

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE DE GUIA Y SALES, ACCUSED-APPELLANT.

G.R. No. L-49825. May 14, 1990

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

This is an appeal from the decision of the then Court of First Instance of Manila (now Regional Trial Court), Branch XXIII, finding the accused Jose de Guia y Sales guilty beyond reasonable doubt of the felony of rape.

The dispositive portion of the decision reads:

WHEREFORE, the Court finds the accused Jose de Guia y Sales guilty beyond reasonable doubt of the crime charged against him in the information and hereby sentences him to reclusion perpetua, together with the accessories (sic) penalties, to indemnify the offended party in the amount of P5,000.00, without subsidiary imprisonment in case of insolvency, to support the offspring, if any, and to pay the cost. He could not be sentenced to acknowledge the offspring if any because he is a married man, according to his civil status appearing in the booking sheet and arrest report marked Exhibit "C".

For purposes of Art. 27 of the Revised Penal Code, he shall be credited in the service of his sentence with the full time of his preventive imprisonment having signed a prisoner's manifestation voluntarily agreeing to abide by the same disciplinary rules imposed upon convicted prisoners pursuant to Rep. Act No. 6127.

SO ORDERED.[1]

Earlier, on November 3, 1977, the complainant, Ana Puyong, 16, single, a housemaid, and residing at 2488 Juan Luna Street, Manila, filed a complaint under oath in the then Court of First Instance of Manila (CFI) accusing Jose De Guia y Sales, 34, married, laborer, and a resident of Makati, of the crime of rape, committed as follows:

That on or about November 1, 1977, the City of Manila, Philippines, the said accused, conspiring and confederating with others whose true names, identities and present whereabouts are still unknown and helping one another, by means of force and violence, to wit: by then and there forcibly laying one Ana Puyong y Mosquera on the ground, covering her mouth to prevent her from shouting, holding both her legs and taking off her pants and panty, did then and there wilfully (sic), unlawfully and feloniously have sexual intercourse with the undersigned complainant against her will.

Contrary to law.[2]

Upon arraignment, the accused pleaded not guilty.[3]

The facts as summarized by the trial court are as follows:

On November 1, 1977, at around 8:45 o'clock in the evening, Ana Puyong, the complainant in this case and her boy friend Nardy Caliso were lying on the grass facing each other at the Muni Golf Links, Intramuros, Manila conversing. All of a sudden, the accused with three companions came upon them and pretending to be policemen scared them, said accused uttering "you are here, we will arrest you and bring you to the precinct."

Forthwith, the four started to undress her, holding her and covering her mouth to prevent her from shouting. The complainant was then wearing a T-Shirt, pants and panty. While doing this, Nardy Caliso ran away. Thinking that he was going to call for a policeman, two of the malefactors chased him, leaving behind the accused and another companion. After removing her pants and panty, they laid her on the ground, the accused putting himself on top of her after sliding down the zipper of his pants and using his left hand to cover her mouth, while his companion positioned himself behind him holding the legs of the complainant that were drawn apart. She cannot move her hands because they were pinned under her body. The accused was able to consummate the dastardly act. After he was through, he left but the companion remained and wanted to take his turn. The complainant fought him using her wooden shoes to hit him and while undressing himself, she was able to grab her pants and even it half-naked, ran away from him. Crying, she approached a cigarette vendor to seek his help and told him her predicament. Pointing to the accused as her rapist, said cigarette vendor stopped him and required him to exhibit his ID which he did. The same cigarette vendor then stopped a bicycle rider and asked him to call for a policeman. Patrolman Telesforo Villaluz, detailed at the Rizal Park responded and brought the accused and the complainant to the Luneta Police Headquarter. Not falling within its jurisdiction as the offense did not take place at Rizal Park, they were brought to the general Assignment Section, Station 5 of the Manila Police Department and the case was assigned to Pfc. Salvador Villena for investigation. Villena confronted the complainant with the accused and she positively identified him as the person who raped her. Thereafter, he took the statement of the complainant marked Exhibit "A". In said statement, she narrated the incident substantially, the same as testified by her. In question No. 2 thereof, marked Exhibit "A-1", she pointed to the accused as the person against whom she was complaining. When asked to give a statement and explain his side, the accused refused and stoutly denied the charge. When pointed to, however, by the complainant, he made no comment or did anything to deny the imputation.

The complainant was medically and physically examined by Dr. Marcial Ceñedo, Medico-Legal Officer of the Manila Police Department. He rendered his report marked as Exhibit "B" containing his findings. He opined that based on said findings there is possibility of the alleged rape to have been committed on November 1, 1977 at about 8:45 P.M.

The accused defended on total denial. His story as may be culled from his testimony runs as follows: In the evening of November 1, 1977, at around 8:45, while on his way home coming from the Quirino Grandstand, he was held by a member of the Barangay. Then the complainant approach (sic) him and told him "Iyan ho, iyan ho." She did not say that he raped her. The Barangay member questioned him why he molested his friend (referring to the complainant) and he required him to show his ID which the accused did. He answered "paciencia na lang kung sila ay nadistorbo co". Prior to this, however, he claimed he passed by a woman and a man lying under a tree and then they ran. But he did not notice that the woman was the complainant. The companion of the Barangay member called for a policeman while holding him and a policeman came. Without asking why he was being held, said policeman brought the accused and the complainant to the Luneta Police Headquarters. Nothing happened there. Then they were brought to the police precinct where she complained of raping her. He denied the charge and said he did not know why, since he has not even met or knew her before.[4]

On appeal, the accused-appellant assigns only one error:

THE LOWER COURT ERRED IN FINDING THE ACCUSED GUILTY AS CHARGED WITH RAPE.[5]

In the appreciation of the evidence in a prosecution for the crime of rape, we have been invariably guided by three well-known principles: (1) that an accusation for rape can be made with facility; it is difficult for the complainant to prove it, and even more difficult for the person accused, though innocent, to disprove it; (2) that in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with utmost caution; and (3) that the evidence for the prosecution must stand or fall on its own merits, and can not draw strength from the weakness of the evidence for the defense.[6]

The liberty or a man hangs critically in the balance, thus we have painstakingly considered the stated standards in deciding the appeal before us.

Prosecution witness Marcial Ceñido, Medico-Legal Officer, Western Police District, Metropolitan Police Force, testified that on November 2, 1977, he conducted a physical examination of Ana Puyong.[7] His medical report states:

Upon the request of pfc. Salvador B. Villena of the General Assignment Investigation Division, WPD-MPF and the party presenting herself for examination, subject ANA PUYONG Y MOSQUIERA (sic), 16 years of age and residing at 2488 Juan Luna, Tondo, Manila was examined physically by the undersigned in this office on November 2, 1977 at 10:30 a.m. with the following findings:

- 1) Breasts are hemispherical in shape, fairly developed and with small brownish nipples and areolae;
- 2) Abdomen is firm, flat and without striae of pregnancy;
- 3) Hymen is distensible and with indentation at 3 and 9 o'clock positions and intact;
- 4) Presence of reddening and abrasions on the mucosa of the labia minora on the posterior half;
- 5) Introitus vagina admits one (1) examining finger with ease;
- 6) Vaginal wall is lax and with less prominent rugosities;
- 7) Vaginal smear taken was negative for the presence of spermatozoa: and
- 8) Last menstrual period - October 24, 1977 for 4 days.

O P I N I O N:

The above findings would suggest the possibility of the alleged rape to have been committed on her person on November 1, 1977 at about 8:45 p.m.[8]

Despite the findings that the complainant's hymen is intact and distensible with indentation at 3 and 9 o'clock, rape is not precluded. Penetration of the penis by entry into the lips of the female organ even without rupture or laceration of the hymen suffices to warrant conviction for rape.[9] Likewise, the absence of spermatozoa in the vagina or thereabouts does not negate the commission of rape because the important consideration in rape is penetration and not emission.[10] In the case at bar, the medical findings affirm the actualization of the rape charged and testified on by the victim and the other prosecution witnesses.

But the main thrust of the accused-appellant's appeal is that he had not been sufficiently identified as the rapist. Aside from claiming that he did not know the complainant and that the first time he met her was only when he was arrested,[11] accused Jose de Guia also vehemently argues that it was impossible for her to have recognized him as the malefactor because there was no light in the vicinity where the crime was committed.

As the accused-appellant stated in his brief:

x x x According to the complainant, on November 1, 1977, at around 8:45 o'clock in the evening when she and her boy friend, Nardy Caliso, were lying on the grass facing each other at the Mini-Golf Links, Intramuros, Manila, there was no light. (TSN July 19, 1978, page 2). In other words, it was dark in that area and it is of common knowledge that because of that the place was being used by sweethearts as "lovers' nests," as in other portions of Luneta. On cross-examination, the complainant testified as follows:

ATTY. GENATO:

Q. In that place of the incident, will you please tell us whether there was any light in the vicinity?

A. None Sir.

(TSN page 2, hearing of July 19, 1978)

It is clear that the place was dark. How then could she identify the author of the alleged crime. How then could she pinpoint the responsibility on the accused in this case. The complainant never knew the accused.”[12]

The complainant admitted there was no electric light which directly illuminated the spot where she was sexually abused, but that does not suggest that there was total darkness in the area, preventing her from identifying her assailants. In fact she could still see some people who were far from them.[13]

Complainant Ana Puyong positively identified the accused-appellant and described clearly the physical features of his confederates. The four men did not conceal their identities with masks or the like when they announced to the lovers: "You are here. We will arrest you and bring you to the precinct.”[14] In spite of the physical superiority of Ana Puyong's male assailants and the fact that she was outnumbered, she bravely put up a fierce fight and was able to hit one of the men with her wooden shoes.[15] It was during this struggle that she was able to recognize the faces of the four men, their physical built, and the clothes they wore. Indeed the complainant was able to describe and identify to the police and later to the trial judge with specificity the accused-appellant as wearing a polo shirt with multi-colored flower prints and a zipper in front, black pants, and a pair of shoes.[16] As regards the appellant's three companions, Ana testified:

16. T - Maari mo bang ibigay sa amin iyong description noong lalake na tinakpan ang iyong bunganga?

S - Siguro 5'1" and taas, 21 taong gulang, brown complexion, regular built.

