

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EULOGIO MANAAY, ACCUSED-APPELLANT.

G.R. No. L-47489. June 18, 1987

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

In an Information that was filed by the Assistant Fiscal in the then Court of First Instance (now Regional Trial Court) of Rizal, the accused-appellant Eulogio S. Manaay was charged of the crime of rape. The case was docketed as Criminal Case No. 18600. The said crime was allegedly committed in this manner:

"That on or about the 22nd day of May, 1968, in the municipality of San Juan, pro-vince of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one Marina Pacaoncis, against her will and consent. Contrary to law."[1]

Together with the above-quoted information another one was filed charging the accused-appellant of a second crime of rape which was allegedly perpetrated on the same complainant, this time on June 27, 1968. This case was docketed as Criminal Case No. 18601.

Upon arraignment, the appellant entered a plea of not guilty on both charges of rape. Trial on the merits ensued and, thereafter, a decision was rendered by the trial court convicting the appellant of the crime as charged in Criminal Case No. 18600. However, the appellant was acquitted in Criminal Case No. 18601. The dispositive portion of the trial court's Decision reads:

"WHEREFORE, in Criminal Case No. 18600, the accused is found guilty beyond reasonable doubt of the crime of rape and is sentenced to life imprisonment and to pay the costs.

In Criminal Case No. 18601, for failure of the prosecution to prove his guilt beyond reasonable doubt, the accused is acquitted of the crime of rape with costs de oficio."

Not satisfied therewith, the appellant interposed this appeal alleging that the trial court committed the following errors:

"I

THE COURT ERRED IN CONVICTING THE ACCUSED BASED ON THE TESTIMONY OF THE COMPLAINANT WHICH WAS FRAUGHT WITH SERIOUS DOUBT, AND THEREFORE, CLEARLY APPEARS TO BE INCREDIBLE AND UNBELIEVABLE.

II

THE COURT ERRED IN CONVICTING THE ACCUSED AS PROSECUTION'S EVIDENCE WERE INSUFFICIENT TO SUSTAIN SUCH CONVICTION.

The opposing parties presented conflicting versions of the facts material to the case. In the appealed decision, the version of the prosecution is related as follows, which is substantially borne by the records -

"The prosecution version was established primarily through the testimony of the complainant Marina Pacaonsis, an 18 year old girl. She testified that on March 22, 1968, she was employed as a maid in the household of the accused located at 175 P. Benito Street, San Juan, Rizal. At about 2:30 o'clock in the afternoon on May 22, 1968, while she was ironing clothes, the accused asked her to bring a glass of water inside his room. After entering the room which was on the second floor of the house, and handing over the glass of water, the accused suddenly locked the room and ordered the complainant to sit on his bed. Complying with the order, the complainant asked the accused why she was being made to do so. But instead of replying, the accused quickly embraced the complainant and began to unbutton the front portion of her blouse and skirt. Sensing that the accused was up to something bad, the complainant par-ried his hands prompting the accused, who was then in brief underwear, to slap her on the face. As a result, the complainant fell on the bed and immediately the accused boxed her on the left and right upper arms. In the struggle that ensued, the accused was able to partly unbutton the blouse of the complainant which he raised up to her shoulders. In addition, the accused delivered a hard blow on the pit of her stomach while she was lying on the bed. Because of the pain she suffered and be-cause of the superior force exerted by the accused, the complainant was unable to fight back and could only shout for help to Domingo, the houseboy, who was then the only one inside the house. Due to fear, however, Domingo failed to res-pond and the accused continued slapping and removing the clothes of the complai-nant. At that time, the wife of the accused was attending a party together with her children.

After the complainant was hit on the stomach and disrobed, except for her bra, she began to feel dizzy. While about to faint or lose consciousness, she felt pain on her private part when the accused in-serted his organ. After the lapse of what she thought was several minutes, and after regaining fully her consciousness, the com-plainant felt her whole body throbbing with pain and discovered that her private part was bloody. At the corner of the room, she saw the accused trying to put on his under-wear. When the complainant stood up, got her clothes and put them on and when she was about to leave the room, the accused talked to her briefly. He threatened to kill her if she would reveal to anybody what happened on that fateful afternoon, Since she was too scared to say anything, the complainant, however, simply went downstairs where she cried her heart out and fixed her clothes.

On the following day, after she was raped, the accused continued to order the complainant to do some chores in the house. But he never stopped threatening her as he even went to the extent of saying that he would shoot her should she leave the house. In fact, the complainant learned later on that the accused had even asked the houseboy to keep watch over her so that she could not leave the house without any companions. Despite what had happened, the complainant, however, continued working in the house of the accused."

According to the complainant, she was again abused by the accused-appellant on June 27, 1968. She also testified on the story behind this second alleged rape.

The trial court's narration of facts continues, thus:

"xxx. On the following morning, on June 28, 1968, she, then cried and com-plained to the wife of the accused reporting to her what had occurred. She showed her bloody panty to her but Mrs. Manaay, who was afraid of the accused, merely gave her a bottle of medicine to take which was bitter in taste. She also requested the complainant not to tell her children what had happened.

On the following day, on June 29, 1968, the complainant asked a neighbor to get in touch with Lita, her friend, so she could fetch her. On the afternoon of that day, Lita and her sister, together with Lorna, arrived at the house and handed to the complainant a telegram which was to be delivered to the accused. The telegram was a message from her parents from the Visayas asking her to come home. But when the complainant handed the

telegram to the accused, the latter tore it into pieces and said that the complainant was just a nuisance to him. The accused became particularly angry when the complainant asked permission to leave and he tried to box Lita who came to fetch her. Eventually, the complainant, together with Lita and her companions, were able to leave the house and on the way out, the complainant narrated to her companions, who cried with her, the ordeal she went through. For about one week, the complainant stayed in Lita's house until her aunt, Trinidad Amorante, came and fetched her. Since then she had lived with her aunt.

On September 1, 1968, the complainant submitted herself to a medico-legal examination at the Manila Police Department. The findings of Dr. Mariano B. Lara, the Medico Legal Officer, were as follows:

'(1) Complainant subject is a regularly developed and nourished female Filipino of about the stated age of 17 years (allegedly born on 14 January 1951) 4 ft., 10 inches tall and 110 lbs. in weight.

(2) The mental condition is sane and normal, and she appears candid.

(3) There are no physical injuries found on the body.

(4) The breasts are regularly developed, compatible with her physique, the left one slightly bigger than the right, but as yet shows no signs of present or past pregnancy.

(5) The abdomen is regular to slightly obese, compatible with her physique, and also presents no signs of past or present pregnancy as yet.

(6) Genital (private parts) findings, seen during her lying down delivery position reveals a moderately wide hymen opening into the vagina, freely admitting the adult examining forefinger with indentation likely a healed tear in the hymen posteriorly through which opening, is visible bulging down towards the orifice, the lower anterior vaginal wall - these features being of a non-virgin; the vaginal canal contains some muco-purulent material.

(7) Microscopic examination of the muco-purulent material obtained from the vagina, after staining, shows many epithelial cells, some to many pus cells, many extraneous bacterial organisms, but there are no spermatozoa or gonococci found.

(8) She alleges that her last menstruation occurred on 14-19 August 1968.

OPINION: The factual findings of moderately wide hymen opening into the vagina, freely admitting that adult examining fore-finger, thru which is visibly bulging the anterior lower vaginal wall with an indentation in the posterior hymen likely a prior tear, in the private parts of complainant MARINA PACAONSIS, 17 years as identified, are signs or indicia typical of non-virginal state resulting from prior intercourse. They are compatible with her averment of sex intercourse consummated upon her allegedly by the defendant sometime about 22 May 1968, under what she claims, forcible acts. As yet she is not pregnant.' (Exhibit A)"

On the other hand, the appellant testified that he was an account executive in Caltex, Philippines until his retirement in 1973 and that his daily schedule required him to leave his house at about 7:00 o'clock in the morning and come back no earlier than 5:00 o'clock in the afternoon.[2] The appellant insisted that he could not have had carnal relations with the complainant in the afternoon of May 22, 1968 because he was in his office doing his work, it being an ordinary working day. He alleged that on that day, he went home from work at about 6:30 o'clock in the evening.[3]

Under his first assignment of error, the appellant assails the credibility of the complainant's testimony. Said testimony is allegedly fraught with serious doubts and appears to be incredible and unbelievable. The appellant's arguments in support of this position revolved around the allegation that the sexual act between him and the complainant was voluntary rather than forced.

According to the appellant, the complainant contradicted her-self when during her direct examination she testified that she became "unconscious" after being rained with body blows, while during her cross-examination she made it appear that she was at least partly aware of what was happening to her. The trial court characterized her condition as being "dizzy". In addition, the appellant contends that if the complainant wanted to avoid having sexual intercourse, she could have done any of the following acts:

- "1. She was then at liberty to open the room and run out (since the door could be opened from the inside);
2. She could put-up adequate resistance until her dress and panty were torn out because then her condition was just 'dizzy', not unconscious;
3. She could have shouted at the top of her voice until somebody or a neighbor could come to her rescue."

These arguments are not fatal to the cause nor destructive of the credibility of the complainant.

It is obvious that the complainant was weakened by what she underwent. Imagine being slapped several times, being rained with fistblows on various parts of her body, and of course, the coup d'grace, being hit solidly hard on the pit of her stomach.[5] This experience rendered the complainant very helpless and submissive to the appellant's lustful desire. Understandably, the complainant, who was only 4 feet 10 inches tall and weighed around 110 pounds, could not offer much resistance.

The complainant was most probably just at a loss as to the correct term to describe her condition during her direct examination. However, she ably corrected and explained, much to our satisfaction, her earlier declaration during her cross-examination. In the dis-puted Decision, the trial court put it this way:

"It is true that during her direct examination, the complainant testified that after having been hit on the stomach she became unconscious and regained her consciousness only after the lapse of ten (10) minutes. However, this particular portion of the testimony was sufficiently explained by the complainant during her cross-examination. According to her, when she testified that she became unconscious, what she really meant was that she became very dizzy most probably because of the traumatic experience she was then under-going."

With respect to the appellant's suggestions earlier enumerated as to the possible courses of action that the complainant should have taken, suffice it to quote some portions from the complainant's testimony on cross-examination to give a clear picture of what she went through, to wit:

"Q. When you arrived in his room, what was the position of the accused, Mr. Manaay?

A. He was lying on his bed in his under-wear, your Honor.

Q. Now, did he x x x remove his underwear when you were inside his room bringing a glass of water?

"A. When I brought the glass of water, and placed it on top of the table, he asked me to sit on the bed but he was still wearing his underwear, your Honor.

Q. Did you sit on the bed?

A. Yes, your Honor, I followed him because he was my employer, your Honor.

x x x x x x x x

Q. When you were seated on the bed, what did the accused do to you?

A. He did like this to me. (Witness demonstrating an embracing gesture). And I tried to move away from him, your Honor.

Q. Were you able to wriggle yourself away from him when he embraced you?

A. While I was trying to free myself away from him, he held me here. (Witness pointing to her right wrist). And he pulled me and in so doing, I fell face downward on the bed, your Honor.

Q. And when you were on the bed face down-ward after pulling you, what did the accused, Mr. Manaay, do to you?

A. I stood up, your Honor, but he also held me here, (Witness pointing to the front portion of her dress).

Q. And what did you do?

A. I told him 'don't'. I was afraid to fight him back because he was already hurting me, your Honor.

Q. When he was pulling your dress, according to you, and you were on the bed, have you seen the private organ or the sexual organ of the accused, Mr. Manaay?

