

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOAQUINITO HACBANG, ACCUSED-APPELLANT.

G.R. No. L-75293. August 17, 1988

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal interposed by the accused Joaquinito Hacbang from the decision of the Regional Trial Court of Palo, Leyte, finding him guilty of the crime of rape. The dispositive portion of the decision reads:

"WHEREFORE, the court finds the accused Joaquinito Hacbang guilty beyond reasonable doubt of the crime of rape as charged in the information and pursuant to Art. 335 of the Revised Penal Code, he is hereby sentenced to RECLUSION PERPETUA, to indemnify the complainant Fe Mercado in the sum of P30,000.00, without subsidiary imprisonment in case of insolvency, and to pay the costs.

SO ORDERED."

(p. 24, Rollo)

On January 17, 1980, Fe Mercado filed a complaint before the Tacloban Police Station against the accused Joaquinito Hacbang for the crime of rape.

On the basis of a formal complaint filed by Fe Mercado, the Assistant City Fiscal of Tacloban filed with the Court of First Instance of Leyte on February 27, 1980 an information which charged the accused Joaquinito Hacbang with the crime of rape committed as follows:

"The undersigned City Fiscal of the City of Tacloban, accused JOAQUINITO HACBANG of the crime of Rape, committed as follows:

"That on or about the 16th day of January, 1980, in the City of Tacloban, Philippines and within the jurisdiction of this Honorable Court, the above-named accused by means of violence and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with one FE MERCADO against her will. x x x" (p. 88 Rollo)

Upon arraignment, the appellant pleaded not guilty.

Trial began on September 4, 1980 with Judge Jose Arro presiding. On August 8, 1983, Judge Filomeno Arteche,

Jr. took over the case. However, Judge Arteche died on May 3, 1985. Judge Auxencio Dacuycuy took over the case and rendered the decision against the accused-appellant.

The facts of the case are as follows:

"On January 15, 1980, private complainant Fe Mercado went to the St. Paul's Hospital along Imelda Avenue, Tacloban City, to watch over her nephew, Ivan Carnalan, who was confined therein. She spent the night in the hospital with her elder sister, Luz Mercado Carnalan. At about 5:00, o'clock in the morning, Luz requested her to go home to Tanauan to have Ivan's diapers laundered (pp. 3-4 tsn, November 18, 1980).

"Private complainant left and waited for a ride outside the hospital. As it was drizzling, she unfolded her umbrella. She noticed a man alight from a motorcab across the street and proceed towards her (pp. 5-6, tsn, July 14, 1981). The man, who turned out to be appellant, went behind her and urinated. Then he asked her the time. She was about to run when he told her 'Don't be afraid, I am not a bad man.' Before she could respond, he grabbed her umbrella and poked a knife on her neck. He told her not to shout, otherwise he would kill her (pp. 10-12, tsn, August 18, 1983.)

"Trembling in fear, private complainant unwillingly went with appellant to the gate of the Divine Word University (DWU) which was about fifty (50) meters from St. Paul's Hospital. Appellant ordered her to sit down, then told her that he was Eddie Fernandez, a fourth year engineering student at the DWU and a product of a broken family (p. 9, tsn, July 14, 1981).

"Later, he forced her to stand up and proceed to Paterno Street. They traversed Burgos Street, Gomez Street, Zamora Street, the Plaza, Magsaysay Boulevard until they reached the skating rink in front of the Tacloban City Hall. As it was early in the morning and showering, they did not meet anyone (pp. 9-10, Ibid).

"Amidst the tall ipil-ipil trees at the skating rink, appellant forcibly removed her blouse, bra and panty. Noticing her wrist watch, he took it. Then he himself took off his clothed. He pushed her down to the ground and still poking the knife on her neck, he mounted her and inserted his penis into her vagina. He made push and pull movements and kissed her neck and shoulder, all the while telling her not to resist (pp. 12-13, Ibid). When he was through with her, he ordered her to put on her clothes (p. 10, tsn, June 8, 1980)."

"Private complainant and appellant walked towards the corner of Real Street and Imelda Avenue, Seeing a vehicle bound for Tanauan approaching, she ran and boarded it.

"At about 7:00 o'clock that morning, she arrived at her home. She recounted her ordeal to her father, Vito Mercado, Sr. With her father and brother, Vito Mercado, Jr., she went to the Tacloban police station. The police advised her to go to the Tacloban City Hospital for physical examination.

"Dr. Elpidio Go examined private complainant. He prepared a report (Exhibit "A"), containing the following:

" 'No external physical injury noted.

Internal Examination Findings:

Labia majora and labia minora coaptated.

Hymen still intact: presence of fresh hymenal laceration – 6 o'clock.

The vaginal canal admits the index finger with resistance; vaginal smear for presence of spermatozoa done; scanty vaginal bleeding noted.

Microscopic examination of vaginal smear:

Result: Vaginal smear shows extra cellular gram (-) diplococci 0-3/oil, positive for spermatozoa. RBG-moderate, pus cells moderate.

Patient seen: 10:45 a.m., 1/16/80." (p. 8. Annex "A")

"From the hospital, private complainant together with her father and brother, returned to the police station to give the medical report. The police told them to return to St. Paul's Hospital to look for appellant and call them if they saw him (pp. 5-6, tsn, March 31, 1981).

"At about 4:00 o'clock in the afternoon, private complainant spotted appellant at the gate of the DWU. She and her father and brother followed him to the A & S Restaurant at Sto. Nino Street across Imelda Avenue (pp. 18-19, tsn, July 14, 1980). While private complainant and her brother watched appellant, her father went to fetch the police.

"In the presence of the police, private complainant approached appellant and retrieved her watch. The police then took appellant to the station for investigation (p. 20, tsn. July 14, 1981)." (PP. 4 - 8, Appellee's Brief)

The appellant now raises the following assignment of errors:

I

THE LOWER COURT ERRED IN FINDING THAT THERE WAS A CLEAR CASE OF RAPE AND THAT THE APPELLANT WAS GUILTY OF THE OFFENSE CHARGED.

II

THE TRIAL COURT ERRED IN RELYING HEAVILY ON THE FINDINGS STATED IN THE MEDICAL CERTIFICATE OF DR. ELPIDIO GO ON THE BASIS OF WHICH IT CONCLUDED THAT THE TESTIMONY OF THE ACCUSED WAS UNBELIEVABLE.

III

THE LOWER COURT ERRED IN NOT APPRECIATING THE FOLLOWING CIRCUMSTANCES WHICH NEGATE THE EXISTENCE OF RAPE:

1. THE SITE OF THE ALLEGED INCIDENT WAS IN A PUBLIC PLACE BUT THE COMPLAINANT NEVER SHOUTED FOR HELP NOR MADE ANY OUTCRY DURING ALL THE TIME THAT SHE AND THE ACCUSED WALKED ONE KILOMETER FROM THE GATE OF SAINT PAUL'S HOSPITAL TO THE SKATING RINK IN FRONT OF THE TACLOBAN CITY HALL WHERE SHE WAS ALLEGEDLY RAPED AND THEREAFTER WHEN THEY WALKED THREE BLOCKS TO THE BUS STATION.

2. THERE IS NO EVIDENCE OF ANY FORCE EMPLOYED BY THE APPELLANT; ON THE OTHER HAND, THE EVIDENCE CLEARLY INDICATES THAT COMPLAINANT DID NOT OFFER ANY RESISTANCE BEFORE, DURING OR AFTER THE PERPETRATION OF THE SEXUAL ACT.

IV

THE LOWER COURT ERRED IN NOT CONSIDERING THE FOLLOWING CIRCUMSTANCES THAT ARE INCONSISTENT WITH GUILT ON THE PART OF THE APPELLANT, TO WIT:

1. AFTER THE ALLEGED RAPE, THE APPELLANT WALKED THREE BLOCKS WITH THE COMPLAINANT TO THE PLACE WHERE SHE COULD TAKE A BUS BOUND FOR HOME.

2. AFTER THE ALLEGED RAPE, THE ACCUSED DID NOT HIDE HIMSELF; ON THE CONTRARY, HE WAS WHERE HE HAD TOLD THE VICTIM HE WOULD BE.

V

THE LOWER COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE WHEN IN FACT THE PRESUMPTION OF INNOCENCE WAS NOT OVERCOME BY THE PROSECUTION." (Appellant's Brief, pp. 7-9)

Anent the first assignment of error, we find no reason to disturb the finding of the trial court. The accused contends that there could be no rape considering that there were inconsistencies in the testimony of the complainant and that there was no violence and intimidation employed against her.

This Court has time and again held that inconsistencies and contradictions referring to minor details do not destroy the credibility of the witness. Trivial discrepancies indicate that the witness was not previously rehearsed (*People v. De las Piñas*, 141 SCRA 379; *People v. Valentino*, 141 SCRA 397). The fact that the complainant was able to name the streets they passed is natural considering that she grew up in that place. The inconsistencies in the narration of the details of the incident are understandable considering the fear that the complainant felt during its duration. She could not have remembered each and every detail of what transpired that day.

In the same manner, the absence of injury on the complainant's neck does not negate the complaint and destroy the credibility of the victim's testimony. In the first place, the complainant never testified that she was wounded. The consistent brandishing of a knife to make the would-be-victim cooperate is sufficient to scare any normal person. The appellant further claims that there was motive other than the desire to have him legitimately punished. He alleges that the complainant was compelled by her father to file a case against him because he is unacceptable as a son-in-law being jobless. He also claims that the complainant was forced to tell her father that the accused raped her because the father was surprised to see his daughter all wet and her watch missing. This reasoning is absurd. Surely, a girl who is deeply in love with her boyfriend can think of other reasons to spare him from her father's wrath. On the contrary, the victim immediately filed a complaint against the accused-appellant. She could also have alerted her boyfriend that he was to be arrested when her father left to fetch the police. Instead, she joined in the determined search for him.

The appellant likewise banks on the fact that it took the complainant 36 days to file the case with the court. This being a criminal case, the filing of the same was dependent first on the police and then on the Fiscal. Thus, it was not entirely within the complainant's control. The fact that the complainant lost no time in complaining to the authorities and filed the charge against the accused negates voluntary submission of complainant to the accused's sexual advances (*People v. Tuando*, 150 SCRA 8).

The defense also assails the heavy reliance by the prosecution on the medical certificate. The decision of the lower court was based mainly on the complainant's testimony, not solely on the medical certificate.

The medical certificate merely corroborated other evidence. It has to be admitted, however, that the certificate was a strong evidence against the accused considering the finding that the complainant had fresh hymenal laceration (pp. 6-7, tsn. 9-4-80) and that the vagina admits the index finger with resistance. These are all indicative of virginity as opposed to appellant's claim that he and the complainant had sexual intercourse for five (5) times already. The allegation of the defense that there could be other possible causes of the laceration and that there were pus cells present is immaterial considering the other circumstances. The appellant himself admitted having carnal knowledge with the complainant on the date and time stated.

The appellant's third assignment of error further denies the existence of rape because according to him, the incident could not have happened in a public place and that the victim could have shouted for help while they

were walking before and after the incident. It is conceded that the place was a public one. However, the crime was committed at 5:00 in the morning of a January day while it was raining and therefore, still dark, and in a grassy portion under tall ipil-ipil trees. Considering these circumstances and the fact that the victim was being continuously threatened with a knife, it is not unusual that the victim was unable to shout. As aptly stated by the Solicitor General, "people react differently under emotional stress." There is no standard form of behavior when one is confronted by a shocking incident (*People v. Radomes*, 141 SCRA 548) especially if the assailant is physically very near.

The accused-appellant claims that the circumstances are inconsistent with his guilt. He contends that even after the rape, he and the victim even walked together. It is not unnatural for a person being poked with a knife and immediately after being raped to act as the victim did. Neither can the fact that he did not flee, prove his innocence. The Solicitor General has observed that many times, the guilty have been arrested in their homes.

The final assignment of error is likewise unacceptable. The appellant himself admitted that he and the victim had sexual intercourse on the date and place mentioned. However, his main defense is that they are sweethearts. Apart from the inherent implausibility of the appellant's story, the non-existence of such relationship is also established by the fact that the prosecution never presented Arnulfo Ballais, the alleged common friend of the two who supposedly introduced them to each other and who could have been a strong witness for the defense. Instead, the appellant presented only his father and their household helper whose interest in an acquittal is understandable. The inability of the accused to prove the relationship between him and the complainant is fatal to his defense.

If indeed the two were sweethearts, the complainant would not have jeopardized their relationship by accusing him of rape, much less filing a complaint against him. The defense that the sexual intercourse was with the victim's consent as they were sweethearts is not believable (*People v. Veloso*, 148 SCRA 60). Strangely, the appellant had no knowledge of the complainant's family background. Normally, people interested in each other are interested in their respective families as well. Considering the length of time, the appellant claimed the relationship lasted, he would have at least known the members of the complainant's family. Neither does the father of the appellant recognize Fe Mercado despite the defense witnesses' claim that the complainant had been a frequent visitor in their house.

No substantial evidence to support appellant's claim like love letters, notes and other tokens was shown in court (*People v. Soterol*, 140 SCRA 400). Therefore, the appellant's defense that the complainant was his sweetheart is without basis and is not proven by the evidence (*People v. Pena, Jr.*, 151 SCRA 638)

It has been a well-established doctrine that when a women testifies that she had been raped, she says all that is needed to signify that the crime has been committed, and if her testimony meets the test of credibility, the accused may be convicted on the basis thereof (*People v. Soterol*, supra; *People v. Budol*, 143 SCRA 241; and *People v. Alcid*, 135 SCRA 280).

No young Filipina would publicly admit that she had been criminally abused and ravished unless that is the truth (*People v. Cruz, Sr.*, 151 SCRA 609; and *People v. Ramilo*, 146 SCRA 253). We see no reversible error in the factual findings of the lower court.

WHEREFORE, in view of the foregoing, the decision appealed from is hereby **AFFIRMED**.

SO ORDERED.

Fernan, C.J., Feliciano, Bidin, and Cortes, JJ., concur.

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