

TRUST TERRITORY OF THE PACIFIC ISLANDS

v.

MANUEL S. SABLAN

Criminal Case No. 239

Trial Division of the High Court

Mariana Islands District

March 23, 1970

Information charging defendant with carnal knowledge of a female not his wife and under the age of 16 years. The Trial Division of the High Court, R. K. Shoecraft, Chief Justice, held that from the evidence offered from the victim and others to whom the accused spoke the court was convinced beyond a reasonable doubt that the crime was committed and that it was no defense to the charge that the victim may have been willing that the event take place.

1. Rape—Elements of Offense

There are two elements to be proved in a prosecution under Mariana Islands District Law 55-1966 relating to carnal knowledge, one is that the alleged victim was under 16 years and the other is there must be proof of penetration. (Mariana Islands District Law 55-1966)

2. Words and Phrases—Carnal Knowledge

Carnal knowledge is synonymous in the law with sexual intercourse, they mean the same thing.

3. Statutes—Construction

Where a statute merely says that no person may do the act prohibited it is a prohibitive statute and there are usually no mitigating circumstances recognized in connection with a violation of such a statute.

4. Criminal Law—Burden of Proof—Presumption of Innocence

A defendant in a criminal case is entitled to have the presumption of innocence throughout the trial; that is, he is presumed to be innocent until actually proved to be guilty and that presumption never shifts from the defendant during the trial.

5. Criminal Law—Burden of Proof—Prima Facie Case

In a criminal prosecution the Government has the burden of proving all of the elements of the offense charged and that burden never shifts from the Government to the defendant; however, there may come a point during trial when the burden of going forward with the evidence might rest upon the defendant and this is principally when the Government has established a prima facie case.

6. Rape—Generally

Mariana Islands District Law 55-1966 relating to carnal knowledge is designed as a protective statute for female persons under the age of

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16, and the usual assumption is that a female person under the age of 16 is incapable of protecting herself. (Mariana Islands District Law 55-1966)

Assessor: HONORABLE IGNACIO V. BENAVENTE
Interpreter: HEDWIG HOFSCHEIDER
Reporter: ELSIE T. CERISIER
Prosecutors: MAMORU NAKAMURA, *General Attorney*, and
MIGUEL SARLAN, *Prosecutor*, Mariana Islands
District
Counsel for
Accused: ROGER L. ST. PIERRE, *Public Defender*, and
JESUS SONODA, *Public Defender's Representative*

SHOECRAFT, *Chief Justice*

OPINION

The Information in this case was amended to charge the defendant with carnal knowledge of a female not his wife, and under the age of 16 years, and, so far as the charge itself is concerned, carnal abuse has been deleted. The defendant is charged under Mariana Islands District Law 55-1966, which reads as follows:—

- “Section 1. No person shall carnally abuse or carnally know a female person, not his wife, 16 years of age and under.
Section 2. Whosoever violates this Act shall upon conviction thereof be imprisoned for a period of not more than twenty-five (25) years, or fined not more than One Thousand Dollars (\$1000.00), or both.
Section 3. All laws that are inconsistent herewith are hereby repealed.”

This law was signed by the District Administrator on March 23, 1966.

[1-3] As counsel have pointed out, there are two principal elements to be proved in this case. One is that the age of the alleged victim is under 16 years. The other element is that under the charge, as now stated in the In-

formation, there must be proof of penetration. Carnal knowledge, as defense counsel has correctly pointed out, is synonymous in the law with sexual intercourse. In other words, carnal knowledge is the legal term or the legal expression for sexual intercourse; they mean exactly the same thing. With the statute such as we have here in the Marianas as District law, it is a prohibitive statute. There are usually no mitigating circumstances recognized in connection with a violation of this type of statute. The statute merely says that no person may do the act prohibited by this statute.

[4, 5] The defendant in this case, as in all criminal cases, is entitled to have the presumption of innocence throughout the trial. He is presumed to be innocent until actually proved to be guilty, and the presumption of innocence never shifts from the defendant during the trial. The Government has the burden of proving all of the elements of the offense charged and that burden of proof never shifts from the Government to the defendant. However, there may come a point during the trial when the burden of going forward with the evidence might rest upon the defendant. This is principally when the Government has established a prima facie case.

[6] The alleged victim in this case has been shown to be about 13 years of age. We believe that the age of this young lady has been proved, and very definitely, that she is within the terms of the statute in that she is under the age of 16 years. We believe also that it has been shown without any question that she is not the wife of the defendant in this case. We do not give much consideration to the fact that the complaint was originally made in this case by the mother because this is a perfectly natural reaction of a parent, a perfectly normal and expected kind of conduct on the part of a parent in a situation of

this kind. Furthermore, the statute itself is designed as a protective statute for female persons under the age of 16 and the usual assumption is that a female person under the age of 16—and in some states or other areas of lesser age than that—is incapable of protecting herself, and the law must do it for female persons under that statutory age.

The first witness in this case, the alleged victim, in the opinion of the Court exhibited sufficient knowledge of what she was talking about, considering her tender years. It is true she could not define several terms but at least she was convincing enough that she did know the difference between the private parts of a male and those of a female, and she was definite and explicit as to what had happened to her. If we merely had the statement of the alleged victim, the Court would have much more difficulty in reaching its conclusions here, but there is more. We have the testimony of Mrs. Emelia Sablan, who testified that the defendant himself voluntarily told her that he had had sexual intercourse with the alleged victim and we certainly must presume that the defendant, a man 23 years old, knew what he was talking about. We find no testimony so far as Mrs. Sablan is concerned that indicates any ulterior motive for her to make such a statement. The Court is convinced beyond a reasonable doubt that the defendant did make such a statement to Mrs. Sablan. The defendant himself was questioned by the police and it appears that he was not reluctant to talk about the case. From the statement itself it appears that at least this is a record of the conversation held between the defendant and Sgt. Babauta. The Court is convinced that the defendant did voluntarily make such a statement to Sgt. Babauta and that Sgt. Babauta's record of that conversation is reasonably accurate.

To take all of the circumstances, all of the testimony and evidence produced here at this trial, the Court is convinced beyond a reasonable doubt that the alleged victim did have sexual intercourse with the defendant, Manuel S. Sablan, and that no matter whether or not she was willing for such an event to take place, the law does not recognize any such willingness as a defense. Therefore, the Court is convinced, and so finds beyond a reasonable doubt, that the defendant, Manuel S. Sablan, is guilty as charged.

DERESITA DAMARLANE, Plaintiff

v.

**KEDERIKO OLPER, KULIO OLMOS, TADASY SANTOS,
DR. ALEXANDER PANUELO, Defendants**

Civil Action No. 369

Trial Division of the High Court

Ponape District

April 2, 1970

Action to determine ownership of parcel of land in Nett Municipality. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, held that pursuant to Ponape District Law plaintiff, adopted daughter of "owner", was entitled to land when "owner" died and surviving spouse was not, thus, absent a showing of a resulting trust by owner's surviving husband, plaintiff was succeeded to ownership of land.

1. Trusts—Resulting Trust

Where a transfer of property is made to one person and the purchase price is paid by another, a resulting trust arises in favor of the person by whom the purchase price is paid.

2. Trusts—Resulting Trust

Where a transfer of property is made to one person and the purchase price is paid by another and the transferee is a wife, child or other natural object of bounty of the person by whom the purchase price is paid, a resulting trust does not arise unless the latter manifests an intention that the transferee should not have the beneficial interest in the property.