

EN BANC

[G.R. No. 119835, January 28, 1998]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JOSEPH BARRIENTOS, ACCUSED-APPELLANT.**

D E C I S I O N

VITUG, J.:

Accused-appellant Joseph Barrientos was indicted in an Information that read:

"I N F O R M A T I O N

"The undersigned Prosecutor II of Zamboanga del Sur, accuses JOSEPH BARRIENTOS, of the crime of DOUBLE ROBBERY WITH RAPE, committed as follows:

"That on February 11, 1992, at 5:30 o'clock in the afternoon at the compound of the Molave Regional Pilot School, Poblacion, Municipality of Molave, Province of Zamboanga del Sur, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with intent of gain and with intent to lie while armed with a batangas knife, threaten and by means of force and intimidation did then and there, willfully unlawfully and feloniously have a sexual intercourse with one Exaltacion Lopez for two (2) times and thereafter by means of force and intimidation did then and there wilfully, unlawfully and feloniously took from Exaltacion Lopez, the amount of One Hundred (P100.00) Pesos Philippine Currency, to her great damage and prejudice in the afore-stated amount.

"CONTRARY to Article 294, paragraph 2, of the Revised Penal Code.

"Molave, Zamboanga del Sur, May 26, 1992.

(SGD.) FERNANDO G. CAGOCO
2nd Asst. Prov'l. Prosecutor"^[1]

Priorly filed by the Molave Chief of Police, Inspector Motalib Banding, before the Municipal Trial Court ("MTC") of Molave, Zamboanga del Sur, which conducted the preliminary investigation, was the complaint; viz:

"C O M P L A I N T

"The undersigned Chief of Police Molave Police Station, Molave, Zamboanga del Sur, under oath accuses JOSEPH BARRIENTOS, of the crime of `ROBBERY WITH RAPE', committed as follows:

"That on the 11th day of February 1992, at 5:30 P.M. more or less, at the compound of the Molave Regional Pilot School, Molave, Zamboanga del Sur, Philippines, and within the preliminary jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation armed with a Batangas knife, did, then and there willfully, unlawfully and feloniously, raped and robbed the said complainant, Mrs. EXALTACION LOPEZ right in her classroom.

"CONTRARY TO LAW.

Molave, Zambo. del Sur, February 24, 1992.

(SGD.) MOTALIB T.
BANDING
Inspector, PNP
Chief of Police

"SUBSCRIBED AND SWORN to before me this 24th day of February 1992, at Molave, Zamboanga del Sur, Philippines.

(SGD.) DIOSDADO C.
ARRIESGADO
Municipal Trial Judge"
[2]

Substantiating the complaint was the sworn statement of the complainant, Exaltacion Lopez, which, in part, stated:

"02 Q-What prompted you to appear (at) the Office of the Chief of Police Molave Police Station?
A-I am here to file complaint against Joseph Barrientos.

"03. Q-What crime did he [commit] against you?
A- Because he raped me and then robbed.

"04. Q-When was that, and to wherein particular place did it [happen]?
A-Last February 11, 1992, at about 5:30 p.m., more or less, right in my classroom situated at the Molave Regional Pilot School Campus." [3]

The defense, contending that the prosecution did not have a strong case against the accused, applied for bail. After conducting a hearing thereon, during which Exaltacion Lopez, Inspector Motalib Banding, and Cleofas Mendoza (a fellow teacher of the complainant) were presented by the prosecution, the court, in an order, dated 22 July 1992, [4] denied the petition for bail. A motion for its reconsideration, as well as for the quashal of the warrant of arrest, [5] was likewise denied by the trial court

in its order of 25 August 1992.^[6]

In the arraignment that followed, the accused pleaded "not guilty" to the charge.

The evidence for the prosecution, incorporating the evidence presented during the hearing on the petition for bail (deemed reproduced during the trial), in most part consisted of the statements at the witness stand of Exaltacion Lopez, Inspector Motalib Banding, Cleofas Mendoza and Dr. Vladimir Villaseñor (the examining physician).

