

FIRST DIVISION

[G.R. No. 109148, December 04, 1998]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ERNESTO BELO, ACCUSED-APPELLANT.**

D E C I S I O N

QUISUMBING, J.:

On appeal is the decision^[1] of the Regional Trial Court of Naga City, Branch 26, in Criminal Case No. 92-3892, convicting accused-appellant Ernesto Belo of the crime of Robbery with Rape and imposing upon him the penalty of *reclusion perpetua* and ordering him to return the amount of P5,060.00 taken from the victim and to pay her the amount of P50,000.00 as indemnity.

On October 11, 1991, at around 1:00 o'clock in the morning, Leonila Pellosis was tending to her sick infant in their house in Dike, Del Carmen, Minalabac, Camarines Sur, when she heard footsteps near their kitchen.^[2] Suspecting a possible intruder, she became nervous and attempted to scare him away by shouting at her 14-year-old daughter, Miriam, to fetch the local faith-healer to treat her infant.^[3] Miriam was about to leave the house when suddenly, appellant Ernesto Belo forced open the door and announced "Mayo nang magkorahaw ta hold-up ini!" (Don't shout; this is a hold-up!)^[4] Appellant poked a foot-long double bladed knife at the neck of Leonila and demanded money from her. Leonila begged him not to kill her and fearfully opened the cabinet ("aparador") where she kept the family's money from the recent rice harvest and handed over cash amounting to P5,060.00.^[5] Suddenly, the "gasera" placed near the window was furtively struck with a piece of wood from the outside.^[6] Appellant demanded more money and threatened to rape and kill her and her daughter unless he was given more money. Leonila pleaded that she had already given him all the money she had.^[7] Heedless of her pleas, appellant, with the knife still pointed at Leonila's neck, dragged her towards the kitchen and forced her to lie on top of the sacks of rice. Appellant loosened his short pants and brought it down to his knees. He removed the victim's short pants and undergarments and forcibly had sexual intercourse with her.^[8]

When Miriam saw her mother being dragged to the kitchen, she had the presence of mind to grab her youngest brother, and with another brother (Joel), jumped out of the window to seek help from Elmer Taguilid whose house was some 500 meters away. She instructed her younger sisters (Melanie and Mirlan) to hide inside a cabinet. Miriam frantically tried to awaken Elmer from his drunken stupor. Thereafter, Elmer and six other men armed themselves and rushed to the house of the victim only to find Leonila in a distraught state and the appellant gone.^[9]

William Pellosis, the husband of the victim, spent the night guarding their palay harvest at the San Juan-San Lorenzo Cooperative Bodega. When he arrived in the

early morning of October 11, 1991, his wife tearfully related to him her tragic ordeal.^[10] Enraged, he immediately hurried to the Minalabac Police Station to report the incident. PO3 Antonio Algora and other police officers sprung into action and scoured the vicinity to locate appellant, to no avail. William Pellosis and the police officers then went to the house of appellant where they found his common-law wife, Leonida Belo, who didn't know the whereabouts of her husband. Eventually, however, the police officers tracked down appellant and took him into custody.^[11]

On October 14, 1991, the Chief of Police of Minalabac, Camarines Sur, Gil V. De la Cruz, filed a Complaint^[12] with the Municipal Trial Court of Minalabac, Camarines Sur, accusing appellant of the crime of Robbery with Rape.

On January 9, 1992, the Municipal Trial Court of Minalabac, Camarines Sur,^[13] issued a Resolution^[14] finding that the case did not fall under its jurisdiction, and hence, ordered the Clerk of Court to forward the original records to the Provincial Prosecutor's Office in Naga City.

On January 21, 1992, Second Assistant Provincial Prosecutor Romeo S. Dañas filed an Information^[15] accusing appellant of Robbery with Rape, committed as follows:

"That on or about the 11th day of October 1991, at Barangay San Felipe-Santiago, Municipality of Minalabac, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the said accused, with intent of (sic) gain, and by means of violence and intimidation of person, while armed with a knife and after an unlawful entry in the middle of the night, did then and there wilfully, unlawfully and feloniously take, steal and rob from one LEONILA NUÑEZ-PELLOSIS the sum of FIVE THOUSAND AND SIXTY (P5,060.00) Pesos, Philippine Currency; that the aforesaid robbery is (sic) accompanied by rape when said accused then and there had sexual intercourse with said Leonila Nuñez-Pellosis by means of force and intimidation and against her will."

On March 17, 1998, upon arraignment, the accused, duly assisted by Atty. Hector A. Tayer from the Public Attorney's Office, entered a plea of "not guilty."

At the trial, the prosecution presented four (4) witnesses, namely, (1) Miriam Pellosis, the victim's daughter; (2) Leonila Pellosis, the victim herself; (3) Dra. Josephine De La Torre, a resident physician on Obstetrics and Gynecology at the Bicol Regional Hospital; and (4) SPO3 Antonio Algura of the Minalabac Police Station, who received the complaint of the victim's husband at around 1:30 A.M. on the same day, and together with the victim's husband and other police officers, proceeded to the house of the victim to investigate the crime. He also advised the victim to undergo a physical examination, and they even accompanied her to the Bicol Regional Hospital.

