

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DIOSCORO VILLAMAYOR Y OCAMPO @ JESSIE, ACCUSED-APPELLANT.

G.R. Nos. 97475-76. July 18, 1991

Ponente: PARAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-97475-76/>

PARAS, J.:

This is an appeal from the Decision* of the Court of Appeals affirming the judgment of conviction for the crimes of Grave Threats and Rape as against appellant Dioscoro Villamayor y Ocampo in Criminal Cases Nos. IR-515 and 530 rendered by the Regional Trial Court, Branch 36, Iriga City.**

Appellant Dioscoro Villamayor y Ocampo alias Jessie Villamayor y Ocampo, together with John Doe and Peter Doe, was indicted for the crime of Grave Threats, allegedly committed in the following manner:

"That during or within the period of October, 1975 to November 18, 1975 at Iriga City, Philippines, and within the jurisdiction of this Honorable Court, the said accused, without any legal, justification, conspiring and confederating with one another, did, then and there willfully, unlawfully and feloniously threaten to kill one AUREA N. NADAL, a girl 13 years old, student, if the former's demand for money was not satisfied by said Aurea N. Nadal and that said girl intimidated by said threats gave to the said accused on several occasion(s) the various amounts of P5.00, P10.00, P5.00, P50.00 and lastly P30.00, or in the total amount of ONE HUNDRED (P100.00) PESOS, Philippine Currency, to the damage and prejudice of the said Aurea N. Nadal in the aforesaid amount.

ALL ACTS CONTRARY TO LAW.

Iriga City, Philippines, May 11, 1976." (Original Records, Crim. Case No. Ir-515, p. 54)

Likewise, appellant Dioscoro Villamayor y Ocampo alias Jessie Villamayor y Ocampo, together with John and Peter Doe, was charged with the crime of Rape, allegedly committed as follows:

"The undersigned, under oath, accuse DIOSCORO VILLAMAYOR y OCAMPO alias JESSIE VILLAMAYOR y OCAMPO, who is allegedly residing at San Jose, Nabua, Camarines Sur, as principal, 'JOHN DOE' and 'PETER DOE', as accomplices, of the crime of RAPE, defined and punished under Art. 335 of the Revised Penal Code, committed as follows:

That on or about the 11th day of November, 1975 at or about 5:00 o'clock in the afternoon, inside the fire escape enclosure of the Jorge L. Ong Hardware, located at Santan St., San Roque, Iriga City, Philippines, and within the jurisdiction of this Honorable Court, the said principal accused DIOSCORO VILLAMAYOR y OCAMPO alias Jessie Villamayor y Ocampo, armed with a knife and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the undersigned complainant AUREA N. NADAL, a girl of 13 years of age, against the latter's will and consent.

That accused 'JOHN DOE' and 'PETER DOE' willfully, unlawfully and feloniously cooperated in the execution of the offense by previous or simultaneous acts, that is, while the principal accused DIOSCORO Villamayor y Ocampo alias Jessie Villamayor y Ocampo was sexually abusing the said complainant inside the

cubicle, the door thereof was closed by the said 'John Doe' and 'Peter Doe' from the outside and they acted as looks-out for the principal accused.

That as a consequence of the illegal acts of the accused, the undersigned complainant suffered by way of actual, moral and other forms of damages in the amount of P20,000.00.

ALL ACTS CONTRARY TO LAW.

Iriga City, Philippines, May 11, 1976." (Original Records, Crim. Case No. Ir-530, p. 38)

Upon arraignment, appellant with the assistance of his counsel, entered a plea of NOT GUILTY to both felonies (Ibid., p. 44).

At the trial, the prosecution presented the following witnesses:

1. AUREA NADAL, 15 years old, single, student of La Consolation Academy, testified that: The first time she knew the appellant Villamayor was in October, 1975. He was sitting in the school fence. She went home and appellant followed her up to Lucky Grocery, also in Iriga City. Two persons accompanied the appellant. Appellant took hold of her left arm and asked her to give money and if not he threatened to kill her. She said nothing out of fear but appellant said that he should be given money next time. For the second time, she saw accused near the parking area of the jeepneys bound for Buhi, Iriga City and he approached her, asking whether she had the money. She had only P5.00 which appellant took. The third time she saw appellant, his two companions asked for money and she gave them P10.00. In November, 1975, appellant approached her again and asked for money. She had only P5.00 which she gave to appellant and the latter remarked that "next time the amount should be more."