The complainant, Exaltacion Lopez, a 50-year old teacher, testified that she was, at past 5:00 in the afternoon of 11 February 1992, in her classroom at the Molave Regional Pilot School in Molave, Zamboanga del Sur, preparing to call it a day. While shutting down the wooden jalousie windows of the classroom, she was suddenly held from behind by a man in pink jogging pants. The man was naked from waist up except for his face which was wrapped in "ninja" fashion. The intruder grabbed Exaltacion by her right hand, and pointed a *batangas* knife at her neck. She attempted to snatch the knife away but that did not work. He led her to the corner of the room with the knife still being poked on her. By the time she turned her head to squarely face him, the man was already completely naked except for the "ninja style" shirt that still partly covered his face. She pleaded to be spared but he paid no heed. He ordered her to lie down on the cemented floor. Showing his impatience, by her refusal, the man grabbed her by the blouse causing her to fall on the floor. He rode on top of her, throwing her two hands above her head. Then, holding the *batangas* knife with one hand, he used the other in removing her panty. Ultimately, he succeeded in having her. When he had finished, he demanded P100.00 from her which she hastily gave. He would not, however, let her go just yet. After a while, he again forcibly took her. His lust now fully satisfied, he wiped himself dry using the table cloth hanging at the magazine rack. Shortly thereafter, he departed. After recovering from the ordeal, she closed the room and hurriedly repaired home. She informed her husband of the incident that evening.^[7] The following morning, her fellow teachers, to whom she likewise narrated the incident, assisted in bringing the matter up to the police authorities.^[8]

Cleofas Mendoza, a fellow teacher of Exaltacion Lopez, stated that she went to the Molave Police Station on 12 February 1992 to report the rape.^[9] Inspector Motalib Banding, after receiving the report, promptly conducted an investigation. He went to the crime scene and interviewed Exaltacion who described the rapist to be a man of medium built and with a fair complexion, protruding eyes (*botlogon ng mata*) and a scar at the right arm.^[10] Banding took the table cloth used by the rapist and sent it for laboratory examination to the PC Crime Laboratory in Manila. He dispatched his police officers to round up possible suspects on the basis of the description given by the complainant. A week later, or on 21 February 1992, he and policeman Cortez invited accused Joseph Barrientos for questioning.^[11] When Barrientos was presented to Exaltacion at the police station, the latter immediately recognized him to be the person who molested her. Barrientos asked Exaltacion for her forgiveness; his words: "*Ma'm, pasaylo-a ko sa akong nahimo nimo, dili nato ni kasohan, tabangan ta lagi ka Ma'm nga mawala ang estorya nimo*" (Ma'm, forgive me for what I have done against you, we will not bring this to court, I will help you Ma'm to eradicate the story against you). She refused to forgive him.^[12]

The table cloth sent for examination was analyzed by Dr. Vladimir Villaseñor. It was found positive for the presence of seminal fluid stains.

The defense denied the accusation. Aside from the accused, six other witnesses were presented to corroborate appellant's alibi and claim of maltreatment by the police.

Appellant stated that in the morning of 11 February 1992, he had left Molave for Dumingag, Zamboanga del Sur, where he stayed at the house of his brother until the morning of 13 February 1992. He went to Dumingag in order to borrow a fatigue uniform which he would use for the ROTC summer camp training in Sinacaban. The next day, 12 February 1992, he attended the death anniversary of his brother's father-in-law.^[13] He was able to return home to Molave only in the afternoon of 13 February 1992. That same afternoon, while watching a basketball game at the Public Plaza of Molave, police officer Robert Cortez invited him to the Police Station for questioning. After a brief investigation, he was allowed to go home.^[14] On 17 February 1992, he and a certain Dante Baguio, a person of his size and built but with darker complexion, were fetched by a police vehicle and presented to two children at the Police Station. The children, when asked if they could recognize appellant, responded in the negative. Thereupon, he was allowed to leave the station.^[15] On 20 February 1992, while he was on his way home, he was directed by Inspector Banding, then driving a police service vehicle, to proceed to the Molave Police Station. At the station, he was asked to wait for Inspector Banding at the latter's office. After a little while, Inspector Banding arrived with Lopez who pointed at him (the accused) as being the man who had raped her. He vehemently denied the accusation.^[16] He was locked up in jail anyway. The next day, he was mauled, blindfolded and maltreated by Inspector Banding and his men for not agreeing to confess to the crime.^[17]

