



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **September 28, 2022** which reads as follows:*

“G.R. No. 250134 (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*, v. WILFREDO LORENZO y DELA CRUZ and REY DIAZ, *accused*; WILFREDO LORENZO y DELA CRUZ, *accused-appellant*). — This Court resolves the Decision¹ of the Court of Appeals, which affirmed the Regional Trial Court’s Amended Decision² convicting Wilfredo Lorenzo y Dela Cruz (Lorenzo) of robbery with rape.

On February 2, 2017, an Information was filed against Lorenzo and Rey Diaz (Diaz) for robbery with rape,³ which reads:

That on or about the 5th day of April, 2016, in Quezon City, Philippines, the said accused, conspiring together, confederating with each other and mutually helping one another, with intent to gain and by means of force, violence and intimidation against persons, did, then and there, willfully, unlawfully and feloniously rob one AAA in the following manner, to wit: complainant rode a white taxi with signage “Val and Vangie” in going home at Pasay City and while traversing E. Delos Santos Avenue, accused suddenly turned at Magallanes and declared hold-up, chained her hands and robbed and divested complainant of her personal belonging[s], viz:

1. Samsung J1 cellular phone worth Php7,000.00
2. Cash money worth Php6,800.00
3. Two (2) ATM cards

all valued at Php13,800.00, Philippine Currency, and on the occasion of the said robbery, accused in furtherance of their criminal intent, after grabbing hold of the offended party at the back seat, accused Wilfredo Lorenzo y Cruz (*sic.*) pulled down her pants and thereafter had carnal knowledge of the said offended party, all done against her will and without her consent, to the damage and prejudice of the said offended party.

¹ *Rollo*, pp. 3–17. The Decision was penned by Associate Justice Remedios A. Salazar-Fernando and concurred in by Associate Justices Marie Christine Azcarraga-Jacob and Gabriel T. Robeniol of the Special Second Division, Court of Appeals, Manila.

² *CA rollo*, pp. 56–65. The Amended Decision was penned by Presiding Judge Alfonso C. Ruiz II of Branch 216, Regional Trial Court, Quezon City.

³ *Rollo*, p. 4.

CONTRARY TO LAW.⁴

Diaz remained at large, while Lorenzo pleaded not guilty to the crime charged during arraignment. After pre-trial, trial on the merits ensued.⁵

According to the prosecution, at around 2:30 a.m. of April 5, 2016, AAA boarded a white "Val & Vangie" taxi at Greenbelt 3 in Makati City and sat in the passenger seat. She told Lorenzo, who was the taxi driver, to take her to her house in [REDACTED], Pasay City.⁶

Lorenzo took the EDSA southbound route to Pasay City, but upon reaching the Magallanes interchange, turned to C5. Soon after, he declared a holdup and tied AAA's hands with a chain. He warned AAA that he would shoot her if she fought back. Fearing for her life, AAA followed his instructions.⁷

When they reached C5, Lorenzo shouted, "*Lumabas ka na diyan! Putang[]ina mo! Lumabas ka na diyan!*" At once, a man later identified as Diaz emerged from the folding backseat access to the taxi's trunk, where he had been hiding. Lorenzo stopped the taxi, moving AAA to the backseat and sitting beside her. Diaz took the driver's seat and drove the taxi northbound.⁸

Lorenzo tightened the chain around her hands and threatened to punch her in the face if she looked at him. When he began caressing her legs, he warned her that if she resisted, he would shoot her. Despite the warning, AAA pleaded with him not to continue, which merited another threat of physical harm if she refused to keep quiet. Lorenzo removed her socks and bandana and used these to tighten the chain around AAA's hands, reminding her to keep quiet, or else he would forcibly insert his penis into her mouth.⁹

By 3:30 a.m., when they passed the Iglesia ni Cristo Central Church along Commonwealth Avenue, Quezon City, Lorenzo removed AAA's pants and underwear. AAA could only close her eyes out of fear. Lorenzo then went on top of her and forcibly inserted his penis into her vagina. After approximately five minutes, Lorenzo ejaculated inside her.¹⁰

Lorenzo then searched AAA's bag, taking her Samsung J1 cellphone worth ₱7,000.00, ₱6,800.00 cash, and her ATM cards. He asked AAA to

⁴ Id.

