

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DOMINADOR ANGSIOKO Y DOMONDON, DEFENDANT-APPELLANT.

G.R. No. L-44223. August 30, 1984

Ponente: CONCEPCION JR., J.

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CONCEPCION JR., J.:

Appeal from the judgment of the Court of First Instance of Manila finding the defendant-appellant, Dominador Angsioko y Domondon, guilty of the crime of rape and sentencing him to suffer the penalty of reclusion perpetua, to indemnify the offended party, Zenaida Vecinal, the amount of P6,000.00, and to pay the costs.

The People's version of the facts of the case are as follows:

"At about 11:00 a.m. on March 30, 1975, Zenaida Vecinal, 18 years of age and resident of Calatagan, Batangas, left that municipality with the intention of going to Bacoor, Cavite, to visit an uncle. She rode on a baby bus up to the Municipality of Lian, Batangas, and there transferred to an LTB bus to Bacoor, Cavite (tsn, pp. 6-7, January 8, 1976). Seated in front of Zenaida on that LTB bus was appellant Dominador Angsioko. He introduced himself to her, telling her that he was from Calatagan, and asked her where she was going. Zenaida replied that she was on her way to Bacoor.

"At noontime, as the bus stopped at its terminal in Tagaytay City, appellant invited Zenaida to a snack, but she refused. He alighted from the bus and returned with a bottle of 7-Up soft drink, which he offered to her, Zenaida refused the bottle of 7-Up at first, but since appellant was insistent, she accepted it. As appellant appeared to her to be a toughie she accepted fearing that he might harm her if she refused. Zenaida drank the contents of the bottle of 7-Up. Thereafter, appellant seated himself at her right side. (tsn, pp. 8-14, January 8, 1976).

"A few minutes after the LTB bus left its terminal at Tagaytay City, Zenaida began to feel dizzy. She felt numb and sleepy, so much so that she asked appellant to tell the bus driver to stop once they arrived at Bacoor. She leaned on the back of her seat with her eyes open and her hands on her lap, hard-ly aware where the bus was travelling. Appellant did not tell the bus driver to stop at Bacoor, however, and Zenaida eventually reached Baclaran in that weak-ened condition (tsn, pp. 12-15, 40-43, January 8, 1976).

"Zenaida and appellant alighted from the LTB bus at Baclaran. Somehow realizing that she was not at Bacoor, Zenaida asked where she was. Appellant told her not to worry as he would help her find her uncle's place. Both of them boarded a taxi but instead of taking Zenaida to Bacoor, Cavite, appellant brought her to what appeared to her to be a two-story house at Paco, Manila. Upon reaching the place appellant pulled her out of the taxi and forced her to come up with him upstairs. She resisted but was helpless in her condition. She did not notice anyone around. She did not shout nor seek assistance from the taxi driver, as she felt weak, dizzy and numb. As appellant took off her clothes at the second floor, Zenaida felt herself shouting but was not certain that she actually did. She felt herself putting up a fight but could not explain how she fought him. She was conscious yet could not understand what was happening to her. Then she passed out (tsn, pp. 15-20, 44-47, January 8, 1976).

"Zenaida came to her senses the following morning. She found herself lying naked on the floor of a bare room,

as appellant, who had his pants on, stood beside a window near her. She felt pains coming from different parts of her body and noticed contusions on her left thigh, right upper arm, and left leg. Her private part was in pain and blood came out of it. Her panty, which was torn on the side, and her bra, shorts (tight hot pants) and one-piece dress lay beside her. Zenaida broke down and cried, and asked appellant what he had done to her. Appellant looked down at her and laughed, and told her to put on her clothes. Then he said that he was taking her to Calatagan. Zenaida replied that he had better answer for what he had done to her. She turned her back to appellant as she dressed up (tsn, pp. 2--28, 53, January 8, 1976).

"As Zenaida and appellant went down to the ground floor of the house where she was taken, she saw a woman who was doing something. In her confused state of mind, and because appellant was pulling her down hurriedly, Zenaida did not report to the woman that she (Zenaida) had been abused. Appellant then brought Zenaida in a taxi to a bus terminal in Pasay City. She did not report the incident to the people she saw along the way, as what was uppermost in her mind then was to go home to Calatagan. At the bus terminal, appellant told Zenaida that he would go to her house later. She arrived at Calatagan feeling dizzy, and narrated to her mother what had happened the day before (tsn, pp. 29-33, 53-54, January 8, 1976).

"On April 6, 1975, appellant, accompanied by two (2) men, went to the house of Zenaida at Calatagan, and promised her and her mother that he would make up and answer for what he did to her. He told the mother and daughter that he would later bring his parents in order that the matter would be peacefully settled. On appellant's said representation, Zenaida withheld the filing of a complaint against him. Appellant did not return. Zenaida therefore, on April 11, 1975, reported to the police authorities of the Western Police District, Metropolitan Police Force, at Paco, Manila, that she was raped by appellant. On April 12, 1975, she was physically examined by Dr. Luis Larion, Medico-Legal Officer of the Western Police District. After conducting an examination of the person of Zenaida, Dr. Larion made the following medical report (Exhibit "B"):

'Upon request of Pat Nilo G. Natural, of the Gen. Assignment, Investigation Division, WPD-MPF, and the party presenting herself for examination, subject Zenaida Vecinal y Esguerra, 18 years old and residing at Calatagan, Batangas, was examined physically by the undersigned in his office on April 12, 1975, at about 11:20 a.m. with the following findings:

- '1. Recently healed abrasion 0.25 cm., x 1 cm., left cheek, face.
- '2. Faint yellowish green contusion 1.5 cm. x 3 cm., lower antero-lateral left arm.
- '3. Faint yellowish green contusion 1.5 cm. x 2 cm. and 1 cm. x 2 cm. lateral upper left thigh and lateral upper right thigh, respectively.
- '4. Faint yellowish green contusion 1.5 cm. x 2.5 cm. lateral left leg.
- '5. The breast are normally developed and consistent with age.
- '6. Genital examination show recently healed lacerations in the 4:00 and 6:30 o'clock position of the hymen. The edges of the hymen are thin. The vaginal opening is tight and admit the index finger with difficulty. The vaginal rugae are prominent.
- '7. Microscopic examination of the vaginal smear shows many squamous epithelial cells, some pus cells, few Doederlein's bacilli, numerous mixed types of bacteria but negative for spermatozoa and gonococci."

The accused-appellant, on the other hand, presented in his Brief, a different statement of facts evincing ignorance of the circumstances surrounding the commission of the crime. Quoted hereunder is the aforesaid statement of facts:

"Complainant Zenaida Vecinal and defendant Dominador Angsioco were residents of Barrio Balitok,

Calatagan, Batangas. The house of complainant which was mostly made of nipa, bamboo, and wood was very near that of the accused (TSN, March 12, 1976, pp. 8-11, 27-30; TSN, March 25, 1976, pp. 7--8, 31-37).

"Sometime in the early part of 1975, the accused began to court complainant. He visited her at her house at Barrio Balitok, and as was the custom in their place brought along with him in his early visits a companion in the person of Rogelio Mailig. Defendant's courtship of complainant progressed favorably and in due time complainant gave her 'yes' to his amorous importunings. Complainant and defendant then carried on a romantic affair, at one time they were seen embracing and coddling each other, and in several occasions, they were seen together ambling around Barrio Balitok or watching the polo games being played (TSN, March 12, 1976, pp. 11-19; TSN, March 25, 1976, pp. 8-11, 38-44).

"Complainant Zenaida Vecinal however had many suitors (TSN, March 11, 1976, pp. 19-20; TSN, March 25, 1976, pp. 11-13).

"On 30 March 1975, accused and complainant met at Lian, Batangas and as they were both heading for Manila they boarded the same bus. The complainant was intending to go to her uncle's place at Mandaluyong, Rizal. When the bus arrived in Baclaran, the accused offered to bring complainant to her uncle's place at Mandaluyong, but she refused fearing that her uncle might not like her being accompanied by a man. Because of this, complainant and accused parted ways (TSN, March 25, 1976, pp. 13-21, 49-50).

"Subsequently, the complainant and mother, Luciana Vecinal and other members of their family, sold their house at Barrio Balitok and moved to a house at L.C. Poblacion, another barrio at Calatagan, Batangas. The house, pictured in Exhibits 'C' to 'C-3', is owned by a certain Luis Castillejos and located on a ranch owned by him. Complainant's mother, Luciana Vecinal, work at the ranch as a cook (TSN, March 25, 1976, pp. 30-31; TSN, April 14, 1976, pp. 24-30)."

The only issue in this appeal is the credibility of witnesses as shown by the assignment of errors, to wit:

1. The lower court erred in not finding that the evidence of the prosecution is replete with improbabilities, contradictions, inconsistencies, omissions and falsities;
2. The lower court erred in making some findings that are not supported by the evidence and are even contrary to it; and
3. The lower court erred in not finding that the guilt of accused-appellant was not established beyond reasonable doubt and in not acquitting accused-appellant of the offense charged.

The appellant claims that the testimony of the complainant is not worthy of credence in view of improbabilities in her testimony, as well as conflicts in her testimony and the sworn statement she executed before the police investigators.

The contention is without merit. We find the testimony of the complainant on how she was ravished by the appellant on March 30, 1975 to be believable. We find nothing disparate or improbable in it. Besides, the improbabilities and contradictions in her testimony, pointed out by the appellant, are more apparent than real, and have been fully explained. This explanation appears well related in the Brief for the Solicitor General. Moreover, considering the inbred modesty and antipathy of a Filipino woman to airing in public things that affect her honor, it is hard to conceive that the complainant would assume and admit the ignominy she had gone through if they were not true. The Court is convinced of the sincerity of the complainant who has no reason to incriminate the appellant.