A. He had already removed his underwear but I did not look at his private parts.

Q. Why did you not look at his private parts?

A. I did not look because I did not see it fit to look at it, 'Nadudumihan ako'.

x x x x x x x x

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Q. And when he pulled you down, what happened when he pulled you?

A. I was lying face downward on the bed, your Honor.

Q. Did you lay face up?

A. I tried to get up, your Honor, quickly but Mr. Manaay held me here. (Witness pointing to the back of her neck).

Q. Then what happened to you?

A. I tried to struggle, your Honor, but Mr. Manaay delivered karate blows on me and he even slapped me on the face. (Witness pointing to her upper arm and to her face).

Q. After doing that to you, what happened to you?

A. I just cried, your Honor, because I could no longer fight him back.

Q. Is that all what happened to you?

A. He even threatened me, your Honor, he had a long gun."[7]

It is very apparent that the complainant was forced, intimi-dated and threatened by the appellant. The overwhelming force employed by the appellant and the resulting pain and weakness that the complainant suffered caused the cessation of any struggle initially attendant. At this stage, all that the complainant could do was to shout for help to the houseboy, who was the only one inside the house. No response, however, came from the latter. Any gallant intention was crushed by fear.

The appellant further contends under this assigned error that the complainant could have immediately reported the matter to the police and/or submitted herself to physical examination. But she did not. Also, the appellant says that the complainant's panty was never torn during the alleged rape, therefore, the carnal knowledge was mutually consented upon.

These contentions lack merit.

The complainant's failure to immediately report the matter to the proper authorities or submit herself to medical examination was due to excessive feeling of anxiety and agitation caused by the thought of the proximity of danger with the appellant having made serious threats of killing her. Indeed she had all the reasons to believe and be afraid that such threats were not empty ones for she personally knew that the appellant possessed a gun.[8] Above all, the complainant "was a simple girl who studied up to second year high school, who went to Manila in search of work to earn a living." [9] It was her first time to be in this city and she had only stayed here for about three months. She knew no one except her friend, Lorna, who introduced and recommended her to the appellant.[10] This is a true picture of an innocent girl.

Meanwhile, the appellant's allegation that the complainant's panty was not torn is belied by the following testimonial evidence, on direct examination -

"Q. What happened to your panty?

A. The first time he raped me, my panty was torn and he even told me to throw it away because it was stained with blood. It was during the first time he raped me, Sir.'

x x x x x x x x

Q. Where was your panty at that time?

A. He pulled it, your Honor, that was why it was torn.

Q. That was the first time you were raped?

A. Yes, your Honor.'" [11]

On cross-examination -

"Q. So you wish to impress to this Honorable Court that during the first incident when the accused was trying to remove your panty and you were holding on to your panty, your panty was not torn in the first incident?

A. The garter of my panty was detached from the place where it was sewed, sir. (Ibid., p. 30)" [12]

In the second assignment of error, the appellant questions the sufficiency of the evidence presented by the prosecution. He claims that in order to sustain a conviction for the crime of rape, the prosecution must offer the following evidence:

"1) The Medical Certificate of complainant as a result of the alleged karate blows as testified to by her alleged(ly) inflicted by the accused Mana-ay;

2) The most valued garment of a woman, covering her most precious pos-session, vagina, i.e., her PANTY." [13]

The appellant is of the opinion that the prosecution should have presented a medical certificate to attest to the alleged fact that the complainant really sustained contusions, abrasions or hema-toma because of the beating she received. Another thing, the appellant claims that it is indispensable that the torn panty of the complainant be presented in evidence to establish the fact of violence or force that was employed, otherwise, the sexual act must have been done with mutual consent. It is the appellant's theory that without these considerations, the evidence is insufficient.