17. T - Maari mo bang ibigay sa amin iyong description noong dalawang tao na naghubad ng pantalon mo at panty?

S - Iyong isa ay siguro 5'3" tall. 23 taon gulang, brown complexion, regular built.[17]

Moreover, it would not be difficult for the complainant to recognize the accused-appellant because the rape itself lasted fifteen minutes.[18] Such a relatively long period was sufficient time for the complainant to get a good look at her violator. It was therefore easy for her to recognize and positively identify the accused-appellant De Guia during the trial as the one who sexually abused her. Even earlier, when she was narrating her sexual abuse to the cigarette vendor, she immediately noticed the appellant and instantaneously pointed to him as the culprit. The facility by which she identified De Guia as the one who raped her even while she was running away from the threat of a second assault and although she was half-naked convinces the Court that she indeed recognized the accused as the one who raped her. As earlier adverted to, she fortified this recognition with her statement to the police authorities to whom she complained with promptitude and culminating in her positive identification before the trial court of the accused-appellant as the one who raped her.

We agree with the trial court's finding that the testimonies of the prosecution witnesses, particularly that of the complainant, deserve more credence than the denial of the accused-appellant. The accused in a rape case may be convicted based on the sole testimony of the offended party, we have ruled time and again. The trial court is in the best position to assess the demeanor of the witnesses and such an assessment is entitled to the highest respect by the Court.[19] Well-settled is the rule that where the issue is one of credibility of witnesses, the appellate court will generally not disturb the findings of the trial court unless certain facts of substance and value have plainly been overlooked and if considered might affect the result of the case.[20] None has been shown here.

We agree that there are some inconsistencies in the testimony of the complainant on the witness stand as well as in her written statement before the police constituting Exhibit A. Be that as it may, we consider such

inconsistencies as minor and do not detract from the credibility of the complainant on the material points of her accusation. We believe her as the trial court did. Hence, we find that the evidence on record, which we examined painstakingly, constitutes proof beyond reasonable doubt of the guilt of the accused-appellant of the crime charged.

We must add a little postscript to this ugly interlude.

The romances of chivalry have died long ago along with the vanishment of the knights in shining armor. But one does not have to be a knight to be gallant. Truly we are dismayed by the lack of gallantry of Nardy Caliso. He abandoned his loved one leaving her alone in the clutches of the rogues. Instead of defending with all his might his damsel in distress, he fled in cowardice. Not only that, the cad that he was never appeared to testify in court. Verily, he does not deserve the love of his own inamorata.

WHEREFORE, the decision of the trial court is AFFIRMED with the modification that the accused is ordered to indemnify the complainant in the sum of P20,000.00. Costs against the accused-appellant.

SO ORDERED.

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

[1] Decision rendered by Judge Jaime R. Agloro (later Justice of the Court of Appeals), Crim. Case No. 34684, promulgated on December 20, 1978, 5-6; rollo, 45-46.

[2] Criminal complaint sworn to by complainant before Manila Assistant Fiscal Victoria T. Asis; Original Record, 1.

[3] Original Record, 3.

[4] Decision of Judge Jaime R. Agloro, 1-3; rollo, 3-5.

[5] Brief for the Accused-Appellant, 1; rollo, 28.

[6] People vs. Quintal, No. L-49656, November 25, 1983, 125 SCRA 734.

[7] T.s.n., May 29, 1978, 2.

[8] Folder or Original Exhibits, Exhibit "B".

[9] People vs. Abonada, G.R. No. 50041, January 27, 1989, citing People vs. Tabago, No. 69778, November 8, 1988, 167 SCRA 65; People vs. Estrella, No. 71464, August 4, 1988, 164 SCRA 114.

[10] People vs. Abonada, supra.

[11] T.s.n., Sept. 29, 1978, 8.

[12] Brief for the Accused-Appellant, 3-4; rollo, 30-31.

[13] T.s.n., July 19, 1978, 2.

[14] Tsn., March 30, 1978, 4.

[15] Rollo, 41-42.

[16] T.s.n., July 19, 1978, 13-14.

[17] Folder of Original Exhibits, Exhibit "A".

[18] T.s.n., March 30, 1978, 11.

[19] People vs. Almenario, G. R. No. 66420. April 17, 1989.

[20] People v. Abonada, supra.

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