

## SECOND DIVISION

[ G.R. 114972, January 24, 1996 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
FERNANDO CASTANEDA Y SALES, ACCUSED-APPELLANT.**

### D E C I S I O N

**PUNO, J. :**

Accused-appellant **Fernando Castañeda y Sales** was charged with and convicted of **Robbery with Rape** by the Regional Trial Court of xxx.<sup>[1]</sup> He was sentenced to suffer the penalty of *reclusion perpetua*, and ordered to pay private complainant P50,000.00 as moral damages and P200.00 representing the stolen money.<sup>[2]</sup>

The Information for Robbery with Rape filed against the accused-appellant states:

**"That on or about June 12, 1992, in xxx, and within the jurisdiction of this Honorable Court, accused Fernando S. Castañeda armed with a knife, and with intent to gain and by means of violence and intimidation on the person, did then and there, willfully, unlawfully and feloniously take from AAA, who was then in her house the sum of P200.00, belonging to said AAA by poking a knife at complainant's throat, to the damage and prejudice of the aforesaid AAA, in the sum of P200.00, that on the occasion of the said robbery, herein accused, by means of violence and intimidation, did then and there, willfully, unlawfully and feloniously have carnal knowledge of said AAA, against her will.**

**CONTRARY TO LAW. "**<sup>[3]</sup>

Accused-appellant pleaded not guilty and underwent trial.

The evidence shows that private complainant AAA is a married woman, a mother of three (3) minor children, and a vegetable vendor. She resides with her family in xxx. She was usually left at home with her children as her husband pastured ducks in the province of xxx.<sup>[4]</sup>

The crime at bar happened in the evening of June 12, 1992. Private complainant was at home with her children. The moon was then bright and her house was lighted with three (3) kerosene lamps. At about 10:00 p.m. , she exposed ampalaya leaves to dewdrop outside her house. The leaves must be peddled fresh in the market the following day. She was hanging the last bundle when she noticed, at a distance of five (5) meters, a person walking towards her house.

Private complainant sensed danger. She was alone as her husband was in xxx. Her children were asleep. Her neighbors were some twenty (20) meters away. She shouted. In no time, the intruder grabbed private complainant, pulled back her hair

with his left hand, and poked a knife at her neck with his right hand. He demanded money. She told him there was none. He reiterated his demand and out of fear, private respondent indicated that her money was inside the "aparador" in her house. The man forcibly dragged her to the house.

Inside the house, private complainant was made to open the "aparador. " With the light of the three (3) lamps, **she clearly saw the face of the man through the mirror of the "aparador's" upper portion.**<sup>[5]</sup> She handed her money to him, two hundred pesos (P200. 00) in all. The measly amount disappointed the man. He led her outside the house and at knife point, ordered her to pull down her pants. She refused and pleaded: **"Huwag naman, may mga anak ako, may asawa ako, maawa ka naman."**<sup>[6]</sup> The man responded by pressing harder the knife at her throat, and ordering her to perform sexually perverted acts. After a while, the man was able to penetrate her womanhood.<sup>[7]</sup>

His lust sated, the man warned her: **"Do not tell anybody about this incident, if you report the matter to anybody, I will come back and kill you."**<sup>[8]</sup> He disappeared into the darkness. Private respondent woke up her children and sought help from BBB and his wife, CCC. The house of BBB is forty (40) to forty-five (45) meters away from her house. She recounted her ordeal to them but sealed her lips about the threat. BBB, in turn, summoned Barangay Captain Ponciano Cunanan and Councilman Rodolfo Manaloto. She retold her story to the barangay officials, who decided to report the matter to the police authorities.

It was 11:00 p.m. The barangay officials walked with private complainant to the police headquarters in xxx. On their way, she saw a man wearing red shorts and white striped shirt passing in front of a lighted house near the boundary of barangays xxx and xxx. **She recognized the man as the one who robbed and raped her.** She pointed him to BBB.<sup>[9]</sup> They confronted the man who turned out to be accused-appellant. He was invited to the police station and clamped in jail.

The following morning, June 13, 1991, private complainant went to the xxx Municipal Station and **again identified accused-appellant as the culprit.** Chief of Police Benito Sicat prepared the necessary Police Blotter Report.<sup>[10]</sup> Dr. Ramiro Rodriguez of the xxx Hospital examined private complainant. His report showed that her organ suffered "superficial abrasion at 9 position, congestion at 3 position. "<sup>[11]</sup> Three days after, private complainant executed a sworn statement narrating her revolting experience. In that statement, she **again identified accused-appellant.**<sup>[12]</sup>

Accused-appellant is a farmer working for Fernando Garcia.<sup>[13]</sup> He told a different story. He claimed that when the offense was committed he was at a different place. On June 12, 1992, he allegedly attended the birthday party of Garcia's son held at the latter's house in xxx. He arrived there at 5:00 p.m. He cleaned the house, served "pulutan" to the guests, and then joined their beer drinking. The party ended at 12:00 p.m.

Due to intoxication, he walked farther than his house and reached the bridge that separates Barangay xxx from xxx.<sup>[14]</sup> He was trying to breath fresh air when the barangay officials accosted him. He met the private complainant for the first time

and was surprised when she implicated him in the crime. He, however, overheard that the authorities were supposed to arrest a person named Llarves. After he identified himself, they forced him to go to the police station.

Fernando Garcia and his brother-in-law Eduardo Garcia corroborated accused-appellant's alibi. They affirmed that on June 12, 1992, accused-appellant served "pulutan" to their guests and joined them in drinking beer grande.<sup>[15]</sup> They added that accused-appellant stayed at the birthday party from 5:00 p.m. . until the television stations signed-off. Eduardo declared that he and accused-appellant left the party together.<sup>[16]</sup>

Rodolfo David, a barangay tanod at Barangay xxx, was one of those who responded to the private respondent. He claimed that private complainant told him that she could not identify the person who robbed and molested her. She described the criminal to be tall, thin, with a tie around his head, and that the suspect belonged to the Llarves family.<sup>[17]</sup>

PO3 Leoncio Cuaresma testified that he investigated the private complainant.<sup>[18]</sup> At the investigation, private complainant stated that the weapon used by the criminal was a fan knife, or a "balisong."

As aforesaid, the trial court convicted the accused-appellant. In this appeal, accused-appellant contends:

## **"I**

**THE TRIAL COURT ERRED IN CONVICTING ACCUSED- APPELLANT, FERNANDO CASTAÑEDA OF THE CRIME OF ROBBERY WITH RAPE DESPITE FAILURE ON THE PART OF THE PROSECUTION TO PROVE BEYOND REASONABLE DOUBT THE IDENTITY OF THE REAL CULPRIT.**

## **II**

**THE TRIAL COURT ERRED IN GIVING WEIGHT AND CREDENCE TO THE EVIDENCE FOR THE PROSECUTION AND IN DISREGARDING THE EVIDENCE FOR THE DEFENSE."**

We affirm the judgment of conviction.

Accused-appellant argues that his identity as the perpetrator of the crime was not established beyond reasonable doubt. He claims that private complainant did not **immediately** point to him as the culprit upon seeing him at the bridge dividing barangays xxx and xxx. She let him passed by and it was only as he was twenty (20) meters away, that she looked back at him and said, "*It seems that is the person who raped me.*"<sup>[19]</sup>

The argument lies on a faulty factual basis. Contrary to accused-appellant's claim, the records show that immediately upon seeing a man coming to their direction, private complainant recognized him as the criminal and pointed him to BBB, and then to the barangay officials. Thus, she testified: