

## THIRD DIVISION

[ G.R. No. 116279, January 29, 1996 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ROGELIO CRISTOBAL, ACCUSED-APPELLANT.**

### D E C I S I O N

**DAVIDE, JR., J.:**

Rape is the forcible violation of the sexual intimacy of another person. It does injury to justice and charity. Rape deeply wounds the respect, freedom, and physical and moral integrity to which every person has a right. It causes grave damage that can mark the victim for life. It is always an intrinsically evil act,<sup>[1]</sup> an outrage upon decency and dignity that hurts not only the victim but the society itself.

The pain rape causes becomes more excruciating when the victim carries the life of an unborn within her womb. That tender and innocent life, born of love and its parents' participation in the mystery of life, is thereby placed in undue danger. Such was the case of AAA, a married woman. She was twenty-eight years old, with one child and another on the way, when tragedy struck. She was sexually assaulted on 31 March 1986. Fortunately, the life in her womb survived.

She accused Rogelio Cristobal of rape in a sworn complaint<sup>[2]</sup> filed with the Municipal Trial Court (MTC) of xxx, on 8 April 1986.

Having found sufficient ground to engender a well-founded belief that the crime charged has been committed and the accused was probably guilty thereof, the court ruled that the accused should be held for trial.<sup>[3]</sup> Accordingly, it issued a warrant for his arrest<sup>[4]</sup> and fixed his bail bond at P17,000.00.<sup>[5]</sup> The accused was arrested but was later released on bail.<sup>[6]</sup> Thereafter, the court increased the amount of bail to P30,000.00 and, consequently, ordered the rearrest of the accused.<sup>[7]</sup> Unfortunately, by this time, he was nowhere to be found.

On 26 August 1986, the MTC ordered the case to be "sent to the files without prejudice to its subsequent prosecution as soon as the defendant is apprehended."<sup>[8]</sup> Almost a year after, or specifically on 24 August 1987, the said court ordered the records of the case to be forwarded to the Provincial Fiscal for proper disposition.<sup>[9]</sup>

On 15 September 1987, the Provincial Fiscal of xxx filed with the Regional Trial Court (RTC) of xxx, an information<sup>[10]</sup> charging accused Rogelio Cristobal with the crime of rape committed as follows:

That between the hours of 12:00 to 1:00 o'clock in the afternoon of March 31, 1986 in xxx and within the jurisdiction of this Honorable Court, the above-named accused

by means of force, threat and intimidation and with lewd design, wilfully, unlawfully and feloniously have sexual intercourse with one AAA against the will of the latter.

That the aggravating circumstance of the accused having committed the crime in uninhabited place attended the commission of the crime.

CONTRARY TO LAW.

The case was docketed as Criminal Case No. 604 and assigned to Branch 32 of the said court.

A warrant of arrest was issued on 18 October 1987. Because it was returned unserved, an alias warrant of arrest was issued on 1 February 1988, which was also returned unserved. The trial court then ordered the archival of the case and the arrest of the accused.<sup>[11]</sup>

It was only on 27 July 1993 when accused Rogelio Cristobal was arrested and detained at the provincial jail.<sup>[12]</sup> On 21 October 1993, the Provincial Prosecutor filed a Manifestation for the revival of the case,<sup>[13]</sup> which the court favorably acted upon.<sup>[14]</sup>

Upon arraignment, the accused entered a plea of not guilty. Trial on the merits ensued.

The prosecution presented the offended party, AAA, and the physician who conducted a medical examination on her, Dr. Mercedita S. Erni-Reta. The defense presented the accused Rogelio Cristobal and his employer, Wilfredo Manzano, who is married to the accused's cousin, Emilia Manzano. Being merely corroborative to the testimonies of the first two defense witnesses that at the time of the alleged commission of the crime the accused was hired by the Manzano spouses to plow their field,<sup>[15]</sup> the testimony of Mrs. Emilia Manzano was admitted by the prosecution to expedite the disposition of the case.<sup>[16]</sup>

The evidence for the prosecution established the following facts:

In the morning of 31 March 1986, AAA, a resident of xxx, went to the nearby xxx Creek to wash her family's clothes. She was alone. At around midday, between the hours of 12:00 and 1:00 and after accomplishing her task, she decided to take a bath in the creek. She was about to start when somebody held her neck from behind and thereafter forcibly laid her down the ground. Only then did she recognize her attacker, the accused Rogelio Cristobal. AAA managed to stand up and run away, but Rogelio caught up with her and delivered two fistblows to her stomach. Not content with this, Rogelio, while viciously holding her hair, pressed down AAA's face into the water. Rogelio then took her three meters away from the creek and forcibly laid her down on the ground. Because of her weakened and pregnant state, AAA could not struggle any further. Rogelio removed her clothes and panties. He then went on top of her, inserted his private organ into hers, and succeeded in satisfying his lust on her.<sup>[17]</sup> After which, he slapped and threatened AAA with death if she would talk.<sup>[18]</sup>

The threat went unheeded as AAA upon reaching her home, immediately told her husband of what had happened to her. Her husband accompanied her to the police station of xxx, to report the incident and then to Dr. Mercedita Erni-Reta for medical examination.<sup>[19]</sup>

Dr. Erni-Reta found that AAA's vaginal canal had a laceration at the erythematous border at 2:00 and chemoses at 3:00 at the vaginal os.<sup>[20]</sup> On the witness stand, Dr. Erni-Reta confirmed these findings.<sup>[21]</sup> She added that, upon internal examination, she found seminal fluid in the vaginal canal which must have been there for no longer than twenty-four hours.<sup>[22]</sup>

The defense, on the other hand, established the following to refute the version of the prosecution:

**On 31 March 1986, Rogelio Cristobal was plowing the land of the spouses Wilfredo and Emilia Manzano located in xxx. He started plowing at 7:00 a.m. and went with Wilfredo to the latter's home for lunch at around 11:00 a.m.. Emilia was with them for lunch. The three of them talked until 2:00 p.m.. He went home thereafter, attended to his children, and then brought out his carabao to graze in xxx, which is about 200 meters away from his house.<sup>[23]</sup> Then he went to the house of Meichor Cristobal. While he was at Meichor's house, a policeman by the name of Jimmy Benedicto arrested him for the crime of rape and brought him to Councilor Benjamin Dumlao. He was subsequently taken to the 166th PC Detachment in xxx, where he was interrogated and where he spent the night. In the morning, he was brought to the municipal court to face the charges filed against him.<sup>[24]</sup>**

In its decision<sup>[25]</sup> dated 28 March 1994, the trial court found the accused guilty beyond reasonable doubt of the crime of rape and sentenced him to suffer the penalty of *reclusion perpetua* and to indemnify the complainant, AAA, in the amount of P30,000.00.

The trial court found clear and convincing the categorical testimony of AAA of having been accosted from behind, knocked to the ground, boxed, submerged in water, taken three meters from the creek, and raped.<sup>[26]</sup> In view of her positive identification of the accused, it disregarded the defense of alibi set up by the latter, which it found to be a weak one. It ruled that for the defense of alibi to prosper the accused must show physical impossibility to be at the scene of the crime at the time it was committed. The accused was within three kilometers only from xxx Creek where the rape was committed. Such distance is near enough to cover by walking in a matter of thirty minutes.<sup>[27]</sup> It was not, therefore, physically impossible for him to be at the crime scene at the time the crime was committed.

In this appeal, the accused contends that the trial court erred in (1) convicting him on the basis of the private complainant's inconsistent testimony, and (2) not giving due weight to his defense of alibi.<sup>[28]</sup>

The Appellee disagrees with him and prays that the assailed decision be affirmed with modification of the award for moral damages, which should be increased from P30,000.00 to P50,000.00.<sup>[29]</sup>