

## THIRD DIVISION

**[ G.R. Nos. 118620-21, September 01, 1997 ]**

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE  
VS., NARITO @ "NARING" DADLES, ACCUSED-APPELLANT.**

### DECISION

**FRANCISCO, J.:**

This case involves the alleged kidnapping of two farmers, Alipio Tehidor and Salvador Alipan and their respective sons, Dionisio and Antonio from their homes in Barangay Amontay, Binalbagan, Negros Occidental on May 24, 1989. For the said kidnapping, appellant Narito alias "Naring" Dadles was charged in two separate informations, to wit:

That on or about the 24th day of May, 1989, in the Municipality of Binalbagan, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the first above-named accused, in company of his five (5) other co-accused, whose true names are still unknown and herein designated only as "Ka Morito", "Ka Willy", "Ka Dindo", "Ka Mike" and "Ka Juanito", who are all still at large, armed with assorted firearms of unknown calibers, conspiring, confederating and mutually helping one another, by means of force, violence and intimidation, did then and there, wilfully, unlawfully and feloniously take, kidnap, detain, and keep ALIPIO TEHIDOR and DIONISIO TEHIDOR under guard, from their residence at Brgy. Amontay of the above-named municipality, and bring them somewhere in the hinterlands of said municipality, under restraint and against their will, without proper authority thereof, thereby depriving said victims of their civil liberties since then up to the present."<sup>[1]</sup>and

"That on or about the 24th day of May, 1989, in the Municipality of Binalbagan, Province of Negros Occidental, Philippines and within the jurisdiction of this Honorable Court, the first abovenamed accused, in company of his nine (9) other co-accused, whose true names are still unknown and herein designated only as "Ka Dindo", "Ka Morito", "Ka Tiwi", "Ka Amay", "Ka Bobby", "Ka Pedro", "Ka Juanito", "Ka Bernardo" and "Ka Mike" who are all still at large, armed with assorted firearms of unknown caliber, conspiring, confederating and mutually helping one another, by means of force, violence and intimidation, did then and there, wilfully, unlawfully and feloniously take, kidnap, detain, and keep Salvador Alipan alias "Bado" and Antonio Alipan under guard, from their residence at Barangay Amontay of the above-named municipality, and bring them somewhere in the hinterlands of said municipality, under restraint and against their will, without proper authority thereof, thereby

depriving said victims of their civil liberties since then up to the present.”

[2]

Of the several accused named in the aforequoted informations, only appellant was arraigned while the cases against the other accused who remain at large up to the present have been temporarily archived until their apprehension. At the arraignment, the appellant pleaded not guilty to both counts of kidnapping. Upon joint manifestation of the Public Prosecutor and the defense counsel, both cases were ordered consolidated and were jointly tried. [3]

On the abduction of victims Alipio and Dionisio Tehidor, prosecution witnesses Francisca Tehidor and Danilo Tehidor testified as follows:

On May 24, 1989 at around 11:00 o'clock in the evening, the appellant Narito alias "Naring" Dadles together with five (5) others, namely Dindo, Mike, Willy, Morito, and Juanito arrived at the residence of one of the victims, Alipio Tehidor, in Barangay Amontay, Binalbagan, Negros Occidental. Alipio, his wife, Francisca, and their two sons Dionisio and Danilo were awakened from their sleep when the appellant and his companions called Alipio from downstairs. The group which was known to the Tehidor family because they used to visit the latter's house to ask for rice was allowed to enter by Francisca. Once inside, they told Francisca that they wanted to talk to Alipio downstairs. Francisca asked them not to bring Alipio outside and to just talk to him upstairs but her request went unheeded. Then Morito, assisted by the appellant, tied the hands of Alipio and Dionisio. When Francisca protested, the appellant's group told her that they would free Alipio and Dionisio if they surrender the firearms of their two other sons, Logenio and Jenny, both of whom were members of the Civilian Armed Forces Geographical Units (CAFGU). Unable to surrender the said firearms which were not in the possession of the spouses Tehidor, the appellant's group forced Alipio and Dionisio to walk with them to an unknown place. Since then and up to the present, Francisca has not heard from either her husband or her son. [4]

On the other hand, prosecution witnesses Luzviminda Alipan and Vicente Alipan narrated the alleged kidnapping of Salvador and Antonio Alipan in this wise:

On May 24, 1989 at around 11:30 in the evening while Salvador, his wife, Luzviminda and their sons, Vicente and Antonio were in their house in Barangay Amontay, Binalbagan, Negros Occidental, they heard somebody calling them from outside. Luzviminda lighted a lamp and opened the door. She saw the appellant and his nine (9) companions namely, Dindo, Morito, Amay, Pedro, Juanito, Bernardo, Tiwi, Mike and Bobby who were all armed. The appellant and Dindo went upstairs and told Salvador to go with them downstairs as they have something to talk about. Salvador who was apparently acquainted with the group acceded and followed the appellant and Dindo downstairs. Then the appellant told Luzviminda, "Nay, we will borrow Tatay, we will return him tomorrow". When Luzviminda refused, the appellant assured her saying, "Nay, don't worry, just let Tatay go with us together with your son because they will be returned tomorrow." Thereafter, Salvador and Antonio left with the group to an unknown destination. And like Francisca, Luzviminda never saw her husband and son again after that night. [5]

Appellant denied the charges against him and interposed an alibi. The defense

attempted to prove that on the said date and time of the alleged kidnapping of the victims, the appellant was in the house of defense witness Rogelio Ariola sleeping soundly after a round of beer with the latter and his other guests.

