

EN BANC

[G.R. No. 124916, July 11, 2002]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RENE ALMANZOR Y ROXAS, DEFENDANT-APPELLANT.**

D E C I S I O N

KAPUNAN, J.:

This is an automatic review of the Decision, dated March 15, 1996, of the Regional Trial Court, Branch 66 of Makati City in Criminal Case No. 94-3602 finding accused-appellant Rene Almanzor y Roxas guilty beyond reasonable doubt of the crime of Forcible Abduction with Rape and sentencing him to suffer the supreme penalty of death.

On the basis of the sworn complaint of Sally Roxas, the Information charged accused-appellant with forcible abduction with rape committed as follows:

That on or about the 11th day of March 1994, in the Municipality of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, did then and there willfully, unlawfully and feloniously abduct, take and carry away the herein complainant while walking along Makati Avenue, Ayala Center, Makati, Metro Manila near Landmark Department Store on her way to Jollibee, Greenbelt Branch, where she works as a service crew, by means of force, violence and intimidation, to wit: by introducing himself as a Marikina police, poking a handgun on the left side of the complainant's body, and then pulling her and forcing her to board inside the front passenger seat of the accused' car and threatening to shoot her and brought her to a secluded area within Makati, where said accused at gunpoint and intimidation, ordered herein complainant to undress by taking off her T-shirt, pants and panty, and by means of force, violence and intimidation, succeeded in having sexual intercourse with her against her will.

Contrary to law.^[1]

At his arraignment, accused-appellant, with the assistance of counsel, pleaded not guilty.

The prosecution's evidence, based mainly on the testimony of the complainant, Sally Roxas, established the following:

On March 11, 1994, at 5:45 in the morning, Sally Roxas, then seventeen (17) years old, was on her way to work in Jollibee Greenbelt in Makati City. She was new in her job as she was hired only four days before. She was walking along Makati Avenue in front of the Ayala Museum when a car suddenly stopped beside her. The car was headed towards Pasay Road. The man who drove the car told Sally not to be afraid.

He introduced himself as a Marikina policeman showing her an identification card. At his query, Sally gave him her name. He initially did not believe her but she showed him her Jollibee nameplate.^[2]

The man then told Sally to ride his car so he could take her to her workplace. Sally at first refused since Jollibee Greenbelt was already close by. However, the man poked a gun at her. Fearing for her life, Sally obliged and boarded his car. The man immediately drove on. They passed by Jollibee Greenbelt and Sally told the man that she would get off there but he just told her to shut up.^[3]

The man just kept on driving. Sally did not shout for help because she was afraid as the man was carrying a gun. While the car was moving, the driver ordered Sally to undress. She refused and begged him to bring her to work. The man told her not to be hardheaded and poked his gun at her. Sally could not do anything but obey him. She took off her t-shirt and bra. He then ordered her to remove her pants and panty as well.^[4]

Thereafter, the man stopped the car. Sally could not recall the exact place because at the time, she had been in Makati for only a week. She described the place as sparsely populated and with buildings that are not so tall. The man removed his pants and underwear. He then reclined Sally's seat and lay on top of her. He spread her legs and inserted his penis into her sexual organ. Sally begged for his mercy but he continued to poke his gun at her. He said that it would just take a short while.^[5]

After he was finished, the man moved back to the driver seat. Sally threatened to file a complaint against him. The man again poked his gun at her saying, "*babalikan kita.*" He instructed her to put on her clothes while he dressed up also. According to Sally, he was wearing black pants and red polo shirt. The man drove his car. Just a few minutes later, he slowed down the car and ordered Sally to get off. Since he did not bother to stop the car, Sally almost fell from the car. Sally tried to grab the identification card that he showed her but the man was able to recover it.^[6]

Sally proceeded to her place of work because her cousin, Carlos Abellanosa, also worked there. It was already 6:20 in the morning. She was sobbing as she told her cousin that she wanted to go home. Abellanosa asked what was wrong but Sally did not want to confide in him immediately because there were a lot of people. Upon the advice of her cousin, Sally donned her uniform and did her work. She found it difficult, however, to concentrate.^[7]

During their break time, Sally recounted to Carlos what happened to her. After telling their manager about Sally's ordeal, she asked permission to go home. The manager instructed Sally to have herself examined by a doctor. Sally and Abellanosa went to the San Lorenzo Medical Clinic but the doctor there told them that he could not examine Sally as they did not have the proper equipment. He referred her to the Ospital ng Makati.^[8]

Sally went home and narrated to her two aunts what she had been through. Her two aunts accompanied her to the Ospital ng Manila but they were told that the hospital did not have the necessary equipment to conduct the physical examination on Sally. They were instead given a referral slip to the National Bureau of Investigation (NBI). Since it was already late in the afternoon, Sally decided to go to the Makati Police

Station and report the incident. After she gave her account of what happened, Sally was given a referral slip to the Camp Crame Crime Laboratory.^[9]

The following day, or on March 12, 1994, submitted herself to a physical examination at the Camp Crame. She was examined by Dr. Jesusa Vergara. She was advised to give a physical description of the suspect so his cartographic sketch could be made. The Philippine National Police (PNP) cartographer furnished Sally with a copy of the sketch.^[10] On March 22, 1994, she was fetched by a policeman who informed her that the authorities had arrested a man who looked similar to the one in the cartographic sketch. They proceeded to the police station and there she was made to identify the suspect from among the line up of around five (5) men. Sally identified accused-appellant as the one who raped her. Thereafter, she executed the affidavit and filed the complaint against him.^[11]

When he testified, Abellanosa confirmed that when Sally reported to work on March 11, 1994, she was crying and that during their break, she confided to him that she was raped that morning by an unidentified man.

Dr. Vergara, the medico-legal officer who examined Sally, made the following findings in her report:

GENITAL

There is abundant growth of pubic hair. Labia majora are full, convex and gaping with the abraded labia minora presenting in between. On separating the same disclosed an abraded posterior fourchette and an elastic, fleshy-type and a congested hymen, with deep healed laceration at 7 o'clock. External vaginal orifice offers moderate resistance to the introduction of the examining index finger and the virgin-sized vaginal speculum. Vaginal canal is narrow with prominent rugosities. Cervix is normal in size, color and consistency. xxx^[12]

When she took the witness stand, Dr. Vergara explained that the "deep healed laceration at 7 o'clock" found in Sally's *labia majora* meant that she already had a previous sexual intercourse. Further, the "abrasion on the *labia majora*," "the abrasion on the posterior fourchette and congestion on the hymen" indicated that there was a forcible entry of a hard blunt object into Sally's sexual organ within twenty-four (24) hours prior to the date of examination.^[13]

For his part, accused-appellant interposed denial and alibi. He testified that he was a managing consultant at the John Clemens Consultancy. He lived with his mother in Leon Guinto, Malate, Manila. On March 11, 1994, he woke up at 6:30 in the morning and had breakfast. He took a shower and then got dressed. He left the house at 7:15 in the morning to go to the Hyatt Regency Hotel where he was attending a two-day seminar being conducted by their company. The seminar started the day before, March 10, 1994, and he was a trainor thereat.^[14]

Outside their house and before he got inside the car (a red Nissan Sentra 1988 model issued to him by his employer), accused-appellant met their neighbor, Mrs. Alice Guiamoy and her son Vincent. He greeted them. Going to the Hyatt, accused-appellant took Taft Avenue, turned right at the Manila Sanitarium and proceeded to Buendia. He turned left when he reached Roxas Boulevard and drove straight to the

hotel. He arrived there before 8:00 in the morning. The seminar ended at 6:30 in the evening of the same day.^[15]

In the morning of March 22, 1994, on his way to the UPGB to attend a seminar there, accused-appellant stopped by the gasoline station in Zobel Roxas Street in Makati. He instructed the attendant to fill the tank. Two men in civilian clothes approached him and asked if his name was Rene Almanzor. Accused-appellant responded in the affirmative. He was then told that he had to go to the police station because there was a complaint against him. Accused-appellant initially refused but a policeman suddenly boarded his car so accused-appellant had to obey him.^[16]

He was ordered to drive to the Makati Police Station. Accused-appellant pleaded to be allowed to go to his office but the policeman said that they had to go straight to the police station. He was informed that there was a complaint against him. Later in the evening, Sally arrived at the police station. Accused-appellant, together with five (5) other men, was then made to stand in a line up. Sally singled out accused-appellant as the man who raped her.^[17]