⁵ Id. at 5.

⁶ Id. See also CA rollo, p. 56.

⁷ Id. See also CA rollo, pp. 56-57.

⁸ Id.

⁹ Id. at 5-6.

¹⁰ Id. at 6.

disclose her cellphone passcode. AAA pleaded with him to leave her some money so that she could go home, to which Lorenzo agreed.¹¹

They proceeded to an ATM so Lorenzo could withdraw money. Diaz took this opportunity to whisper to AAA that he would not allow Lorenzo to throw her away like he did the other girls.¹²

At around 4:00 a.m., AAA was dropped off near a creek on Roxas Street in Quezon City, after Lorenzo had warned her that he would shoot her if she turned around to look at him. AAA approached a woman and borrowed her phone to contact her husband. The woman and the other residents in one of the compounds on Roxas Street brought her to the barangay hall and to the Quezon City police station, where she was examined by the medico-legal officer on duty.¹³

Sometime after the incident, AAA accessed a shared Facebook link containing pictures of taxi drivers who were suspected serial rapists, which included Lorenzo's picture. AAA proceeded to the police headquarters in Camp Karingal, Quezon City to verify if the person in the picture was the one who raped and robbed her. There, the police officers took her to a prison cell, where Diaz and Lorenzo had already been detained for other crimes charged. She identified the two among the persons detained in the cell.¹⁴

On cross-examination, AAA admitted that the taxi's windows were not tinted, and that she did not shout for help while they were traversing busy roads or even when they passed by a police vehicle. She explained that she could not resist his advances as her hands were tied and she was afraid that he would hurt her.¹⁵ AAA positively identified Lorenzo as one of her assailants in open court.¹⁶

For his part, Lorenzo denied the accusations against him. He stated that he never worked as a taxi driver, as he had a boundary agreement with Gregorio Basil (Basil), the owner of a passenger van plying the Zabarte-Buendia route. He alleged that on the early morning of April 5, 2016, he was sleeping in his house at Block 37, Lot 17, Metro Manila East, Rodriguez, Rizal, where he lived with his wife and three children, and only woke up at around 7:00 a.m. He informed Basil that he would not be reporting for work that day, as he and his family would go to McDonald's, Robinsons Rizal for his son's advanced seventh birthday celebration. He asserted that he only met

¹¹ Id. See also CA rollo, p. 57.

¹² Id.

¹³ Id.

¹⁴ Id. at 6-7.

¹⁵ Id. at 7.

¹⁶ Id. at 5.

Diaz when they were both detained at Camp Karingal, and that he was not acquainted with AAA.¹⁷

Lorenzo recalled that while he was detained for illegal possession of dangerous drugs, several women were brought to his cell. Some of these women, including AAA, pointed to him and confirmed that he had raped them. Each time, he denied it.¹⁸

In a June 1, 2018 Amended Decision,¹⁹ the Regional Trial Court convicted Lorenzo of robbery with rape. The dispositive portion reads:

WHEREFORE, the accused WILFREDO LORENZO y Dela Cruz is hereby CONVICTED of the crime of Robbery with Rape under Article 294, paragraph 1 of the Revised Penal Code. He is hereby sentenced to the penalty of *reclusion perpetua*.

He is also ordered to return the Samsung J1 cellular phone and the two (2) ATM cards taken from the complainant. If restitution is no longer possible, the accused shall pay the complainant the value of the stolen phone in the amount of P7,000.

Aside from restitution of the stolen phone, he is also ordered to pay the amount of P6,800 representing the stolen cash money, the amount of P75,000 as civil indemnity, the amount of P75,000 as moral damages, and the amount of P30,000 as exemplary damages. Interest at the rate of six percent (6%) per annum is imposed on all the damages awarded in this case from the finality of this judgment until fully paid.

SO ORDERED.²⁰

The Court of Appeals dismissed Lorenzo's appeal in its June 25, 2019 Decision.²¹ It only modified the trial court's ruling as to the damages awarded:

WHEREFORE, premises considered, the instant appeal is DENIED. The assailed Amended Decision dated June 1, 2018 of the Regional Trial Court, Branch 216, Quezon City in Criminal Case No. R-QZN-17-01856-CR for Robbery with Rape is hereby AFFIRMED with MODIFICATION that accused-appellant WILFREDO LORENZO y DELA CRUZ is ordered to pay AAA the amounts of: (1) Php100,000.00 as civil indemnity; (2) Php100,000.00 as moral damages; and, (3) Php100,000.00 as exemplary damages. All the monetary awards for damages shall earn interest at the rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.

