

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FERNANDO RAFANAN, APPELLANT.

G.R. No. L-48362. February 28, 1990

Ponente: FELICIANO, J.

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FELICIANO, J.:

Fernando Rafanan appeals from a decision of the then Court of First Instance of Nueva Ecija dated 27 February 1978 which found him guilty beyond reasonable doubt of the crime of rape.

On 31 July 1974, a sworn complaint for rape was filed by Filomena Angala before the Court of First Instance which read as follows:

"The undersigned accuses Fernando Rafanan of the crime of Rape, committed as follows:

That on or about the 9th day of February, 1974 in Cabanatuan City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there, willfully, unlawfully and feloniously, have sexual intercourse with the undersigned against the latter's will.

CONTRARY TO LAW."[1]

Upon arraignment, the accused pleaded not guilty.

After trial, the trial court rendered, on 27 February 1978, a decision the dispositive part of which read as follows:

"WHEREFORE, the accused Fernando Rafanan is hereby declared guilty beyond reasonable doubt of the crime of Rape defined and punished by Article 335 of the Revised Penal Code without any mitigating or aggravating circumstance; and in the exercise of the Court's leniency, he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA, with the accessories of the law, to indemnify the offended party in the amount of P5,000.00 as moral damages, to acknowledge and support her offspring, and to pay the costs."

SO ORDERED."[2]

In his Appellant's Brief, the accused claims that the trial court committed the following errors:

"- I -

The Court a quo gravely erred in not considering properly certain facts and circumstances that militate against finding the appellant guilty of the crime of rape.

- II -

The Court a quo gravely erred in considering and admitting unreliable evidence to prove that appellant left the premises of the school thus, allegedly destroying his defense of alibi.

- III -

The Court a quo gravely erred in finding that appellant is the father of the child allegedly born of complainant

in the absence of any valid and proper proof of the circumstances of said birth.

- IV -

The Court a quo gravely erred in denying to the appellant the right to present vital witnesses who if presented would have thrown more light on the search of truth in this case.

- V -

The Court a quo gravely erred when it convicted the herein appellant of the crime charged in the light of the facts and circumstances brought out during the trial of this case.

- VI -

The Court a quo erred in imposing upon the herein appellant the penalty of reclusion perpetua and to acknowledge and support the offspring allegedly born of the complainant."

The facts found by the trial court were summarized by the court itself in the following terms:

"Filomena Angala was orphaned of her father in a farflung and remote barrio in Mabini, province of Isabela. Being poor with a brother and seven sisters, but in her earnest desire and ambition to pursue her studies further, she decided to leave her place of residence and try her luck in Cabanatuan City. Having been introduced by an elderly woman to the spouses Fernando and Emma Rafanan, she consented to be a household help for the latter, her principal chore being to take care of the three children of the said spouses. It was on January 7, 1974 when Filomena started to work as a household help for the spouses Rafanan.

The accused Fernando Rafanan was then the principal of the High School Department at the Philippine Wesleyan College in Cabanatuan City. His wife Emma was likewise employed as an accountant therein. In their absence during school days, Filomena was the only caretaker of the house. While the spouses Rafanan slept in the second floor of their house with their 2 younger children, Filomena slept in the first floor beside the stairs with Emalyn, an eight-year old daughter of the Rafanans.

In the evening of February 9, 1974, as it was already time to retire, and with Mrs. Rafanan and her two children already upstairs. Filomena prepared her mat and mosquito net in her usual place of retirement on the ground floor. Both Filomena and Emalyn then lied [sic] down to sleep.

As Filomena and Emalyn were both soundly asleep, Filomena was awakened by a man who was already inside the mosquito net and whom she recognized to be the accused Fernando Rafanan. Holding a short firearm and pointing the same at her, the accused Fernando Rafanan warned her not to shout or move. Sensing that the accused was bent on forcing his evil intentions upon her, Filomena slapped the accused, fought back and struggled with the latter. The accused in turn gave her fist blows in the stomach and bumped her head against the cemented floor where she was then lying, rendering her unconscious. When she regained consciousness, Filomena noticed that the accused was already on top of her, the latter's penis already penetrating her organ. She felt that Fernando was already making a downward and upward movement with his penis. Filomena wanted to fight back and resist but being of the weaker sex and stricken with fear because of Fernando's threats, Filomena could no longer do so. Filomena suddenly felt pain in her organ which made her cry aloud, causing Mrs. Rafanan who was then upstairs to inquire what the matter was. Losing no time, Fernando walked toward the stairs half naked and without his pants. Alone in her grief and sorrow, Filomena could only cry and shed tears until daybreak.

Filomena continued to do her usual chores that morning. At 11:00 o'clock [a.m.] of the same day, she told Mrs. Rafanan that she was leaving. When asked by Mrs. Rafanan the reason why, Filomena could only say that the accused had entered her mosquito net the previous night. In the light of Filomena's revelation, Mrs. Rafanan begged her not to tell anyone as it would be a great shame for her husband. Leaving the house that same

morning, Filomena went to the house of a relative in Mabini Extension, this city. She stayed there for two weeks, then proceeded to her hometown in Mabini, Isabela. Sometime in the month of April, 1974, Filomena decided to stay with a first cousin, Artemio Domingo, in Bacoar, Cavite. By this time she was already in the family way, having had no menstruation due as early as the middle of March, as Filomena could no longer hide her pregnancy, she wrote the president of the Philippine Wesleyan College in Cabanatuan City on May 10, 1974, denouncing the accused who was still the principal of the High School Department and related her harrowing experience with the accused. Being a member of the Armed Forces of the Philippines, Artemio Domingo accompanied Filomena to Camp Crame on May 14, 1974 where she executed a sworn statement concerning the incident that happened on February 10, 1974. On that same day a PC medico legal officer in the person of 1st Lt. Desiderio A. Moraleda examined her, the result of which as well as his findings are as follows:

GENERAL AND EXTRAGENITAL

Fairly developed, nourished and coherent female subject. Breasts are hemispherical with dark brown areola and nipples from which no secretion could be pressed out. The superficial veins are slightly engorged. Abdomen is flat and tight. There are no external signs of recent application of any form of trauma.

GENITAL:

There is moderate growth of pubic hair. Labia majora are full, convex and coaptated with the pinkish-brown labia minora presenting in between. On separating the same are disclosed a slightly congested-vulvar mucosa and an elastic, fleshy-type hymen with deep, healed lacerations at 5 and 9 and shallow healed lacerations at 6 and 11:00 o'clock positions. External vaginal orifice offers moderate resistance [to] the introduction of the examining index finger and the virgin sized vaginal speculum. Vaginal canal is narrow with slightly shallowed rugosities. Cervix is soft and congested.

Vaginal and per-urethral smears are negative for gram-negative diplococci and for spermatozoa.

Garvindex test is positive.

REMARKS:

Findings are compatible with 2 to 3 months pregnant state."^[3]

The appellant presented a two-fold defense: (1) his first and principal defense was alibi; and (2) his second defense, cast in alternative form, was that assuming for purposes of argument only that he had lain with the offended party Filomena Angala, he had done so with her consent.

Turning first to the defense of alibi. Fernando Rafanan testified that he was the principal of the High School Department of the Philippine Wesleyan College and that he was a licensed holder of a caliber .38 handgun. He claimed that he last saw Filomena Angala in their house at about 2:00 o'clock in the afternoon of 8 February 1974, upon leaving his house after having there taken his lunch. The appellant insists that he had not been in their house through the whole night of 9 February 1972 up to 5:00 o'clock in the afternoon of the succeeding day, 10 February 1974, as he had been busy at the school making streamers in the library of the Philippine Wesleyan College for the then forthcoming national seminar on social studies, scheduled from 11 to 15 February 1974 and sponsored by the Department of Education.

Emma Rafanan, wife of the appellant, corroborated her husband's defense of alibi by declaring that Filomena had left their house for reasons unknown to them at about 5:00 o'clock in the afternoon of 8 February 1974 and that she came back in the evening of the same day but only to pick up her belongings and to leave thereafter. Apparently suggesting that nothing untoward had happened to Filomena, Emma Rafanan further testified that Filomena came back briefly on 27 February 1974 to collect the amount of P25.00 representing her half-month's

salary.

This Court has many times in the past held that alibi is inherently a weak defense, easy of fabrication especially between parents and children, husband and wife, and other relatives and even among those not related to each other, and that for such defense to prosper, the accused must prove that it was not possible for him to have been at the scene of the crime at the time of the commission of that crime.[4] Thus, in *People v. Detuya*,^[5] the Court gave little weight to the testimony of the wife of the accused on the facts constituting his alibi, stating that:

"The first witness is his wife; naturally, human nature being what it is, she is expected to come to her husband's aid; hence, her testimony, if at all, carries very little weight."^[6]

In the present case, accused Rafanan's sole corroborating witness was his wife, Emma.

