querido and "Botog" Sumera.[3] On 16 June 1983, the Municipal Trial Court found a prima facie case for rape in Crim. Case No. 9026 and recommended the filing of the corresponding Information in court.[4]

The story of the prosecution, tearfully narrated by complainant, brings us to the remote barangay of San Jose in Urdaneta, Pangasinan. It was 13 October 1982, noontime, and the pupils of San Jose Elementary School had just been dismissed from their classes. Like most of her classmates, Eva would walk her way home after school taking the barangay road leading to her house situated some two hundred forty (240) meters away from her school.

As she walked, Eva suddenly heard a motorcycle behind her. She turned her back and saw the accused on a tricycle fast approaching. As the tricycle drew near, Eva saw the accused pull out a balisong tucked to his waist. He passed by her, blocked her way, and then ordered her to board his tricycle. The latter refused. Terrified, she ran away. The accused chased her, and when he overtook her, he blocked her way again. He disembarked and grabbed her and forced her inside the sidecar.[5]

The accused drove off with his victim and brought her to an old uninhabited house located some one hundred forty (140) meters away[6] where he dragged her out of the tricycle and pushed her all the way to the bamboo groves behind the house. The area was covered with shrubs and leaves from the chico and mango trees that abounded the place.[7]

When they reached the backyard, the accused threw her to the ground, took off his trousers, and likewise stripped the young girl. Then he laid on top of her and copulated with her against her will; Eva shouted; she kicked and struggled with her aggressor, but was no match to the knife-wielding accused who consummated the dastardly

act.[8] After the assault, the accused dressed her and sent her home, but not before warning her against telling anyone about the incident lest he return with vengeance and kill.

For two days Eva did not speak of her ordeal to anyone although her sisters were home. She waited for her parents who were still in Mangaldan, Pangasinan, selling vegetables. It was only on the third day when her parents returned that she revealed her horrifying experience to her mother.[9]

Eva was immediately taken by her mother to the barangay captain who advised them to report the crime to the police. Thus, at seven o'clock that evening, they went to the police headquarters in Urdaneta to give Eva's sworn statement.

An investigation was conducted by P/Cpl. Joe Gravidez who then advised the young girl to undergo physical examination at the Urdaneta General Hospital where she was subsequently examined by Dr. Nora V. Bacani.[10] The medical findings showed that there were "no fresh lacerations except for seemingly old wounds about the junctions of the two labia on the right side." [11]

For his defense, the accused testified that on 13 October 1982 he left his house at around six o'clock in the morning to drive his tricycle within the poblacion of Urdaneta, some seven (7) kilometers from Bgy. San Jose. At noontime, he ate lunch at the Dan's Restaurant in the poblacion. After taking his meal, he continued to operate his tricycle within the town proper for the rest of the day and went home at six o'clock that evening. He further said that it was prohibited for tricycle drivers to transport passengers to and from the poblacion.[12]

The accused now faults the trial court for convicting him of rape when the prosecution failed to prove his guilt beyond reasonable doubt. He claims that the offended party could have easily sought help from the residents of the barangay when she was allegedly forcibly taken in the middle of the road as there were several houses proximate to the place. Moreover, the route she took was habitually used by the townspeople.

This argument was satisfactorily rebutted by the victim when she testified that she was all alone on the road when the accused abducted her as the residents of San Jose, who were predominantly farmers, were out in the fields most of the day, virtually leaving their houses with nobody home. If indeed they were people in some houses at that time, they must also be inside their houses sheltering themselves from the scorching heat of the noonday sun.

Appellant takes issue with the fact that the offended party gave the name of Paulino Querido alias Pedring Querido when asked by the barangay captain as to who her assailant was, and later by the medico-legal officer at the hospital where she was examined. This apparent lapse in the answer of the victim could be easily explained. When Eva gave her sworn statement of 16 October 1982, she gave the name of Pfc. Pedring Querido thinking that the investigating officer was referring to the rape committed on 11 October 1982. When she returned to the police station on 2 November 1982 to give a second sworn statement before Pat. R. Q. Javonillo, she gave the names of Panting Querido, Poldo Querdio and Botog Sumera as the persons who also sexually abused her. The same narration was made by her before Pfc. Orlino Lozano in her third sworn statement of 26 November 1982.

