

EN BANC

[G.R. No. 125550, July 28, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
LUDIGARIO CANDELARIO AND GERRY LEGARDA, ACCUSED-
APPELLANTS.**

D E C I S I O N

PER CURIAM:

Both the prosecution and the trial court postulate that lewd design and intent to gain concurred in the commission of the offense for which accused-appellants stand indicted. The latter, however, vigorously challenge the correctness of such position, invoking their innocence and praying that they be spared from the verdict of capital punishment. As lives are at stake, we endeavor to probe deep into these conflicting claims so that in the end the law's dictates shall be carried out with full conviction that the constitutional right to presumption of innocence has been adequately overturned by the State.

Herein accused-appellants Ludigario Candelario and Gerry Legarda, together with one Joel Benozza who remains at large, have been charged before the Regional Trial Court of Roxas City, Branch XIV, with the crime of Robbery with Multiple Rape in an amended information^[1] that reads:

"The undersigned Assistant City Prosecutor accuses LUDIGARIO CANDELARIO alias "CAPID" of Tiglawigan, Cadiz City, GERRY LEGARDA y BORRES OF Pinamangkaan, Balud, Masbate, presently detained at the Roxas City PNP Jail, Roxas City; JOEL BENOZZA alias "Cano" of Isabela, Negros Occidental who is at large, of the crime of ROBBERY WITH MULTIPLE RAPE, as defined and penalized under Article 294, paragraph 2 of the Revised Penal Code, as amended, in relation to Section 9 of R.A. 7659, committed as follows:

That on or about the 24th day of March, 1995, in Bgy. Baybay, Roxas City, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring, confederating together and mutually helping one another, each armed with a deadly weapon, did then and there wilfully (sic), unlawfully and feloniously, by means of violence and intimidation, take from its owner MARIBEL DEGALA, 17 years of age and resident of Bgy. Punta Tabuc, Roxas City, Seven Hundred Pesos (700.00) cash money, and one (1) maong shorts valued at P75.00, Philippine Currency, with intent to gain and against the consent of its owner, to the damage and prejudice of said owner Maribel Degala in the said total sum; that on the occasion of the said robbery in pursuance of their conspiracy, said accused, each armed with a deadly weapon, by means of violence and intimidation and in conspiracy with each other, did then and there

wilfully (sic), unlawfully and feloniously have carnal knowledge with said MARIBEL DEGALA, against her will.

ALL CONTRARY TO LAW, and the offense of robbery was accompanied with multiple rape, committed by more than two (2) persons and with the use of a deadly weapon."

Upon arraignment, accused-appellants entered their respective pleas of "not guilty" to the indictment. Trial ensued and, thereafter, the court *a quo* rendered its decision^[2] on February 29, 1996, finding them guilty as charged and sentencing them as follows:

"FOREGOING established facts considered, the Court finds accused Ludigario Candelario and Gerry Legarda GUILTY beyond reasonable doubt of the crimes of Robbery with three counts of Rape committed at Barangay Baybay, Roxas City in the early morning of March 24, 1995. Since it is a settled rule that once conspiracy is established, the act of one conspirator is attributable to all, then each conspirator must be held liable for each of the felonious acts committed as a result of the conspiracy regardless of the nature and severity of the appropriate penalties prescribed by law.

ACCORDINGLY, accused Ludigario Candelario is sentenced to suffer the extreme penalty of Three (3) DEATHS in accordance with the doctrine of the Supreme Court enunciated in *People v. Jose*, 37 SCRA 450, and to pay the complaining witness the amount of FIFTY THOUSAND (P50,000.00) PESOS as moral damages and to pay the costs.

Considering that accused Gerry Legarda is a minor, 15 years of age, at the time of the commission of the offense, he is entitled to a privileged mitigating circumstance of minority. Consequently, he is sentenced to suffer an imprisonment of thirty (30) years of RECLUSION PERPETUA for each count and to indemnify private complainant Maribel Degala in the amount of FIFTY Thousand (P50,000.00) PESOS jointly and severally with Ludigario Candelario and to pay the costs, without prejudice to his filing an application for suspension of sentence under Article 192 of Presidential Decree 603.

SO ORDERED."

The facts as established by the prosecution follows.

