

## THIRD DIVISION

**[ G.R. No. 121175, November 04, 1998 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
MARILYN RAFAEL VILLAMAR, ACCUSED-APPELLANT.**

### DECISION

**ROMERO, J.:**

Marilyn Villamar was charged with the crime of illegal detention and frustrated murder in an information dated November 9, 1993, the accusatory portion of which reads:

"That in or about and during the period beginning 7:00 a.m. of June 5, 1993 to 9:00 a.m. of the same day, in Barangay Cabalantian, Municipality of Bacolor, Province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, MARILYN RAFAEL-VILLAMAR, suspecting that Maria Luz Cortez would not return her daughter Jonalyn Villamar whom she entrusted to said Maria Luz Cortez, did then and there wilfully, unlawfully and feloniously surreptitiously enter the house of Maria Luz Cortez and by means of force and intimidation and with threats to kill take said Maria Luz Cortez, a woman of 20 years old as the latter entered her house whom said accused detained and kept locked inside the house from 7:00 a.m. to 9:00 a.m. of June 5, 1993 or a period of two (2) hours, more or less, under restraint and against the will of the said Maria Luz Cortez and said accused during the period of detention maltreated and refused to release said Maria Luz Cortez until her demand for a sum of money and a getaway vehicle was given to her and on the occasion thereof, accused with evident premeditation and with intent to kill, did then and there wilfully, unlawfully and feloniously assault, attack and strike with a deadly weapon to wit: a knife and a chisel, one Maria Luz Cortez who as a result thereof, suffered various lacerated wounds on the head which ordinarily would cause the death of the said Maria Luz Cortez, thus performing all the acts of execution which should have produced the crime of murder as a consequence, but nevertheless did not produce it by reason of causes independent of her will, that is, by the timely arrival of the authorities who rescued Maria Luz Cortez which prevented her death.

CONTRARY TO LAW."

On November 23, 1993, the accused pleaded not guilty to the crime charged. Thereafter, trial on the merits proceeded.

The evidence for the prosecution established the following facts:

On February 11, 1993, Villamar went to the house of the private offended party

Cortez and inquired if the latter was interested in adopting her daughter, explaining that her offer was due her husband's hasty departure. Unable to refuse, Cortez accepted the offer and immediately prepared a "Sinumpaang Salaysay" to formalize the adoption. Unfortunately, on June 5, 1993, Villamar, apparently regretting her decision, went to the house of Cortez and decided to take her daughter back. This sudden reversal was, of course, not taken lightly by Cortez, who vehemently refused to relinquish custody of the girl to Villamar.

Thereupon, a scuffle ensued between the two, during which Villamar managed to hit Cortez with a chisel on the head rendering the latter weak and immobilized, after which she threatened her with a pair of scissors. Villamar was demanding that Cortez reveal where the "Sinumpaang Salaysay" was located. Meanwhile attracted by the commotion, a curious crowd was already gathering outside the Cortez residence. Sensing imminent danger, Villamar demanded money and a get-away vehicle to extricate herself from her predicament. However, on her way to the car, a melee ensued resulting in her immediate arrest by the responding policemen.

The defense, on the other hand, narrates a different scenario.

Villamar admits that a struggle did occur between her and Cortez, after the latter refused her request for the return of her child. However, while she acknowledged that she brandished a pair of scissors before Cortez, this was motivated more out of fear of the crowd assembled outside the house which might harm her. In other words, in order to protect herself, she had to use Cortez as a "human shield" to keep the crowd at bay.

The trial court, not having been convinced with Villamar's version of the incident, convicted her for serious illegal detention and less serious physical injuries, but at the same time acquitted her on the charge of frustrated murder. The dispositive portion of the decision reads as follows:

"Accordingly, finding the accused Marilyn Rafael Villamar to be guilty beyond reasonable doubt of the crime of Serious Illegal Detention and Less Serious Physical Injuries, the Court hereby sentences her as follows:

- 1) On the Serious Illegal Detention - for the accused to suffer the penalty of Reclusion Perpetua and all the accessory penalties as provided by law;
- 2) On the Less Serious Physical Injuries - for the accused to suffer a four (4) months imprisonment and any accessory penalty as maybe provided by law.

The accused is entitled to credit of her preventive imprisonment in accordance with the law.

SO ORDERED."<sup>[1]</sup>

Insisting on her innocence, Villamar has interposed the instant appeal.

The focal point of Villamar's thesis is that she cannot be guilty of serious illegal detention since she had no intention to deprive or detain Cortez of her liberty.<sup>[2]</sup>