Moreover, Eva testified that she was sexually abused by three (3) other persons, one of whom was Pfc. Paulino Querido.[13] The young girl told the court that Pedring Querido had carnal knowledge of her once on 11 October 1982, after which she was offered a guava, calamansi, pomelo and P2.00 as consideration for the sexual congress; however, she refused to accept them.[14]

Clearly, the offended party could not be expected to respond intelligently and with flawless accuracy to questions regarding her ugly past, more so when the victim was still in her tender years. On the contrary, these minor lapses would tend to buttress, rather than weaken, the complainant's credibility as one could hardly doubt that her testimony was contrived.[15]

Accused-appellant claims that with the proddings of her mother and a retired constabulary soldier, Eva demanded P20,000.00 from him otherwise he would be charged. The same amount was similarly demanded from Panting Querido, Paulino Querido and Botog Sumera in consideration for the dropping of the criminal cases against them. Since the accused did not oblige, he was charged.[16]

Obviously, this is a last-ditch attempt by the accused to impair the credibility of the complainant by imputing to her and her family unfounded charges, which were not proved nor corroborated during the trial. Hardly can we believe that a mother, a simple vegetable peddler from a provincial town, will unfeelingly expose her daughter to the humiliating experience of a public trial if the charge were not true. After all, she and her husband have a regular source of income enough to feed their children and send them to school. Considering the modesty and timidity of a typical Filipina, specially one from the rural areas, it is hard to accept that Eva would fabricate facts which would so seriously cast dishonor on her maidenhood.[17]

According to the appellant, the failure of the offended party to promptly report the incident to her mother renders her tale open to serious doubt. We find this contention flawed. Jovina Tabadero, the victim's mother, thus testified

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Fiscal Peralta:

Q:

Mrs. Witness, during the last hearing of this case on October 22, 1984 x x x you mentioned that you were in Mangaldan, Pangasinan on October 16, 1982, why were you there in Mangaldan, Pangasinan?

A:

Because I was selling vegetables, sir.

Q:

For how many days were you in Mangaldan, Pangasinan selling vegetables?

A:

From Monday up to Saturday afternoon, sir.

Q:

And what day did you return x x x home?

A:

In the afternoon of October 16, sir.

Q:

When you arrived in the afternoon of October 16, 1982, was there anything unusual that happened?

A:

Yes, sir, there was x x x x When I arrived home I reached my daughter in our room, sir x x x x I went near her and asked her why she was lying down x x x x She embraced me and was crying very hard, sir.

COURT:

Q:

What do you mean "crying very hard?"

A:

She was crying continuously, sir.

x x x x

Fiscal Peralta:

Q:

What did your daughter tell you, if any?

A:

She told me: "Mother, Policeman Paulino Querido, Panting Querido, Poldo Querido and Botog Sumera abused me."

The foregoing clearly shows that at the time of the rape the victim's mother was not home, and when the latter arrived from Mangaldan, Eva forthwith told her about the four incidents of rapes perpetrated on her by Pfc. Paulino "Pedring" Querido on 11 October 1982, Alfredo "Panting" Querido on 12 October 1982, Rodolfo "Poldo" Querido on 13 October 1982 and a certain "Botog" Sumera on 14 October 1982. While it may be true that Eva's sisters were at home then when she was sexually abused but, as expected, the young girl was at that point shaken, emotionally disturbed, and afraid to confess the rape because of the threats she received from the accused.[18]

Appellant also capitalizes on the medical findings on the body of the complaining witness showing no signs of injuries, bruises or wounds, indicating that there was no struggle between Eva and the accused during sexual congress, and that Eva did not make an outcry when she was forcibly abducted in the middle of the road nor did she jump off the tricycle when the accused had his hands on the handle. Moreover, the victim testified that the accused did not use his fingers to guide his penis in inserting it inside her vagina.[19]

When a woman says that she has been raped, she says in effect all that is necessary to show that rape was committed and if her testimony meets the test of credibility, the accused may be convicted on the basis thereof.[20] In rape cases, submission does not necessarily imply volition. Well settled is the rule that absence of external signs or physical injuries does not negate the commission of the crime of rape. Proof of injuries is not necessary because this is not an essential element of the crime.[21]

It must be stressed that the accused pointed his balisong at the offended party during their encounter in the middle of the road thus instantly frightening the hapless victim. He continued to do so until they reached the old house where, using force, threats and intimidation, he succeeded in ravishing the young girl. In fact, the records show that the offended party, despite the grave threat to her life, had enough courage to initially resist the bestial advances of the accused. The resistance however was shortlived because of the continuing intimidation by the accused which cowed the victim into submission.

