

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MELVIN GIRON Y SANTOS, ACCUSED-APPELLANT.

G.R. No. L-44749. December 10, 1990

Ponente: PARAS, J.

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PARAS, J.:

On appeal before Us is the decision* of the then Court of First instance of Caloocan City, convicting herein accused-appellant, Melvin Giron y Santos of the crime of Rape as charged in the information, the dispositive portion of which reads, as follows:

"IN THE LIGHT OF THE FOREGOING, the Court hereby renders judgment, finding and declaring the defendant, Melvin Giron, guilty beyond reasonable doubt of the crime of Rape as charged in the information, without any mitigating nor aggravating circumstance. The penalty provided for by law is reclusion perpetua.

"The Court sentences accused Melvin Giron the penalty of reclusion perpetua, with the accessory penalties provided for by law, to pay the costs, and to indemnify the offended party, Corazon Gungun, the sum of P6,000.00 without subsidiary imprisonment in case of insolvency.

"SO ORDERED."

(Rollo, p. 17)

Appellant Melvin Giron was charged with the crime of Forcible Abduction with Rape in a complaint filed by Special Counsel Felizardo Y. Viray, at the instance of the complainant Corazon Gungun, quoted hereunder:

"The undersigned complainant accuses MELVIN GIRON Y SANTOS of the crime of FORCIBLE ABDUCTION WITH RAPE, committed as follows:

"That on or about the 22nd 'day of October 1971 in Kaloocan City, Philippines, and within the jurisdiction of this Honorable Court, above named accused with lewd designs and by means of violence and intimidation, did then and there, wilfully, unlawfully and feloniously abduct and carry away in a motor vehicle the undersigned complainant against her will and without her consent and thereafter, said accused took her to the Fifth Avenue Hotel, this City, and then and there said accused, by means of force, violence and intimidation had carnal knowledge of the undersigned complainant against her will and without her consent.

"Contrary to law.

"Caloocan City, September 25, 1972."

(Rollo, p. 3)

With the assistance of his counsel, appellant Giron entered a plea of not guilty when arraigned on December 27, 1973. Thereafter, trial ensued.

The prosecution presented the following witnesses: Dr. Dario Nalagan, Medico-Legal Officer of the NBI, the

complainant Corazon Gungun and Sgt. Artemio Manuben, and the following documentary evidence: Exhibit "A", letter of request for the physical examination of Corazon Gungun signed by Capt. Benjamin O. Manlapig, Chief, MID-DB, Caloocan City Police Department; Exhibit "B", Living Case Report No. 71-644 on Corazon Gungun signed by Dr. Dario Nalagan; Exhibit "B-1", No. 2 conclusion in Exhibit "B"; Exhibit "C", copy of the complaint and Exhibit "C-1", signature of Corazon Gungun and rested its case.

Dr. Dario Nalagan testified that he examined the person of Corazon Gungun on November 3, 1971, upon a letter of request signed by Capt. Benjamin Manlapig of the Caloocan City Police Department (Exhibit "A") and submitted a Living Case Report No. N-71-644 (Exhibit "B"). His report stated that 1) there was no evidence of extra-genital injuries; and 2) medical evidence compatible with sexual intercourse with a man on or about the alleged date of commission October 22, 1971 (Exhibit "B-1") (March 8, 1974, TSN, pp. 23-32).

Sgt. Artemio Manuben, Liason, LCO, Metrocom, testified that he arrested appellant Giron in Navotas while driving a PUJ jeep, after which he turned the latter over to the warrant section of the Caloocan City Police Department (August 1, 1974, TSN, pp. 2-10).

Corazon Gungun testified that at the time of the incident she was a pre-med student at the University of the East in Manila (September 13, TSN, 1974, p. 39). She came to know appellant Giron about a year prior to the incident since he was then working as a driver of the Lachenal family whose residence was opposite their store. He was courting her but she did not accept his love (September 13, 1974, TSN, pp. 46-51). On October 22, 1971 on coming out of the San Bartolome Church in Malabon after hearing mass, she saw appellant Giron who informed her that it would be the last time that he will approach her since he was going to Bataan. He forced her to stay and talk to him. He invited her to eat and so as not to create a scandal, since he was pulling her and people were staring at them, she went with him to Jack's Restaurant in Monumento where he continued professing his love for her (September 13, 1974, TSN, pp. 4-14).

It was getting late and appellant Giron was preventing her from going home, threatening her that he had other companions and a vehicle outside and that he would create a scandal. She, however, forced herself to stand and proceeded towards the jeepney stop to get a ride home. She was surprised that he was at her back and pulled her to a waiting taxi. She pleaded with him to let her go, shouting at the top of her voice but the people around merely stared at them (September 13, 1974, TSN, pp. 16-22).

The taxi driver appeared hesitant to proceed but moved when appellant Giron told him that she is his wife. They proceeded directly to the Fifth Avenue Hotel. While inside the taxi, she shouted, pleaded and even scratched his face (September 13, 1974, TSN, pp. 24-25).

Upon reaching the hotel, appellant Giron pulled her out of the taxi. No hotel boy attended to them or if there were any, she could not remember (January 17, 1975, TSN, p. 33). She was continuously struggling, kicking him, pulling his clothes to the point that his pants got torn to prevent him from bringing her to the room. Once inside, appellant Giron pushed her towards the bed and locked the door. She stood up and tried to open the door but was again pushed by the appellant. This happened several times, according to the complainant more than ten times. In the process of her struggle, she noticed that her dress, a one piece dress with a zipper at the back, was open. She tried to cover her private part with her two hands (across the chest) and turned her back against the appellant. The latter was able to take off her clothes, including her underwears, and lay on top of her. It took appellant sometime to consummate his act as she was continuously struggling. When she eventually lost her strength, she felt a pain that she has never felt before and it was then that she concluded that the appellant has succeeded in ravishing her (September 13, 1974, TSN, pp. 26-40).

They left the hotel the following morning on board a taxi. She alighted at the corner of San Ildefonso Church in

Navotas and took a jeepney towards Daanghari to get home (January 17, 1975, TSN, pp. 49-50).

Upon reaching their house, she informed her mother that she was abducted by appellant Giron. It was only on November 3, 1971 that she was examined by a doctor because she lost consciousness for more than one week and could not speak (September 13, 1974, TSN, pp. 41-43).

On cross examination, when she was confronted with a picture (Exhibit "1") showing her with appellant Giron, she claimed that it was a stolen shot taken at the Chinese Garden in Luneta when the latter went with their family on an outing (September 13, 1974, pp. TSN, 52-58). When she was shown a letter addressed to appellant Giron (Exhibit "2"), she identified the body of the letter to be in her handwriting but denied having written the greetings "Mahal kong Melvin" (September 13, 1974, TSN, pp. 50-60). She likewise denied being the signatory of the letter but claimed that it was intended for her boyfriend, a certain Felizardo Alejandrino (September 13, 1974, TSN, pp. 63-67). When confronted with an envelop with the letterhead of the University of the East (Exhibit "3") she admitted that it was in her handwriting but claimed that it contained an estamfita (Exhibit "6") which she sent to the appellant for moral support when he entered the cursillo (September 13, 1974, TSN, pp. 76-78). A Christmas card was presented (Exhibit "4") and admitted by the complainant to be in her handwriting but denied having given it to the appellant since it was placed on the Christmas tree in their store. She claimed that it was taken by the appellant from the Christmas tree (September 13, 1974, TSN, pp. 60-70).

The defense presented as witnesses Venancio Luna and the accused Melvin Giron and Exhibit "1", a picture of the accused with the complainant allegedly taken at the Chinese Garden in Luneta on February 15, 1971; Exhibit "2", a letter in Tagalog addressed to the accused; Exhibit "3", an envelop with the name of the accused as addressee; Exhibit "4", a Christmas card; Exhibit "5", residence certificate of the complainant for the year 1971; Exhibit "6", a decolores estamfita addressed to the accused and signed by the complainant; Exhibit "7", a prayer book of the complainant; Exhibit "8", a signed statement of the complainant taken at the Caloocan City Police Department on November 2, 1971; Exhibit "9", a picture of the accused with the mother of the complainant; and Exhibit "10", voter's I.D. of the complainant and rested its case.

Venancio Luna testified that he came to know the complainant Corazon Gungun about two months prior to the incident of October 22, 1971 because he and appellant Giron often went to their store to drink beer. In the morning of October 23, 1971, complainant Gungun together with appellant Giron came to his house at P. Cadorniga St., Navotas and informed him that they have eloped. After sometime, he brought them to the house of his sister, Feliza Luna, at Pacheco St., Tondo because they were ashamed since the complainant knew a lot of people in his place. The following day, appellant Giron and complainant Gungun came back to his house and asked him to bring them to the house of complainant's parents, to which he agreed (August 1, 1985, TSN, pp. 7-17).

It was the mother of the complainant who led them into the house when they came. She scolded the complainant and the appellant, and even slapped the former so he asked permission to leave (August 1, 1975, TSN, pp. 33-36).

Appellant Giron testified that he started courting the complainant about a year prior to the incident and that she reciprocated his love sometime in September 1970. On the day of the incident, at about 3:00 p.m., he informed the complainant that he was leaving for Bataan. She suggested that they hear mass together. After hearing mass at the San Bartolome Church, they went to Jack's Restaurant for merienda. After which, they went to Nayong Pilipino, then to Luneta. They were supposed to spend the night at the place of his friend named Mely but had to proceed to the Fifth Avenue Hotel when they were not accommodated at the latter's house (September 26, 1975, TSN, pp. 28-42).

Upon their arrival at the hotel, he paid for the room accommodation but they were not required to register

(February 13, 1976, TSN, pp. 34-35). They spent the night there, upon mutual agreement. They made love twice, the first lasting for one hour and the second for thirty minutes. All these are with the consent of the complainant (September 26, 1975, TSN, pp. 47-51).

They left the hotel the following morning on board a taxi and proceeded to his place in North Bay Boulevard. They were met by his mother who got angry because he is a married man. They left and proceeded to the house of Venancio Luna (September 26, 1975, TSN, pp. 52-56). The latter brought them to the house of his sister, Feliza Luna, in Tondo, where they spent the rest of the day and the night (September 26, 1975, TSN, pp. 57-60).

They went back to Venancio Luna the following day and asked him to accompany them to the house of complainant Gungun. Upon their arrival at the latter's house, the mother of Corazon scolded them and even boxed them. When asked why they eloped, he informed them that it was Corazon who did not want to go home. He was then sent home by the latter's mother and her sister (September 26, 1975, TSN, pp. 61-66).

As aforesaid, a decision was rendered on August 17, 1976, convicting herein appellant. Hence, this appeal.

On November 19, 1976, this Court resolved to approve the P30,000.00 bail bond filed by appellant Giron and subscribed by the Philippine Guaranty, Co., Inc. for his provisional release. (Rollo, p. 49).

The defense assigned three (3) errors, namely:

I

THE COURT A QUO ERRED IN CONVICTING THE ACCUSED BEYOND REASONABLE DOUBT DESPITE THE PRESENCE OF FACTS AND CIRCUMSTANCES SUPPORTED BY EVIDENCE WHICH BRING FORTH GRAVE DOUBTS AS TO THE VERACITY AND CREDIBILITY OF COMPLAINANT'S TESTIMONY.

II

THE COURT A QUO ERRED IN CONVICTING THE ACCUSED INSPITE OF THE FACT THAT THE EVIDENCE OF THE PROSECUTION IS UTTERLY INSUFFICIENT TO SUSTAIN A CONVICTION BEYOND REASONABLE DOUBT.

III

THE COURT A QUO ERRED IN CONVICTING THE ACCUSED OF THE CRIME OF RAPE DESPITE THE FACT THAT GREAT WEIGHT OF EVIDENCE OR THE SUM TOTAL OF IT SHOWS THAT THE SEXUAL INTERCOURSE BETWEEN THE ACCUSED AND THE COMPLAINANT WAS MUTUAL AND VOLUNTARY.

Reduced to bare essentials, the issue in the case at bar is whether or not the guilt of the accused-appellant was proven beyond reasonable doubt.

It is well established that the appellate court generally does not disturb the findings of the lower court considering that the latter is in a better position to pass upon the matter of credibility having seen and heard the witnesses themselves and observed their deportment and manner of testifying during the hearing. However, exception is taken to this well-settled rule in order to keep faith with the immutable principle that every criminal conviction must be supported by proof beyond reasonable doubt (*People v. Mejias*, 168 SCRA 33, November 28, 1988).

