

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CAMILO RAMIREZ, ACCUSED-APPELLANT.

G.R. No. L-39007. August 21, 1982

Ponente: RELOVA, J.

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RELOVA, J.:

Camilo Ramirez appeals from the decision of the Court of First Instance of Nueva Vizcaya, finding him guilty beyond reasonable doubt "of rape by direct participation, without the attendance of mitigating or aggravating circumstance," and sentencing him "to Reclusion Perpetua, to indemnify the complainant in the sum of P1,000.00 by way of moral damages, and to pay the costs."

The version of the prosecution is given in the People's brief as follows:

"The principal characters in this crime of passion are not unknown to each other being residents of the same town of Bambang, Nueva Vizcaya. In fact the house of the complainant, Maria Cabatu Andres, is just below the house of the appellant, Camilo Ramirez, and whenever the latter would go to the mountain to get firewood, he has to pass the house of the former (pp. 14-15, tsn., Vol. II; pp. 2-3, Vol. III).

"In the afternoon of January 28, 1974, Maria in the company of her common-law-husband, Eugenio Andres, who is an ice cream vendor, went to Bayombong, Nueva Vizcaya, in order to buy ice at the house of Pepe and apa at a store known as 'Sampaguita' (pp. 27-28, tsn., Vol. I; pp. 15-17, tsn., Vol. II). After they were through with their buying chores, Eugenio Andres told his wife Maria, to return to Bambang because he will go to the Center Theater to see a movie. They separated from each other and he alighted at the gasoline station of Mr. Ligot (pp. 27-28, Vol. I; pp. 17-19, tsn., Vol. II). Follow-ing the instruction of her husband, Maria proceeded home and after arrival she covered the ice they bought with rice husk (pp. 19-20, tsn., Vol. II).

"Between the hours of 7:00 and 8:00 o'clock in the evening of the same day, Maria went out of her house to buy kerosene. Upon reach-ing the Caltex station owned by Saddul she met the appellant who inquired about the whereabouts of her husband. She replied that he had not yet arrived home because he went to a movie (pp. 21-22, tsn., Vol. II). Upon returning to her house and after putting kerosene in her lamp, Maria laid down and rested. Sometime later, she heard somebody calling ' Apo.' Recognizing the voice as that of the appellant, she got up and went to the batalan from where the voice came. There she met the appellant who at once informed her that she could sur-prise her husband and his paramour at the Rock Garden (pp. 22-29, tsn., Vol. II). Curious and jealous at the same time, Maria readily followed the appellant who led the way to the Rock Garden. They went by way of the National Road and then passed the Central School of Bambang, Nueva Vizcaya (P. 29, tsn., Vol. II). Upon reaching the Rock Garden, the appellant led Maria to climb some rocks after which he suddenly told her that he is madly in love with her, simultaneously embracing and kissing her. Maria resisted his lustful advances, but the appellant nonetheless grappled the latter and tried to lay her down. In the ensuing struggle, Maria was able to stand up and tried to run away, but the appellant held both of her hands and carried her to the water tank. However, the victim continued to struggle and fight back and asked her tormentor why he was doing such a thing to her when she should respect her for her age. The appellant momentarily released his hold on Maria (pp. 29-35, tsn., Vol. II), but soon thereafter, he pulled Maria to a wall and forced the latter to lay down by pinning both of her hands. Helpless and no longer able to ward off the

bestial over-tures of the appellant, the latter was able to have sexual intercourse with Maria (pp. 35-40, tsn., Vol. II).

"After he had satisfied his sexual lust, the appellant left the place while Maria walked back to town with the thought of going to the municipal building. On the way, she met her husband Eugenio Andres, who had arrived in Bambang after a much delayed trip because the Pantranco bus on which he rode had engine trouble (pp. 40-42, tsn., Vol. II; pp. 29-35, tsn., Vol. I). Upon meeting her husband, Maria told the latter that somebody had fooled her, but her husband counselled her that they go home first and eat. But in the house, Maria's husband could not eat at all, so they went down and proceeded to the municipal building.

"On the way, Maria intimated to her husband the sordid incident that befell her (pp. 42-44, tsn., Vol. II). When they reached the municipal building, Maria reported her sad experience to Policeman William Valmores who immediately entered her complaint in the police blotter, after which he proceeded to apprehend Camilo Ramirez (pp. 4-6, 6-7, pp. 44-47, tsn., Vol. II; Exhibit B).

"Also that same night, Maria in the company of her husband and Patrolman Valmores went to the Magsaysay General Hospital located at Bambang, Nueva Vizcaya where she was physically examined by Dr. Antonio Vidad, Jr. (pp. 9, 11-12, tsn., Vol. I; pp. 6, 48-51, tsn., Vol. II). Said doctor issued a medical certificate of his findings (Exhibit A) stating that the victim has a hymen with rounded non-cooptable edge and the vagina positive for spermatozoa motile (pp. 12-15, tsn., Vol. I; Exhibit A, p. 2, Rec.)."

