

## FIRST DIVISION

[ G.R. No. 122736, November 14, 2001 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
FROILAN PADILLA Y VALENZUELA, ACCUSED-APPELLANT.**

### D E C I S I O N

**YNARES-SANTIAGO, J.:**

Accused-appellant Froilan Padilla was indicted for rape before the Regional Trial Court of Lucena City, Branch 55, under the following information:

That on or about the 13<sup>th</sup> day of June 1993, in the city of Lucena, province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the said accused did then and there wilfully, unlawfully and feloniously commit the crime of rape by means of force, threats, and intimidation upon Leonisa P. Caballero, by then and there forcibly having carnal knowledge against the latter's will. <sup>[1]</sup>

When arraigned, accused-appellant originally pleaded not guilty. However, at the start of trial, he sought to change his plea into one of guilty but to the lesser offense of acts of lasciviousness. However, the victim was not amenable.<sup>[2]</sup> Hence trial ensued. After the parties presented their respective evidence, the lower court rendered a judgment of conviction finding accused-appellant guilty of rape and sentenced him to suffer *reclusion perpetua* and to pay the victim P50,000.00 as moral damages.<sup>[3]</sup> The facts as found by the trial court:<sup>[4]</sup>

At about 2:00 o'clock in the morning of June 13, 1993, complainant Leonisa Caballero was sleeping inside her stall at the fishing port of Barangay Dalahican, Lucena City. She awakened when she felt a person on top of her, who had a knife poked at her neck. She could not see the man's face as it was dark. The man told her not to shout. As he spoke, she recognized his voice as that of appellant. Appellant removed her panty. Appellant pulled down his briefs which was his only clothing. He succeeded in raping her, able to penetrate her private parts with his organ. She was unable to do anything as she was afraid of the knife which was pushed against her neck.

As appellant left her stall and stepped out, a light shone on his face and complainant recognized him clearly. She was familiar with appellant because he was staying at the stall of his cousin, Coring (Puring) Padilla, which was just next to complainant's stall - about one (1) meter away. Appellant was a laborer at the pier and sometimes eats at complainant's store. Complainant then shouted for help.

One of those who came to complainant's help reported the incident at the

PNP Port Maritime District. Three (3) officers responded: SPO1 Crispin Virtucio, SPO1 Pablo Marasigan and SPO3 Noel Fabella. As the three officers came to the site of the incident, they saw a scared woman crying in front of her stall. Complainant reported that she was raped and pointed to appellant, who was just in the next stall, as the culprit. The stalls were barely a meter apart and measure about 2 ½ x 2 ½ meters.

Appellant was inside the adjacent store of Coring Padilla when the police officers went there. Appellant at first refused to accompany the police officers as he was apprehensive that he would be hurt. After it was explained to appellant that he will simply be questioned about the rape incident, he went with the respondent police officers to the maritime office. The police officers also took a knife tucked in the wall of the stall near appellant. Appellant was later turned over to the Lucena City Police Station.

Complainant was examined by Dr. Bernardita V. De la Peña of the Quezon Memorial Hospital in Lucena City. Complainant, who was forty-two (42) years of age, was described to be fat and round and could not readily stand when seated or lying down. She had fresh laceration on her left forefinger, about 0.5 cm., which she must have sustained when she held the knife by the hand and appellant removed it from her hold. Her vagina bore multiple lacerations. She was found to have delivered four (4) babies already but was not pregnant. When she was examined, it was her second day of menstruation. No sperm cell was found on complainant which the doctor explained as possibly due to continuous urination.

Accused-appellant is now before this Court seeking the reversal of his conviction.

The appeal has no merit.

From the records, there is no doubt that accused-appellant actually had sexual contact with the victim. The sexual congress was consummated while accused-appellant was armed with a long knife which he used in threatening the victim. The fear for her life or injury to her limb made her submit to the lecherous act done to her by accused-appellant.

In an attempt to exculpate himself, accused-appellant asserts that he could not have engaged in sexual contact with complainant because she had her menstruation at that time. Such argument is clearly *non-sequitur*. The fact that the victim had her monthly menstruation does not mean that accused-appellant could not have had sexual intercourse with her. The presence or absence of menstruation does not negate the crime of rape nor render its execution impossible.<sup>[5]</sup> Lust, after all, manifests no reverence for occasion, location or the victim's condition,<sup>[6]</sup> just as it is no respecter of time and place.<sup>[7]</sup> Accused-appellant also contends that no semen was found in the private parts of the victim, contrary to her claim that she felt accused-appellant ejaculate inside her. However, this was adequately explained during the trial by the examining physician, that the traces of semen could have been washed away due to continuous urination.<sup>[8]</sup> In any case, applicable herein is the ruling that the absence of sperm samples in the vagina of the victim does not negate rape,<sup>[9]</sup> because the absence of spermatozoa is not an element thereof.<sup>[10]</sup>