

## PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LEONARDO ILAO, APPELLANT.

*G.R. Nos. 152683-84. December 10, 2003*

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-152683-84/>

---

### QUISUMBING, J.:

For automatic review is the decision[1] dated December 18, 2001 of the Regional Trial Court (RTC) of Pasig City, Branch 163, convicting appellant Leonardo Ilaog of two counts of rape, and imposing on him the penalty of death in Criminal Case No. 118448-H and reclusion perpetua in Criminal Case No. 118449-H.

The informations against appellant alleged:

Criminal Case No. 118448-H

That on November 18, 1999 at the residence of the victim Zenaida Vargas y Hipos, at 648 Magsaysay St., Pasig City, Philippines, and within the jurisdiction of this Honorable Court the above-named accused with the use of force, threat and intimidation, did then and there willfully, unlawfully and feloniously pull the victim while the latter was washing their clothes, cover her mouth, point a knife at her, bring her to a nearby room, kiss her in different parts of her body and succeed in raping her against her will and consent, in the presence of the victim's 12-year-old daughter Rose Vargas.

Contrary to law.[2]

Criminal Case No. 118449-H

That on December 9, 1999 at the residence of the victim Zenaida Vargas y Hipos, at 648 Magsaysay St., Pasig City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with the use of force, threat and intimidation, did then and there willfully, unlawfully and feloniously, point an ice pick on the victim, threaten to kill her and succeed in raping the victim against her will and consent.

CONTRARY TO LAW.[3]

When arraigned on September 5, 2000, appellant entered a plea of not guilty to both charges. Thereafter, joint trial on the merits commenced.[4]

The prosecution presented in evidence the testimonies of the private complainant, Zenaida Vargas; her daughter, Rose Vargas; Zenaida's husband, Ruben Vargas; the examining Medico-Legal Officer, Dr. Evelyn Ignacio; and Saulito Castillo, a customer of Ruben Vargas.

Briefly, the facts of the case, based on the records, are as follows:

A two-storey structure of light materials in No. 648 Magsaysay St., Manggahan, Pasig City is home to Zenaida Vargas, her spouse Ruben, and their three daughters. The first floor is used as an ice cream factory where Ruben works as an ice cream vendor while the second level, with its sixteen rooms, served as a rent-free dwelling for the Vargases and three other ice cream vendors as well as their families.[5]

On November 17, 1999, appellant, who is the godfather of the Vargas' youngest daughter, Mary Jane, came from Batangas in time for his godchild's birthday. Ruben and appellant, as well as some of Ruben's co-workers at the ice cream factory, had a drinking binge. That night, Saulito Castillo arrived to order ice cream from Ruben. Appellant offered Saulito a shot of gin to which he readily obliged before going home.[6]

Appellant spent the night at the Vargas' abode.

The next morning, Saulito returned to get the ice cream he ordered the previous day. He spotted appellant, sitting on a bench in the factory compound, morose-looking, and drunk.

At 10:30 a.m., after seeing her husband off to work, Zenaida went up to the second floor of the building to gather her laundry. When she was passing by a vacant room, appellant suddenly appeared and with a knife pointed at her, shoved Zenaida into the room. It was during that fraction of time that Zenaida's eldest daughter, Rose, arrived from the store and saw the ruckus. Appellant swiftly grabbed Rose by the hair, poked a knife at her, and rammed her inside the room with Zenaida.[7]

At first, Zenaida tried kicking appellant. Ila then mercilessly beat her at the upper right torso which made her writhe with pain.[8] With his prey neutralized and weakened, appellant removed her shorts and like a mad dog started licking her on various parts of her body. While pointing a knife at her, appellant sexually assaulted and satiated his lust upon Zenaida. In her weakened state, she could not put up any further resistance; she wept after her ravishment and dishonor.

Rose, who was down on the floor, saw the entire monstrous assault by appellant on her mother. But Rose could do nothing but cower in overwhelming fear of the rapacious monster attacking her mother sexually. [9]

Appellant cautioned mother and daughter not to squeal before he casually strode off.[10] Zenaida and Rose feared of worse things to come so they kept mum about the incident.[11] Not until the second rape occurred.

