

## FIRST DIVISION

[ G.R. Nos. 150983-84, November 21, 2003 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROGELIO TALAVERA Y RULLODA, SPO3 ROLANDO MENDOZA (DISMISSED), PO3 ALBERTO TRAJANO (AT LARGE), PO3 RICO SUAREZ (AT LARGE) & PO3 GODOFREDO BAUTISTA (AT LARGE), ACCUSED. ROGELIO TALAVERA Y RULLODA, APPELLANT.**

### D E C I S I O N

**YNARES-SANTIAGO, J.:**

Appellant Rogelio Talavera y Rulloda, together with SPO3 Rolando Mendoza, PO3 Alberto Trajano, PO3 Rico Suarez and PO3 Godofredo Bautista, was charged under two (2) separate informations with the crime of rape and robbery, to wit:

*Criminal Case No. 96-148521:*

That on or about January 10, 1996, Manila, Philippines and within the jurisdiction of this Honorable Court, said accused Rogelio R. Talavera, by means of force, threat and intimidation, by then and there boxing her in her stomach thereby making her weak and unable to resist, willfully, unlawfully and feloniously did then and there succeeded in having carnal knowledge of one Grace Nodalo y Pareja, seventeen (17) years old against her will and consent, to her damage and prejudice; that the above-named accused SPO3 Rolando Mendoza, PO3 Rico Suarez and PO3 Godofredo Bautista, conspiring and confederating and helping one another, by taking advantage of their position as police officers, by having knowledge of the commission of the rape, did then and there willfully, unlawfully and feloniously concur with the rape committed by the said Rogelio Talavera who was their errand boy, by not doing anything to stop him from raping Grace Nodalo but on the contrary encouraged by telling to do it quickly, thus affording moral aid to Rogelio Talavera in the execution of the crime of rape.<sup>[1]</sup>

*Criminal Case No. 96-148522:*

That on or about January 10, 1996 in Manila, Philippines and within the jurisdiction of this Honorable Court, said accused Rogelio Talavera, SPO3 Rolando Mendoza, PO3 Alberto Trajano, PO3 Rico Suarez and PO3 Godofredo Bautista, conspiring and confederating and helping one another, did then and there willfully, unlawfully and feloniously with intent to gain and by means of force, violence and intimidation, and taking advantage of their position as public officers, take, rob and carry away Philippine currency in the amount of One hundred pesos (P100.00)

belonging to Grace Nodalo y Pareja against her will and consent to her damage and prejudice.<sup>[2]</sup>

Only appellant and SPO3 Rolando Mendoza were arraigned. They both entered a plea of "not guilty." The rest of the accused remain at large. Trial on the merits ensued as against appellant and SPO3 Mendoza.

It appears from the evidence on record that in the early morning of January 10, 1996, Grace Nodalo and her live-in partner, Nonilo Abarca, were arrested for vagrancy by elements of the Luneta police detachment. They were brought to the police station at the back of the Luneta grandstand, where Abarca was detained.

While she was at the police station, Nodalo approached appellant, whom she believed to be a police officer, and pleaded for Abarca's release. Appellant refused and ordered Nodalo to go inside the female cell. As she was on her way to the cell, appellant pulled her into the comfort room and locked the door.

Nodalo struggled, but appellant punched her on the stomach causing her to feel weak. He lowered her undergarments as well as his pants and briefs. He pushed her against the wall, spread her legs with his right leg, lifted her buttocks with his left hand, then inserted his penis inside her vagina. After a while, Nodalo felt something drip on her left leg. Having satisfied his lust, appellant put on his pants and briefs then asked Nodalo to give him P100.00, which she did.

That same morning, Nodalo and Abarca were released from police custody. They immediately proceeded to the National Bureau of Investigation (NBI) to report the incident. Nodalo also underwent medico-legal examination.

In his defense, appellant denied raping and robbing Nodalo. He claimed that he was only an errand boy at the police station. In the early morning of January 10, 1996, police officers Alberto Trajano, Godofredo Bautista and Rico Suarez arrived at the police detachment with about thirty persons whom they have arrested for vagrancy. Among those arrested were Nodalo and Abarca. Appellant informed those arrested that they would be released in exchange for P100.00 each. However, the police found a fan knife in Abarca's possession, so they told him that he had to pay P1,000.00 for his release. However, Abarca did not have that amount. Grace Nodalo then propositioned appellant that she will have sexual intercourse with him if he will help in Abarca's release.

Appellant and Nodalo met inside the comfort room. Nodalo voluntarily removed her pants and panties. Appellant also lowered his pants and briefs, but claimed that he was unable to perform the sexual act because he heard a noise coming from the direction of the lockers. He thought someone was coming, so he hurriedly put on his clothes. Appellant immediately returned to his table. Later, he asked Nodalo to give him P100.00 in exchange for her release. Even though he was unable to have sexual intercourse with Nodalo, he caused the release of Abarca.

The trial court gave credence to the prosecution's version. On November 7, 2001, the Regional Trial Court of Manila, Branch 11, rendered a decision,<sup>[3]</sup> the dispositive portion of which reads: