

## THIRD DIVISION

[ CA-G.R. CR NO. 36234, March 31, 2015 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDWIN KATIGBAK Y SANGGALANG, ACCUSED-APPELLANT.**

### **DECISION**

**BARZA, J.:**

EDWIN KATIGBAK appeals from the *Decision*<sup>[1]</sup> dated 12 November 2013 of the Regional Trial Court, Branch 13, Lipa City, finding him guilty beyond reasonable doubt of the crime of Robbery, as defined and penalized by Article 294, Par. 5 of the Revised Penal Code, and imposing on him the penalty of imprisonment of Four (4) years and Two (2) months of *Prision Correccional*, as minimum, to Eight (8) years of *Prision Mayor*, as maximum.

The *Information*<sup>[2]</sup> reads:

“That on or about the 28th day of May 2010 at about 12:05 o'clock in the morning at Narra Street, Villa Lourdes Subdivision, Lipa City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain and without the consent of the owner thereof, by means of violence and/or intimidation of person, did then and there willfully, unlawfully and feloniously take, rob and carry away a shoulder bag, containing one (1) DSC T 700 Sony digital Camera valued at Php36,000.00, one (1) unit of Nokia 7260 valued at Php 13,000.00, Metro Bank Atm Card and cash money amounting to Php2,000.00, belonging to Zandra Magsino y De Leon, a 17 year old minor, to the damage and prejudice of the said owner.

Contrary to law.”

Accused Katigbak entered a plea of not guilty during his arraignment on 1 March 2011<sup>[3]</sup>. During the Pre-trial of the case, the parties stipulated on the following facts: 1) Identity of the accused; and, 2) jurisdiction of the court over the person of the accused and to try this case. The issue to be resolved was limited to whether or not the accused is guilty beyond reasonable doubt of the crime charged.<sup>[4]</sup> Trial thereafter ensued.

The facts as summarized by the trial court:

“Private complainant Zandra Magsino y de Leon, testified that she is eighteen (18) years old, single, student and presently staying in Sabrina Anne Apartment, Narra Street, Villa Lourdes Subdivision, Lipa City, Batangas. She recalled that on May 28, 2010 at around 12:05 o'clock in the early morning, when she was only seventeen (17) years old, she was

about to go home to her apartment after coming from Blitz Computer Shop. It was only a three (3) minute walk. When she went out of the computer shop, herein accused Edwin Katigbak y Sanggalang was there and he asked her if she wanted to ride a tricycle. As nobody was around, she disregarded the accused and just walked away. After about one and a half (1 ½) minutes walk or ten to fifteen meters away from the computer shop, she felt that somebody in a tricycle was following her. She did not mind it and continued walking when suddenly her handbag was forcibly grabbed from behind by somebody riding in a tricycle. She was able to recognize the culprit to be herein accused Edwin Katigbak y Sanggalang because they stared at each other while trying to wrestle for the possession of her bag. As she did not want to let go of her handbag she pulled it back but the tricycle moved away and she was dragged for about three (3) to five (5) meters. As a result, she suffered abrasions on her left arm and hip as shown by the pictures (Exhibits "H-1" & "H-2", respectively). Despite the injuries she sustained, she managed to stand up and followed the tricycle while shouting for help. She lost her handbag though.

Some barangay tanods and concerned citizens who were then at the nearby place of the incident noticed her and helped her. They ran after the person who grabbed her bag, by riding in a tricycle without a roof heading to Barangay Lodlod, Lipa City, Batangas. When they came back, herein accused Edwin Katigbak y Sanggalang was with them. She identified the accused as the person responsible for the robbery because of the white t-shirt he was wearing at that time. The bag, however, was not in the possession of the accused at the time of his arrest. Together with the barangay tanods and the accused, they all went to the police station where her Sworn Statement (Exhibit "A") was taken to initiate the filing of the instant case. Thereafter, she was brought to Granja Hospital where her injuries were examined and treated as evidenced by her Medical Certificate (Exhibit "C").

At 4:00 o'clock in the morning of the same day, somebody called her and informed her about the return of her bag by a certain Tess to the owner of the apartment she was then renting. Her bag was eventually returned to her and the same contained all her belongings, to wit: digital camera, Nokia 7260 cellular phone, ATM card and the cash amounting to Two Thousand Pesos (Php 2,000.00).

Although nothing was lost from her belongings and she recovered her handbag she still pursued the instant case for Robbery against herein accused Edwin Katigbak y Sanggalang.

Dr. Augustus Cesar Apalisok testified and confirmed that he personally treated the private complainant, who narrated to him the cause of her injuries. He issued a medical certificate (Exhibit "C") stating therein the injuries sustained by the victim as "abrasion 10 x 2 cm P/3 left forearm."

On the part of the defense, accused Edwin Katigbak y Sanggalang, a thirty (30) year old tricycle driver was presented and he testified that on May 28, 2010 at around 12:00 o'clock in the early morning, he came

from Lipa City bus stop where he ate pancit. When he was about to go home, a passenger boarded his tricycle and he brought him to Barangay Balagbag, Lipa City, Batangas. Thereafter he went home.

