

## SECOND DIVISION

[ G.R. No. 191389, March 07, 2011 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LUISITO LALICAN  
Y ARCE, APPELLANT.**

### D E C I S I O N

**ABAD, J.:**

The public prosecutor charged the accused Luisito Lalican y Arce with rape before the Regional Trial Court (RTC) of Manila<sup>[1]</sup> in Criminal Case 05-238386. The prosecution presented the testimonies of SHINE,<sup>[2]</sup> the private complainant; SPO2 Manuel Castro III, the arresting officer; and Dr. Anabelle L. Soliman, the medico-legal officer.

SHINE worked as guest relations officer in a club in Tondo, Manila. She had been renting a room in accused Lalican's two-storey house in Tayuman for the past seven months. SHINE stayed at the ground floor while Lalican and his family occupied the second floor.

SHINE testified that at around 9:00 to 10:00 a.m. on July 10, 2005 she heard Lalican knock on her door. Hesitant at first, she eventually opened the door to find Lalican imploring her help because he and his wife supposedly had gotten into a fight. SHINE declined to intervene, however, afraid of the wife's ire. She started to close the door on him but Lalican resisted and forced it open. He closed the door and pulled a knife, pointing it at SHINE's neck. Shocked, she was unable to scream for help. Lalican grabbed and undressed her, using his right hand. He then put down the knife and removed his clothes. He pushed SHINE down on the floor and successfully had his way with her, keeping his hand on the knife that lay on the floor.

After ravishing SHINE, Lalican stood up but remained in the room. Although Lalican would not let her go to the bathroom at first, he eventually let her. She hid there and later left the house for a nearby store and bought prepaid credits for her mobile phone so she could call her brother-in-law, a policeman, for help. When she could not contact him, she went to the police station to report the matter. Some policemen went with her to Lalican's house but SHINE declined to enter it. After arresting Lalican, they all went back to the police station.

SPO2 Castro testified that at around 10:00 a.m. on July 10, 2005, SHINE arrived at the Police Station 7 in Tayuman and complained that Lalican had raped her. SPO2 Castro and three other officers went with SHINE to Lalican's house. Upon entering it, SHINE pointed to Lalican as the man who raped her. The officers then invited Lalican to come to the police station for investigation.

Dr. Soliman testified having examined SHINE. She noted (1) no extragenital physical injuries on her body; (2) that the hymen was reduced to *carunculæ*

*myrtiformis*; and (3) that succeeding sexual intercourse may not produce any new hymenal injury.

Lalican denied raping SHINE. He recounted that on the previous day, July 9, 2005, he attended the wake of a friend's mother. He returned to his house at around 6:00 a.m. on the following day. After cooking food, he went to the bathroom. Before he could fully shut the door close, the door of SHINE's room opened. Her boyfriend, Francis, walked out and left the house. After taking a bath, Lalican went upstairs to sleep but because it was humid hot, he went down and slept on a make-shift bed near the door of SHINE's room. At around 10:00 a.m., some policemen woke him up and invited him to go to the police station.

Genie Suarez corroborated Lalican's testimony. Suarez said that he was with the accused at a wake on the previous day. Suarez accompanied Lalican home and left him to sleep on a make-shift bed on the ground floor of the house. Suarez then went to a nearby store. At 7:00 a.m. he saw Francis go out of the house and around 10:00 a.m. he saw SHINE leave the house and later return in the company of policemen.

The RTC found Lalican guilty of raping SHINE and sentenced him to suffer the penalty of *reclusion perpetua* with the accessory penalties provided by law.<sup>[3]</sup> The RTC ordered him to pay P50,000.00 as indemnity to SHINE without subsidiary imprisonment in case of insolvency and to pay the cost.

On October 28, 2009 the Court of Appeals (CA) rendered judgment in the case,<sup>[4]</sup> affirming the decision of the RTC with modifications. The CA affirmed the finding of guilt of the RTC but included the payment of an additional P50,000.00 as moral damages. Lalican appealed to this Court.

### **The Issue Presented**

The sole issue in this case is whether or not the CA erred in finding accused Lalican guilty beyond reasonable doubt of raping SHINE.

### **The Court's Ruling**

Courts have to be cautious in assessing the evidence of rape. By the nature of rape, it is hardly committed before the eyes of witnesses. In true cases of rape, witnesses are shut out either because the offender has put enough terror and fear of death in his victim such that, psychologically, she has lost the will to resist or, the place of commission being far remote from people who can hear and rescue his victim, the offender uses brute force to overcome her resistance. In false cases of rape, prompted by some ill motive, the supposed victim claims rape when it did not happen or when she cooperated with the offender in the supposed rape. Whether it is true rape or false rape, the victim usually testifies alone. Consequently, care is taken in examining what she says.<sup>[5]</sup>

Here, SHINE testified on direct that when Lalican forced her door open and entered, he poked a knife on her neck, grabbed her, undressed her, took his own clothes off, pushed her down the floor, and violated her.<sup>[6]</sup> Lalican points out that SHINE cannot be believed since this version is inconsistent with her testimony on cross that he