

FIRST DIVISION

[G.R. No. 179051, March 28, 2008]

PEOPLE OF THE PHILIPPINES, Appellee, vs. LEONARDO-DE CASTRO, GILBERT MALLARI y TAYAG, Appellant.

R E S O L U T I O N

CORONA, J.:

On August 30, 1994, appellant Gilbert Mallari y Tayag was charged with forcible abduction with rape^[1] in the Regional Trial Court (RTC) of Naga City, Branch 25 under the following information:

Criminal Case No. 94-5604

That on or about August 28, 1994, in the City of Naga, Philippines and within the jurisdiction of this Honorable Court, [appellant], with lewd design take and carry away by the use of a motor vehicle the herein complainant against her will while walking alone at Barlin Street and once [appellant] was in possession of the herein complainant, by means of force, violence and intimidations and threats and with the use of a bladed weapon, did then and there, willfully, unlawfully and feloniously have sexual intercourse with the undersigned complainant against her will.

That the commission of said offense is attended by the aggravating circumstance of use of motor vehicle and disregard of sex and age and superior strength.

Upon arraignment, appellant pleaded not guilty.

The prosecution essentially established that appellant forced complainant AAA to board his vehicle and to engage in sexual intercourse with him. AAA testified that she feared appellant because he was armed with a fan knife. Moreover, he kept threatening to kill her and to chop up her cadaver if she did not obey him. For these reasons, she failed to offer any resistance and appellant succeeded in carrying out his bestial design.

For his defense, appellant asserted that AAA voluntarily engaged in sexual intercourse with him.

In a decision dated April 28, 1997,^[2] the Regional Trial Court (RTC) found appellant guilty beyond reasonable doubt of rape:

WHEREFORE, this Court finds [appellant] guilty beyond reasonable doubt of the crime of Rape defined and penalized under Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659 and hereby sentences [him] to suffer the penalty of RECLUSION PERPETUA and to