On November 11, 1975, appellant asked money from her again and she gave him P50.00. Appellant pulled her at the back of the store of Jorge Ong Building (TSN, pp. 3-14, Hearing of February 23, 1978). She was made to enter a room and threatened to sit down on a ladder. Appellant asked her to remove her panty but appellant himself did so. Appellant kept on touching the surrounding parts of her vagina with his penis and her vagina became wet (Ibid., pp. 2-6, Hearing of May 5, 1978). She felt pain inside her vagina. After appellant had inserted his penis inside her vagina which felt pain (sic) and was wet, the former put on his pants and left. Thereafter, she picked up her panty, put it on and left. During the time that appellant kept touching her female organ with his penis, she was afraid and she cried because the appellant kept threatening her with his knife.

The next time she saw appellant was also in November, 1975 near the Bayanihan. Appellant asked her to approach him and when she did so, the former asked money from her. She gave him P30.00 which her mother purposely intended to be given to appellant so that the latter might be apprehended. Policeman Roberto Basinal was to apprehend appellant. She boarded a jeepney after giving the money and later on she knew that the appellant had been apprehended. She saw appellant inside the prison cell when she, her mother and father filed a complaint (Ibid., pp. 3-13, Hearing of July 13, 1978).

On cross-examination, she, stated that she did not report to her mother and father the incidents when appellant asked money from her because appellant threatened to kill her if she did so (Ibid., pp. 2-18, Hearing of November 9, 1978).

2. DR. LORETO G. LEONIDO, declared that she is the Assistant City Health Officer of Iriga City. On November 19, 1975, she conducted a physical examination on Aurea Nadal with the following findings: (a) Fresh healing laceration of hymen 7:00 o'clock, 9:00 o'clock and 12:00 o'clock, which indicates the use of force in sexual intercourse; (b) a test tube 3/4 of an inch in diameter entered with difficulty which, because of its size, could not have entered the vagina if there had been no previous intercourse. Such previous intercourse could have been only

once, because if there were more, the test tube would have entered easily; (c) No external physical injury after conducting a thorough physical examination of the subject.

She opined that it was possible that there could have been contusion or abrasions at the time of the incident, only that at the time of the examination, they were already healed (TSN, pp. 3-13, Hearing of September 29, 1977).

3. ROBERTO BASINAL, Policeman, Integrated National Police, Nabua, Camarines Sur, stated that: Complainant Aurea Nadal is the niece of his wife, the latter being the sister of Aurea's mother. On November 14, 1975 at 7:00 o'clock in the evening, Aurea and her mother came to his house crying. They reported to him that there were three (3) persons who asked money from Aurea and raped her. Aurea does not know their names but could identify them. He reported the matter to his station and Lt. Basinal asked him to contact the Provincial Intelligence Group of which he is a member. They planned to entrap the culprits. On November 17, they put into action their plan and Aurea was given three (3) marked ten-peso bills belonging to her mother. The money was to be given to the man who was asking money from Aurea if she would meet him and if the man asked for it. The man did not turn up. On the following day, they gathered themselves again and were all in plainclothes. Lt. Basinal posted himself at La Consolacion Academy and the others at the Iriga Park. The group waited until dismissal of the students from their classes. After the flag ceremony, they followed Aurea who walked from school. When Aurea reached the bus station, she stopped near Francy Emporium and stayed there for a while. Then Aurea continued walking until she reached the parking area near the Bayanihan Hotel and Restaurant. That was the time she was approached by the man. They conversed shortly and they were not facing each other. With folded arms in front of his chest, the man took the marked money with the use of his hand underneath the other arm. Aurea and the man parted ways and the latter crossed the railroad tracks then stood near the Rillo Grocery. The man talked to somebody and moments later, the Intelligence Group identified themselves as policemen. They apprehended the man and found the three (3) ten-peso bills in his pockets (TSN, pp. 2-18, Hearing of February 22, 1979). When asked, appellant gave his name as Jessie Villamayor, Dioscoro and Jessie Villamayor are one and the same person. The other person who was with appellant was freed since Aurea did not recognize him (TSN, pp. 2-8, Hearing of March 14, 1979).

4. ROSA NADAL, 53 years old, farmer, mother of complainant Aurea Nadal, testified that: In November, 1975, she came to know that her daughter was a victim of extortion and rape. Belen Velasco, their neighbor, was collecting from her P50.00 which was allegedly borrowed by Aurea. When asked what she did with the money, Aurea responded that she gave the money to the three men who were asking money from her otherwise they would kill her. Upon learning that Aurea had been placed in a cubicle, she brought her to Dr. Largosa and Dr. Leonido who both confirmed that Aurea had been raped. They also reported the incident to the Nabua Police Station (TSN, pp. 3-11, Hearing of March 12, 1981). Aurea told her that appellant Dioscoro Villamayor, whom she saw in prison, had been the one who has been asking money from her and the one who had raped her. Her daughter's plight brought her mental anguish, utter shame and hurt feelings so that not even P20,000.00 could compensate the damages done to her (TSN, pp. 2-8, Hearing of November 6, 1981).