To counter the defense of alibi, the prosecution presented Bonifacio Mangahas and Rolando Wycoco, two of the security guards of the Philippine Wesleyan College who had been on guard-duty on 9 to 10 February 1974. The two (2) security guards testified with the aid of their logbook on which were recorded the time of arrival and time of departure of the various people working in the college compound. Bonifacio Mangahas stated that he had been on guard-duty from 3:00 to 11:00 o'clock p.m. of 9 February 1974 and that the accused had left the college campus at about 10:30 o'clock in the evening of 9 February 1974; and that he (Bonifacio) had as a matter of course entered the departure time of the accused on their logbook.^[7] Rolando Wycoco in turn said that he had been on guard-duty from 11:00 o'clock p.m. of 9 February 1974 until past 7:00 o'clock a.m. on 10 February 1974, and that he had personally noted down the arrival of Mr. Rafanan at the college compound on 7:10 o'clock a.m. of 10 February 1974.^[8] Moreover, the house where the Rafanans lived was only 600 meters away from the Philippine Wesleyan College compound. Under these circumstances, we cannot fault the trial court for refusing to consider the accused's defense of alibi.

The appellant claims that the trial court denied him the opportunity to present additional witnesses, viz., Mr. and Mrs. Naagas, faculty members of the Philippine Wesleyan College. We find this claim a very strange one indeed considering that it was defense counsel who filed before the trial court a Motion Waiving Further Evidence and Resting Case dated 15 September 1977,^[9] being apparently content with the denials and the proffered alibi of the accused as corroborated by his wife.

We turn to the alternative defense of the accused that if he had lain with Filomena Angala, it was with her consent. The accused sought to throw doubt upon the testimony of Filomena Angala that the accused forced himself upon her by pointing a caliber .38 pistol at her mouth and threatening to kill her if she did not give in to his desires. The accused pointed to the circumstance that his eight-year old daughter Emalyn was sleeping beside Filomena in the same mat and under the same mosquito net and that Emalyn was not awakened during Filomena's alleged struggle with the accused. The accused also suggested that it would be highly improbable for a man to seek to force himself upon a woman in his own house, with his wife sleeping on the floor above him.^[10] In the first place, neither of the circumstances pointed out by the accused can overcome the explicit and straightforward testimony of Filomena that the accused had not only threatened her with his handgun but also punched her in the stomach and banged her head against the cemented floor on which their sleeping mat had been laid out, causing her to lose consciousness for some time. The trial court gave full credence to Filomena's testimony, while observing, upon the other hand, that the accused appeared to be unsure of what he was to say. We must note once again that this Court accords high deference to the factual conclusions of the trial court since the judge had the inestimable advantage of watching and listening to the witnesses as they gave their testimony and as they were subjected to cross-examination.^[11] Moreover, as the Court has noted before, rape has been committed in many different places including places which to many would appear to be unlikely and high-risk venues for sexual embraces.^[12] There appears to us nothing inherently improbable in the account given by Filomena Angala before

the trial court of the copulation she was coerced into by the accused.

Accused also underscored that Filomena Angala had taken about three (3) months before she told of the outrage allegedly inflicted upon her by the accused to the police authorities. There may be situations where the fact that the complainant had failed to report promptly to the police her being raped, would generate substantial doubt as to the truthfulness of her accusation. In the case at bar, however, as the trial court pointed out, the accused had not only threatened to kill Filomena if she disclosed to anyone what she had been subjected to, but had also exercised strong moral influence upon the offended party, by reason of his position as an important official in a recognized Protestant Methodist educational institution like the Philippine Wesleyan College. The trial court said:

"The first thrust of the attack set up by the defense is the fact that it was only three months after the alleged incident when Filomena became emboldened to disclose her alleged horrifying experience. It is conceded that Filomena refrained from disclosing her experience, first, to Mrs. Rafanan, then to Marion delos Reyes, a relative of Filomena with whom she stayed for two weeks in Mabini Extension, and finally, to her mother in Mabini, Isabela where she stayed for a considerable length of time prior to her departure for Bacoar, Cavite. This is understandable, for during all these time, Filomena was still stricken both with fear and with hope that she would not become pregnant. Fear, because she was but a lowly barrio lass, simple and innocent, and would easily and naturally succumb to threats and intimidation employed upon her by the accused in the evening of February 9, 1974. The central figure in the life of Filomena inevitably was the accused, being a man of position in a prestigious institution. While she worked as a lowly housemaid for the Rafanans, she had hoped to pursue further her studies. The accused was the barrier against hunger and want, and could be her only hope to finish her nursing course and be able to support her family. Because of this, the accused who had threatened her during that fateful night as well as Mrs. Rafanan who had requested her not to disclose what happened, must have had a towering moral influence over Filomena. With this dominance over Filomena and notwithstanding the fact that his eight-year old daughter was beside Filomena on the night in question, it was easy and safe for the accused to rape Filomena as it was difficult for the latter to frustrate him, nay, for Filomena to denounce him. All these explain the inexorable fact that although Filomena fought for her honor when the accused deflowered her, she kept to herself her disgrace until her pregnancy gave her away. Thus on cross examination, she declared:

'ATTY. GARCIA

Q:

If you did not like to give your parents a problem or you were afraid that they might hurt you, why did you in fact make the same in public on May 14, 1974? Is it because you were pregnant?

A:

I made a report already because I could not keep the thing that happened to me a secret anymore because I was already pregnant. And if it only happened that I did not become pregnant I would not have reported the matter anymore." [13]

In *People v. Silfavan*, [14] the Court observed that:

"The delay in prosecuting the rape is not an indication of fabricated charges. If the complainant did not become pregnant, she probably would never have revealed that she was raped by her uncle. Many victims of rape never complain or file criminal charges against the rapists. They prefer to bear the ignominy and pain rather than reveal their shame to the world or risk the rapists' making good their threats to kill or hurt their victims." [15]

In the instant case, Filomena had herself stated that had she not become pregnant or been unable to conceal any further the pregnancy that had ensued from Mr. Rafanan's unwanted attentions, she would not have instituted her criminal complaint at all.

The suggestion of the accused that Filomena had freely consented to his sexual embrace can scarcely be taken seriously. Filomena had spoken explicitly and convincingly of the threats and physical violence exercised upon her by the accused. Moreover, the accused neither alleged nor proved that he had had prior sexual intercourse with Filomena or that Filomena was a girl of loose morals given to sexual promiscuity.

Accused finally complains that the trial court had held him to be the father of the child allegedly born of Filomena, notwithstanding the "absence of any valid and proper proof of the circumstances of said birth."

After careful examination of the record of this case, we find no basis at all for overturning the conclusion of the trial court that the accused had been shown beyond reasonable doubt to have by force and intimidation penetrated Filomena Angala. We also note that Filomena expressly testified to the fact that she had become pregnant as a result of the outrage inflicted upon her person and that she gave birth to a child:

"Q:

Miss Witness, according to you, you were sexually abused by the accused in the early morning of February 10, 1974, what happened to you after that?

A:

I became pregnant, sir.

Q:

You stated that you became pregnant, why is it that you are not pregnant now?

ATTY. BELTRAN:

We would like to place on record that the witness before she answers the question, cries on the witness stand.

A:

Because I have given birth already, sir.

ATTY. BELTRAN:

Q:

You stated that you have given birth, where is the child now?

A:

The child is in Bacoor, sir.

COURT:

Do you want to exclude the audience?

ATTY. BELTRAN:

No more, your Honor."[16]

xxx xxx xxx

"Q:

Now, when did you first realize that you are on the family way?

A:

Because I did not menstruate, sir. I did not menstruate anymore, sir.

Q:

When was that?

A:

May be in the middle portion of March, 1974, sir. From the time that happened to me in February I did not menstruate anymore, sir.

Q:

Where did you first realize that you have syntoms (sic) of pregnancy?

A:

Because I did not menstruate anymore, sir.

Q:

My question now is when you went to the PC on May 1974 were you then pregnant?

A:

Yes, sir.

Q:

When you executed your statement before the CIS on 14 May 1974 you realized before that date, that you were in the family way?

A:

Yes, sir.

xxx xxx xxx"[17]

"Q:

On the day you wrote this letter, were you aware that you were on the family way?

A:

Yes, sir.

Q:

Since when or how many days prior to May 10, that you are aware that you were on the family way?

A:

I was already three months on the family way at that time, sir.

Q:

So you felt on the family way sometime in March?