After the presentation of evidence had closed, the court, presided over by Hon. Camilo E. Tamin of the Regional Trial Court ("RTC") of Molave, Zamboanga del Sur, Branch 23, promulgated its decision, dated 20 February 1995, which held accused Barrientos guilty of the crime charged. The court concluded:

"WHEREFORE, this court finds the accused guilty beyond reasonable doubt of the complex crime of rape with robbery and hereby sentences him to the penalty of reclusion perpetua and to pay the offended party Exaltacion Lopez moral damage in the sum of P300,000.00, and the cost of the proceedings.

"SO ORDERED."^[18]

Interposing an appeal to this Court, the accused asseverates that the trial court has erred -

"I. IN HOLDING THAT THERE IS A VALID COMPLAINT SIGNED BY THE PRIVATE OFFENDED PARTY SUFFICIENT IN LAW TO CONFER JURISDICTION TO THE TRIAL COURT;

"II. IN ADMITTING THE TESTIMONY OF THE PRIVATE OFFENDED PARTY

AND CHIEF OF POLICE, MOTALIB BANDING THE ACCUSED ASKED FORGIVENESS FROM THE PRIVATE OFFENDED PARTY THEREBY ADMITTING HIS GUILT;

"III. ON RELYING ON THE SOLE TESTIMONY OF THE PRIVATE OFFENDED PARTY THAT SHE COULD IDENTIFY THE ACCUSED AS THE VERY PERSON WHO RAPED AND ROBBED HER; and

"IV. IN NOT BELIEVING THE TESTIMONY OF THE ACCUSED-APPELLANT AS CORROBORATED BY HIS WITNESSES."^[19]

Appellant assails both the complaint signed by the Chief of Police and the Information filed by the Assistant Provincial Prosecutor as being insufficient to confer jurisdiction on the court, arguing that the prosecution for rape can only be done by means of a valid complaint made by the offended party herself.

The contention lacks merit.

The term "complaint filed by the offended party" found in Rule 110, Section 5, of the Rules of Court, said the Court in *People vs. Sangil*,^[20] should be -

"x x x given a liberal or loose interpretation meaning a 'charge, allegation, grievance, accusation or denunciation' (p. 158, West's Legal Thesaurus Dictionary) – rather than a strict legal construction, for more often than not the offended party who files it is unschooled in the law. The purpose of the complaint in Section 5, Rule 110, is merely to initiate or commence the prosecution of the accused. The victim's 'sinumpaang salaysay' which was prepared in the vernacular, and the 'complaint' in English, which must have been prepared for her by someone else, complement each other, when read together, and satisfy the legal definition of a 'complaint' as 'a sworn statement charging a person with an offense, subscribed by the offended party x x x' (Sec. 3, Rule 110, 1985 Rules on Criminal Procedure). The Court is not inclined to disregard her salaysay (complaint) for mere lack of an oath for that would amount to suppressing her anguished cry for redress."^[21]

The sworn statement of Exaltacion Lopez, the offended party in the case at bar, was signed by Lopez herself in the office of the Chief of Police (Motalib Banding). That statement, in "question and answer" form and filed with the Molave MTC to support the complaint signed by the Chief of Police, was to this effect:

"PRELIMINARY: Mrs. Exaltacion Lopez Y Fernandez, you are being informed that under Article 183 of the Revised Penal Code, any person who knowingly making any untruthful statement shall testify under oath before any competent person duly authorized by law to administer oath shall commit the crime of Perjury. Is this clearly understood by you?

"PRELIMINARY: Mrs. Exaltacion Lopez Y Fernandez, you are being informed that under Article 183 of the Revised Penal Code, any person who knowingly making any untruthful statement shall testify under