Finally, the accused asserts that he was in the poblacion of Urdaneta, a good seven (7) kilometers from the crime scene in San Jose, having his lunch inside a cafeteria.

Such alibi is unacceptable. As we have repeatedly held, courts have always looked upon the defense of alibi with suspicion and have always received it with caution not only because it is inherently weak and unreliable but also because it is easily fabricated. For alibi to serve as a basis for acquittal, it must be established with clear and convincing evidence. The requisites of time and place must be strictly met. Appellant must convincingly demonstrate that it was physically impossible for him to have been at the scene of the crime at the time of its

commission.[22]

The two-fold test has not been met in the present case. Accused could have easily negotiated with his tricycle the 7-kilometer distance from the poblacion to San Jose. Clearly, there was no physical impossibility for the accused to be at their old house in Bgy. San Jose and commit the rape. Besides, the defense of alibi cannot prevail over his positive identification by the complainant. In her testimony, the 13-year old victim pointed to the accused as her attacker in a direct, firm and unequivocal manner, although interrupted at times by momentary sobs when reminded of the terrifying experience.

In sum, we find the guilt of the accused-appellant duly proved beyond reasonable doubt.

WHEREFORE, decision of the court a quo finding accused-appellant Rodolfo Querido also known as "Poldo" Querido guilty of the crime of rape and sentencing him to reclusion perpetua and to indemnify complaining witness Eva R. Tabadero in the sum of FIFTY THOUSAND PESOS (P50,000.00) is AFFIRMED, with costs against appellant.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., Quason, and Kapunan, JJ., concur.

[1] Penned by Judge Alicia Gonzalez Decano, Regional Trial Court, Br. 48, Urdaneta, Pangasinan.

[2] Exh. "A", Original Records, p. 1.

[3] Original Records, pp. 49-51; TSN, pp. 112-113. Alfredo "Panting" Querido was charged with rape committed on 12 October 1982; his uncle, Paulino "Pedring" Querido, a police officer, was also accused of raping Eva Tabadero on 10 October 1982; while Botog Sumera, a friend of the Queridos, was also included in the rape charge committed on 14 October 1982 before another branch of the Regional Trial Court of Urdaneta, Pangasinan. However, the charge against Panting Querido was dropped while the charges against the other two remained pending as of the time accused Rodolfo "Poldo" Querido was convicted by the trial court.

[4] Original Records, p. 56.

[5] TSN, 8 May 1984, pp. 64-72.

[6] TSN, 16 March 1984, p. 15; 9 May 1988, p. 270.

[7] TSN, 9 May 1988, pp. 274-275.

[8] Id., p. 18; 8 May 1984, pp. 76-78.

[9] TSN, 28 February 1985, p. 132.

[10] Id., pp. 136-140.

[11] Exh. "C", Original Records, p. 3.

[12] TSN, 7 April 1988, p. 7; 9 May 1988, pp. 271-272.

[13] Note 3.

[14] TSN, 28 June 1984, pp. 88-89.

[15] People v. Ramos, G.R. No. 68209, 21 December 1993; People v. Wagay, G.R. No. 98154, 9 February 1993,

218 SCRA 742.

[16] Brief of Accused-Appellant, p. 8.

[17] *People v. Senon, Jr.*, No. L-36606, 25 March 1983, 121 SCRA 141.

[18] *People v. Abuyan, Jr.*, G.R. No. 95254-55, 211 SCRA 662; *People v. Soterol*, 16 December 1985, 140 SCRA 400; *People v. Villanueva*, G.R. No. 96712, 20 July 1992, 211 SCRA 651; *People v. Santiago*, No. L-46132, 28 May 1991, 197 SCRA 556; *People v. Dabon*, 216 SCRA 656.

[19] Brief for the Accused-Appellant, p. 9.

[20] *People v. Segundo*, G.R. No. 88751, 27 December 1993; *People v. Rabanes*, 208 SCRA 768.

[21] *People v. Rabanes*, G.R. No. 93709, 8 May 1992, 208 SCRA 768; *People v. Abonada*, G.R. No. 50041, 27 January 1989; *People v. Oliver*, G.R. No. 101577, 13 November 1992, 215 SCRA 759; *People v. Grefiel*, 215 SCRA 596.

[22] *People v. Claveria*, G.R. No. 94786, 6 April 1993; *People v. Antud*, G.R. No. 95684, 7 October 1992; *People v. Besana*, G.R. No. 102722, 17 March 1993.

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