Counsel for the appellant stresses that notwithstanding that the complainant had the opportunity to ask the help or attract the attention of other people, more particularly, the bus conductor who was her cousin, and the taxicab driver who brought them to Paco, she failed to do so. Appellant's contention presupposes that the complainant

was well aware all the time that the appellant had intentions of abusing or raping her. But, this is not so. All the appellant did inside the bus was to sit beside the complainant so that there was no reason for her to call the attention of her co-passengers or ask the help of the bus conductor. As for her failure to ask the taxicab driver who brought them to Paco, she explained that she did not do so because she was very weak and did not know what was happening to her.[1]

Counsel for the appellant also lays stress on the failure of the complainant to make an outcry, nor make an attempt to escape from the appellant the following morning upon finding that she was naked, her clothes strewn about, and her private part bleeding and aching and apparently abused by the appellant, and meekly consented to go home to Calatagan alone; nor did she seek immediate medical treatment for her injuries.

The complainant testified, however, that she cried and cried upon waking up in the morning and evidently abused by the appellant, who was standing nearby.[2] She then told the appellant to bring her to Calatagan to answer for what he did to her,[3] and the appellant promised her that he would go to Calatagan later with his parents.[4] Having been assuaged by that promise and hoping that her honor would be redeemed by marriage to the appellant, she meekly consented to go home to Calatagan alone, to await the coming of the appellant.

Her failure to see a doctor earlier had also been sufficiently explained. In her sworn statement given to the police investigators on April 12, 1975, she said:

"T - Bakit ngayon ka lamang nagsumbong sa amin?

"S - Sapagkat nangako pa siya na isasama niya ang kaniyang ina sa amin upang ako ay kaniyang pakakasalan. Pero nakaraan ang isang linggo ay hindi siya dumating. Ang pasabi nila sa aming mga kanayon ay may asawa na siya kayat hindi na siya maaaring pakasal."[5]

The complainant could not have gone to see a doctor earlier because that would have caused her to reveal her dishonor which she hoped would be redeemed by marriage. But, when marriage was no longer feasible, she did not lose time in filing the necessary complaint in order to vindicate her honor.

The appellant also disputes the findings of the trial court that the complainant's declaration is fully corroborated by Dr. Larion's findings that she sustained contusions in her thighs and arms and that she could have had sexual intercourse on or about March 30, 1975, as alleged by her. Counsel for the appellant contends that the wounds described in Exhibit "B" were never traced to the alleged rape as there is no evidence showing that Dr. Larion asked complainant Vecinal exactly and specifically caused the wounds that he found in her person and there is no evidence showing that complainant Vecinal said that she sustained them on the occasion of the alleged rape.

The contention is devoid of merit. Dr. Larion declared that he examined the complainant in connection with the charge of alleged rape. His testimony reads, as follows:

"FISCAL:

Q - Dr. Larion, do you remember if in the course of your duty you conducted a physical examination on the person of one by the name of Zenaída Vecinal some-time in September 12, 1975?

"WITNESS:

A - Yes sir.

Q - Now, how did you happen to conduct that physical examination on the said person?

"WITNESS:

A - The subject was examined upon the request of Pat. Nilo Natural of the General Assignment.

Q - Regarding what?

A - In connection with the charged of an alleged rape.

Q - Now, that person whom you conducted the physical examination Dr., will you be able to recognize her again if you see her?

A - Yes sir.

Q - Will you kindly look around and see if she is here in the courtroom?

"WITNESS:

A - That girl in white T-shirt, Your Honor.

"BRANCH CLERK:

Q - Now Dr., this physical examination that you have conducted in the person of Zenaida Vecinal, can you kindly tell the Court if you have put down that findings of yours in writing?

A - Yes sir.

Q - Do you have the written findings, Dr.?

A - Yes sir, this is the report showing the findings, sir.

"FISCAL:

Witness showing a report which for purposes of identification, Your Honor, may I request that this be marked Exhibit 'B' "[6]

At any rate, medical examination is not an indispensable element in the prosecution for rape, because it all depends upon the evidence offered and as long as such evidence convinces the Court, a conviction there-of is proper.[7]

All things considered, We find no tenable reason to disturb the findings of the trial court. The positive testimony of the witnesses for the prosecution deserves more weight than the bare denial of the appellant.

WHEREFORE, the judgment appealed from should be, as it is hereby, **AFFIRMED** with the modification that the indemnity to be paid to the offended party is hereby increased to P30,000.00. With costs against the appellant.

SO ORDERED.

Aquino, (Acting Chairman), Abad Santos, Escolin, and Cuevas, JJ., concur.

Makasiar and Guerrero, JJ., on leave.

[1] tsn of January 8, 1976, p. 45.

[2] tsn of Jan. 8, 1976, pp. 22-23.

[3] Id., p. 28.

[4] Id., p. 31.

[5] Exhibit 1.

[6] tsn of Jan. 28, 1976, pp. 6-9.

[7] People vs. Orteza, 116 Phil. 424 and cases cited therein.

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