The appellant who was engaged in the business of selling fruits claimed that he delivered fruits to one of his usual customers, Rogelio, on May 23, 1989 in Barangay San Pedro, Binalbagan, Negros Occidental. As Rogelio was not able to pay appellant on the said date, the former allowed the appellant to sleep over in his house until the following morning. However, Rogelio was able to pay the appellant only at around 6:00 o'clock in the evening of the next day. Thus, upon the advice of Rogelio, the appellant decided to stay and sleep in the former's house for another night. He went home to Barangay Amontay at around 7:00 o'clock the following morning.<sup>[6]</sup>

Rogelio Ariola who is a Minister of the Apostolic Church and a resident of Barangay San Pedro, Binalbagan, Negros Occidental testified that on May 24, 1989, there was an occasion in their church and he went home at around 6:00 o'clock in the evening to attend to his guests, some of whom were members of his church. The appellant was also in his house as he had delivered fruits to Rogelio the previous day and was waiting to be paid therefor. It was customary for the appellant to sleep in Rogelio's house whenever the latter could not immediately pay him for the fruits delivered. Since Rogelio paid the appellant only at around 6:00 o'clock in the evening of May 24, the latter was no longer able to go home to Barangay Amontay. Rogelio invited the appellant to sleep in his house again that night and the latter accepted.<sup>[7]</sup>

In the meantime, Rogelio entertained his guests by buying Gold Eagle Beer for them to drink. Their drinking session lasted until 10:00 o'clock in the evening, after which, his visitors went home leaving behind the appellant who then slept in one of the rooms in Rogelio's house.<sup>[8]</sup>

Finding the alibi of the appellant insufficient to controvert his positive identification by the prosecution witnesses, Branch 55 of the Regional Trial Court (RTC) of Himamaylan, Negros Occidental rendered a decision convicting the appellant of two (2) counts of kidnapping and serious illegal detention. He was sentenced to suffer the penalty of "double life imprisonment" and to indemnify the families of the victims in the amount of one hundred thousand pesos (P100, 000.00) each without subsidiary imprisonment in case of insolvency.<sup>[9]</sup>

Hence the present appeal before this Court where the appellant raises the following assignment of errors:

## **I**

THE TRIAL COURT ERRED IN GIVING MUCH WEIGHT AND CREDENCE ON (sic) THE EVIDENCE FOR THE PROSECUTION AND IN DISREGARDING THE EVIDENCE FOR THE DEFENSE.

## **II**

THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT NARITO DADLES OF TWO (2) COUNTS OF KIDNAPPING AND SERIOUS ILLEGAL DETENTION.

[10]

In assailing the credibility of the prosecution witnesses, the appellant asseverates that their failure to confront him about the disappearance of the victims despite several opportunities to do so after the alleged incident casts a doubt on the truthfulness of their accusation. The appellant brands as incredulous the testimonies of the prosecution witnesses that although they would see the appellant during Sundays which is the market day in Barangay Amontay, they did not ask him about their missing relatives.<sup>[11]</sup> According to the appellant, likewise puzzling is the failure of the prosecution witnesses to report the incident to the authorities immediately when their respective husbands and sons failed to return the following morning as promised by the appellant and his companions.<sup>[12]</sup>

This court finds neither of the aforementioned circumstances sufficient to detract from the credibility of the prosecution witnesses. It has been held in a large number of cases that the lapse of a considerable length of time before a witness comes forward to reveal the identity of the perpetrators of the crime does not taint the credibility of the witness and his testimony where such delay is satisfactorily explained.<sup>[13]</sup> Also, this court has had occasion to observe that delay in reporting the occurrence of a crime or other unusual events in rural areas is well known and should thus, not be taken against the witness.<sup>[14]</sup>

In the instant case, the testimonies of the prosecution witnesses reveal that it was their overriding fear of reprisal from the appellant's group that prevented them from seeking the aid of the authorities. Thus, Vicente Alipan testified as follows:

QUESTION:

Now, after the alleged incident, did you ever report this matter to the police authority or any military personnel in your area, if any?

ANSWER:

I was not able to report this matter to the authorities.

x x x  
x

x x  
x x x

QUESTION:

And you did not likewise report the incident to any of the military personnel who were patrolling at your area, is that correct?

ANSWER:

We were not able to report the matter to the military authority because we were warned by these people not to report because if we will report they will kill us all."<sup>[15]</sup> (Underscoring supplied.)

Danilo Tehidor likewise testified that the appellant and his companions threatened their family with execution should they report the matter to the authorities:

QUESTION:

Immediately after that incident when your father and your brother were forcibly taken by Naring and his group, why did you not immediately report the matter to the police?

ANSWER:

Because at that time we were warned not to report, they were guarding us.

QUESTION:

Who were guarding you?

ANSWER:

The companions of the accused.

QUESTION:

Why after the incident were there occasions that this Narito Dadles and his companions visited you in your house or have seen you elsewhere, were there instances?

ANSWER:

Yes, sir.

QUESTION:

Do (sic) they visit your house after that incident?

ANSWER:

Not in the house, only in a certain market place.

QUESTION:

Who among your (sic) members of the family being (sic) warned by Narito Dadles or his group not to report the matter to the police.

ATTY. LABIS:

No basis. There was no answer that this witness was warned not to report to the police.