The rest of the assailed Amended Decision stands.

¹⁷ CA rollo, p. 78.

¹⁸ Rollo, pp. 8-9.

¹⁹ CA rollo, pp. 56-65.

²⁰ Id. at 63-64.

²¹ Rollo, pp. 3-17.

SO ORDERED.²²

Lorenzo filed a Notice of Appeal, to which the Court of Appeals gave due course, elevating the case records to this Court.²³ This Court informed the parties to file their supplemental briefs,²⁴ but both plaintiff-appellee People of the Philippines and accused-appellant stated that they would no longer do so, their Briefs filed before the Court of Appeals being sufficient.²⁵

Before this Court, accused-appellant appeals his conviction. He insists that the prosecution failed to positively identify him as one of the perpetrators of the crime. He raises that AAA, in her *Sinumpaang Salaysay*, stated that she did not know any of her assailants; yet, almost two months after the incident, she was apparently able to identify him through a Facebook link. Accused-appellant argues that this belated identification, coupled with the impossibility of AAA seeing her assailant, was unreliable due to the uncertainty of human memory. Even his identification in the police station was questionable, he says, as there was no showing that he was presented with other detainees to test AAA's recollection of the incident.²⁶

The sole issue for this Court's resolution is whether or not accused-appellant Wilfredo Lorenzo y Dela Cruz is guilty beyond reasonable doubt of robbery with rape.

The appeal has no merit.

As the Court of Appeals correctly observed, accused-appellant only questioned AAA's identification of him as the assailant for the first time on appeal. Further, the defense had already admitted accused-appellant's identity during the pre-trial conference, and did not object when AAA identified him in open court.²⁷

Nonetheless, even if this matter were seasonably raised, it would not reverse accused-appellant's conviction. To determine the validity of an out-of-court identification, the following factors must be considered:

(1) the witness' opportunity to view the criminal at the time of the crime; (2) the witness' degree of attention at that time; (3) the accuracy of any prior description given by the witness; (4) the level of certainty demonstrated by the witness at the identification; (5) the length of time

²² Id. at 16.

²³ Id. at 1, 18-21.

²⁴ Id. at 23.

²⁵ Id. at 34, 49.

²⁶ *CA rollo*, pp. 38-40.

²⁷ *Rollo*, pp. 10-11.

between the crime and the identification; and, (6) the suggestiveness of the identification procedure.²⁸ (Citation omitted)

The facts reveal that, at the beginning of the incident, AAA was seated next to accused-appellant in the passenger seat, and that she had spoken to him regarding her destination.²⁹ AAA also testified that almost 10 minutes had passed before the assault began.³⁰ Such period of time, her close seating with the assailant, and the communication between the two support the conclusion that AAA had sufficient opportunity to get a good look at her assailant. As such, accused-appellant's subsequent warnings for her to look away and avoid eye contact during the assault were too late, since AAA was already familiar with his face. "The natural reaction of victims of a crime is to strive to know the identity of their assailants by looking at their appearance, features, and movements and observing the manner the crime was perpetrated to create a lasting impression that could not be erased easily in their memory."³¹

AAA's identification of accused-appellant as her assailant was likewise made with certainty as she identified him from among a number of detainees.³² Further, the lapse of merely two months from the assault to the identification³³ is not significant enough to cast doubt on the accuracy of her memory. Finally, accused-appellant has failed to show any irregularity or impropriety in the identification procedure that would make it suggestive.

Even if accused-appellant's out-of-court identification were defective, AAA's subsequent in-court identification would have cured it:

[I]t is settled that an out-of-court identification does not necessarily foreclose the admissibility of an independent in-court identification and that, even assuming that an out-of-court identification was tainted with irregularity, the subsequent identification in court cured any flaw that may have attended it.³⁴ (Citation omitted)

In this case, AAA not only identified accused-appellant as her assailant from among a number of detainees,³⁵ but also pointed to him in open court when asked to identify her attacker.³⁶

²⁸ *People v. Nuñez*, 819 Phil. 406, 423 (2017) [Per J. Leonen, Third Division].