Among others, the exceptions to the general rule are: (a) the conclusion is a finding grounded entirely on speculations, surmises and conjectures; (b) the inference made is manifestly mistaken, absurd or impossible; (c)

there is grave abuse of discretion; (d) the judgment is based on misapprehension of facts; and (e) the court in making its findings, went beyond the issues of the case and the same are contrary to the admissions of both the appellant and appellee (*People v. Ale*, 145 SCRA 58 [1986]).

While rape is truly a detestable crime, the probability looms large that it may be resorted to as a contrivance to malign the accused who would be hard pressed to prove his innocence and would thereby place his life, liberty or fortune or all of them together, hanging on the balance (*People v. Ymana*, 171 SCRA 174, March 9, 1989 reiterating the ruling in *People v. Barbo*, 56 SCRA 459, March 19, 1974 and *People v. Quintal*, 125 SCRA 734, November 25, 1983). In the case at bar, appellant is a married man, a fact known to the complainant (September 13, 1974, TSN, p. 10). For the testimony of the offended party to be sufficient to convict for the crime of rape, it must be clear and free from any serious contradiction. Her story must be impeccable and must ring true throughout or bear the stamp of absolute truth and candor (*People v. Ramos*, 167 SCRA 476, November 18, 1988; *People v. Ymana*, supra; *People v. Lacuna*, 87 SCRA 364, 1974). This the complainant has failed to meet.

Complainant's testimony is vitiated with a lot of inconsistencies and improbabilities that do not inspire belief.

Complainant Gungun testified that she was shouting on top of her voice when she was being forced inside the taxi and also when she was being dragged to the room in the hotel. Yet no one came to help her. Verily it is inconceivable that with the resulting fiasco, no one noticed or even seemed interested (September 13, 1974, TSN, pp. 20-30). Notably, the accused was not even holding a gun or a deadly weapon so that anybody who wanted to, could have helped without endangering themselves.

Even more incredible is the testimony of complainant that she had been fighting the accused all the way from the taxi to the hotel room (September 13, 1974, TSN, pp. 20-30) which under normal circumstances could have knocked off her eyeglasses to the floor of the taxi and yet she claimed that after the sexual intercourse the accused handed back to her, her eyeglasses and clothes. They left the hotel together, riding a taxi and then she, who could hardly walk, upon alighting at the San Ildefonso Church, took a jitney and went home alone (March 13, 1975, TSN, pp. 18; 20-21).

She narrated that her dress - a one piece dress with zipper at the back was open. She said she tried to cover her private parts with her hands and turned her back at the accused; all the more exposing her body to him and facilitating the removal of her dress (September 13, 1974, TSN, pp. 26-40).

Also from her testimony, she would have this Court believe that she only knew the accused because the latter was courting her, but she did not accept his love. In fact she was aloof and it was only her mother who was treating him well (September 13, 1974, TSN, pp. 51-54). However, her testimony was belied by the letters, cards, etc., she sent the accused, the most telling of which was the picture at the Chinese Garden showing her leaning on the accused (September 13, 1974, TSN, pp. 56-57). She claimed that such was a stolen shot which obviously made it even more convincing (September 13, 1974, TSN, p. 55).

Finally, it is beyond belief that after complainant told her mother that she was abducted and raped and thereafter lapsed into unconsciousness for one week, the latter was not even alarmed to seek immediate medical assistance but waited instead for complainant to regain consciousness before having her physically examined, in order to file the case (September 13, 1974, TSN, pp. 41-42).

Thus, in view of the severity of the penalties for the offense of rape, the judiciary is cautioned by this Court to take extreme care to avoid an injustice to the accused. If reasonable doubt exists, the verdict must be one of acquittal. Rape is an accusation easy to make, hard to prove but harder to defend by the accused, though innocent. The evidence for the prosecution must be clear and convincing to overcome the constitutional presumption of

innocence. Rape 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 testimonies. If a reasonable doubt exists, the verdict must be one of acquittal (*People v. Leoparte*, G.R. No 85328, July 4, 1990 reiterating *People v. Cabading*, G.R. No. 74352, June 6, 1989).

PREMISES CONSIDERED, the decision appealed from is hereby REVERSED and SET ASIDE and appellant Giron is hereby ACQUITTED on reasonable doubt.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

* Rendered by Judge Manuel A. Argel.

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