On December 9, 1999 at 10:30 p.m., almost a month after the first molestation, Zenaida went out of her room to check if her husband had arrived. While passing by the same vacant room where she was once raped by appellant, the latter again came into view and pointed an ice pick at Zenaida. Once more appellant sated his lust upon Zenaida under circumstances almost similar to the first rape, except that this time the maniac used an ice pick instead of a knife. [12]

Her fear of another repetition of sexual abuse prompted Zenaida to reveal her ordeal to her husband on December 19, 1999.[13] It took the family two days to decide on their course of action. On December 21, 1999, Ruben with Zenaida and daughter Rose in tow, resolved to bring charges against appellant before the barangay officials. A week after, on December 27, 1999, upon the prodding of their relatives from Bacoor, Cavite, the Vargases sought the assistance of the National Bureau of Investigation (NBI) office and executed their sworn statements thereat. Zenaida later submitted herself to a physical examination.[14]

When appellant got wind of the raps brought by Ruben and his wife against him in court, he confronted Ruben at the factory. With his typical brandishing of an ice pick, he badgered Ruben to back off from the case.[15]

Appellant's defense is one of alibi and denial. Appellant averred that he was in San Isidro, San Luis, Batangas on the dates and hours the alleged rapes happened. He was harvesting chico fruits on November 18, 1999 and on December 9, 1999, he was with his family celebrating his birthday, he recalled. His wife Delilah, and neighbors Potenciana Balog and Espiridion Cuasay corroborated his story.

In due course, the lower court rendered a decision on December 18, 2001, disposing of the two cases, as follows:

WHEREFORE, in Criminal Case No. 118448, accused is convicted of the crime of rape and sentenced to

suffer the penalty of death by lethal injection and the accessory penalties provided by law and to pay the costs.

In Criminal Case No. 118449, the accused is, likewise, convicted of the crime of rape and sentenced to suffer the penalty of reclusion perpetua and the accessory penalties provided by law and to pay the costs.

As to the civil aspects of the two cases, the accused is ordered to pay the victim, Zenaida Vargas, Php50,000.00 as civil indemnity and Php50,000.00 by way of moral damages in each case.

SO ORDERED.[16]

In view of the imposition of the death penalty, the case is now before us on automatic review, pursuant to Article 47[17] of the Revised Penal Code, as amended.

Reversal of the decision is sought on the grounds that:

I.

THE TRIAL COURT ERRED IN NOT CONSIDERING THE SEXUAL ACTS BETWEEN ACCUSED-APPELLANT AND THE PRIVATE COMPLAINANT AS CONSENSUAL.

II.

THE TRIAL COURT ERRED IN NOT FINDING THAT NO FORCE OR INTIMIDATION ATTENDED THE SEXUAL ACTS BETWEEN THE ACCUSED-APPELLANT AND THE PRIVATE COMPLAINANT.[18]

The basic issues are: (1) the credibility of witnesses for the prosecution, particularly private complainant Zenaida Vargas, upon whose testimony appellant was convicted, (2) the sufficiency of the evidence for the prosecution, and (3) the propriety of the penalty imposed.

Anent the first issue, appellant implores the Court to take a closer look at the testimony of the complainant. He points to several aspects of complainant's testimony which allegedly affected her credibility, namely: (a) that there was delay in reporting to her husband or to the police of the alleged rapes,[19] (b) that she was an experienced woman and older than appellant by 5 years, (c) that she did not resist or attempt to flee or shout for help,[20] and (d) that no proof was presented to indicate that the alleged threats were continuous and thus prevented her from reporting the rape promptly.

For the State, the Office of the Solicitor General contends that the credibility of private complainant and her witnesses are beyond question. They had no motive to maliciously implicate appellant in a serious offense, except their desire to see to it that justice for the victim is done and that the guilty is punished properly.

We find the appellant's contentions devoid of merit. As a rule, the trial court's assessment of the credibility of witnesses is accorded great respect because of its opportunity to hear their testimonies and observe their demeanor and manner of testifying. However, considering that the deciding judge had heard only the testimonies of the defense witnesses, said rule may not be applicable fully. Nonetheless, following a careful perusal of the records, this Court is inclined to agree with Judge Leili Suarez Acebedo's assessment of facts and appreciation of evidence.

As borne by the records, we agree with the trial court that complainant's testimony that she was raped was straightforward, credible, and convincing, whereas the denial and alibi of the appellant, that he was in Batangas on the dates and hours of the rape incidents, were unworthy of belief and lacking in plausibility.

Said the trial court in its decision:

The Court is not inclined to believe that the complainant would be so cold-blooded as to hatch up the humiliating and degrading story of the repeated sexual assaults and violations of her honor by the accused; to allow a meticulous examination of her body and sex organs and to suffer the humiliation and embarrassment of narrating in Court the shameful ordeal she had gone through if she had not really been a victim of repeated sexual assaults by the accused, or was motivated by extreme desire for justice and the punishment of the accused. Zenaida could have invented a story of rape without having to include her daughter in it to spare her the trouble, inconvenience, shame and anxiety of having to testify in court on what appeared to be a humiliating experience of her own mother. Yet, she did and the Court is inclined to think that she could not have done so if it were not the truth.[21]

On the second issue, appellant argues that force or intimidation was not adequately proved by the prosecution. On the contrary, the OSG shows that force and intimidation clearly attended the commission of the crime.[22]