Coming from Roselle Cinema 1 in downtown Roxas City at about 10:00 o'clock in the evening of March 23, 1995, complainant Maribel Degala and her boyfriend, Junlo Dizon, proceeded to Marc's Beach Resort which was located at Barangay Baybay, Roxas City. Upon arrival thereat, they occupied one of the open cottages along the seashore and engaged in intimate conversation while caressing and kissing each other. The cottage at the time had no lighting but there was illumination coming from the moonlight and the fluorescent lamps installed at the main building of Marc's Beach Resort.

Realizing that it was already past midnight, they then decided to go home. Four

armed men, however, barged into their cottage, one of whom men immediately poked at ice pick at Maribel's neck while another pointed a knife at Junlo. The two other companions stood by and merely acted as lookouts. Finding an opportunity to escape, Junlo jumped out of the windows of the cottage and ran away. Three of the armed men gave chase and tried to stab him but they were not able to catch up with him as he fled into the compound of Marc's Beach Resort to procure help from security guards manning the same.

Meanwhile, the one left at the cottage, whom Maribel later identified as Ludigario Candelario, continued poking his weapon on her neck while threatening her not to create any noise. Worried about her boyfriend's safety, she kept quiet.

Two of the men who gave chase returned to the cottage and started frisking for valuables. Nothing, however, was found in her possession as she already dropped her wristwatch earlier on the side of a wall.

Finding nothing, the trio took notice of a bag placed on a table containing Junlo's clothes and short pants which Maribel bought for Junlo in the amount of P75.00 as well as cash worth P700.00. Thereafter, they dragged complainant to the seaside and proceeded to Barangay Culasi, warning her not to shout lest they kill her. They then passed through the dark portion of the seashore until they reached pandan groves.

At said place, Joel Benozza allegedly ordered complainant to undress which she, however, refuse to obey. Her refusal prompted the malefactors to undress her themselves. Accused-appellants Candelario and Legarda held her by the arms while Benozza unbuttoned and pulled down her pants.

Upon removing her pants, the three spread her legs and started ravishing her, while Benozza starting first while the other two stood by at a distance of about two to three meters. The trio alternately raped her, twice for each of them. Complainant could do nothing but cry in pain as her rapists satisfied their lust.

Legarda was the last to have sexual intercourse with complainant after his two companions left. As Legarda stood up and tried to have coitus with complainant for the third time, the latter mustered enough strength and kicked the former on the breast. Legarda fell and rolled on the ground, giving complainant the opportunity to extricate herself from the rapist's clutches. She immediately ran away and hid herself behind stans of pandan while Legarda shouted to his companions that complainant had escaped. The trio searched the area but failing to find her, they proceeded to walk towards Barangay Culasi. When the three were some distance away, complainant fixed her underwear and pants and then hid again under a tree as she was afraid that her rapists might come back. After spending almost an hour in hiding, she decided to walk home towards Dumolog but dropped by the cottage where she and her boyfriend stayed to look for her wristwatch. While traversing the national highway, a police patrol car where her boyfriend was on board chanced upon her. She was hustled inside the car where she related her harrowing experience to her boyfriend and the police. After dropping by at the crime scene, they proceeded to the Roxas City police station for investigation.

In the morning of the same day, complainant was brought to Roxas Memorial

Provincial Hospital where she was examined by Dr. Ma. Lourdes Lanada. Said examination yielded the following results:[3]

"March 28, 1995

Date

TO WHOM IT MAY CONCERN:

This is to certify that MARIBEL A. DEGALA, 17 years old, male, female, single, married, widowed from Punta Tabuc, Roxas City was examined, consulted, admitted, treated in this hospital, March 24, 1995 with the following findings:

NOI: ALLEGED RAPE

TOI: 1:00 A.M.

DOI: 3/24/95

POI: Marc's Beach Resort Baybay, Roxas City

TOE: 7:45 A.M.

DOE: 3/24/95

LMP: Feb. 27, 1995; 3 days duration

PE: Grossly normal female external female genitalia appropriate with age

Introitus: Admits 1 index finger with ease

Hymen: Open, intact

Discharges: Whitish, non-foul smelling

Cervix: Firm, Close

Uterus: small

For spermatozoa det.