²⁹ *Rollo*, p. 5.

³⁰ *CA rollo*, p. 44.

³¹ *People v. Evardone*, G.R. No. 248204, August 24, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66876>> [Per J. Carandang, Third Division].

³² *Rollo*, p. 6.

³³ *CA rollo*, p. 39.

³⁴ *People v. Lugnasin*, 781 Phil. 701, 715 (2016) [Per J. Leonardo-de Castro, First Division], citing *People v. Sabangan*, 723 Phil. 591 (2013) [Per J. Leonardo-de Castro, First Division].

³⁵ *Rollo*, p. 6.

³⁶ *CA rollo*, p. 78.

Accused-appellant argues that AAA's testimony is highly incredible and insufficient to warrant his conviction. He insists that she should have escaped when he first tied her hands, as he was still driving during that period. He points out that she had many opportunities to escape or seek help from the cars and even the police they would pass by, but she did not. Her failure to seize these opportunities, he says, are badges of the falsity of her claim.³⁷

Accused-appellant is again mistaken. It is a settled rule that a victim's failure to shout or seek help does not negate the fact of rape.³⁸ This is because "[r]esistance is not an element of the crime of rape. It need not be shown by the prosecution. Neither is it necessary to convict an accused. The main element of rape is 'lack of consent.'"³⁹

Further, the facts show that AAA was chained immediately after accused-appellant declared a holdup and threatened her. The quick sequence of events would startle a regular human being, especially when it occurs after a long and tiring day. Thus, even if accused-appellant remained in the driver's seat, AAA did not have sufficient opportunity to process the new turn of events and escape before she was bound. "[D]ifferent people react differently to a given type of situation, and there is no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience.' One person may react aggressively, while another may show cold indifference."⁴⁰ Nevertheless, whether or not AAA put up the necessary level of resistance, the fact remains that she did not consent to accused-appellant's assault.

Accused-appellant insists that the physical evidence proves that he did not rape AAA. He cites the findings in Medico-Legal Report No. QCSC-16-090 that there was neither evident injury in AAA's genitals nor any traces of sperm, contrary to AAA's claim that he ejaculated inside her. Instead, there were only healed injuries, consistent with normal spontaneous childbirth.⁴¹

This Court has held that the lack of fresh hymenal lacerations and spermatozoa in the medico-legal report does not negate rape.⁴² As stated in *People v. XXX*,⁴³ citing *People v. Araojo*:⁴⁴

³⁷ CA rollo, pp. 41-51.

³⁸ *People v. Masubay*, G.R. No. 248875, September 3, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66811>> [Per J. Reyes, Jr., First Division].

³⁹ *People v. Ibañez*, G.R. No. 231984, July 6, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66571>> [Per J. Leonen, Third Division], citing *People v. Quintos*, 746 Phil. 809 (2014) [Per J. Leonen, Second Division].

⁴⁰ *People v. Gacusan*, 809 Phil. 773, 784 (2017) [Per J. Leonen, Second Division].

⁴¹ CA rollo, p. 52.

⁴² *People v. Salazar*, G.R. No. 239138, February 17, 2021, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66935>> [Per J. Leonen, Third Division].

⁴³ G.R. No. 246499, November 4, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67145>> [Per J. Leonen, Third Division].

⁴⁴ 616 Phil. 275 (2009) [Per J. Velasco, Third Division].

The absence of external signs or physical injuries on the complainant's body does not necessarily negate the commission of rape, hymenal laceration not being, to repeat, an element of the crime of rape. A healed or fresh laceration would of course be a compelling proof of defloration. [However,] the foremost consideration in the prosecution of rape is the victim's testimony and not the findings of the medico-legal officer.⁴⁵

Having addressed accused-appellant's arguments, this Court now determines if the elements of robbery with rape are present. Robbery with rape is punishable under Article 294(1) of the Revised Penal Code, as amended by Republic Act No. 7659, and requires the existence of the following elements: "(1) the taking of personal property is committed with violence or intimidation against persons; (2) the property taken belongs to another; (3) the taking is characterized by intent to gain or *animus lucrandi*; and (4) the robbery is accompanied by rape."⁴⁶

Here, as the lower courts found, the prosecution successfully showed that the elements of robbery with rape are present.