This view finds no basis either in law or in jurisprudence.

A medical examination is not an indispensable element in the prosecution for the crime of rape, because it all depends upon the evidence offered and as long as such evidence convinces the court, a conviction therefor is proper.[14] Nevertheless, the prosecution in this case actually submitted a medical certificate as evidence to the trial court. It was prepared, attested to, and duly affirmed on testimony by the medico-legal officer. The findings therein with regards to the condition of the complainant's sexual organ fully corroborated the theory of the prosecution. It was not possible to submit another medical certificate as to the marks that the complainant sustained since she was only able to submit herself to a medical examination on September 1, 1968, or about three months after the rape was committed, the time she was able to leave the house of the appellant.

The non-presentation of the torn panty of the complainant is not fatal to the case of the prosecution.[15] It is not at all indispensable. In consonance with the preceding discussion, a conviction depends upon the persuasiveness of the totality of the evidence offered, not on a single piece of evidence.

The complainant was subjected to a thorough and grueling cross-examination by two alternating defense counsels for about two years and four months. She never broke down nor faltered, proof of tenacious courage borne of sheer determination to bring justice to her unfortunate plight.

After a careful examination of the evidence on record, We find the complainant's testimony to be very consistent, precise and firm, devoid of any material contradictions. She hurdled the intensive interrogation that she encountered with complete answers and plausible explanations. Her overall credibility remained unshaken.

The complainant positively identified the appellant as the author of the heinous crime perpetrated upon her. On the other hand, the appellant's defense was a mere alibi that he was in his office when the supposed incident occurred. He did not adduce evidence to the effect that it was physically impossible for him to be at the scene of the crime at the time of its commission or that the prosecution witnesses had improper motive to testify against him, two basic courses of action so that the defense of alibi may prosper.[16] Alternatively, the appellant could have established the fact that it was impossible for him to be the one who committed the crime, as for example, if he was heavily sedated while the offense was being committed.

Accordingly, We find no cogent reason to reverse the conviction of the appellant. The appellant is, moreover, ordered to indemnify the complainant in the amount of TWENTY THOUSAND PESOS (P20,000.00)[17] in compliance with the mandate in Articles 100, 104(3), 107 and 345(1) of the Revised Penal Code.[18]

WHEREFORE, with the above modification as to the civil indemnity, the decision appealed from is hereby AFFIRMED in all other respects, with costs against the accused-appellant.

SO ORDERED.

Yap, (Chairman), Narvasa, Melencio-Herrera, Cruz, Feliciano, and Sarmiento, JJ., concur.

[1] Information, p. 4, Rollo.

[2] T.S.N., Oct. 9, 1974, pp. 34-37.

[3] T.S.N., Nov. 8, 1974, pp. 5-6.

[4] Appellant's brief, p. 5.

[5] T.S.N., Dec. 22, 1969, pp 18-24; May 12, 1970, pp. 51, 74-75, 83-84.

[6] Decision, p. 15.

- [7] T.S.N., May 12, 1970, pp. 41-51.
- [8] T.S.N., Dec. 22, 1969, pp. 31-32, 36; May 12, 1970, p. 51.
- [9] Decision, p. 17.
- [10] T.S.N., Oct. 9, 1974, pp. 5-8.
- [11] T.S.N., May 12, 1970, pp. 52, 54.
- [12] T.S.N., December 14, 1970, p. 30.
- [13] Appellant's brief, p. 10.
- [14] People vs. Ortega, L-16033, Sept. 29, 1962; People vs. Pielago, L-42256, Dec. 19, 1985.
- [15] People vs. Balane, L-48319-20, July 25, 1983.
- [16] People vs. Urgel, L-34851, Feb. 25, 1985.
- [17] People vs. Resano, L-57738, Oct. 23, 1984.
- [18] People vs. Asturias, L-61126, Jan. 31, 1985.

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