SPERMATOZOA DET - POSITIVE FOR SPERMATOZOA

This certification is issued per request of the interested party for whatever legal purpose it may serve her best.

(Sgd.) MA. LOURDES B. LANADA, M.D.

Medical Officer-III

Lic. No. 64123"

At the witness stand, Dr. Lanada testified that the presence of whitish fluid discharge inside the complainant's vagina which, upon analysis at the Saint Martin Laboratory, turned out to be positive for spermatozoa and the fact that complainant's vagina admitted one index finger with ease were all consistent with her claim that she had been raped the night before. Aside from said medical findings, another physician, Dr. Dominga dela Cruz, testified that she likewise examined complainant and found out that the latter had lineal straight laceration at the right lower portion of the labia minora measuring one and one-half centimeters which indicates that the same could have been caused by a very recent and forceful entry of the male organ. Moreover, Dr. dela Cruz also found a "pinpoint" mark on complainant's neck which wound could have been caused or inflicted by a pointed instrument.

Testifying on how accused-appellants were apprehended, PO3 Gonzalo Andrada declared that a team was created for this purpose upon instruction of the Chief of

Police. They initially visited the crime scene to conduct ocular inspection and gather evidence but failing to find valuable information, they went to complainant's house to ask her for a description of her assailants. On the theory that the culprits are likely to return to the crime scene, the police disguised complainant and made her stroll along the beach of Barangay Baybay and Barangay Libas to identify the suspects who might happen to be there but to no avail. The team then realized that the culprits might have been members of the crew of a fishing boat which calls port at Barangay Culasi. At said port, complainant was again allowed to stroll and walk alone while the police were tailing her at a distance. She then chanced upon a group of men drinking at a nearby store and told the police that one of her rapists was there. But as the police closed in, the suspect disappeared, prompting the team to comb the area. They soon found the man they were looking for outside the Beta House puffing at a cigarette. Having been assured by complainant that the man was her rapist, the police approached said man, introduced themselves as law enforcers and informed him that he was one of the suspects in a rape complaint. This suspect, who turned out to be Candelario, was then brought to the police station for formal investigation upon being duly informed of his constitutional rights. Investigation was temporarily called off when Candelario opted to remain silent but apparently, during a conversation, he admitted having held complainant and referred to his companions merely by their aliases, which did not help the police in any way to determine the identity of the other perpetrators.

Sometime later at Candelario's detention cell, he was convinced to disclose the identities of his companions who turned out to be crew members of the fishing boat "St. Jude." Acting on this new development, a team was sent to Barangay Culasi where they found out that one alias "Weng Weng," who was mentioned by Candelario as one of his alleged companions, was actually accused-appellant Legarda. The team waited for the fishing boat to dock at Culasi where PO3 Felicito Aranza was instructed to go on board and invite the crew to proceed to the Barangay Hall of Culasi. At the hall, a roll call was conducted and everyone was made to identify himself. When Legarda's name was called, he admitted that he was also "Weng Weng." Forthwith, he was informed of the accusation against him and then invited to go with them to the police station where he was likewise positively identified by complainant.

Accused-appellant's defense consisted merely of denials and alibis.

Testifying for Legarda, witness Juanito dela Cruz claimed that he was a "Maestro" or "Major Patron" of the fishing vessel "St. Jude" whose crew of 14 men included Legarda. He declared that the vessel was on the high seas at around 12:45 o'clock in the morning of March 24, 1995 and that it docked at the Culasi Port only at 10:00 o'clock in the evening of said date. To support his claim, he presented a "Certificate of Clearance" issued by the Bureau of Fisheries indicating the vessel's port of origin as well as the time and date of departure. The back portion of said certificate apparently contained the list of the crew members which included Legarda's name. He admitted, however, that the certificate's copy on file with the Bureau of Fisheries contained no list of the crew members and that he was only the one who prepared such list. According to him, he learned about Legarda's arrest only on April 2, 1995. On cross-examination, he further admitted that he did not fill up the blank on said certificate indicating the vessel's date of arrival. Moreover, when the vessel left Culasi, there were actually only 12 crewmembers on board but that he put 14, nonetheless. Two crewmembers were allegedly left behind on account of illness,