

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROGELIO ARAGONA ALIAS "IPE";
ACCUSED-APPELLANT.**

G.R. No. L-43752. September 19, 1985

Ponente: CUEVAS, J.

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CUEVAS, J.:

Charged with and prosecuted for RAPE before the then Court of First Instance of Pangasinan in Criminal Case No. L-1033, for having carnal knowledge of Elenita Cagaoan through force and intimidation, ROGELIO ARAGONA alias "IPE" was, after trial following a plea of NOT GUILTY upon arraignment, convicted as charged and thereafter sentenced to reclusion perpetua; to indemnify the offended party in the amount of P12,000.00; and to pay costs.

Assailing the aforesaid judgment, accused ventilated an appeal therefrom to this Court, contending that the trial court erred —

"I

IN NOT PROPERLY CONSIDERING THE DELAY IN REPORTING THE ALLEGED RAPE COMMITTED UPON HER;

II

IN GIVING WEIGHT ONLY TO THE REPORT MADE BY THE COMPLAINANT TO THE BARRIO CAPTAIN OF ANGARIAN, BUGALLON TO THE EFFECT THAT SHE WAS MERELY KISSED AND NOT RAPED BY THE APPELLANT;

III

IN NOT HOLDING THAT THE CRIME WAS COMMITTED IN A PUBLIC PLACE AND WITHIN THE VIEW OF PASSERSBY;

IV

IN ADMITTING IN EVIDENCE THE MEDICO-LEGAL REPORT OF THE NBI, NOTWITHSTANDING THAT THE EXAMINING PHYSICIAN WHO EXECUTED THE SAME DID NOT TAKE THE WITNESS STAND;

V

IN HOLDING THAT THE ADMITTED MEDICO-LEGAL REPORT SHOWS THAT RAPE WAS COMMITTED UPON COMPLAINANT ELENITA CAGAOAN;

VI

IN GIVING UNDUE WEIGHT TO THE TESTIMONIES OF THE COMPLAINANT DESPITE ITS INHERENT IMPROBABILITY;

VII

IN GIVING UNDUE WEIGHT AND CREDIT TO THE TESTIMONY OF PROSECUTION WITNESS GIL

SANTOS DESPITE HIS BEING A PROFESSIONAL WITNESS AND HIS TESTIMONY BEING INHERENTLY IMPROBABLE AND INCONSISTENT WITH HUMAN EXPERIENCE; and

VIII

IN NOT GIVING DUE WEIGHT AND CREDIT TO THE TESTIMONIES OF THE BARRIO CAPTAIN LAZARO TORRES AND OF OTHER DEFENSE WITNESSES."

all of which assigned errors boil down to the main issue of whether or not the evidence on hand establishes his guilt beyond reasonable doubt.

The pertinent facts that gave rise to the instant prosecution are as follows:

Late in the afternoon of December 30, 1974, Elenita Cagaoan, a fourteen-year old barrio lass from Tumbur, Lingayen, Pangasinan then staying with her grandmother, Anastacia Bañez, in Barrio Angarian, Bugallon, went to fetch water from the pump well of Maria Baltazar, which is about 300 meters away from their place of residence. On her way home, with the can of water on her head, accused-appellant suddenly snatched the can she was carrying. As a result, water spilled all over her body. Appellant grabbed her and simultaneously warned her not to shout otherwise he will kill her. He forced her to lie down on a dike locally known as "pilapil". Despite the warning, Elenita nevertheless succeeded in shouting for help. Appellant then drew his balisong and pointed it against complainant to silence her. Scared and already weakened by her continuous struggle in warding off appellant, the latter succeeded in forcing her to the ground. Kneeling over her, appellant lowered his pants, took off Elenita's panty, placed himself on top of Elenita and inserted his private part into that of Elenita's. Elenita struggled, moved her body and legs in an attempt to extricate herself from the appellant, and simultaneously boxed the latter. Undeterred by the resistance of the complainant, appellant nevertheless continued and finally succeeded in having sexual intercourse with Elenita. After the act, appellant stood up and ran away leaving Elenita behind. Gil Santos, who lives nearby and who heard complainant's shouts, but prevented by the appellant from approaching them, accompanied her.

Arriving at their place, Elenita reported to her grandmother the harrowing experience she suffered at the hands of the appellant. Just about the same time, her uncle Andres Paragas, husband of the sister of her mother, whom Gil Santos met a little earlier, arrived at complainant's place after having been informed of appellant's carnal assault against the complainant. After questioning Elenita, Paragas immediately proceeded to the place of Lázaro Torres, barrio captain of Angarian and reported the incident to the latter. But since it was already too late in the evening, Torres asked Paragas just to be back with Elenita the next morning and assured the former that he will summon appellant.