While on his way home to Purok 5, Barangay Lodlod, Lipa City, Batangas, the barangay patrol of Barangay Tambo, Lipa City stopped his tricycle and asked him if they can search his tricycle as they were looking for a bag. He acceded but nothing was found in his tricycle. He was then requested to go with them to Villa Lourdes Subdivision, Lipa City, for him to talk to the private complainant. He agreed and during his conversation with the private complainant, the latter was not able to recognize him but stated that she remembers the color of the tricycle as orange and the person who grabbed the bag was wearing a white t-shirt. Although he was wearing a white t-shirt then, the color of his tricycle is red and not orange. He also insists that he never traversed Villa Lourdes Subdivision on the date and time of the incident.

Nonetheless, the barangay tanods of Tambo, Lipa City brought him to the police headquarters, together with the private complainant. Upon arrival thereat, he was immediately incarcerated and was not allowed to make a call. At around 8:00 o'clock in the morning, his family came to know about the incident and his wife visited him.

Barangay Tanod Oscar Biyo y Gogolin was also presented by the defense. He testified that on May 28, 2010 past 12:00 midnight, he was with Herman Dimayuga roving the Villa Lourdes Subdivision, Barangay Mataasnalupa, Lipa City, Batangas. At that time, they noticed a woman near a shop shouting for help and asking them to run after the person who snatched her bag. Since somebody told them that a concerned citizen named Engineer Reyes already ran after the snatcher, they no longer run after him. When they asked the woman as to the identity of the snatcher, she only said that the color of the tricycle being driven by the snatcher was orange. After twenty five (25) minutes, the barangay officials of Tambo, Lipa City came, together with the driver of a tricycle colored red. The tricycle driver was presented to the private complainant after which, they brought him and the complainant to the police headquarters of Lipa City, Batangas and left them there.

At around 8:30 o'clock in the morning of the same day, they returned to the police headquarters and were asked to sign a statement prepared by the private complainant. Without reading the same, he and Herman Dimayuga just signed their Pinagsamang Sinumpaang Salaysay (Exhibit "B").

In due course, the court *a quo* convicted Katigbak of Robbery. The dispositive portion of said decision reads:

"WHEREFORE, in view of all the foregoing, judgment is hereby rendered finding the accused Edwin Katigbak y Sanggalang GUILTY beyond reasonable doubt, as principal, for the crime of Robbery defined and penalized under Article 294 (5) in relation to Article 293 of the Revised Penal Code, as amended, and hereby imposes on said accused the

penalty of imprisonment of Four (4) years and Two (2) months of Prison Correccional, as minimum, to Eight (8) years of Prison Mayor, as maximum.

SO ORDERED.”

Accused Katigbak, now the accused-appellant, comes to this Court assailing his conviction upon the lone assignment of error:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

For the State, the Solicitor General counters that the prosecution has established with moral certainty that accused-appellant committed the crime of robbery and recommended that the assailed Decision be affirmed in all respects.<sup>[5]</sup>

Accused-appellant claims that the prosecution failed to identify the culprit in this case because of the following: 1) lack of illumination in the place at the time of the alleged incident, thus, failing to identify the tricycle as well as the tricycle driver who forcibly took her bag; 2) the private complainant snubbed the tricycle driver who first offered her a ride; 3) the accused-appellant was the only person presented to the private complainant by the concerned citizens who responded to her call for help; and, 4) the accused-appellant was not in the place of the commission of the crime.

At the outset, let it be stressed that “factual findings of the trial court are entitled to respect and are not to be disturbed on appeal unless some facts or circumstances of weight and substance, having been overlooked or misinterpreted, might materially affect the disposition of the case”<sup>6</sup>. With this and after closely examining the records of the case and the evidence presented by the parties, the Court finds no reason to reverse the court *a quo* in finding the accused-appellant Katigbak guilty.

The accused-appellant posits that he was not positively identified by the private complainant as the tricycle driver who took away the private complainant's bag on 28 May 2010 at about 12:05 o'clock in the morning at Narra Street, Villa Lourdes Subdivision, Lipa City. Accused-appellant claims that the alleged place of the incident was dark such that the private complainant could not have recognized the face of the malefactor.

The Court, however, is not persuaded. The private complainant testified that there was light in the place of the incident and she was able to see the face of the accused-appellant because they stared at each while they were wrestling with her bag.<sup>[7]</sup> This assertion of the private complainant was correctly given credence by the court *a quo*. The Court has held in a catena of cases that it is the most natural reaction of victims of violence to strive to see the appearance of the perpetrators of the crime and to observe the manner in which the crime was committed.<sup>[8]</sup> Under emotional stress, however, when the human body's adrenaline surges, it is highly inconceivable that the mind could not even manage to register the face of the person who threatened bodily harm. As a matter of fact, it is natural, if not instinctive, for the victims to look at the face of the felon.<sup>[9]</sup>