Appellant testified in his behalf, and his testimony is set forth in the decision appealed from as follows:

"The accused testified that on his way to a wedding dance between 7:00 and 8:00 o'clock P.M. on January 28, 1970, at the Saddul Gasoline Station in Bambang, Nueva Vizcaya, he met the complainant who, unasked, informed him that her husband was not at home as she instructed him to see a movie. And she invited him to go with her some-where. She held a paper bag a foot long. The accused followed her to the Rock Garden of the Bambang Elementary School which is outside the Bambang town proper. On a flat rock they sat and the complainant brought out the contents of the paper bag, consisting of 3 eggs and 2 bottles of beer, handed them to the accused, and told the latter to eat and drink, which in fact the latter did. As the accused ate and drank, the complainant revealed to him that her husband abstained from sexual intercourse with her and she requested the accused to sexually satisfy her. To arouse the accused, the complainant embraced him, held his penis, sought to unbutton his trousers, and laid herself on the rock with bared thighs and private parts, her duster raised up to her navel. Despite one hour of seduction by words, caresses and erotic manipulations, the accused remained unresponsive. The complainant gave the accused P3.00 and told him before they parted to come back to her after the dance. The accused proceeded to the wedding party and remained there as long as the P3.00 given by the complainant lasted the imposed damage during the dance. Then he went to his brother-in-law's house to sleep. At 1:00 o'clock A.M. he was awakened, apprehended, and locked in the municipal jail by Patrolman William Valmores based on the charge of rape of the complainant."

Our review of the evidence in the record has made us disagree with the finding of guilt by the trial court. As stated by Chief Justice Enrique M. Fernando in G.R. No. L-45245, entitled: *People vs. Marcelino T. Gabilan*, "it is in cases of this character that the invocation of the constitutional presumption of innocence calls for an acquittal in the absence of proof of such character as would enable a judge to reach the point of moral certainty." And, considering that in criminal prosecution, the state must rely on the strength of its own evidence and not on the weakness of the defense, We cannot bring ourselves to agree that appellant was guilty beyond reasonable doubt of the crime of which he was convicted by the trial court. Complainant's testimony was the only evidence on which the alleged rape was perpetrated. Thus, appellant's guilt must have to depend on the inherent credibility of such testimony to the extent of leaving no reasonable doubt that appellant had indeed committed the act imputed upon him. Consider the following circumstances:

1. Complainant was 50 years old at the time of the incident, whereas appellant was only 22. It is hard to believe

that a man of his age and who is single would fall for a woman who could be his mother and already living with a common-law-husband. It is more likely that it was the complainant who fell in love with appellant.

2. According to complainant she was fetched from her house by appellant so that they could surprise her husband and his paramour at the Rock Garden. It is quite unnatural for a wife to just leave the house and follow appellant without even inquiring about the identity of the other woman. What is more likely is, when complainant met appellant at the Caltex station to buy kerosene, they agreed to meet at the Rock Garden.

3. According to complainant, she struggled to resist the lustful advances of appellant who was able to lay her down on the rocky ground until he succeeded in getting away from him. They further struggled until appellant pulled her to a wall and succeeded in forcing the latter to lie down by pinning both her hands. Few hours thereafter, she was examined by Dr. Vidad who did not find any injury in her body which would indicate the use of force exerted upon her during the act of intercourse. There was no abrasion or contusion found at her back or buttocks.

4. It is hard to imagine how the rape could have been perpetrated against the complainant who declared that she was forced to lie down by pinning both her hands and while in that position appellant was able to manage to raise her skirt, spread her legs, unbutton his pants, and perform the sexual act.

5. After the alleged sordid act, complainant alleged that she was on her way to the municipal building to report the matter. On her way, she met her common-law-husband Eugenio Andres to whom she immediately mentioned that she was deceived by someone. Why did she not tell him right there and then that appellant had raped her? It was only after they had gone home and were proceeding to the municipal building that she managed to tell her common-law-husband that she was raped by appellant. Would she have told him what had happened to her had she not met her common-law-husband when she came from the rock garden? Otherwise stated, was she not forced to tell him a story considering the time of the night when she came from the rock garden?

Again, the Supreme Court, speaking thru then Associate Justice Fernando (now Chief Justice), in *People vs. Dramayo*, 42 SCRA 60, held that "accusation is not, according to the fundamental law, synonymous with guilt; the prosecution must overthrow the presumption of innocence with proof of guilt beyond reasonable doubt. To meet this standard, there is need for the most careful scrutiny of the testimony of the state, both oral and documentary, independently of whatever defense is offered by the accused."

In view of the foregoing, the judgment of conviction cannot stand. The presumption of innocence calls for a reversal of the judgment.

WHEREFORE, upon reasonable doubt, the trial court's judgment is reversed and appellant Camilo Ramirez is acquitted of rape, with costs de oficio.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Melencio-Herrera, Plana, and Vasquez, JJ., concur.
Gutierrez, Jr., J., on leave.

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