

FIRST DIVISION

[G.R. No. 128870, October 27, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROLANDO ESPIRITU Y PEREZ, ACCUSED-APPELLANT.**

D E C I S I O N

PARDO, J.:

The case is an appeal from the decision of Regional Trial Court, Zamboanga City, Branch 12,^[1] finding accused Rolando Espiritu y Perez, guilty beyond reasonable doubt of forcible abduction with rape, committed against Aharam Aldam y Lutian, and sentencing accused to suffer the penalty of *reclusion perpetua* and to indemnify the victim in the amount of P50,000.00, plus costs.

On October 27, 1992, Aharam Aldam y Lutian filed with the Regional Trial Court, Zamboanga City, a complaint subscribed before an Assistant City Prosecutor of Zamboanga City, duly approved by the City Prosecutor, for forcible abduction with rape against Rolando Espiritu y Perez and one unidentified person, which reads:

"That on or about October 25, 1992, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, armed with knife, conspiring and confederating together with an unidentified companion, mutually aiding and assisting with one another, did then and there, wilfully, unlawfully and feloniously by means of force and intimidation, that is, at knife point, abduct and carry away on board a tricycle the undersigned AHARAN ALDAN (sic) y LUTIAN, a woman 19-years of age, on the occasion when she was waiting for a ride at the junction of Baliwasan Grande and San Jose, this City and brought her to a house in Tetuan, also this City, where said accused, with lewd designs, did then and there, wilfully, unlawfully and feloniously have sexual intercourse with the undersigned against her will; there being present an aggravating circumstance in that the offense was committed with the use of motor vehicle.

"CONTRARY TO LAW."^[2]

Upon arraignment on December 17, 1992, accused Rolando Espiritu, with the assistance of counsel, pleaded not guilty to the offense charged. Trial of the case thereby ensued. After due trial, on February 28, 1996, the trial court rendered decision finding Rolando Espiritu guilty of the crime charged, the dispositive portion of which reads:

"WHEREFORE, **finding** the accused Rolando Espiritu y Perez **guilty** beyond reasonable doubt of the crime of forcible abduction with rape as defined and penalized under Articles 342 and 335 in relation to Article 48 of the Revised Penal Code, this **Court hereby sentences** him to suffer

the penalty of ***reclusion perpetua***; to indemnify the victim Aharan Aldam in the amount of P50,000.00; and to pay the costs.

"SO ORDERED."^[3]

Hence, this appeal.

The facts are as follows:

On October 25, 1992, at about 12 noon, Aharan Aldam, a 19-year old midwifery student at Mindanao Electronics Institute (MEIN), was at the Baliwasan Grande, Zamboanga City, waiting for a ride home after attending classes that day. While waiting for a jeepney to pass by, a tricycle with two (2) persons on board stopped in front of her. The person sitting at the passenger's side, later identified as accused Rolando Espiritu, alighted and poked a knife at Aharan's neck. Together with the unidentified driver, accused Rolando brought her inside the tricycle and blindfolded her. The three of them proceeded to a house in Tetuan, same city. Upon arrival thereat, the driver went home and left Rolando and Aharan by themselves in the house. Afterwards, Rolando removed the blind fold and slapped Aharan several times that made her dizzy and mentally disturbed. She cried and shouted for help but nobody came to her rescue. Then, he made her lay down on the floor, bit her and repeatedly slapped her. Accused removed her clothes and continued slapping her. Thereafter, accused Rolando sexually abused her three (3) times. Immobilized by fear and still feeling dizzy, she failed to ward off the advances made by the accused.^[4]

The following morning, October 26, 1992, aboard the same tricycle driven by the same unidentified person, Rolando blindfolded Aharan again and brought her to a house at the back of the elementary school in Pasonanca, Zamboanga City. Accused brought her inside a room where she cried. After a while, Aharan heard the voice of her father, Hadji Aldam Nullidin, and she shouted "Yari ako, yari ako," meaning "I am here," then ran towards her father. Her father, together with other men caught Rolando, and brought him to the police station. At the police station, Aharan fainted and was brought to Brent Hospital, and later to Zamboanga General Hospital.^[5]

Hadji Aldam Nullidin, Aharan's father, testified that when Aharan had not arrived home in the evening of October 25, 1992, he called up his brothers to help him look for his missing daughter. They went around the city that evening but did not find her. In the morning of October 26, 1992, a man named Olasio dropped by their house looking for Hadji. Olasio informed him that Rolando Espiritu took his daughter, Aharan, and they could be in Rolando's house in Putik. Hadji informed his brothers of this development and all of them proceeded to Rolando's house. Hadji found Rolando's wife, Clarissa, in the house, but neither Rolando nor Aharan was there. Hadji told Clarissa their purpose, and Clarissa accompanied Hadji and his companions^[6] in looking for his daughter and her husband. The group went around the city looking for Rolando and Aharan, first to Mampang, then to Canelar, until they found them in a house in Pasonanca. They saw a woman outside the house ironing clothes. Clarissa entered the house first, and later Hadji heard Aharan shouting, "I am here. I am here," and she ran towards him. Hadji and his companions arrested Rolando and brought him to the police station. In the police station, Aharan confided to her father that accused raped her. After narrating her ordeal, she fainted and was taken to the Brent Hospital. However, Brent Hospital

refused to admit Aharan. They transferred her to Zamboanga General Hospital, where she was examined.^[7]

Hadji Nullidin stated that before the above incident, Aharan was a first year student taking midwifery at MEIN. However, after what happened to her, she did not go back to school to finish her studies because her mind became abnormal.^[8]

On October 26, 1992, SPO2 Jun Ajahum conducted an investigation of the case in the police station. However, he was not able to question Aharan regarding the incident since every time she heard male voices, she kept shouting. Hence, SPO2 Ajahum advised Hadji Nullidin to first bring the victim to the hospital. He could not question the victim in the hospital for she was still hysterical. In the meantime, he took the statements of the victim's relatives. After which, Ajahum went to the house in Pasonanca with a photographer to take pictures of the scene. During the night, he took the statement of the victim, Aharan, in her house.^[9]

On October 26, 1992, Dr. Juliet Pasugiron of the Zamboanga Regional Hospital examined Aharan and issued a medico-legal report, with the following findings:

"PPE (pertinent physical exam) – Hysterical, combative and sleep pattern, shouts and cries once she hears male voice

HEENT (head, eyes, ears, nose, throat) – swelling of upper and lower lid

Breast – fully developed

Genitalia:

= Mens pubis scanty

= Labia minora and labia majora closely apposed

= Erosions with erythema at labia minora, right

= Fresh hymenal lacerations at 1, 6, 8, 9, 10 o'clock positions

= Sperm determination – positive for spermatozoa

= LMP-October 5, 1992 – 3 days."^[10]

Dr. Pasugiron explained that the patient was hysterical. Aharan shouted and cried whenever she heard male voices. The doctor continued that the lacerations could have been caused by trauma, secondary to sexual intercourse. Due to the presence of spermatozoa, sexual intercourse most likely occurred. The fresh lacerations were sustained within 48 hours from date of examination. The swollen lids were probably caused by trauma.^[11]

Accused Rolando Espiritu denied the allegations that he forcibly abducted and raped Aharan. He claimed that Aharan was his girlfriend. According to him, on October 5, 1992, his friend Norman Alvarez introduced Aharan to him. From that time on, he and Aharan dated five times, on October 6, 8, 9, 23, and 25, 1992, the date of the supposed abduction and rape. As early as October 6, 1992, he professed his love for the victim. On those occasions, they strolled, went swimming, ate out and watched movies. At times, he visited Aharan at her house.^[12]