

THIRD DIVISION

[G.R. No. 192466, September 07, 2011]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ALEJO TAROY Y
TARNATE, APPELLANT.**

D E C I S I O N

Apart from the question of credibility of testimonies in a prosecution for rape, this case resolves the question of proof of the territorial jurisdiction of the trial court.

The Facts and the Case

The public prosecutor charged Alejo Taroy y Tarnate (Taroy) with two counts of rape in Criminal Cases 02-CR-4671 and 02-CR-4672 before the Regional Trial Court (RTC) of La Trinidad, Benguet.^[1]

DES^[2] was the eldest daughter of MILA^[3] by her first marriage. MILA married Taroy in 1997 upon the death of her first husband.^[4] The couple lived with MILA's children in Pucsusan *Barangay*, Itogon, Benguet, at the boundary of Baguio City.^[5]

DES testified that she was alone in the house on August 10, 1997 doing some cleaning since her mother was at work and her two siblings were outside playing. When Taroy entered the house, he locked the door, closed the windows, removed his clothes, and ordered DES to remove hers. When she resisted, Taroy poked a knife at her head and forced her to submit to his bestial desires. Taroy warned her afterwards not to tell anyone about it, lest MILA and her siblings would suffer some harm. DES was 10 years old then.^[6]

DES testified that Taroy sexually abused her again in September 1998. This time, he entered her room, locked the door, closed the windows, undressed himself, and ordered her to do the same. When she refused, Taroy pointed a knife at her. This compelled her to yield to him.

Four years later or on November 1, 2002, when DES was 15, she told her aunt and MILA about what had happened between Taroy and her. They accompanied DES to the National Bureau of Investigation to complain.

MILA and a certain Alumno testified that they later accompanied DES to the hospital for examination. MILA corroborated DES' testimony regarding how she revealed to her and an aunt the details of the rape incidents. The doctor who examined DES testified that the latter had two narrow notches in her hymen at three o'clock and five o'clock positions. She explained that these notches or V-shaped or sharp indentions over the hymenal edges suggested a history of previous blunt force or trauma possibly caused by the insertion of an erect male penis.

For the defense, Taroy denied raping DES on the occasions mentioned. He averred

that the testimony was a fabrication made upon the prodding of her aunt who disliked him.

The RTC found Taroy guilty of two counts of rape and sentenced him to suffer the penalty of *reclusion perpetua*. It also ordered him to pay DES for each count: P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P25,000.00 as exemplary damages.^[7] The RTC found the testimony of DES credible and worthy of belief.

Taroy challenged the Benguet RTC's jurisdiction over the crimes charged, he having testified that their residence when the alleged offenses took place was in Pucsusan *Barangay*, Baguio City. The RTC held, however, that Taroy's testimony that their residence was in Baguio City did not strip the court of its jurisdiction since he waived the jurisdictional requirement.

On January 19, 2010 the Court of Appeals (CA) affirmed the decision of the RTC.^[8] The CA gave weight to the RTC's assessment of DES' credibility and found no evil motive in her. The CA also held that the prosecution has sufficiently established the jurisdiction of the RTC through the testimony of MILA, DES, and Alumno. Taroy seeks his acquittal from this Court.

The Issues Presented

The issues presented to the Court are:

1. Whether or not the RTC of La Trinidad, Benguet, has jurisdiction to hear and decide the cases of rape against Taroy; and
2. Whether or not the prosecution has proved his guilt in the two cases beyond reasonable doubt.

The Court's Rulings

One. Venue is jurisdictional in criminal cases. It can neither be waived nor subjected to stipulation. The right venue must exist as a matter of law.^[9] Thus, for territorial jurisdiction to attach, the criminal action must be instituted and tried in the proper court of the municipality, city, or province where the offense was committed or where any of its essential ingredients took place.^[10]

The Informations^[11] filed with the RTC of La Trinidad state that the crimes were committed in the victim and the offender's house in City Limit, Tuding, Municipality of Itogon, Province of Benguet. This allegation conferred territorial jurisdiction over the subject offenses on the RTC of La Trinidad, Benguet. The testimonies of MILA and DES as well as the affidavit of arrest^[12] point to this fact. Clearly, Taroy's uncorroborated assertion that the subject offenses took place in Baguio City is not entitled to belief. Besides, he admitted during the pre-trial in the case that it was the RTC of La Trinidad that had jurisdiction to hear the case.^[13] Taken altogether, that RTC's jurisdiction to hear the case is beyond dispute.

Two. What is necessary for the prosecution to ensure conviction is not absolute