

3 Phil. 444

[G.R. No. 1315. March 24, 1904]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. EUSEBIO VERSOSA,
DEFENDANT AND APPELLANT.**

D E C I S I O N

TORRES, J.:

On the 7th of March, 1903, the provincial fiscal of Tarlac filed an information in the Court of First Instance of that province charging Eusebio Versosa with the crime of rape, in that on the morning of January 21 last, while Maria Junio, a married woman, was walking through the fields from her house in the town of Camiling toward the barrio of Sinilian, she was stopped by Eusebio Versosa, who, bolo in hand, compelled her to go into the neighboring forest where, by means of intimidation, he succeeded in having sexual intercourse with her and then restrained her of her liberty until the following day, this contrary to the statute in the case made and provided.

In her sworn testimony the complaining witness testified that she was 19 years of age; that she was acquainted with the defendant, Versosa, as the latter frequented the house of her brother which was a short distance from her own house, where she had also seen him several times; that she was stopped by Versosa on the morning in question while walking through an uninhabited field toward the barrio of Sinilian where she was going to buy sugar; that she was compelled to follow him, being intimidated by his threats that he would kill her with his bolo if she would not go with him into the forest at Lasung; that while there he had sexual intercourse with her twice and restrained her of her liberty until the following day, when he permitted her to go; that the clothing she was wearing was torn; that

on the occasion in question she was alone and did not see anyone in the said field, which was a long way from the town; that upon returning to her home she informed her husband of what had occurred.

Balbino Libre, or Simbre, also testified under oath that Eusebio Versosa, the brother of a neighbor of his, frequently went to his house to get water; that the said Versosa one morning early in the month of January stopped the witness's wife in the road, and, threatening to kill her, made her go into the forest at a place called Lasung, where he had carnal knowledge of her and kept her in detention until the following day; that he had never heard that his wife sustained illicit relations with the said Versosa.

Upon this testimony the court below rendered judgment March 23, 1903, convicting the defendant of the crime of rape and condemning him to the penalty of fourteen years and ten months of *reclusion temporal*, with the accessories and to the payment of the costs, from which judgment the defendant appealed.

The defendant first pleaded guilty, but his attorney subsequently withdrew the plea and substituted for it that of not guilty.

The act committed by Eusebio Versosa constitutes the crime of rape, defined and punished in article 438 of the Penal Code. The evidence shows that Eusebio Versosa stopped a woman named Maria Junio in an uninhabited place and by force and intimidation conveyed her into the forest where he twice succeeded in having carnal knowledge of her by threatening to kill her.

Although the accused pleaded not guilty his guilt is sufficiently established by the evidence. The defendant alleged that he had sustained illicit relations with the complaining witness and that on this account he frequented her house; that on the 21st of January they both went to the barrio of Barang and stayed together for four days in the house of one Molis in that barrio; that one day they were surprised by Ramon Fernando; that the complaining witness had been his mistress for some two years, notwithstanding the fact that she was a married woman; these statements, however, were not proven and have been

absolutely denied by the complaining witness, Maria Junio, in her subsequent testimony. She testified that she was unable to return to her house at once, as the defendant would not allow her to go.

The husband of the complaining witness in turn testified that he had been married three years and had never heard that his wife had made assignations with the defendant, Versosa, or sustained amorous relations with him. He further testified that he reported the matter to the teniente of the barrio of Marauí on the same day his wife returned and informed him of the facts.

This case concerns a crime which, owing to the precautions taken by the criminal, is generally committed in an isolated place¹ where there is no danger that the assault upon the victim will be seen. This case adds one more to the many with which the courts have dealt. It was committed in an uninhabited place, in the interior of a forest, on the person of a married woman 19 years of age by a man of 30, armed with a bolo.

Between the assertions of the complaining witness and the denial of the defendant, in view of the nature of the crime, and the circumstances under which it was committed, one can but be convinced that the charge is true. The sworn testimony of the defendant himself shows not only that he is guilty but that in addition to this he has made assertions which tend to dishonor his victim, the accused affirming that she was his mistress but without proving or even making an attempt to prove this imputation, by the testimony of the two witnesses whom he had subpoenaed for that purpose. Consequently, in view of the absolute denial of the complaining witness and of her husband we can but conclude that the crime was actually committed, that the defendant is guilty, and that his exculpatory allegations are false.

No generic, mitigating, or aggravating circumstance occurred in the perpetration of the crime, and consequently the adequate penalty must be imposed in its medium degree.

Therefore we are of the opinion that the judgment appealed must be affirmed, with the costs against the appellant. Judgment will be entered accordingly and the case remanded for execution thereof with a certified copy of this decision. So ordered.

Arellano, C. J., Cooper, Willard, Mapa, McDonough, and Johnson, JJ., concur.

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