On cross-examination, accused-appellant admitted that aside from Sally, at least two (2) other women had filed similar criminal complaints against him. Maritess Magsino filed a complaint for acts of lasciviousness against accused-appellant before the Regional Trial Court, Branch 136 of Makati City. Suzette de Montano, on the other hand, likewise filed a complaint for rape against accused-appellant and which case was pending before the trial court in Manila. Like Sally, these women pointed to accused-appellant as their assailant.^[18]

Alice Guiamoy, accused-appellant's neighbor, testified that at 6:30 in the morning of March 11, 1994, she was outside her house cleaning. While she was doing her chore, she saw accused-appellant step outside their house. He greeted Guiamoy and asked her "*kumusta po kayo?*" Accused-appellant went back inside their house. A few minutes later, Guiamoy saw accused-appellant ride his car to go to work.^[19] Another neighbor, Ma. Veronica Villamil, similarly testified that she heard the engine of accused-appellant's car being revved-up at around 6:30 in the morning of March 11, 1994. She later saw accused-appellant driving out of their compound at around 7:00 in the morning of the same day.^[20]

After the prosecution and defense presented their respective evidence, the trial court rendered judgment finding accused-appellant guilty of forcible abduction with rape and imposing upon him the supreme penalty of death. The dispositive portion of the trial court's decision reads:

IN VIEW OF THE FOREGOING, judgment is hereby rendered finding Rene Almanzor y Roxas guilty beyond reasonable doubt of the crime of forcible abduction with rape and the Court hereby sentences Rene Almanzor y Roxas to suffer, taking into consideration the absence of a mitigating or aggravating circumstances and Article 48 of the Revised Penal Code in relation to Article 335 of the same code, as amended, the penalty of Death and to pay Sally Roxas the sum of ₱50,000.00 as liquidated damages, ₱50,000.00 as moral damages and ₱50,000.00 as exemplary damages.

SO ORDERED.^[21]

Through his *counsel de officio*, accused-appellant subsequently filed his appeal brief alleging as follows:

ASSIGNMENT OF ERRORS

I

THE LOWER COURT ERRED IN CONVICTING ACCUSED-APPELLANT ON THE GROUND THAT HE WAS POSITIVELY IDENTIFIED BY COMPLAINANT.

II

ASSUMING ARGUENDO THAT ACCUSED-APPELLANT WAS POSITIVELY IDENTIFIED BY COMPLAINANT, THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT IN SPITE OF THE INCONSISTENCIES THAT TAINTED THE EVIDENCE FOR THE PROSECUTION.

III

ASSUMING ARGUENDO THAT ACCUSED-APPELLANT WAS POSITIVELY IDENTIFIED BY COMPLAINANT AND COMPLAINANT'S EVIDENCE WAS NOT TAINTED WITH CONSISTENCIES, THE LOWER COURT ERRED IN CONVICTING ACCUSED-APPELLANT IN SPITE OF THE IMPROBABILITY OF THE MANNER BY WHICH THE RAPE WAS ALLEGEDLY COMMITTED.

IV

ASSUMING ARGUENDO THAT ACCUSED-APPELLANT WAS POSITIVELY IDENTIFIED BY COMPLAINANT AND COMPLAINANT'S EVIDENCE WAS NOT TAINTED WITH INCONSISTENCIES, THE LOWER COURT ERRED IN CONVICTING ACCUSED-APPELLANT IN SPITE OF COMPLAINANT'S FAILURE TO OFFER ANY RESISTANCE DURING HER ALLEGED ABDUCTION, PRIOR TO AND EVEN DURING HER ALLEGED RAPE.

V

THE TRIAL COURT ERRED IN DISREGARDING THE DEFENSE OF ACCUSED-APPELLANT AS A MERE ALIBI.

VI

THE TRIAL COURT ERRED IN FINDING THAT THE COMPLEX CRIME OF FORCIBLE ABDUCTION WITH RAPE WAS COMMITTED IN THIS CASE.^[22]

In determining the guilt of the accused in rape cases, the Court is guided by the following considerations: (a) that an accusation of rape can be made with facility; it is difficult to prove, but more difficult for the person accused, though innocent, to disprove; (b) that in view of the intrinsic nature of the crime which usually involves two persons, the testimony of the complainant must be scrutinized with extreme caution; and (c) that the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence of the defense.^[23] The credibility of the complainant is, therefore, of vital