First, accused-appellant exerted violence and intimidation against AAA when he tied her hands with a chain and threatened to shoot her if she resisted. Later on, he even used her socks and bandana to tighten the chain.⁴⁷ While she was bound, accused-appellant took her belongings, including ATM cards, which he used to withdraw more money from her account.⁴⁸

Second, the properties taken by accused-appellant belong to AAA. Third, the element of intent to gain or *animus lucrandi* is presumed from accused-appellant's unlawful taking of AAA's property.⁴⁹ Fourth, the rape accompanied the robbery. The elements⁵⁰ of rape are present since accused-appellant had carnal knowledge of AAA through the use of force, threat, and intimidation. "It is irrelevant when rape is committed[,] for as long as it is contemporaneous with the commission of robbery, the crimes are merged and integrated into a single and indivisible felony of robbery with rape."⁵¹

⁴⁵ *People v. XXX*, G.R. No. 246499, November 4, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67145>> [Per J. Leonen, Third Division].

⁴⁶ *People v. Salen, Jr.*, G.R. No. 231013, January 29, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66163>> [Per J. Leonen, Third Division].

⁴⁷ *Rollo*, p. 5.

⁴⁸ *Id.*

⁴⁹ *People v. Mejares*, 823 Phil. 459, 469 (2018) [Per J. Leonen, Third Division].

⁵⁰ See *People v. Viñas*, G.R. No. 234514, April 28, 2021, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67393>> [Per J. Leonen, Third Division].

Article 266-A of the Revised Penal Code provides the elements of rape. It states:

Article 266-A. Rape: When and How Committed. — Rape is committed:

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:
a) Through force, threat, or intimidation;
b) When the offended party is deprived of reason or otherwise unconscious;
c) By means of fraudulent machination or grave abuse of authority; and
d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

⁵¹ *People v. Coritana*, G.R. No. 209584, March 3, 2021, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67382>> [Per J. Gaerlan, First Division].

The prosecution successfully established accused-appellant's guilt of the crime of robbery with rape beyond reasonable doubt. As such, the lower courts correctly rejected his defenses of denial and alibi and convicted him.

FOR THESE REASONS, the appeal is **DISMISSED**. The Court of Appeals' June 25, 2019 Decision in CA-G.R. CR-H.C. No. 11360 is **AFFIRMED**. Accused-appellant Wilfredo Lorenzo y Dela Cruz is found **GUILTY** of robbery with rape. He is sentenced to the penalty of *reclusion perpetua* and ordered to pay the private complainant AAA the following: (1) ₱100,000.00 as civil indemnity; (2) ₱100,000.00 as moral damages; and (3) ₱100,000.00 as exemplary damages.⁵²

He is also ordered to return the Samsung J1 cellphone and two ATM cards he took from the private complainant. If restitution is no longer possible, he shall pay her the value of the stolen phone worth ₱7,000.00. He is also ordered to pay the amount of ₱6,800.00 for the stolen cash.

All damages awarded shall be subject to 6% interest rate per annum from the finality of this Resolution until fully paid.⁵³

SO ORDERED." (Lopez, M., J., *on official business*)

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court
20 MAR 2023

⁵² *People v. Jugueta*, 783 Phil. 806 (2016) [Per J. Peralta, En Banc].

⁵³ *Nacar v. Gallery Frames*, 716 Phil. 267 (2013) [Per J. Peralta, En Banc].

PUBLIC ATTORNEY'S OFFICE (reg)
Special & Appealed Cases Service
Department of Justice
5th Floor, PAO-DOJ Agencies Building
NIA Road corner East Avenue
Diliman, 1104 Quezon City

OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village
Makati City

WILFREDO LORENZO y DELA CRUZ (reg)
Accused-Appellant
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 216
Quezon City
(Crim. Case No. R-QZN-17-01856-CR)

THE DIRECTOR (reg)
Bureau of Corrections
1770 Muntinlupa City

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR-HC No. 11360

JUDGMENT DIVISION (x)
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)
LIBRARY SERVICES (x)
[For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)
OFFICE OF THE REPORTER (x)
PHILIPPINE JUDICIAL ACADEMY (x)
Supreme Court, Manila

Please notify the Court of any change in your address.
GR250134. 9/28/2022A(175)URES(m)

