

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ISAAC SENON, JR., DEFENDANT-APPELLANT.

G.R. No. L-36606. March 25, 1983

Ponente: CONCEPCION JR., J.

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CONCEPCION JR., J.:

The accused Isaac Senon, Jr. was charged before the Court of First Instance of Iloilo with Rape committed as follows:

"That on or about March 23, 1971, in the municipality of Pototan, province of Iloilo, Philippines, and within the jurisdiction of this Court, the said accused, armed with a sharp pointed instrument (pinote), with deliberate intent and by the use of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with Thelma A. Diva against her will and consent."

Judgment was rendered on the case on March 9, 1975 whereby the said accused was sentenced, under the charge aforesaid, to suffer the penalty of reclusion perpetua, with the accessory penalties of the law, to indemnify the complainant Thelma A. Diva in the amount of P5,000.00, without subsidiary imprisonment in case of insolvency, and to pay the costs. From that sentence, the accused appealed to this Court.

The evidence of the prosecution is summarized in the People's Brief, as follows:

"On March 23, 1971, complainant Thelma A. Diva was a house guest of Lolita Zerrudo; the former's housemaid, to attend the fiesta of Barrio Cawayan, Pototan, Iloilo, where the house of Lolita Zerrudo was located. At around three o'clock in the morning, while complainant was alone in the house, accused-appellant Isaac Senon, Jr. knocked at the said house of Lolita Zerrudo and forced the door open. Complainant had stayed home because she was not feeling well on account of her menstruation. Having gained entrance inside the house, accused-appellant put out the light and pointed his butcher's knife at complainant. Complainant shouted for help. Felipe Pasaporte, a neighbor heard the shout. Accused-appellant then removed complainant's panty and had carnal knowledge of her for three times admonishing her not to move or else he would stab her with his butcher's knife. While she was being abused, she tried to wrest the possession of the knife from accused-appellant and as a result she was wounded in her hand. These wounds were indicated in the Medical Certificate. After raping her, accused-appellant told complainant to put on her panty and thereafter dragged her out of the house. Felipe Pasaporte, whose house was around 8 meters away from the house where complainant was staying, saw the complainant being dragged out by accused-appellant from the house. Complainant was brought to the house of accused-appellant at Carasan, Dingle, Iloilo. Upon arriving at the house of the accused-appellant, complainant told the parents of accused-appellant that their son had carnal knowledge with her in the morning of March 23, 1971.

"Meanwhile, complainant's maid, Lolita Zerrudo, upon knowing that complainant was missing after having been raped, reported the matter to Elias Alarcon, uncle of complainant, at around five o'clock in the morning of March 23, 1971. From the information gathered by Lolita Zerrudo, complainant was brought to Carasan, Dingle, Iloilo. Elias Alarcon then requested Lolita Zerrudo to go to Carasan, Dingle, Iloilo, to look for complainant. Thereafter, he proceeded also to Carasan, Dingle, Iloilo, to look for the complainant. According

to information he gathered from the people in Carasan, they saw Isaac Senon, Jr., accused-appellant with a woman, so he went to appellant's house where he found complainant crying and trembling. Lolita Zerrudo was already there. Complainant told him that Isaac Senon, Jr. raped her in the house of Lolita Zerrudo. At around 10:30 o'clock in the morning, after talking with complainant, Elias Alarcon left without the knowledge of the former and proceeded to the municipal building of Pototan, Iloilo, to report the matter to the police authorities.

"Pat. Silverio Pueyo, together with Pat. Serafin Elisan and Pat. Remo Dichoso, who were assigned by Chief of Police Justiniano Guanco to investigate the matter, went to the house of Lolita Zerrudo in Cawayan, Pototan, Iloilo, where they found bloodstains in the stairs, at the post of the fence, and door of the partition. However, they were not able to see Lolita Zerrudo who, according to her husband, was in Carasan, Dingle, Iloilo. They did not also find in Cawayan, Pototan, Iloilo, the accused-appellant and the complainant. The Chief of Police then instructed Pat. Pueyo to go to Dingle, Iloilo, to seek the help of the policemen therein locating the whereabouts of complainant because according to information they received, she was in Carasan, Dingle, Iloilo.

