

FIRST DIVISION

[G.R. No. 114262, November 25, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
QUIRINO QUIJADA Y CIRCULADO, ACCUSED-APPELLANT.**

D E C I S I O N

PARDO, J.:

Rape is a grave physical violation. It debases a woman's dignity, leaves a scar in her body and soul that not even time can heal. It subjects the woman's honor to scorn and its violation to public condemnation. At times the victim is left not only with her pain, but worse with a child conceived not out of love but lust and bestiality.

In an information filed with the Regional Trial Court, Tagbilaran City on June 27, 1991, third assistant provincial prosecutor Dionisio R. Calibo, Jr., upon a sworn complaint of Leonida Brina, charged accused-appellant, Quirino Quijada y Circulado, with robbery with rape, thus:

"That on or about the 27th day of April 1991 at about 3:00 dawn, in the municipality of Bohol, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with intent to gain and through force and intimidation by threatening the victim with a knife and boxing and kicking her, did then and there, after the victim had lost consciousness, willfully, unlawfully and feloniously have carnal knowledge of one Leonida Brina against the will of the latter and also take, steal and carry away from the victim cash in the amount of ONE HUNDRED FIFTY (P150.00) Pesos, Philippine Currency and a wristwatch valued at ONE THOUSAND PESOS, Philippine currency, without the consent of the victim; to the damage and prejudice of the said Leonida Brina.

"Acts committed contrary to the provisions of Article 293 and 294 in relation to article 335, 48 and 14 of the Revised Penal Code with the aggravating circumstance of nighttime being sought purposely by the accused to facilitate the commission of the crime."^[1]

Upon arraignment on August 15, 1991, accused-appellant entered a plea of not guilty. Trial ensued and on December 13, 1993, the trial court rendered decision finding accused-appellant guilty of rape, not robbery with rape, thus:

"WHEREFORE, the court finds accused Quirino Quijada y Circulado guilty beyond reasonable doubt of the crime of Rape, defined and penalized by Article 335 of the Revised Penal Code and hereby sentences him to suffer the penalty of reclusion perpetua with all its accessory penalties, to indemnify the offended party Leonida Brina the sum of

P40,000.00, as moral damages and P20,000.00 as exemplary damages.

"SO ORDERED."

"City of Tagbilaran, December 13, 1993.

"(s/t) ACHILLES L. MELICOR

"Presiding Judge"[2]

Hence, this appeal.

The trial court relied on the testimony of the victim Leonida Brina, which was corroborated by other prosecution witnesses and the medico legal report of Dr. Fatima L. Buhay, who also testified in court. The defense put up by accused-appellant was denial, which was not corroborated by any other witness.

The facts of the case are as follows:

On April 27, 1991, at early dawn, Leonida Brina was at a waiting shed situated at the corner of Hinlayagan Street and the national highway waiting for the first trip of a passenger bus bound for Bilar, Bohol for she was to go home thereat. She was with Nerio Depalas who had accompanied her to the waiting shed from the house of Tony Hinlayagan upon the instruction of the latter.

After five minutes, accused-appellant Quirino Quijada arrived at the waiting shed. Nerio Depalas asked him if he was also waiting for the bus and the latter answered in the affirmative. Leonida Brina, feeling a little stomach pain and in need of a cup of coffee, asked Nerio Depalas to get a cup of coffee from the house of Tony Hinalayagan which was just 100 meters away from the waiting shed, to which Nerio acceded. Almost simultaneously, Quijada likewise excused himself to get his bag.

After a few minutes, accused-appellant Quijada returned and embraced Leonida Brina. She resisted the advances of accused-appellant Quijada, but he boxed her in the abdomen and poked his knife at her neck. Then accused-appellant held her neck and pulled her across the road. Accused-appellant instructed Leonida Brina to remove her panty but she refused, which angered accused-appellant. He kicked Leonida until she fell to the ground unconscious. Upon regaining consciousness, Leonida discovered that her panty had been removed and that she was raped. Her wallet containing P150.00 and her Seiko watch valued at P1,000.00 were missing.[3]

Nerio who left to get coffee returned and saw that Leonida and Quijada were no longer at the waiting shed. Using his flashlight, he looked around and saw Quijada coming out of the direction of a teak tree flagging down a Saint Jude bus and boarded the bus. Almost immediately, Nerio saw Leonida come out of the same direction and run towards the same bus. The bus stopped and Leonida boarded the bus. Suspecting that something bad had happened, Nerio went to the "teak tree" and found a panty that was stained with semen. He brought it to the house of Tony Hinlayagan.[4]

SPO1 Tertuliano Tejada was also on board the Saint Jude bus. Leonida Brina reported to him that she was raped and robbed. She was hysterical while narrating the incident, then she fainted.[5]