

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LEON ALVIS, JR., ACCUSED-APPELLANT.

G.R. No. L-46125. September 30, 1982

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

Charged with, and convicted of, rape in the Court of First Instance of Quezon, Leon Alvis, Jr. was sentenced to reclusion perpetua and to pay costs.

Appealing from the judgment, appellant assigns as errors the following:

"1. The trial court erred in giving undue weight and credence to the uncorroborated and unnatural story of the complaining witness.

"2. The trial court erred in denying accused-appellant's motion to acquit.

"3. The trial court erred in convicting the accused of the serious offense of rape when there is no evidence that the accused had carnal knowledge of the complainant." [1]

Appellant's contention, as above indicated, is without merit, judged from the facts as established by the evidence of the prosecution narrated in the People's brief as follows:

"On March 11, 1976, at around 11:30 o'clock in the evening, complainant Anastacia Resurreccion, a widow, 36 years old, was sleeping in her house at Barrio Pahinga, Candelaria, Quezon, together with Gemma, her three-year old daughter (pp. 2-3, tsn, May 31, 1976). Her four other children were then at the house of her father at Barrio Canda, Sariaya, Quezon (p. 3, tsn, May 31, 1976). Suddenly, Anastacia was awakened by a knock at their wall and heard the voice of her son-in-law, Leon Alvis, Jr., herein accused, calling her "Inay," and requesting her to open the door (p. 4, tsn, May 31, 1976).

"When she finally opened the door, Leon Alvis, Jr. suddenly grabbed her by her hands and dragged her downstairs at a distance of five meters (p. 6, tsn, May 31, 1976). While downstairs, Alvis clutched her dress and held her nape (p. 6, tsn, May 31, 1976). Anastacia struggled and tried to shout, but he covered her mouth and ripped her dress open near her breast (p. 6, tsn, May 31, 1976). Anastacia continued to struggle. Alvis therefore continued to box her on the breast and left eye and to bump her head on the ground (p. 7, tsn, May 31, 1976).

"Anastacia who then became very weak, felt that Alvis was removing her panties. After removing the same, he sat on her private organ (p. 7, tsn, May 31, 1976). She pleaded with the accused saying 'Totoy, don't, because you are already my son,' but instead of heeding her, Alvis boxed her again on the breast which rendered Anastacia unconscious (p. 8, tsn, May 31, 1976).

"When she regained her consciousness, Alvis had already left. She was naked and felt pain all over her body especially on her private part (p. 8, tsn, May 31, 1976). She also discovered that she lost her earrings and false teeth (p. 39, tsn, July 9, 1976).

"Thereafter, she went up her house, dressed up and proceeded to the house of her neighbor Patricio de Chavez to ask for help (p. 9, tsn, May 31, 1976). Upon seeing her condition, Patricio de Chavez reported the matter to the barrio councilman Zacarias de Chavez (p. 9, tsn, May 31, 1976). She was then brought to the Community Clinic at Candelaria, Quezon, where she was physically examined by Dr. Godofredo Montecillo who issued a medical certificate (Exh. C) containing the following findings:

- '1. Contusion and hematoma, 2 cm diameter right eyelids
- '2. Subconjunctival hemorrhage right eye
- '3. Contusion, vertex
- '4. Contusion and hematoma 2" x 2" occipitoparietal, left
- '5. Contusion and abrasion, forehead, left
- '6. Contusion, nose and upper lip
- '7. Hematoma, 1 cm x 1 cm, chin
- '8. Contusion, left cheek
- '9 Three linear contusions about 1 inch long each left side of neck
- '10. Contusion, chest area, right
- '11. Hematoma and contusion, left leg, anterior, proximal 3rd about 2.5 cm in diameter
- '12. Abrasion, left elbow and abdomen just above the umbilicus, 1 cm by 2 cm
- '13. Contusion, right thigh posterior.'

"Speculum examination of vagina:

- '1. No fresh lacerations, no bleeding
- '2. Presence of sand particles in the introitus and mons veneris
- '3. Presence of moderate amount of whitish to yellowish mucoid substance in the posterior fornix
- '4. Microscopic examination of vaginal fluid - positive for live sperm cells' (pp. 9-10, tsn, May 31, 1976)

She stayed at the hospital for five days (p. 10, tsn, May 31, 1976). Upon her discharge from the hospital, she went to the Municipal Building of Candelaria where she executed an affidavit before Col. Manuel Legaspi of the Candelaria Police Force (p. 10, tsn, May 31, 1976). Thereafter, she filed a case for rape against herein accused, Leon Alviz, Jr. (p. 10, tsn, May 31, 1976)."[2]

In assigning the first error of the trial court, appellant claims that the testimony of the complainant is unnatural to be believed, first because appellant would not have had to forcibly bring complainant downstairs and there raped her, instead of doing the act right in her room; second, because she did not tell Patricio de Chavez that she was mauled and raped; and third, complainant did not shout as she should have done if she was ravished against her will.

If appellant brought complainant downstairs there to ravish her, it is because there was her three-year-old daughter sleeping upstairs with her. If awakened, as she was sure to be, by the noise occasioned by the struggle, the daughter would witness the sex act and testify against appellant, the child being already of such age as to be able to relate what she would see with sufficient coherence and clarity.

It is absolutely not true that complainant did not tell Patricio de Chavez what happened to her. The contusions and the black-eye visible on complainant were, in themselves, enough to tell what happened to her. Moreover, the records show that when Zacarias Chavez arrived at Patricio's house, and asked what happened to complainant, the latter replied that she was raped by appellant, her son-in-law. The records do not show that complainant did not tell Patricio that she was mauled and raped. She did not testify to that effect, nor did Patricio.

As to complainant not shouting when appellant assaulted and ravished her, again appellant's assertion is not supported by the records. The evidence is clear in showing that complainant wanted to shout and did try to, but appellant covered her mouth.[3] After having been repeatedly boxed and her head even bumped against the ground, she naturally got so weakened to be able to shout, or even just to try to in her state of weakness and shock.

Likewise, counsel's contention that the examining physician did not corroborate complainant's testimony that she was raped by her son-in-law is a brazen distortion of the evidence. The medical findings of physical injuries and presence of sperm cells in her private parts, together with the doctor's own testimony that the presence of the male sperm cells indicates actual penetration or introduction of the substance into the complainant's private parts[4] proves the falsehood committed by appellant's counsel.

With all the evidence as above assessed and analyzed, how can appellant assert that there is no evidence that he had carnal knowledge of complainant? His claim that what was proven was only the infliction of physical injuries. This crime is, however, not included in the charged crime of rape which is of a different class of offense--crime against chastity as distinguished from crime against persons--and, therefore, will not legally permit conviction on the basis of what was proven, being at variance with what was alleged as the crime committed.

Contrary to appellant's unsupported claim, the crime charged was proved with overwhelming evidence. The testimony of complainant, given with no motive for her to testify falsely against her own son-in-law, as none of any worth was shown by the defense, in itself deserves full and faith credence. It becomes more so with the corroboration found in the testimony of the examining physician and his medical findings, and that supplied by the testimony of Zacarias de Chavez who brought her to the hospital after being told by complainant that she was mauled and raped by appellant. This statement forms part of the *res gestae* because it was given after the startling incident complainant had just gone through, who may thus be assumed to be then still under the influence of such a shocking occurrence.

As early as in *U.S. vs. Ramos*,⁵ a 1901 decision, it was said that when a woman testifies that she has been raped, she says all that is needed to signify that the crime has been committed. This is so against any man committing the crime. It is more so when the accusing words are said against a close relative, as a son-in-law that appellant is to complainant.

WHEREFORE, with the modification that an indemnity of P12,000.00 be ordered paid to the complainant by appellant, the judgment appealed from is affirmed in all other respects, with costs.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., Guerrero, Abad Santos, and Escolin, JJ., concur.

[1] pp. 1-2, Brief for Appellant; p. 44, Rollo.

[2] pp. 1-4, Brief for Appellee; p. 61, Rollo.

[3] p. 6, *t.s.n.*, May 31, 1976.

[4] p. 22, t.s.n., May 31, 1976.

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