"With a policeman as his guide, at around 11:00 o'clock in the morning of March 23, 1971, they arrived in the house of accused-appellant and found complainant there together with Lolita Zerrudo and the parents of the accused-appellant. Complainant, when asked why she was there, told Pat. Pueyo that she was raped by Isaac Senon, Jr. and added that she got wounded when she tried to wrest the possession of the knife from the accused-appellant. She also told Pat. Pueyo that she was brought to appellant's house by force. In the afternoon of March 23, 1971, complainant was brought to the Office of the Chief of Police where she was investigated by Pat. Pueyo. Upon instruction of the Chief of Police, she was brought to the Doña Trinidad Bolinar Memorial Hospital at Pototan, Iloilo, for medical examination. Dr. Melchor Albano, Junior Physician of said hospital treated complainant and issued a medical certificate, 'Exhibit A' with the following findings:

- '(1) Incised wound 1 cm. superficial (a part of skin) anterior aspect, proximal 3rd right index finger;
- '(2) Incised wound 1 cm. skin deep, anterior aspect, distal 3rd right thumb;
- '(3) Incised wound 1/2 cm. superficial (a part of skin) anterior aspect, proximal 3rd right middle finger;
- '(4) Incised wound 2 cms. skin deep, anterior aspect, distal 3rd right middle finger;
- '(5) Incised wound 1/2 cm. superficial (a part of skin) anterior aspect, middle 3rd right small finger;
- '(6) Incised wound 1-1/2 cm. superficial (a part of skin) anterior aspect, distal 3rd right small finger;
- '(7) Abrasion (linear) 4 cms. medial aspect, middle 3rd right arm;
- '(8) Abrasion (linear) 3 cms. medial aspect, middle 3rd right forearm;
- '(9) Abrasion (linear) 5 cms. lateral aspect, middle 3rd right forearm;
- '(10) Abrasion (linear) 1/2 cm. posterior, medial aspect, middle 3rd left forearm;
- '(11) Abrasion (linear) 1/2 cm. right elbow;
- '(12) Lacerated wound 1 cm. skin deep between the thumb and index finger right;
- '(13) Lacerated wound 1 cm. vaginal mucosa (6 o'clock fourchette) vulva;
- '(14) Hymen - not intact, (vaginal orifice) admits 2 fingers with slight resistant.'

"Thereafter, a complaint for rape was filed by complainant against accused-appellant.

"On March 24, 1971, accused-appellant surrendered to the Office of the Chief of Police."

The accused, upon the other hand, claims that no rape was committed since the alleged offended party, Thelma A. Diva, was a willing participant in the sexual act complained of. He declared that he went to Barrio Cawayan in the afternoon of March 21, 1971, to see the games in the auditorium, it being the barrio's fiesta. While there, he was introduced to Thelma A. Diva by Lolita Zerrudo who later invited him to eat supper at their house. After the introductions, he chatted with Thelma and invited her to go with him to the dance to be held the next evening. He reiterated his invitation in the house of Lolita Zerrudo where he ate his supper, but Thelma coyly answered that she would just see the following evening, anyway he would be eating his supper again in the house of Lolita Zerrudo. After eating, he went home.

The next evening, March 22, 1971, he returned to the house of Lolita Zerrudo where he again ate his supper. He again talked with Thelma and reminded her of his invitation to go to the coronation ball that evening. Again, Thelma coyly answered that "she will just see first." As they were talking, he noticed something in the hands of Thelma and asked her what happened. Thelma answered that she was wounded while she was helping in the cooking that morning.

In the house of Lolita Zerrudo, the accused met Iloc Zerrudo, a brother of Lolita Zerrudo, who invited him to his house nearby for a drink, so that after supper, he informed Thelma that he was going to the other house first and promised to come back for her, and Thelma consented. He left, and went to the house of Iloc Zerrudo, where they drank beer. After drinking two bottles, he left as he was going to fetch Thelma and take her to the dance. The time was about 7:30 o'clock in the evening.