The fact that private complainant did not resist or attempt to flee or shout for help does not negate force or intimidation.[23] Different people react differently when confronted by a shocking or a harrowing and unexpected incident, for the workings of the human mind when placed under emotional stress are unpredictable. Some people may cry out, some may faint, some may be shocked into insensibility, while others may appear to yield to the intrusion.[24] Moreover, in rape cases, physical resistance need not be established when intimidation is exercised upon the victim and the latter submits herself out of fear. Intimidation is addressed to the mind of the victim and is therefore subjective. Here, the victim categorically described the force and intimidation exerted with the use of lethal weaponry (knife and ice pick) when she was ravished. Mentally, she was revolted at the sexual assault. Indeed with a knife poked at her, physical resistance was not only futile but truly hazardous and might cost her life and, in the first incident, that also of her daughter.

The assertion of appellant that private complainant was a married woman, and was no longer a virgin, will not exculpate him from criminal liability for rape. Well-settled is the rule that in rape cases, virginity of the victim is not an element of rape.[25]

The fact that private complainant was older than appellant by 5 years does not excuse nor mitigate the heinous nature of the sexual molestation. Whether or not appellant is younger than complainant is not relevant in rape cases as force or intimidation is relative and need only be sufficient to consummate the crime.[26]

While indeed the victim might have tarried in reporting her defilement, yet the delay is explained by the fear generated by appellant in the mind of complainant. The hiatus in reporting the crime does not extricate appellant from his predicament.[27] As the trial court found, complainant did not divulge the first incident of rape out of fear for her life and that of her family. She could have kept her ordeal forever in silence were it not for the second incident which engendered her continuing fear of a repetition thereof, unless she could put a stop to it.[28] This reaction appears typical of a woman who has been abused. Rape is a harrowing experience and the shock concomitant to it may linger for a while. It is upon this fear springing from the initial rape that the perpetrator hopes to build a climate of psychological terror, which could numb his victim to submissiveness.

On the face of evidence for the defense, it is rather perplexing that appellant would plead alibi and denial while simultaneously insisting that his sexual intercourses with complainant were consensual. [29] There is no method in his madding style of defense. A "sweetheart theory" as an affirmative defense must be established by convincing proof. The burden of proof is on appellant to prove that he and the victim were sweethearts. As earlier noted, herein appellant utterly failed to establish such fact at the trial, much less during this review.

But even more bizarre is his defense of alibi. He and his three other witnesses tried to establish during the trial that he was away from the scene of the rapes. Yet, he also claims that the coituses with complainant were acts of love. Thus, he could not escape an apparent contradiction. How could his alibi square with actual sexual contact?

Indeed, instead of boosting his defense, appellant's "sweetheart theory" wreaked havoc on it. The inevitable conclusion is that it is an afterthought, a last ditch ploy to avoid the extreme penalty for a heinous crime.

But was the trial court correct in imposing capital punishment in Criminal Case No. 118448-H?

Considering that the rape was committed on November 18, 1999, the pertinent law is found in Article 266-B[30] of the Revised Penal Code, as amended by Republic Act 8353 which took effect on October 22, 1997. Under said law, the death penalty shall be imposed when the rape is committed in full view of the husband, parent, any of the children or other relatives within the third degree of consanguinity. Since this circumstance increases the range of the penalty and changes the nature of the crime, it is a special qualifying circumstance. Accordingly, consistent with appellant's right to be informed of the nature and cause of the accusation against him, this circumstance must be specifically pleaded or alleged with certainty in the information and proven during the trial.[31]

Although specifically alleged in the information, the qualifying circumstance that the rape was committed in full view of one of the victim's children was not specifically proved during trial. The prosecution offered no proof of Rose Vargas' filiation. That Zenaida is the mother of Rose, which is also to say that Rose is the daughter of Zenaida, was not satisfactorily shown by competent evidence, i.e., birth certificate. In our view, the parent-child relationship between Zenaida and Rose cannot be presumed in this case. Indirect references to such a relationship by counsels during their direct or cross-examination is not sufficient proof. Such relationship must be directly inquired into, and properly proved. The failure of the prosecution to do so should not be taken lightly. For the prosecution has the burden of proving its allegation of the filial relationship to qualify this case into a capital offense. Here, where the life of a human being hangs in the balance, we must apply the law and our rules strictly against the prosecution. Thus, the death penalty imposed by the trial court in Criminal Case No. 118448-H cannot be upheld because of the prosecution's failure to prove directly and adequately the qualifying circumstance that the rape was committed by appellant in full view of the child of the victim.

As well said in *People v. Ramos*,[32] "In the prosecution of criminal cases, especially those involving the extreme penalty of death, nothing but proof beyond reasonable doubt of every fact necessary to constitute the crime with which an accused is charged must be established. Qualifying circumstances or special qualifying circumstances must be proved with equal certainty and clearness as the crime itself, otherwise, there can be no conviction of the crime in its qualified form."