The next day, Paragas and Elenita, together with Paraga's wife, Maria, and Elenita's grandmother, Anastacia Bañez, went to Barrio Captain Torres' place. Appellant, accompanied by his father, also appeared therein. Torres investigated Elenita and the latter, confronting appellant, told Torres that appellant raped her. Appellant made no denial of the charge leveled against him by Elenita. In the course of said investigation, appellant's father intimated to Barrio Captain Torres his willingness to have appellant marry Elenita just to put an end to the rape charge. The Paragas group, after deliberating on appellant's proposition, finally accepted the marriage proposal. The group was advised by the barrio captain to follow up the said offer. Hence, appellant and his parents committed themselves to see Elenita's parents on January 5, 1975 for the marriage arrangement.

The period agreed upon, however, expired without appellant and his parents having talk to Elenita's parents and the offered commitment to marry complainant Elenita did not materialize. Because of this, Barrio Captain Torres advised Paragas to proceed with the complaint against accused-appellant.

On January 30, 1975, Elenita went to Manila to see her uncle PC Felix Cagaoan. Seeing him, at his place in Pasay

City, Elenita reported to him the sexual abuse committed upon her by the appellant. PC Cagaoan brought complainant Elenita to the NBI where the incident was again reported and investigated. In there, Elenita was physically and medically examined. The report of said examination contained the following findings:

"Genital Examinations:

Public (sic) hairs, fully grown; scanty, labia majora, gaping. Labia minora coaptated. Fourchette, lax. Vestibular mucosa, pinkish, smooth. Hymen, moderately wide, thick, with healed superficial laceration at 3:00 o'clock position, corresponding to the face of a watch; edges of which are rounded, coaptate with difficulty. Hymenal orifice, admits a tube 2.0 cms. in diameter with moderate resistance. Vaginal walls, lax. Rugosities prominent.

Conclusions:

1. No evident sign of extragenital physical injury noted on the body of the subject at the time of examination.
2. Hymenal orifice clinically entertain no possibility for the size of a normally erected penis to have complete penetration."

The defense' evidence on the other hand, based from the combined testimonies of the appellant and his witnesses, tend to show that the incident complained of, was but a mere "kissing incident"; and that accused-appellant could not have possibly committed the crime of RAPE imputed against him because at about six o'clock in the afternoon of that day in question, he was in a different barrio which is about two (2) kms. away from the place where the crime was allegedly committed.

Appellant's plea for acquittal appeared anchored on fragile and flimsy grounds. He would like Us to believe that on the occasion complained of, he did nothing more than kissed the complainant. In short, it is his claim that the complaint for rape was an exaggerated one. And yet in the confrontation between him and the complainant before Barrio Captain Torres, he made no denial of the rape charge leveled against him. So much so that his father, by way of disposing and terminating the complaint against him, even proposed to have appellant marry the complainant. If the complainant's charge was merely that of having been kissed, We see no reason as to why such a monumental proposal would have been made just to put an end to a very minor case. The seriousness of the proposition offered by the appellant's side lends validity, color and truth to the nature of the charges leveled against him. Indeed, said offer of compromise may be considered as an implied admission of guilt.[1] We therefore find no merit in appellant's Assignment of Error Nos. 1 and 2.

Appellant claims that the rape complained of was not sufficiently proven by the prosecution's evidence. He asserts that the medico-legal officer who examined complainant never took the witness stand which therefore renders the report inadmissible in evidence being merely hearsay. Furthermore, the very report itself shows —

"Hymenal orifice clinically entertain no possibility for the size of a normally erected penis to have complete penetration."

It had been consistently held, however, that in a prosecution for rape, the accused may be convicted even on the sole basis of complainant's testimony, if credible. So much so that failure to present a doctor's certificate is not fatal to the prosecution's case.[2] We could not ride along with the appellant's, submittal that simply because there was no complete penetration, no rape was committed. Complete or total penetration of complainant's private organ is not necessary to consummate the crime of rape. The slightest of penetration is sufficient.[3] Neither is the rupture of the hymen essential for the crime of consummated rape.[4] It is enough that there is proof of entrance of the male organ within the labia of the pudendum.[5]

On the other hand, we find significance in this lack of total penetration. Not being sweethearts, coitus was

effected forcibly and not by mutual consent. Hence, the struggle and resistance on the part of the complainant to the carnal abuse perpetrated against her. Contributing to this struggle that prevented total penetration is the appearance of Gil Santos who was accidentally brought to the scene of the crime by the shouts of the complainant, thus aborting and frustrating total conquest of complainant's virginity. In view thereof, we find no merit in appellant's assignment of error nos. IV and V.