When he arrived in the house of Lolita Zerrudo, he called and Thelma opened the door. She beckoned him to come up and take a seat. After taking a seat, he told Thelma to change her dress so that they could go to the dance. But, Thelma answered that she was lazy and did not want to leave. He insisted, but Thelma said that she was not feeling well. So, he sat down beside her and took her hand to find out if she was indeed sick. When Thelma did not resist, he put his hand on her shoulder and kissed her. She asked him why he kissed her when she is not his girl friend and he replied that he is determined to marry her and continued to kiss her. Thelma did not spurn his advances so that he blew out the lamp, held her by the waist, and led her to the bedroom where they had sexual intercourse. After it was over, Thelma cried. She was apprehensive that he might not marry her. To assure her, he told Thelma to go with him to his house and so, they eloped.

On their way, and while they were crossing a foot bridge made out of a single piece of bamboo, Thelma slipped and fell on a thorny branch of a camachile tree, resulting in the scratches and bruises in her thigh and hands. They passed by the house of Agapito Miser and requested him to accompany them as he was afraid of what his father might do or say upon seeing him with a woman. When they reached their house, his father inquired why Thelma was with him and he answered that they were there to ask permission from him to get married. His father also asked Thelma why she went with him and she answered that she was going to marry the accused. However, his father told her that he cannot decide on their marriage without consulting the parents of Thelma.[1]

In the morning of March 23, 1971, Elias Alarcon, an uncle of Thelma, came to the house of the accused at Carasan to fetch Thelma, but Thelma refused to go with him. So, Elias Alarcon left to fetch the parents of Thelma. In the afternoon, the parents of Thelma came. Her father asked Thelma why she went with the accused and Thelma answered that she went because she wanted to. Her father also asked her: "What do you want, do you want to get married?" and Thelma said "Yes". Her parents tried to take Thelma home with them, but Thelma refused to leave. She clung to the bed posts. It was only after they had assured her and the parents of the accused that she and accused would get married the following day in Pototan that Thelma relented and went with them.[2] But, when the accused arrived in Pototan for his supposed wedding, he was confronted, instead, by a complaint for rape, and was detained by reason thereof.[3]

Upon the facts of the case, We are fully convinced that the allegations of rape have been proven beyond reasonable doubt. Considering the extreme modesty and timidity of Filipino women, especially those in the rural areas, We cannot believe that the herein offended party, whose chastity has not been questioned, could have fabricated facts which would so seriously cause her dishonor. It is also inconceivable for the complainant to allow the accused whom she barely knew, having been introduced to her only the day before, and who was not even courting her, to have carnal knowledge with her.

If there was really an understanding between the complainant and the accused to have sexual communion, why did the complainant shout for help? Felipe Pasaporte, who was staying in the house of his son located near the house of Lolita Zerrudo declared that he heard Thelma shout: "Do not wrestle me" at about 3:00 o'clock in the early morning of March 23, 1971.[4] This testimony has not been rebutted by the accused-appellant.

And why should the accused point a knife at the complainant and for the complainant to wrest its possession from the accused and get wounded as a result? The appellant's explanation that the complainant was wounded while helping prepare food in the morning of March 22, 1971 would be credible if the complainant was wounded only in one or two fingers, but certainly not when she suffered six (6) incised wounds in her hand, as if a knife had been drawn across it.

But, most of all, if the complainant yielded to the accused-appellant, as claimed by him, why did the complainant not marry the accused and, instead, chose to undergo the rigors of a public trial which would subject her to shame and ignominy?

We are not unmindful of the efforts of counsel for the accused-appellant to discredit the testimony of the complainant by pointing out some discrepancies or flaws in the testimony of the complainant concerning the manner by which she was violated. But, said flaws or discrepancies are of minor details which cannot destroy the substance of her testimony or other circumstances that point unerringly to the defendant's guilt. Besides, We have to consider her "mental deficiency". As the trial court observed, Thelma "is of low intelligence and of very poor mentality".

WHEREFORE, the judgment appealed from should be, as it is hereby, **AFFIRMED**. With costs against the appellant.

SO ORDERED.

Makasiar (Chairman), Guerrero, Abad Santos, De Castro, and Escolin, JJ., concur.
Aquino, J., on leave.

[1] t.s.n. of August 11, 1972, pp. 69-86.

[2] t.s.n. of May 26, 1972, pp. 11-20.

[3] t.s.n. of August 11, 1972, pp. 88-89.

[4] t.s.n. of November 15, 1971, p. 4.

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