Nor is the imposition of death justified by the fact that it was alleged in the information in Criminal Case No. 118448-H and Criminal Case No. 118449-H that the rapes were committed with the use of a deadly weapon - a knife and an ice pick, respectively. Under Art. 266-B, the prescribed penalty for rape with a deadly weapon is reclusion perpetua to death.[33] But under Art. 63, RPC, the penalty to be applied should be the lesser one, when there is no aggravating nor mitigating circumstance.[34] Consequently, herein appellant can only be held liable for two (2) counts of simple rape, each punishable with the single indivisible penalty of reclusion perpetua.

Lastly, as to the civil liability of appellant, the trial court's ruling in both cases is in order and must be affirmed.[35]

WHEREFORE, the decision dated December 18, 2001 of the Regional Trial Court (RTC) of Pasig City, Branch 163 in Criminal Case No. 118448-H and Criminal Case No. 118449-H is **AFFIRMED** with **MODIFICATION**. Appellant **LEONARDO ILAO** is found **GUILTY** beyond reasonable doubt of two counts of rape and sentenced to reclusion perpetua for each count. He is also **ORDERED** to pay the victim the amount of P50,000.00 as civil indemnity and another P50,000.00 as moral damages in each count. Costs against appellant.

**SO ORDERED.**

Davide, Jr., C.J., Puno, Vitug, Panganiban, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

---

[1] Rollo, pp. 18-23.

[2] Id. at 4.

[3] Id. at 6.

[4] Records, p. 25.

[5] TSN, 17 October 2000, pp. 18-19.

[6] TSN, 2 October 2001, pp. 5-6, 8.

[7] Rollo, pp. 73-74; TSN, 17 October 2000, pp. 4-7.

[8] TSN, 7 November 2000, pp. 5-7.

[9] TSN, 5 December 2000, pp. 18-20.

[10] TSN, 17 October 2000, p. 9.

[11] Rollo, pp. 74-75; TSN, 17 October 2000, pp. 9-10.

[12] Id. at 75; Id. at 15.

[13] TSN, 7 November 2000, p. 18.

[14] Records, p. 12.

[15] TSN, 19 December 2000, p. 5.

[16] Rollo, p. 23.

[17] ART. 47. In what cases the death penalty shall not be imposed; Automatic Review of Death Penalty Cases.—The death penalty shall be imposed in all cases in which it must be imposed under existing laws, except when the guilty person is below eighteen (18) years of age at the time of the commission of the crime or is more than seventy years of age or when upon appeal or automatic review of the case by the Supreme Court, the required majority vote is not obtained for the imposition of the death penalty, in which cases the penalty shall be reclusion perpetua.

In all cases where the death penalty is imposed by the trial court, the records shall be forwarded to the Supreme Court for automatic review and judgment by the court en banc, within twenty (20) days but not earlier than fifteen (15) days after promulgation of the judgment or notice of denial of any motion for new trial or reconsideration. The transcript shall also be forwarded within ten (10) days after the filing thereof by the stenographic reporter.

[18] Rollo, p. 34.

[19] Id. at 41.

[20] Id. at 45.

[21] Id. at 21.

[22] Id. at 77.

[23] Art. 266-A. Rape, When and How Committed.— Rape is committed –

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat or intimidation;

b) When the offended party is deprived of reason or is otherwise unconscious;

c) By means of fraudulent machination or grave abuse of authority;

d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

[24] People v. Burgos, G.R. Nos. 139959-60, 22 November 2001, 370 SCRA 325, 334.

[25] People v. Cajara, G.R. No. 122498, 27 September 2000, 341 SCRA 192, 202-203.

[26] People v. Bayron, G.R. No. 122732, 7 September 1999, 313 SCRA 727, 736.

[27] People v. Baway, G.R. No. 130406, 22 January 2001, 350 SCRA 29, 49.

[28] Rollo, p. 21.

[29] Id. at 34, 40; TSN, 17 October 2000, pp. 36-37.

[30] Art. 266-B. Penalties. - ...

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

...

3) When the rape is committed in full view of the spouse, parent, any of the children or other relatives within the third civil degree of consanguinity. (Emphasis supplied.)

[31] People v. Sayao, Jr., G.R. No. 124297, 21 February 2001, 352 SCRA 390, 401.

[32] G.R. No. 142577, 27 December 2002, p. 20.

[33] Art. 266-B. Penalties. – ...

Whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

...

[34] ART. 63. Rules for the application of indivisible penalties....

- When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

[35] See People v. Villanueva, G. R. Nos. 146464-67, 15 November 2002, p. 13.

**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.