

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GREGORIO ROMERO, JR., DEFENDANT-APPELLANT.

G.R. No. L-43805. October 23, 1982

Ponente: ESCOLIN, J.

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ESCOLIN, J.:

Charged with the crime of rape before the Court of First Instance of Pampanga, and thereafter tried upon his non-guilty plea, Gregorio Romero, Jr. was found guilty and sentenced "to life imprisonment (reclusion perpetua), to indemnify the victim Luz F. Medina in the amount of P5,000.00 plus a P100.00 a month-support for the offspring born out of the criminal act of said accused, and to pay the costs." [1]

Contending that the evidence adduced failed to overcome the constitutional presumption of innocence, appellant seeks reversal of his conviction. He assails mainly the credibility of complainant's judgment of conviction.

The challenged testimony of complainant Luz Medina, a seventeen-year old maiden, is as follows:

Sometime in mid-June 1970, she was in the house of her aunt Maria Mallari Medina at Barrio San Pedro, Florida Blanca, Pampanga, to keep the latter company for the night. She usually spent the night with her whenever Edilberto Medina, husband of Maria, was in Guagua, Pampanga, to sell vegetables.

Before retiring that night - neither the information nor complainant's testimony stated the exact date of the incident - she closed the glass-jalousy windows and the door of the one-room house and went to sleep with her aunt Maria and the latter's one year old daughter. At around midnight, Luz was awakened by a feeling of heaviness on her chest. She found a man on top of her, embracing and kissing her, and touching her breast. She pushed him away, and while she did not succeed in freeing herself, she was able to identify him as the appellant, the latter being the compadre of her aunt and uncle whom she had seen in that house on many occasions.

She frantically called for her aunt several times, only to be told by appellant that Maria was out of the house. He then lifted her dress and removed her panty, all the while threatening to kill her should she try to resist. But despite her resistance, the appellant succeeded in consummating the sexual act. Having satisfied his lust, he threatened to kill her should she report the incident to anyone. Then he left the house, leaving the complainant crying.

About ten minutes later, her aunt arrived and asked her why she was still awake. Allegedly fearful of the appellant's threat to kill her, she replied that she had just urinated.

Complainant further testified that after this incident, appellant succeeded in having sexual intercourse with her for several times more. While she could not remember the exact number of times and the specific dates thereof, she narrated the details of an incident which occurred about five (5) days after the night in question. She declared that appellant entered the house of her aunt in the early evening while her aunt was in the vegetable garden some 200 meters away; that appellant, then armed with a 'balisong' ordered her to sit on a chair and there-upon kissed and mashed her breasts; and that with the 'balisong' pointed at her neck, he was able to force himself on her again.

According to complainant, she kept her harrowing experience to herself because of her fear that appellant would make good her threat to kill her. Even when her father, Conrado Medina, noticed that her stomach was getting bigger, she did not tell him about the alleged rape. It was only after her father had brought her to Dr. Campo, who, after examination, diagnosed her case as one of pregnancy, that she told her parents for the first time that she had been sexually abused by the appellant.

Sometime in March 1971, Luz gave birth to a baby boy.

For his part, appellant flatly denied the charge. While he admitted having gone to the house of the spouses Medina several times, they being his compadre and comadre, he insisted that the last of these visits was in 1968, or two years before the alleged incident. According to him, from 1968 to 1971 he was employed as electrician-helper at Clarkton House Hotel in Angeles City, going home to Barrio Cabancalan, which is adjacent to Barrio San Pedro, only three or four times a month, and mostly on Saturdays. Appellant also adverted to the rumor circulating in that barrio that a certain Jose Manalansan, Jr., a brother-in-law of the complainant's father, was the real culprit because of the marked similarities between him and the complainant's child.

Since the entire case against the appellant is based on the complainant's testimony, the same must be scrutinized with scrupulous and painstaking care. And We find a number of significant and weighty circumstances in the record that impel Us to respond positively to the appellant's plea.

In her statement to the police[2], complainant re-counted the details of the incident under inquiry in this wise:

"I could not recall nor remember the exact date, sir, but it was in the middle part of the month of June, 1970, midnight, while I was peacefully sleeping in the house of my aunt, Maria Mallari, in barrio San Pedro, this town, I was awakened because I felt something heavy on my breast. As I opened my eyes I saw a man lying against me, his lips planted on my face and I can feel his hands crawling around the different parts of my body. As I noticed these things, I pushed him and scratched him on the face and kicked him several times. I shouted for help calling the name of my Aunt, Maria Mallari, but this GREGORIO ROMERO, JR. told me that my screams for help was useless for my aunt was out of the house according to him. When I learned this, I exerted all my energy in defending my honor against the vicious want of this man by kicking him and boxing him whenever he embraced me. Because of the darkness this man was able to give me a fist blow on the stomach which made me unconscious.

"When I gained consciousness, I felt the pains around my body most especially in my organ. I lighted the lamp and found out that my organ was still bleeding and my drawer was full of blood. x x x."

By her own admission, it would appear that complainant was unconscious at the time of the perpetration of the crime because of the alleged fist blow delivered by the appellant on her stomach. Of the same vein is the testimony of her father, Conrado Medina, with respect to how complainant first narrated the incident to him following the examination conducted by Dr. Campo.[3]

However, in her testimony in open court, the picture she depicted is that she was conscious at the very moment of the consummation of the crime and therefore fully aware thereof. The palpable discrepancy between her testimony in open court and her sworn statement, Exhibit A, referring as it does to a very material point, casts doubts as to her motives and seriously impairs her credibility.

The complainant's conduct immediately after the alleged rape is likewise unsettling. It is hardly believable that a young barrio maiden who had just lost her precious virginity in such a brutal manner could possibly regain her composure in less than ten minutes and sedately inform her aunt that she had just urinated to explain why she was still up in the middle of the night. Certainly, ten minutes of tear-shedding could not have doused the flame of hatred that would stir any woman to promptly seek redress for the gravest humiliation to which she had been

subjected.

It is even more difficult to imagine how complainant could have remained silent for eight months, when, according to her, she was raped by the appellant not once, but several times. The two incidents related above notwithstanding, she found nothing objectionable in spend-ing the night in her aunt's house during the times her uncle was away, despite her awareness of the dangers she was exposing herself to.

Over a period of eight months, complainant had undoubtedly countless opportunities to come out in the open and bring her abuser to justice. But even when the fruit of the crime had already become quite apparent, she still refused to open up to the persons nearest to her, her parents. Needless to state, such conduct runs counter to the natural reaction of an outraged maiden despoiled of her honor. The aphorism that evidence to be believed must not only proceed from the mouth of a credible witness, but it must be credible in itself in conformity with the common experience and observation of mankind is nowhere of more relevance than in cases involving prosecution for rape.[4] In fine, the complainant's testimony in the instant case lacks that stamp of absolute truth and candor necessary to overcome the constitutional presumption of innocence.

WHEREFORE, the judgment appealed from is hereby set aside, and appellant Gregorio Romero, Jr. acquitted of the crime charged. Costs de oficio.

SO ORDERED.

Makasiar, (Chairman), Aquino, Concepcion, Jr., Guerrero, Abad Santos, and De Castro, JJ., concur.

[1] p. 115, Original Record.

[2] Exhibit A.

[3] TSN, Feb. 10, 1972, pp. 210-211.

[4] People vs. Macatangay, 107 Phil. 188.

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