Anent appellant's assignment of error nos. II and VI we find it hard to believe that a guileless young barrio lass, an unmarried teen-age, would expose herself to embarrassment and consequences brought about by a public trial where she would testify that she was raped if it is not true.[6] A Filipino woman by her in-bred modesty would not air in public, things that affect her honor, if she was not really raped.[7] And this is so because ordinarily, a young girl of tender age still possesses traditional modesty and generally incapable to fabricate and concoct.[8] Complainant's tender age and straightforward manner of testifying lends credibility to her testimony.[9]

Subsequent events likewise indicate a guilty stance on the part of the appellant. Following that confrontation before Barrio Captain Torres, he went hiding and could nowhere anymore be contacted. So much so that all summons to compel his presence by the said official proved futile. Such an act is inconsistent with innocence. As the saying goes "the guilty flees even if no one pursueth, but the innocent stands as brave as a lion." Furthermore, the records before Us failed to disclose any indication that an attempt of any kind was made to extort anything from the appellant and his family by reason of this case. And even if one was made, it is hardly believable that something could be obtained from the appellant considering his family's financial resources and lowly station in life.

Appellant also faults the trial court for having accepted the medico-legal certificate without the physician who conducted the examination having been presented on the stand, contending that the same is hearsay. We believe otherwise since it was offered and admitted only as part of the testimony of the NBI agent who testified on the same. But even disregarding said medical certificate, still sufficient evidence on record exists that will warrant and support appellant's conviction. As herein earlier pointed out, the lone testimony of the aggrieved party in a prosecution for rape, if credible, is sufficient to sustain a verdict of conviction[10] the rationale being that owing to the nature of the offense, the only evidence that can oftentimes be adduced against the accused is the offended party's testimony.[11]

Finally, We are in full accord with the court a quo's disposition on the alibi interposed by the appellant. Considering the proximity of the place where he claimed to be which is but a distance of three kilometers to the place where the crime was committed, it is not impossible nor is he prevented from being in the latter's place. Indeed, in the light of the positive identification made by the victim and the other prosecution witness of the appellant, said alibi must fall.[12]

As a last-ditch attempt to have the judgment appealed from reversed, appellant insists that rape could not have been possibly committed because it allegedly took place at a point where people usually pass by. We are not impressed with the validity of said argument, charged as we are with notice of rape having been committed even in vicinities or places where people conglomerate such as parks,[13] or by the roadside.[14] In fact, there have been reported cases of rape committed right at the Luneta Rizal Park or even within school premises where people abounds.

That there was alleged delay in reporting the crime, subject matter of the instant prosecution, hardly finds support from the evidence on record. It has been indubitably shown that the incident was immediately reported on the very day it was committed, to the Barrio Captain of Barrio Angarian. This is not seriously controverted by the appellant although his version is — that what was reported was merely a kissing incident. With respect to Gil

Santos, (a witness for the prosecution) being allegedly a professional witness and therefore should not be believed, We find nothing on record that would support such a view.

In convicting the accused-appellant, the court merely imposed upon him the obligation to indemnify the complainant in the amount of P12,000.00; that should now be increased to P30,000.00.

WHEREFORE, and except as thus modified, the judgment appealed from is hereby AFFIRMED, with costs against appellant.

SO ORDERED.

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

[1] Rule 130, Section 24, Rules of Court.

[2] People vs. Mecias, 127 SCRA 792.

[3] People vs. Selfiason, 1 SCRA 235; People vs. Carandang, 52 SCRA 259.

[4] People vs. Centeno, 58 Phil. 963; People vs. Oscar, 48 Phil. 527; People vs. To Chiano, 61 Phil. 1060; People vs. Canatre, 82 Phil. 980.

[5] People vs. Pastores, 40 SCRA 499; People vs. Velasco, 73 SCRA 574, 581.

[6] People vs. Balani, 123 SCRA 614; People vs. Fernandez, 124 SCRA 319.

[7] People vs. Angsioko, 131 SCRA 486; People vs. Sambayan, 125 SCRA 726; People vs. Alcantara, 126 SCRA 726.

[8] People vs. Boydan, 125 SCRA 429.

[9] People vs. Egot, 130 SCRA 134.

[10] People vs. Ramos, 128 SCRA 266.

[11] People vs. Lor, 132 SCRA 41.

[12] People vs. Munar, 131 SCRA 444; People vs. Lorenzo, 132 SCRA 17; People vs. Laganzon, 129 SCRA 333; People vs. Moral, 132 SCRA 474.

[13] People vs. Vidal, 127 SCRA 171.

[14] People vs. Mesias, 127 SCRA 792.

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