On the other hand, the defense presented the following witnesses, viz.:

1. TERESITA L. LOGAN, Polygraph Examiner, National Bureau of Investigation, Manila, declared that: She had been a Polygraph Examiner of the NBI from 1963 up to 1976. The use of polygraph machines began from the time of their discovery in the 18th century and their rate of precision up to the present is 98% accurate. It could be used to determine whether an individual is lying or not. On February 6, 1976, she conducted a polygraph examination on appellant Jessie Villamayor y Ocampo. The Result and Opinion of said examination shows that relevant questions asked during the examination were printed below the questions and appellant gave truthful reactions (Ibid., pp. 3-22, Hearing of March 23, 1976). On cross-examination, witness testified that the result of a

polygraph examination is determinative of whether the individual is innocent or not and is to be a suppletory criterion with other evidence in the possession of a police investigator. The individual is however still subject to further investigation (*Ibid.*, pp. 2-3, Hearing of March 24, 1976).

2. JOSE DIPACULANG, 45 years old, mechanic, stated that: In 1975, he was a barangay captain of Francia, Iriga City. On November 18, 1975, appellant Jessie Villamayor fetched him from his house, requesting that they register with the Land Transportation Commission (LTC) the new motorcycle belonging to appellant. They proceeded to the Office of Atty. Olaso first since the latter would prepare a Deed of Sale of a motorcycle by and between Mr. Velasco and Mr. Botor. Atty. Olaso was not in his office and he borrowed appellant's motorcycle to see Mr. Botor at his office in the city hall, leaving appellant in front of Atty. Olaso's Office which is located under the Bayanihan Restaurant. When he came back, appellant was no longer there. His friends told him that appellant had been taken to the Police Station. He did not see appellant at the precinct. He gave the motorcycle to appellant's brother. He reported to appellant's parents that Jessie was in jail (TSN, pp. 3-10, Hearing, of November 6, 1984).

3. ATTY. CASIANO T. OLASO, JR., law practitioner, testified that: In the afternoon of November 18, 1975, he notarized a Deed of Absolute Sale executed by and between Jaime Botor and a certain Velasco. His wife and Jose Dipaculang witnessed the execution of said deed (TSN, pp. 1-10, Hearing of December 13, 1984).

4. ERNESTO NOBLE, 37 years old, carpenter, declared that: On November 11, 1975, he made a wooden box for appellant Jessie Villamayor to be used in the latter's trimobile. He finished making the box on that afternoon but Jessie and his wife, who came to Buhi, Camarines Sur where he was working, had to wait until November 12, 1975 since the varnishing of the box had not as yet been completed. Appellant told him that he should testify that on that date, he was really in Buhi (TSN, pp. 2-20, Hearing of May 29, 1985).

5. Appellant DIOSCORO VILLAMAYOR, 37 years of age, married, farmer and a resident of San Jose, Nabua, Camarines Sur, stated under oath that: He affirmed having been subjected to a polygraph examination by Polygraph Examiner Teresita Logan of the NBI. He confirmed as stated in the questionnaire that: (a) he did not know Aurea Nadal prior to November 18, 1975; (b) he never asked money from Aurea Nadal and (c) neither did he rape Aurea Nadal. At about 2:00 o'clock in the afternoon of November 18, 1975, he was with then Barrio Captain Jose Dipaculang. They were about to register his motorcycle with the LTC. Dipaculang went to the Office of Atty. Olaso and then he returned, borrowed appellant's motorcycle to see a certain person. He (appellant) was left in front of Atty. Olaso's office. While so waiting for Dipaculang, Aurea Nadal approached him and placed money on his left pocket saying: "Ini charity" (this is for charity). Aurea left immediately and the next moment he was arrested by the police. On November 11 and 12, 1975, he was with his wife at Buhi helping his in-laws in the furniture shop (TSN, pp. 1-34, Hearing of November 19, 1985).

6. RODOLFO MORAN, employee of the LTC, Iriga City, testified that: There is a registration paper in the LTC covering a motorcycle in the name of Jessie Villamayor y Ocampo. Date of registration was on February 17, 1976 (TSN, pp. 2-9, Hearing of August 5, 1986). The motor vehicle was purchased from De Jesus Marketing under date of February 12, 1976 as shown in the Sales Invoice (TSN, pp. 1-3, Hearing of November 5, 1986).

On rebuttal, the prosecution presented RENO R. GONZALES, City Fiscal of Iriga City, who declared that: During the preliminary investigation of these cases, Jose Dipaculang executed a sworn statement that he and appellant were together on November 18, 1975 not to register a motor vehicle at the LTC but to see a sidecar which was being made for the motorcycle of Jessie Villamayor, Dipaculang likewise falsely stated that the Deed of Sale between Velasco and Botor was not consummated on November 18, 1975 as borne out by the records (TSN, pp. 2-4, Hearing of May 8, 1987).

The trial court found appellant guilty of the crimes of Grave Threats and Rape, the decretal portion of the decision, reading, thus:

"IN VIEW OF ALL THE FOREGOING, the Court finds the accused Dioscoro Villamayor y Ocampo alias Jessie Villamayor y Ocampo guilty beyond reasonable doubt of the offense charged in the two Informations above-quoted namely, Grave Threats and Rape, and sentences said accused for the crime of Grave Threats (Art. 282, par. 1) to suffer an (sic) imprisonment of four (4) years and two (2) months of prision correccional, to eight (8) years and one (1) day of prision mayor, and for the crime of Rape, he is hereby sentenced to suffer the penalty of reclusion perpetua. Accused is also ordered to pay the costs.

SO ORDERED."

(Original Records, Crim. Case No. 530, pp. 243-268)

On appeal, the Court of Appeals affirmed the judgment of conviction with modification respecting the award of damages and indemnification to the victim in the sum of P30,000.00 (Rollo, pp. 146-161).

The penalty of reclusion perpetua having been imposed in the crime of Rape, the case was certified by the Court of Appeals and the entire records were elevated to this Court for review under Section 13, last par., Rule 124, 1985 Rules on Criminal Procedure as amended.

The appellant advanced the following assignment of errors:

THE LOWER COURT ERRED WHEN THE JUDGE, WHO DID NOT PERSONALLY HEAR THE PROSECUTION WITNESSES BUT WHO DECIDED THE CASE:

1. DISREGARDED THE RULE THAT 'A CONVICTION FOR RAPE BASED ON THE UNCORROBORATED TESTIMONY OF THE COMPLAINING WOMAN REQUIRES THAT HER STORY SHOULD BE CAREFULLY EXAMINED AND WEIGHED. THE ACCUSED SHOULD NOT BE CONVICTED UNLESS THE COMPLAINANT'S TESTIMONY IS IMPECCABLE AND RINGS TRUE THROUGHOUT.'
2. DISREGARDED THE GUIDELINE THAT '(1) AN ACCUSATION OF RAPE CAN BE MADE WITH FACILITY, IS DIFFICULT TO PROVE, BUT MORE DIFFICULT FOR THE PERSON ACCUSED, THOUGH INNOCENT, TO DISPROVE; (2) THE TESTIMONY OF THE COMPLAINANT MUST BE SCRUTINIZED WITH EXTREME CAUTION; AND (3) THE EVIDENCE FOR THE PROSECUTION MUST STAND OR FALL ON ITS OWN MERITS, AND CANNOT BE ALLOWED TO DRAW STRENGTH FROM THE WEAKNESS OF DEFENSE EVIDENCE.
3. DISREGARDED THE PROSECUTION'S OWN MEDICAL EVIDENCE WHICH SHOWS, ASIDE FROM ITS MANIFEST ERRORS AND WEAKNESS, THAT ASSUMING THAT A 'RAPE' HAPPENED, IT COULD NOT HAVE HAPPENED ON THE DATE ALLEGED.
4. DISREGARDED THE BADGES OF FABRICATION WHICH SHOW AN UNBIASED MIND THAT THE 'RAPE' WAS BUT A FIGMENT OF IMAGINATION; FOR HAD THERE BEEN TRULY SUCH A TRAUMATIC INCIDENT, THE COMPLAINANT'S TESTIMONY WOULD NOT BE CHARACTERIZED BY GENERALITIES, EVASIVENESS, AND UNDULY REPEATED FAILURE TO REMEMBER.
5. DISREGARDED THE SALIENT POINTS IN THE PROSECUTION'S OWN EVIDENCE WHICH SHOWED THAT THERE WAS NO "ENTRAPMENT" BUT A CRIMINAL FRAME-UP AND ILLEGAL ARREST OF THE FARMER ACCUSED.
6. DISREGARDED THE UNCONTRADICTED AND UNREBUTTED TESTIMONY OF AN IMPARTIAL, COLDLY NEUTRAL SCIENTIFIC EXPERT SIMPLY BECAUSE IT CORROBORATES THE

INNOCENCE OF THE ACCUSED.