The defense, on the other hand, presented appellant and his common-law wife, Leonida Belo, as witnesses. Appellant had a pat alibi. He claimed that he was employed in Sta. Maria, Bulacan, from June to December 1991,^[16] and that he only learned of his pending case when he came back from Bulacan in December 1991.^[17] His wife's meandering testimony corroborated his story.^[18]

On November 26, 1992, after requiring the parties to submit their respective memoranda,^[19] the trial court rendered a decision^[20] finding accused guilty beyond reasonable doubt of the crime of Robbery with Rape. In its decision, the trial court painstakingly traced the events leading to the commission of the crime and accordingly gave credence to the positive identification of the accused by the victim and her daughter *vis a vis* appellant's tainted alibi.

In the present appeal,^[21] appellant now assigns the sole error that:^[22]

THE COURT A QUO ERRED IN FINDING ACCUSED-APPELLANT ERNESTO BELO GUILTY BEYOND REASONABLE DOUBT FOR [sic] THE CRIME OF ROBBERY WITH RAPE DESPITE THE EVIDENCE TO THE CONTRARY.

Appellant contends that the trial court erred in convicting him of the crime charged for failure of the prosecution to prove the identity of the perpetrator beyond reasonable doubt, and for the failure of the trial court to appreciate his defense of alibi.

Robbery with rape is a special complex crime, or more properly, a composite crime,^[23] punishable under the second paragraph of Article 294 of the Revised Penal Code^[24] which provides:

ART. 294. *Robbery with violence against or intimidation of persons. - Penalties. - Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:*

x x x

1. The penalty of *reclusion temporal* in its medium period to *reclusion perpetua*, when the robbery shall have been accompanied by the crime of rape or intentional mutilation, or if by reason or on occasion of such robbery, any of the physical injuries penalized in subdivision 1 of Article 263 shall have been inflicted; Provided, however, that when the robbery accompanied with rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua to death* (As amended by PD No. 767). (underlining added)

In Robbery with Rape, "[i]t is enough that robbery shall have been accompanied by rape to be punishable under the Revised Penal Code which does not differentiate whether the rape was committed before, during or after the robbery."^[25]

After a thorough scrutiny of the records of the case, we find the present appeal utterly without merit. All the elements of the crime of Robbery with Rape are here present and proved. First, appellant employed violence against and intimidation on the person of Leonila Pellosis by poking a double bladed knife on her neck to compel her to give him money. Second, after getting the money of the hapless victim, he dragged her to the kitchen where he mercilessly raped her.

Contrary to appellant's contentions, his identity as the perpetrator of the crime was sufficiently established by the testimonies of the victim and her daughter who readily recognized appellant since he was their former farmhand.^[26] Identification is facilitated by the fact that the person has gained familiarity with another.^[27] While

the crime was committed in the middle of the night, there was sufficient illumination inside the house coming from a "gasera" near the window sill which was later struck down by an unidentified person. Numerous cases have held that illumination coming from a "gasera" is sufficient for purposes of identification of an assailant.^[28]

The trial court's reliance on the victim's testimony is apt, considering that it was credible in itself and buttressed by the testimony of her daughter, the medico-legal officer, and the police investigator.^[29] Moreover the aforesaid witnesses saw the distraught state of the victim on the very day of the commission of the crime. We have repeatedly held that assessment of the credibility of the witnesses is a function that is best discharged by trial courts.^[30] This is in line with the doctrine that factual findings of trial courts are accorded the highest respect unless certain facts of value have been plainly overlooked which, if considered, could affect the result of the case.^[31] The credibility of a rape victim is enhanced when, as in the instant case, she has no motive to testify against the accused or where there is absolutely no evidence which even remotely suggests that she could have been actuated by such motive.^[32] Appellant himself admitted that he could not discern any motive in the accusation of the crime except that he owed the family P50.00,^[33] which is too preposterous a claim to even deserve consideration by this Court. No married woman would subject herself to public scrutiny and humiliation to foist a false charge of rape. Neither would she take the risk of being alienated from her husband and her family. The fact that the victim resolved to face the ordeal and relate in public what she suffered evinces that she did so to obtain justice.^[34] Her willingness and courage to face the authorities as well as to submit to medical examination are mute but eloquent confirmation of her sincere resolve.^[35] We are thus convincingly assured that the lower court prudently fulfilled its obligation as a factual assessor and legal adjudicator.^[36]

Further, Dra. Josephine de la Torre, the medico-legal officer, testified that she examined the victim at around 12:05 noon on the same day of the incident and found sperm cells in the genitals of the victim resulting from sexual intercourse within the past 12 hours, and that the victim suffered abrasion and contusions on the neck area, which were probably sustained when the victim tried to defend herself.^[37] The finding of seminal constituents in a rape victim is important evidence for substantiating the fact that sexual intercourse has taken place, but their absence does not necessarily mean that a rape did not occur. Physical injuries such as bruises or bleeding tend to confirm the fact that a violent assault did take place."^[38] The presence of sperm cells in her violated organ affirmed her charge more than words or anger could prove.^[39] In a prosecution for rape, the complainant's physical condition as shown by a medical examination is given considerable weight in proving that a crime has been committed by testimony of the physician as to evidence of recent sexual intercourse^[40] and marks of violence and bruises on her person.^[41]

Appellant's invocation of alibi to exculpate himself is insufficient to overcome the positive identification made by the victim and her daughter. In comparison with the clear and straightforward testimony of the complainant and her witnesses, the defenses of denial and alibi, which appellant relies upon, are discredited and shopworn.^[42] His alibi is self-serving and his bare denial is a negative declaration