

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LEONARDO ESTACIO ALIAS NARDING, DEFENDANT-APPELLANT.

G.R. No. L-54221. January 30, 1982

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The accused-appellant stands charged with the crime of Rape defined and penalized by Article 335 of the Revised Penal Code as amended by Republic Act No. 2632 and Republic Act No. 4111. The Information charging the accused with the crime of rape filed with Branch III of the Court of First Instance of La Union, docketed therein as Criminal Case No. A-429 reads as follows:

"That on or about the 20th day of May, 1968, in the Municipality of Sto. Tomas, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with intent to have sexual intercourse with the offended party, TERESITA RAMIREZ LACESTE, and being armed with a knife, did then and there willfully, unlawfully and feloniously lie and succeeded in having sexual intercourse with the said offended party when she was asleep thereby, deprived of reason or otherwise unconscious, and upon becoming (she was) wide awake, accused by means of force and intimidation continued having sexual intercourse with her against her will and without her consent.

"That the crime has been committed with the aggravating circumstances of 1. having been committed in the dwelling of the offended party; 2. night time that facilitated the commission; 3. with the use of deadly weapon."

After arraignment and trial, the accused was convicted by the trial court[1] and sentenced to a penalty ranging from six (6) years and one (1) day of prision mayor as minimum to twelve (12) years and one (1) day of reclusion temporal as maximum.

The accused originally appealed the trial court's decision of November 6, 1970 to the Court of Appeals. Upon recommendation of the Solicitor General, however, the Court of Appeals in its resolution of June 2, 1977 in CA-G. R. No. 12625-CR elevated the records of the case to this Court for review in view of the imposable penalty prescribed by Republic Act No. 4111, which took effect on June 20, 1964.[2]

Upon review, this Court hereby acquits the accused of the crime charged on the ground that the prosecution has failed to meet the test of moral certainty of the accused's guilt and to overcome the constitutional presumption of innocence in his favor.

The factual findings of the trial court which convicted the accused leave much to be desired, and read as follows:

"Teresita Laceste, wife of Rufino Laceste, was asleep in the evening of May 20, 1968. Her husband was away. She woke up herself under a man, the defendant.

"That it was Leonardo Estacio who was on top of Teresita Ramirez Laceste is borne out by the fact that the woman even called his name when she was able to identify him particularly with his beard. Defendant told her

to shut up otherwise she would be killed. Under such predicament the coitus was finally consummated. The complainant even said in Court that the accused had a gun when he went to fornicate with her. Consummating his lewd design Leonardo Estacio hurriedly went away. Teresita Laceste was left behind crying. Teresita immediately woke up an old woman who was sleeping at the time in the kitchen and to the woman she complained that defendant, Leonardo Estacio, had consummated his lewd intentions on her."

The accused-appellant has made the following assignment of errors in his brief:

"That the Honorable Trial Court erred in holding that the complainant, Teresita Ramirez de Laceste, was raped; and

"That the Honorable Trial Court, granting for the sake of argument that the complainant was raped, erred in holding that the accused-appellant was the person who raped her."

The Court has stressed that in view of the severity of the penalties for the offense of rape, justified by the "traumatic consequences for the unfortunate victim and grievous injury to the peace and good order of the community," there is need "for extreme care on the part of the judiciary to avoid an injustice done to an accused. For it is equally true that this is an offense to which, as is often the case, only two people can testify, thus requiring the most conscientious effort on the part of the arbiter to weigh and appraise the conflicting testimony. If a reasonable doubt exists, the verdict must be one of acquittal." [3] It must be borne in mind that it is an accusation easy to be made, hard to be proved, but harder to be defended by the accused, though innocent. [4] The evidence for conviction must be clear and convincing to overcome the constitutional presumption of innocence. The now Chief Justice restated for the Court this criterion in *People vs. Dramayo* [5], as follows:

"Only if the judge below and the appellate tribunal could arrive at a conclusion that the crime had been committed precisely by the person on trial under such an exacting test should the sentence be one of conviction. It is thus required that every circumstance favoring his innocence be duly taken into account. The proof against him must survive the test of reason; the strongest suspicion must not be permitted to sway judgment. The conscience must be satisfied that on the defendant could be laid the responsibility for the offense charged; that not only did he perpetrate the act but that it amounted to a crime. Moral certainty is required."

The same criterion was reiterated by him in *People vs. Quiazon* [6] which enumerated a host of cases citing *Dramayo* with approval. Stated otherwise, the conviction or acquittal of the accused in a rape case depends almost entirely on the credibility of the testimony of the offended party in the light of human nature and experience. [7]

In the case at bar, numerous circumstances glaringly detract from the credibility of the testimony and version of the offended party, resulting in the failure of her case to meet the test of moral certainty and guilt of the accused beyond reasonable doubt and therefore call for reversal of the trial court's guilty verdict based on faulty appreciation of the evidence.

First, the admission of the complainant in her sworn statement that she had sexual intercourse with her husband barely two hours after she had been raped on the very same night of May 20, 1968 strikes us as being completely contrary to human nature and experience. As pointed out by the appellant in his brief, "This is a very unnatural act. The outrage upon both spouses' honor is very serious that it could have made both of them recoil at the thought of sexual intercourse almost immediately after the outrage, if it really happened." [8]

The State's feeble attempts to inject credibility in the complainant's testimony range from the cavalier and admittedly conjectural claim that "(T)here is, however, nothing unusual for a husband and wife to have such sexual union after the shocking experience that the wife had just been through. For all we know, it was precisely the husband's way of giving assurance of his love, trust, and protection to his unfortunate wife after her revolting

and shocking experience during his absence from their conjugal abode,"[9] to the equally conjectural claim that "a careful reading of the sworn statement of the complainant in its entirety, however, shows a very strong possibility that complainant did not understand the question asked of her at all when she answered 'Yes sir, at about 11:00 o'clock that evening,'"[10] in answer to the question propounded to her: "That evening did you have any sexual intercourse with your husband Rufino Laceste?"

In pursuing the latter admittedly speculative argument, the State's brief admits that "All these [referring to the alleged rape at 9 pm, her allegedly awaking her old woman-companion and telling her and later her husband upon his arrival about her 'shocking experience' and their efforts to look for appellant and failing to find him] could not have happened or taken place within the space of two hours (from about 9 to about 11 o'clock on the evening in question) so as to give complainant and her husband sufficient time to rest after coming home very tired and then to lie down and commit this sexual act. In all probability, then, complainant's answer to the question 'That evening did you have any sexual intercourse with your husband Rufino Laceste?' in her sworn statement of May 25, 1968 was either misheard or misunderstood by the one who typed said statement or complainant herself misunderstood the question when she made the answer, 'Yes, sir, at about 11:00 o'clock that evening.'"[11]

The stark fact remains that the complainant's admission stands of record and has not been explained nor repudiated by her nor by the State at the trial. Manifestly, it assails her credibility and her husband's "nothing unusual" act of having normal sexual intercourse after the "shocking experience" of her alleged rape certainly engenders the gravest doubts about whether there had been such a rape at all.

Second, there was no outcry heard from complainant during the act or immediately after the supposed culprit had turned his back and left thereby removing whatever alleged danger or threat there was on complainant's life or limb. A most natural reaction would have been an outcry immediately after the alleged danger passed.

After the accused had, according to complainant, achieved his purpose and left the house, the complainant allegedly woke up the aunt of her husband who was just sleeping nearby and told her of what had just transpired. When asked by the court what she did after telling her aunt-in-law of what happened to her, she declared that "I stayed inside the house, I did not move there or went (sic) away." [12] It is quite unusual and unbelievable that a woman whose honor had just been outraged would do nothing to catch the perpetrator of the dastardly act after he had already left the premises when she knew all the while that her husband (who was at the time in a store about 30 meters away from their house, hearing a radio program) was just within calling distance.

Third, the accused was a neighbor. The natural reaction on the part of the husband would have been immediate reprisal or, failing that, he should have roused up the neighbors to bring the culprit to justice. Retribution by the outraged husband would have been swift and immediate because the alleged offender was a neighbor and the outrage to the family honor compounded by such a circumstance. But in this case, the husband of the complainant, while claiming to have gone to the house of the accused, admitted that he did not even try to confront the accused although he suspected that the accused was in his own house.[13]

Fourth, on direct examination, the complainant admitted that she was awake while the alleged rape was being committed but she did not do anything and submitted herself to him. She testified on interrogation by the court as follows:[14]

COURT:

"Q. Were you awake when he was placing or inserting his penis on your private part?

"A. Yes.

x x x

"Q. When did you wake up, after his penis was already inserted or while he was inserting his penis?

"A. When he was putting." (p. 6, t.s.n., Trinidad)

FISCAL:

"Q. And what did you do while he was inserting his penis in your private part?

"A. None, he continued.

"Q. What did he continue?

"A. He continued inserting his penis on my private part." (pp. 6-7, t.s.n., Trinidad)

COURT:

"Q. Why did you not make any move, as a person you felt thrilled?

"A. I did not move." (p. 22, t.s.n., Trinidad)

x x x

"Q. Immediately after you have known that the man on top of you was Leonardo Estacio, what did you do?

"A. None, I submitted myself to him." (p. 25, t.s.n., Trinidad)

On cross-examination, however, complainant claimed that "I struggled, I moved, and I shouted." [15] If indeed the complainant struggled, and shouted as she claimed, there is no explanation how come her companion inside the house, who was just sleeping nearby, did not hear the commotion caused by the complainant's struggles or was not awakened by the shouts which according to complainant she made, considering that their place is but a one-room house of about 7 meters wide and 6 meters in length. [16]

Fifth, the belated and uncertain identification of the accused leaves much to be desired. There is, to our mind, a ring of uncertainty as regards the identification by the offended party of the alleged perpetrator of the offense. If indeed rape was committed, the testimony of the complainant and witnesses for the prosecution failed to establish beyond doubt that the accused was the perpetrator of the crime.

Complainant claimed on the witness stand that immediately after the man who committed the rape left the house, she woke up her grandaunt-in-law, Victorina Bermudez, and allegedly told her that the man who did her wrong was the accused Leonardo Estacio. But this claim is belied by the sworn statement of record of Victorina Bermudez taken by the Chief of Police of Sto. Tomas, La Union and subscribed before the Municipal Judge of that municipality, [17] which shows the contrary:

"Q. Did she not tell you the man who went up the house that did something wrong against her?

"A. No, sir."

In the same sworn statement, when asked what did the husband of complainant do after he learned of the incident, Victorina Bermudez said:

"Q. What did Elong do?

"A. He went down the house to look for the man if who he was."

Likewise, on cross-examination, witness Victorina Bermudez testified:

"Q. That was all that was told by Teresita to you, is that correct?

"A. Yes.

"Q. That somebody came to the house and went on top of her?

"A. Yes.

x x x

"Q. Did you ask why she was crying?

"A. Yes.

"Q. What did she answer?

"A. Somebody came to the house and went over her."[18]

The prosecution thus failed to prove the guilt of the accused beyond reasonable doubt and to overcome the constitutional presumption of innocence. Inversely, the accused's defense of alibi gains more weight and credence, to wit, that at the time of the alleged rape at 9:00 p.m., he was in a store nearby (of one Toring Estacio) listening to a radio program together with the husband of the complainant and four other male companions, where they stayed up to 10:00 p.m. This was duly corroborated by the testimonies of their two companions, Alfredo Ofiaza and Isidro Alibayan. The two testified that after hearing the radio program, the group went home together and that they even saw the accused whose house among the group could be reached first, go home directly.[19]

Even if we were to go by the complainant's husband's testimony that indeed he was together with the accused in Toring Estacio's nearby store, but that the accused left the store at 9:00 p. m. and that three minutes thereafter, he also left the store and went directly to his house where his wife was,[20] it taxes credulity that the accused would go headlong under such unfavorable circumstances to the Laceste's home with the evil intent of rape, penetrate the complainant in her sleep and even as she awakened in the dark, and despite her non-resistance and submission, threaten her with a knife and/or a gun (no mention of which was made in the information and the trial court's finding thereon was vague and nebulous as herein quoted[21]), consummate the intercourse and calmly leave the house without any outcry on her part and without having been overtaken by the husband - all within three minutes.

We must likewise give weight to the testimony of the accused as to the ulterior motive of the complainant in filing the case of rape against the accused, viz, that they had a previous misunderstanding with the husband of the complainant with respect to the fishpond being rented by the accused which was subsequently taken away from him by the complainant's husband. The State's brief dismisses this angle by asserting that "having been the one eased out or ejected from the leased fishpond, appellant was the aggrieved, and consequently, the complainant and her husband, as the erring lessors, would hardly have any reason or motive to take reprisal against him by allegedly falsifying the present charge of rape against said appellant." [22] Since we deal in the realm of probabilities, it is just as probable and credible that complainant's and her husband's objective was not reprisal but to forestall any counter-action on accused's part to retrieve the fishpond, which they certainly accomplished with the filing of the charge for the capital crime of rape against the accused.

In sum, the Court finds that the trial court's appreciation and assessment of the evidence on record upon which it based its verdict of guilt are faulty and incorrect. The testimonies and written statements of the complainant and her witness-aunt, as above discussed, are manifestly wanting of that certainty of proof to establish beyond doubt that the crime of rape as charged was committed by the appellant. The indecisive statement in the trial court's findings that "the complainant even said in court that the accused had a gun when he went to fornicate with her," supra, typifies the weakness of the prosecution's evidence. (This perhaps is explained by the record which shows the trial court through three successive presiding Judges, namely, Judges Santiago Ranada, Eliodoro Marasigan and Javier Pabalan, tried and heard the case with Judge Pabalan, who ultimately delivered the guilty verdict having heard only the testimony of the appellant and of one of the defense witnesses. Thus, the last presiding judge of the trial court in convicting the accused simply chose not to give credence to the specific denials on the witness stand by the accused and disregarded the grave doubts engendered by the erratic, conflicting and inconsistent statements of record of the complainant and her witnesses, who did not testify before him.) But, as

hereinabove shown, the State has not over come the constitutional presumption of innocence which prevails and entitles the accused-appellant to a verdict of acquittal. As restated by Mme. Justice Ameurfina Melencio Herrera for the Court in the recent case of *People vs. Francisco*[23] "[when] there are certain facts of substance and value that militate against an affirmation of the finding of guilt x x x, particularly when the evidentiary rule is recalled that in crimes against chastity, the testimony of the injured woman should not be received with precipitate credulity; and when the conviction depends at any vital point upon her uncorroborated testimony, it should not be accepted unless her sincerity and candor are free from suspicion."

ACCORDINGLY, the accused is hereby acquitted of the crime charged in the information. With costs de oficio.

SO ORDERED.

Makasiar, Fernandez, Guerrero, Melencio-Herrera, and Plana, JJ., concur.

[1] Presided by Judge Javier Pabalan.

[2] The cited Act increased the penalty for simple rape to reclusion perpetua and for rape committed with the use of a deadly weapon to reclusion perpetua to death.

[3] *People vs. Nazareno*, 80 SCRA 484 (1977), per Chief Justice, then Associate Justice, Fernando.

[4] *People vs. Barbo*, 56 SCRA 459 (1974), citing *U.S. vs. Flores*, 26 Phil. 262, 269.

[5] 42 SCRA 59 (1971).

[6] 78 SCRA 513, 521 (1977); see also *People vs. Rapada*, 80 SCRA 64 (1977); *People vs. Nazareno*, supra, fn. 3; and *People vs. Novales*, 102 SCRA 86 (1981).

[7] *People vs. Quiazon*, supra, fn. 6.

[8] P. 4, Record; see p. 7, appellant's brief and p. 15, appellee's brief, p. 16.

[9] Appellee's brief, p. 16.

[10] *Idem*, at pp. 16-17.

[11] *Idem*; notes in brackets supplied.

[12] P. 11, t.s.n., August 6, 1968.

[13] P. 42, t.s.n., August 6, 1968.

[14] P. 6, t.s.n., August 6, 1968.

[15] P. 22, t.s.n., August 6, 1968.

[16] P. 12, t.s.n., August 6, 1968.

[17] Record, at p. 6.

[18] Pp. 33, 34, t.s.n., Sept. 20, 1969.

[19] Pp. 54-56, t.s.n., October 8, 1969; p. 67 t.s.n., October 16, 1970.

[20] P. 45, t. s. n., Sept. 20, 1968.

[21] At pp. 2-3 hereof.

[22] Appellee's brief, p. 32.

[23] L-43789, July 15, 1981.

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