7. DISREGARDED ALL REASONABLE DOUBTS THAT CORROBORATE THE INNOCENCE OF THE ACCUSED BUT INSTEAD, ACCEPTING AS TRUE, HOOK, LINE AND SINKER, THE PROSECUTION WITNESSES' TESTIMONIES, CONVICTED THE ACCUSED ON PERCEIVED WEAKNESS OF HIS DEFENSE."

The primary issues in these cases center on: (a) credibility of witnesses and (b) proof of guilt of appellant beyond reasonable doubt.

The prosecution's evidence duly established that on November 11, 1975, appellant Dioscoro Villamayor y Ocampo alias Jessie Villamayor y Ocampo, after having taken P50.00 from complainant Aurea Nadal pulled the latter towards the back of Jorge Ong's Building. Aurea, alleged to be 13 years of age at the time, was led to a room and threatened to sit on a ladder. Appellant touched the surrounding parts of her vagina with the use of his penis and her vagina became wet. The victim felt pain inside her vagina. After appellant placed his penis inside her vagina, which feeling painful and was wet, the former put on his pants and left. At the time appellant touched her female organ with his penis, Aurea was afraid and she cried because the former was threatening her with his knife.

Under Article 335, par. 1, of the Revised Penal Code, rape is committed by having carnal knowledge of a woman by using force or intimidation.

When appellant threatened the victim with a knife during the sexual intercourse, intimidation was present constituting his act as rape. Rape may be committed even if no force was used. Intimidation is sufficient, and this includes the moral kind such as threatening the victim with a knife (*People v. Hortillano*, 177 SCRA 729 [1989]).

Appellant contends that the crime of rape imputed against him was a mere fabrication, concoction of lies and unbelievable as a fairy tale.

Aurea, who was only 13 at the time, would not undergo the travails of a public trial and expose herself to humiliation and embarrassment if only to free herself from the whippings of her parents as pointed out by accused. Such reaction is not normal based on human experiences. At any rate, Aurea does not appear to have any ill-motive in her accusation against appellant. The testimony of a rape victim as to who abused her is credible where she has no motive to testify against the accused (*People v. Nunag*, 173 SCRA 274 [1989]).

Appellant likewise contends that complainant's testimony is characterized by generalities, evasiveness and unduly repeated failure to remember.

Considering the harrowing experience of Aurea, of having lost her virginity and having been intimidated, one could not expect her to remember every ugly detail connected therewith. In *People v. Mancilla*, 173 SCRA 373 [1989]), the High Court said:

"One cannot expect a rape victim to remember every ugly detail of her traumatic experience, especially so since she might in fact be trying not to remember them."

Appellant tried to exculpate himself by interposing the defense of alibi, stating that on November 11 to 12, 1975, he and his wife were at Buhi, Camarines Sur and could not be present at Nabua, Iriga City. However, defense witness Noble, nephew of appellant's father-in-law, stated that appellant urged him to testify that Jessie Villamayor was really in Buhi on the said date.

The defense of alibi is unavailing. Well-settled is the rule, that for the defense of alibi to prosper, it does not suffice to prove the whereabouts of the accused at the time the crime was committed; it must be indisputably

demonstrated that at the time of the commission of the crime, it was physically impossible for the suspect to have been at, or near the scene of the crime (*People v. Manzanares*, 177 SCRA 427 [1989]). And this is not the case here because Buhi is 13 kms. away, and therefore rather accessible. Moreover, the defense of alibi cannot prevail over the positive identification of the accused (*People v. Espera*, 175 SCRA 728 [1989]).

The appellant's guilt of the crime of rape has been proven beyond reasonable doubt.

It may indeed be that the judge who penned the trial court's decision was penned by a judge who had not heard the case at all, the trial having been conducted by another judge. Nonetheless, the transcripts of stenographic notes taken during the trial were extant and complete and there was no impediment for the other judge to have decided the case. It is not unusual for a judge who did not try the case to decide it on the basis of the record. The fact that the judge who heard the evidence is not the one who rendered the judgment and that for that reason the latter did not have the opportunity to observe the demeanor of the witnesses during the trial but merely relied on the records of the case does not render the judgment erroneous (*People v. de la Cruz y Ruado*, 183 SCRA 773 [1990]).

PREMISES CONSIDERED, the appealed judgment is AFFIRMED.

SO ORDERED.

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

* Penned by Associate Justice Segundino G. Chua and concurred in by Associate Justices Vicente V. Mendoza and Luis L. Victor.

** Penned by Judge Ulysses V. Salvador.

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.