

SECOND DIVISION

[G.R. No. 119218, April 29, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MANUEL CRISTOBAL AND JOLITO CRISTOBAL, ACCUSED-
APPELLANTS.**

D E C I S I O N

BELLOSILLO, J.:

MANUEL CRISTOBAL and JOLITO CRISTOBAL, brothers, were found guilty by the Regional Trial Court of Isabela of Robbery with Multiple Rape and sentenced to *reclusion perpetua*, and to pay jointly and severally complaining witness Luzviminda Cleto Garcia P50,000.00 for moral damages, P6,900.00 for actual damages, and the costs. They now seek a reversal on the theory that they were not positively identified by the victim and that they were somewhere else at the time of the commission of the offense; alibi, in other words.

Following is the evidence for the prosecution adduced through complaining witness Luzviminda C. Garcia and her sister Evena Cleto: On 8 September 1991, at eight o'clock in the evening, Luzviminda was sewing clothes in the receiving room of her house situated in Bayabo East, Tumauni, Isabela. Her front door, which was illuminated by an electric bulb, was closed but unlocked. She was with her sister Evena and brother-in-law Gary Garcia. Luzviminda's husband was at that time in Pangasinan. Her three (3) children were at their mezzanine floor preparing for bed. As she was feeling tired, Luzviminda requested Evena to continue with the sewing. When she was about to join her children at the mezzanine, six (6) armed men barged in through the front door. She readily recognized the brothers Manuel Cristobal and Jolito Cristobal as she was familiar with them although she did not know their names then. She used to see Manuel at the market place while his brother Jolito worked in her farm in the past for three (3) days. Jolito was also selling unbranded medicines and flat iron.

As soon as the Cristobal brothers were in control of the situation, Manuel ordered Evena and Gary to lie flat on the floor face down. The other man, who posted himself near Luzviminda and whom the latter described as elderly, ransacked the house while the rest of the intruders stood guard. Among the items they took were pieces of jewelry, a cassette recorder, and ladies and men's shoes with a total value of P6,900.00. Then Manuel, Jolito and the old man took turns in raping Luzviminda who could not offer any resistance as the three (3) malefactors were all armed. After satisfying their lust, Jolito tied Luzviminda and her companions with shoe laces and warned them not to report the incident to the authorities.

The following day Luzviminda, accompanied by the barangay captain and a councilman, went to the Municipal Hall of Tumauni and reported the outrage committed against her and her family. She was investigated by the police and her

report was reflected in the police blotter. On 10 September 1991 she executed a sworn statement regarding her unfortunate experience and submitted herself to medical examination.

On the other hand, the defense presented PO3 Arnold Lugo who testified that he was the one who entered the incident in the police blotter on 9 September 1991, specifically that "an unidentified male suspect armed with M-16 rifle and a handgun wearing a bonet, ransacked their residence at about eight o'clock p.m. and they took assorted clothings, canned goods and jewelries after which they left." The entry was purportedly based on complaining witness' report.

Another policeman, SPO1 Antonio Manuel Jr., narrated that Luzviminda was not able to identify the culprits when she reported the incident so that he had to inquire about them from her neighbors. He also questioned complainant in her house on 10 September 1991. There Luzviminda described the suspects and told him that she would recognize them if she saw them again.

Bienvenido Eugenio, who claimed to be a close acquaintance of the Cristobal brothers, volunteered to testify for them. He offered an alibi. He declared that at seven in the morning of 8 September 1991 he, Manuel, Jolito and a certain Gavino Limit trekked to the mountains at Antagan 1st, about twenty (20) kilometers from the Tumauni town proper, to gather wood and stayed there for three (3) days, after which they returned to Tumauni. Manuel corroborated Bienvenido's testimony. Jolito was not presented as a witness.

In finding the Cristobal brothers guilty of robbery with rape the trial court relied heavily on the testimony of Luzviminda which it found worthy of belief. Thus the court *a quo* said -

x x x x The complainant Luzviminda Garcia during her testimony on Court answered the questions of the prosecution as well as of the defense and the Court in a brave and straightforward manner. She was shedding tears, sobbing and crying during her testimony. She answered questions spontaneously. The Court likewise observed that when she described the manner by which she was raped, she was so honest and truthful in narrating even the minutest details of the incident.

The trial court disbelieved the testimonies of the defense witnesses. It found Bienvenido to be a prepared, rehearsed and perjured witness and noted that he volunteered to testify only after the prosecution rested its case despite several opportunities to do so; PO3 Lugo's report was inaccurate, inconsistent and confusing; and, SPO1 Manuel Jr. contradicted himself on the witness stand on material points.

Assailing the court *a quo* for not acquitting them, accused-appellants submit that they were not positively identified by Luzviminda as among those who robbed and raped her. Accused-appellants also argue that the court below erred in finding that Bienvenido was a prepared, rehearsed and perjured witness because he was able to answer immediately the date of the incident in the instant case.

Accused-appellants claim that they were not positively identified by Luzviminda as

the culprits as evident from her sworn statement executed before the investigating police officer on 10 September 1991 thus -

13.Q. Showing to you this person in the name of Jolito Cristobal.
What can you say about this?

A. He is not one of those who raped me, but he is positively identified by my brother-in-law Gary Garcia to be one of those who were outside our house, sir. And I am also positive that his elder brother by the name of Manny Cristobal was one of those who raped me, sir.

Accused-appellants also point to the pertinent narration in Luzviminda's supplementary narration dated 12 September 1991 -

5. Q. And do you know the persons who robbed and sexually abused you?

A. I came to know to (sic) this police station to be the persons of Jolito Cristobal and his brother Manny Cristobal, both residents of Brgy. Maligaya, Tumauni, Isabela, sir.

Accused-appellants then connect their prior arguments with the entry in the police blotter showing doubt as to the identification of the suspects, which fact was corroborated by SPO1 Manuel, Jr.

Accused-appellants fail to convince. Their asseveration that the court below erred in its factual findings, particularly on the credibility of the witnesses, must fail. Findings of fact and assessment of credibility of witnesses are matters best left to the trial court because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying, which opportunity is denied to the appellate courts.^[1] doctrinally, findings of fact of trial courts are accorded the highest respect and weight. They are normally sustained unless material facts and circumstances have been overlooked, misunderstood or misapplied.^[2] We find none in the case before us and thus, the facts as found by the court *a quo*, must be sustained.

There is no merit in accused-appellants' contention that they were not positively identified by Luzviminda. While Luzviminda might have failed to categorically specify the names of her robber-ravisher in her sworn statements executed before the police officers, she was however familiar with their faces that she could point to them in court. But assuming that there was some variance in her sworn statements and her testimony in court, such inconsistencies, if any between her testimony in open court and her sworn statements given to investigators do not necessarily discredit the witness since *ex-parte* affidavits are almost always incomplete. Sworn statements are generally considered to be inferior to the testimony given in open court.^[3]

Accused-appellants endeavored to discredit Luzviminda by showing that this was not the first time that complaining witness filed a case for rape. They narrated that she had priorly filed a charge for rape but the same was dismissed when the accused therein opted to settle the case amicably. We find this insinuation not to diminish in any way the weight accorded to the credibility of Luzviminda. In criminal cases,