

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CRISPINIANO MAURO, DEFENDANT-APPELLANT.

G.R. No. L-37323. October 23, 1982

Ponente: RELOVA, J.

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RELOVA, J.:

Appeal from the decision of the Court of First Instance of Zambales finding the accused Crispiniano Mauro, guilty beyond reasonable doubt of the crime of rape, the dispositive portion of which reads as follows:

"WHEREFORE, the Court finds the accused Crispiniano Mauro guilty beyond reasonable doubt for the crime of RAPE as defined and penalized under Article 335 of the Revised Penal Code as amended by Republic Act 4111 and he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA, with all the accessory penalty of the law, and to indemnify Maria Merced in the sum of P5,000.00, but without subsidiary penalty in case of insolvency, and to pay the costs."

Prosecution's evidence is as follows:

After taking her lunch on July 1, 1972, the complainant Maria Merced took her siesta alone in the middle of the floor of her hut at barrio Tubo-Tubo Norte, Sta. Cruz, Zambales. Her husband Santiago Merced at the time was in the farm, while her two (2) sons Teofilo and Domingo were in their landholding some forty to fifty meters away. She was wearing a blouse and a blue pants, zippered in front. Before going to sleep, she placed above her head a bolo.

About ten meters away from her house was the house of the accused Crispiniano Mauro, separated by a two strand barbed wire fence.

She was suddenly awakened when her pants were unzipped and ripped apart, and found appellant Crispiniano Mauro, naked, on top of her and committing sexual intercourse with her. She tried to free herself from his embrace and shouted for her son, Teofilo to come and help her. She then felt the bolo over her head and hacked appellant on the left side of the head above the ear. As Mauro tried to wrest away the bolo, complainant was wounded on her right forefinger.

Teofilo heard his mother's shouts, left the carabao to his younger brother Domingo and ran to their house. He saw his mother lying on her back, fighting to extricate herself from Mauro who was on top of her, naked. Teofilo got a piece of wood to hit Mauro but the latter jumped out of the house and ran away. Teofilo left to call for his father who was plowing in another field.

Immediately, complainant, her husband and son Teofilo went to barrio Councilman Gregorio Mana to report the matter. Mana brought them to barrio Captain Francisco Casimiro where the incident was again recounted. They all went back to the scene of the crime, in the house of the complainant and Maria narrated how she was raped in the middle of the floor and how she wounded the accused on the head with a bolo. Spots of blood were seen inside the house.

Thereafter, they all went to the poblacion of Sta. Cruz, Zambales and reported the matter to the mayor. They were told to proceed to the municipal building to inform the police who entered the incident at the police blotter.

The following day, complainant was examined by Dr. Fuñe.

On July 6, 1972, a complaint for rape was filed against herein appellant by Maria Merced.

The version of the defense is:

Appellant Mauro was in his field in Tubo-Tubo, Sta. Cruz, Zambales that afternoon of July 1, 1972 when complainant arrived to borrow one (1) ganta of rice for lunch. Mauro answered that he would first ask his wife Patrocinia if they have rice to spare. He went home and told his wife to measure one (1) ganta of rice after which Patrocinia shouted to the complainant: "Maria, you come and get the rice." Maria answered: "Will Manong kindly bring the rice to our house."

When Mauro arrived with the rice, he saw Maria wearing a khaki shirt with short sleeves and a khaki short pants. Maria was alone in the house and after measuring the rice he brought, she began caressing him by placing her arms on his shoulders and sitting on his lap. She then said: "Manong will you kindly make it five (5) gantas," explaining that she will use the rice to feed 20 persons who will plant palay the next day. At that juncture, Santiago, the husband of complainant arrived and upon seeing the two, immediately boloed Mauro hitting him above the ear. The complainant attempted to grab the bolo from her husband and wounded herself in the process. Mauro ran away, chased by Santiago up to the barbed-wire fence which separated their respective yards.

Mauro denied that he jumped through the window and emphasized that Maria was alone in her house at the time, cooking, not sleeping when he went up to deliver the one (1) ganta of rice.

He denied the accusation of having raped Maria that afternoon and alleged that Santiago was a jealous husband and because Maria was afraid of him, she filed this case. Further, he denied that he ever tried to settle the case amicably with the Merceds; that in fact it was they who were demanding the sum of P2,500.00 from him, which, however, he refused saying that: "I have no fault why should I pay P2,500.00."

As correctly stated by the trial court, the vital issue in determining the innocence or guilt of appellant is: Which version - the prosecution or the defense - is credible?

Analyzing the evidence presented by both parties, we are inclined to sustain the recommendation of the Solicitor General that the appealed decision be affirmed for the reasons given by the trial court, to wit:

"1. It is well established in the record that this incident occurred about three or three-thirty in the afternoon of July 1, 1972. At that time it was too late for the day for Maria Merced to be cooking lunch. And Mauro said she borrowed a ganta of rice for lunch. It was too early to be cooking for supper. But it was the right time for a siesta. So it was more probable that Maria was sleeping at that moment than she was cooking.

"2. If Maria was in need of a ganta of rice that afternoon, she would not go first to the field where Mauro was working to borrow the cereal. It was more logical for her to go to the house of Mauro which was just ten meters away and asked his wife, Patrocinia, to lend her a ganta. After all, custom has it that a housewife would borrow items of the household from another housewife. Never from the husband. And if one borrows a thing he would get it himself from the lender. It would be abusive to tell the lender to bring the item to the borrower.

"3. The evidence of the defense shows that Patrocinia was sick that afternoon. Because she was sick she should be lying down and resting. Yet Mauro told her to measure a ganta of rice, a chore he could easily do. But was Patrocinia ill? The evidence of the prosecution discloses that she was not. She was in a field one and one-half kilometers from her house pulling palay seedlings with Susana Ebuengamana and others from eight o'clock in the morning till five o'clock in the afternoon of July 1, 1972. The court gives more credence to the claim of

Ebuengamana than to the protestation of the accused and his wife. Ebuengamana has no interest in this case. The accused and Patrocinia have.

"Maria Merced told the Court that she was raped by the accused. She also said that she boloed and wounded him on that occasion. The bolo was exhibited in court (Exh. E). The wound of Mauro was treated by Dr. Montejo who testified so. The blood from the wound of Mauro was seen on the floor of the Merced's house by barrio Captain Casimiro. The wound suffered by Maria Merced when she held on the weapon as the accused tried to snatch it from her was treated by Dr. Fuñe. The testimony of Maria Merced was corroborated by Teofilo Merced who responded to the cries for help of his mother and found the accused on top of his mother, naked. The accused could be naked because he knew nobody was in his house and Maria Merced was alone in hers and no one was within the vicinity to see him and so that he could easily and at once perform the sexual intercourse.

"5. If it was true, as the defense claims, that it was Santiago Merced who boloed Mauro, it was more logical for the latter to disarm the former. Maria Merced would not try to wrest the weapon from her husband who found her *in flagrante delicto*. In his fury, Santiago Merced could even kill his wife if he really found her on the laps of Mauro.

"6. When Maria Merced woke up, the accused had already consummated the rape. He had unzipped and ripped the pants of Maria (Exhibit A) and introduced his organ into her genitals and in fact he was having sexual intercourse with her. It is immaterial whether Dr. Fuñe did not find any spermatozoa in the smear that he took from the vagina of Maria the day following the rape, as stressed by the defense. It could be that Mauro did not ejaculate yet when Maria woke up and fought for her chastity, or the penetration of his organ was not deep enough and was just at the threshold of the female organ, and washed away. But any penetration, whether deep or only at the threshold of the female organ, is sufficient to constitute the crime of rape. The lack of spermatozoa or gonococci is not incompatible with the consummation of this crime.

"7. The accused did not mention that he had any prior amorous relation with Maria Merced. He did not even intimate in his testimony that before this incident Maria Merced had shown an interest in him, nor him in her. It is presumed that Maria Merced is a virtuous woman. It is also a fact which the accused admitted that he is an ex-convict who served a prison term for the crime of qualified theft - a crime involving moral turpitude. His moral fibers were weak. In the circumstance, it is unbelievable that this woman would caress Mauro and sit on his laps just to make him agree to a loan of some more rice. It is more probable for Mauro to be overcome by his beastly desire and raped the woman whom he found sleeping alone and defenseless.

"8. It is very credible that if it were Santiago Merced who hacked Mauro with the bolo the latter would have died. The Court noted carefully the physical structures of the two. Santiago Merced is bull-necked, stocky and with bulging muscles. Mauro is thin and worn out.

"9. The Court cannot believe that it was Santiago Merced who tried to settle this case amicably and asked P2,500.00 from Mauro for that purpose. Being the offended party it was illogical for him to do so. What is logical is for Mauro to make the offer. Any way, this fact has not surfaced categorically in the record. The claim of both prosecution and the defense on this point is inconclusive."

It is a well-settled rule that where the issue is one of the credibility of witnesses, appellate courts will generally not disturb the findings of the trial court, considering that it is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial, unless it has plainly over-looked certain facts of substance and value that, if considered, might affect the result of the case. (People vs. Espejo, 36 SCRA 401)

WHEREFORE, the judgment appealed from is hereby **AFFIRMED** in toto. Costs against the appellant.

SO ORDERED.

Melencio-Herrera, Plana, Vasquez, and Gutierrez, Jr., JJ., concur.
Teehankee, J., (Chairman), in the result.

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