A:

Yes, sir, because I did not menstruate anymore.

Q:

In March?

A:

Yes, sir.

Q:

You were telling the court a while ago that one of the reasons in fact in your testimony, the main reason why you made this in public, it is because you can not hide your pregnancy anymore?

A:

Yes, sir."[18]

It is, of course, also true that the record does not show the identity and personal circumstances of the child born out of the rape of Filomena. Even so, the Court correctly sentenced the accused "to acknowledge and support her offspring" considering the provisions of Article 345 of the Revised Penal Code:

"Article 345. Civil Liability of Persons Guilty of Crimes against Chastity. — Persons guilty of rape, seduction, or abduction shall also be sentenced:

- (1) to indemnify the offended woman;
- (2) to acknowledge the offspring, unless the law should prevent him from so doing;
- (3) in every case to support the offspring.

xxx xxx xxx

and Article 283 (1) of the Civil Code of the Philippines:

"Article 283. In any of the following cases, the father is obliged to recognize the child as his natural child:

- (1) in cases of rape, abduction or seduction, when the period of the offense coincides more or less with that of the conception;

xxx xxx xxx"

In the case at bar, the record shows that conception had occurred at or about the time that rape had been inflicted upon Filomena by the accused, or more particularly, within 120 days from the commission of the offense.[19] The

acknowledgment required of the accused by the trial court should be understood to be acknowledgment merely of the filiation of the child; the accused being a married man could not sire an illegitimate natural child,[20] a status which in any event is no longer recognized under the Family Code of the Philippines.

It should also be noted that since the accused was a High School Principal and as such entrusted with the education and guidance of youth, the accessory penalties imposed upon him by the law include the penalty of temporary special disqualification in its maximum period to perpetual special disqualification.[21]

The trial court required the appellant to pay, by way of moral damages, the sum of P5,000.00 to Filomena. In accordance with our more recent case law,[22] that amount should now be increased to P25,000.00 so that Filomena might be somewhat more fully compensated for the suffering, bitterness and humiliation to which she had been subjected by reason of appellant's acts.

WHEREFORE, except for the amount of moral damages granted to the offended party which is hereby INCREASED to P25,000.00, the decision of the trial court dated 27 February 1978 is hereby AFFIRMED, with costs against appellant.

SO ORDERED.

Fernan, C.J., (Chairman), Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

[1] Rollo, p. 5.

[2] Id., p. 19.

[3] Ibid., pp. 77-80.

[4] People v. Abigan, 144 SCRA 130 (1986); People v. Magdueño, 144 SCRA 210 (1986); People v. Pielago, 140 SCRA 418 (1985); People v. Catipon, 139 SCRA 192 (1985).

[5] 154 SCRA 412 (1987).

[6] 154 SCRA at 425.

[7] TSN, 18 February 1977, pp. 10-11.

[8] TSN, 9 November 1977, p. 3.

[9] Records, p. 79.

[10] Appellant's Brief, Rollo, pp. 11, 19 & 28.

[11] E.g., People v. Veloso, 148 SCRA 60 (1987); People v. Ramilo, 147 SCRA 102 (1987); People v. Tuscano, 137 SCRA 203 (1985); People v. Mendoza, 121 SCRA 149 (1983).

[12] E.g., People v. Gamboa, 145 SCRA 289 (1986) (Rape on a pathway twenty [20] meters away from a beauty contest in progress); People v. Lopez, 141 SCRA 385 (1986) (Rape on the roadside at high noon); People v. Aragona, 138 SCRA 569 (1985) (Rape on a "pilapil" where people usually pass by); People v. Jones, 137 SCRA 166 (1985) (Rape inside a washroom adjoining a house).

[13] Decision of the trial court, Rollo, pp. 81-82.

[14] 151 SCRA 617 (1987). See also People v. Sonico, 156 SCRA 419 (1987); People v. Valdez, 150 SCRA 405

(1987).

[15] 151 SCRA at 629.

[16] TSN, 21 January 1976, p. 39.

[17] Ibid., p. 44.

[18] Ibid., p. 51.

[19] Reyes, L.B., The Revised Penal Code, Vol. II, pp. 897-898 (12th Edition; 1981).

[20] Article 277, Civil Code of the Philippines.

[21] Article 346. Revised Penal Code; see, in this connection, Article 31 of the same Code.

[22] E.g., *People v. Deus*, 136 SCRA 668 (1985).

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