

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALEXANDER SACABIN @ “ROMEO”;
DEFENDANT-APPELLANT.**

G.R. No. L-36638. June 28, 1974

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

Convicted of rape and sentenced to suffer the penalty of reclusion perpetua[1] and to pay the offended party, Erlinda Montibon, P3,000.00 for moral damages and P3,000.00 for exemplary damages, appellant Alexander Sacabin has appealed to this Court and now pleads for acquittal on the ground, which the lower court overruled, that although he really had sexual intercourse with the offended party, she voluntarily and willingly acceded to it because they were sweethearts.

This is a classic case of rape where, on the issue of whether or not the woman was raped, the only eye-witnesses testifying are the offended party for the prosecution and the accused in his defense. Thus, the judicial observation has been made long ago, that rape is hard to be proved, but still harder to be defended. And in the case at bar, We cannot be aided by the general rule that the findings of fact of the trial judge must be sustained on appeal because he has had the opportunity to hear and see the witnesses when they testified before him, for all the witnesses for the prosecution testified before one trial Judge[2], while the appellant presented his evidence consisting of his lone testimony before another Judge[3], and the latter was the one that rendered the decision appealed from. We, therefore, reviewed and evaluated all the evidence on record with extra care.

On the date of the commission of the offense, November 23, 1968, Erlinda Montibon was barely over 15 years old. She finished sixth grade. She was then living in the house of the spouses Patrolman and Mrs. Constancio Villondo as a helper. She knew the appellant, then single and 22 years old. He was a laborer in the Laya Building in Iligan City, then under construction, and was a usual buyer of native bread and cakes which Erlinda used to sell at the supermarket nearby.

Erlinda testified that around 8:00 o'clock in the evening of November 23, 1968, she was enticed by one Teodelita Dagondon to go to the supermarket. Teodelita said she was going to buy for her birthday the following day all of Erlinda's bread and cakes. They went upstairs to one of the rooms of the Laya Building where they would agree on the price of the bread and cakes. The appellant was then there inside. The door was closed and appellant was able to have sexual intercourse with her two times.

This is the version of Erlinda on how the rape was consummated:[4]

XXX XXX XXX

"A-

Sacabin went near me and wrestled me.

Q-

What did you do when Romeo Sacabin wrestled you?

A-

I wanted to get away from his hold.

Q-

Did you shout for help?

A-

Yes, I shouted for help.

xxx xxx xxx

Q-

Did you submit to the urgings of the accused in this case?

A-

No, sir.

Q-

What did you do?

A-

We were wrestling for sometime. In fact he smell(ed) wine.

Q-

Could you inform this Court more or less how long did you wrestle with Sacabin?

A-

Quite a long time before he got me.

Q-

During all the time that you were wrestling with him, did you not cry out for help outside?

A-

I shouted for help but nobody could hear me because all the windows were closed.

Q-

What about the door?

A-

It was also closed.

Q-

Please inform this Honorable Court if after all the wrestling by Sacabin and your feminine resistance if Sacabin was able to have a sexual intercourse with you.

A-

Yes, he trapped one of my legs and I fell on the ground and then he sat on me.

Q-

What did you feel when Romeo Sacabin was able to introduce his sexual organ into your vagina?

A-

Pain.

Q-

After he made the insertion, what did he do if any?

A-

He also kissed me and squeezed my mammary gland.

COURT:

Make it on record that the witness is crying.

Q-

When he succeeded in introducing his penis into your organ, what did he do if any?

A-

He also pushed and pull his organ.

Q-

For how long was the push and pull motion made by this Romeo Sacabin?

A-

Quite a few minutes. x x x.

Q-

Please inform this Honorable Court if after the introduction of the penis and the push and pull motion if you felt some liquid getting inside your vagina.

A-

There was, sir.

Q-

After that, what happened? Please inform this Honorable Court.

A-

After that Romeo Sacabin left the room but he was in the other room.

Q-

What did you do after he left?

A-

I was still crying. x x x.

Q-

Was that the only sexual intercourse that was done on you by the accused Alexander Sacabin?

A-

Two times.

COURT:

When was the second time?

A-

Nearing dawn.

Q-

In the same place?

A-

In the same place.

Q-

The second time when the accused tried to make sexual intercourse with you you already yielded your body to him.

A-

No, sir.

Q-

What did you do?

A-

I also wrestled with him because I felt the pain.

Q-

When you wrestled with him, did you not occur to your mind to renew your call for help from outside?

A-

I also shouted for help. x x x.

Q-

Was Sacabin able to introduce his sexual organ into your vagina for the second time?

A-

Yes, because he rode on me for the second time and I was already weak and I don't want it because it was painful.

Q-

Did it not occur to your mind to appeal to his Alexander Sacabin to please pity you because you were feeling pain in your body?

A-

I asked Romeo not to because it was painful and then Romeo said never mind just allow me because anyway I will marry you."

Appellant Alexander Sacabin declared that he was 22 years old, single and a mason by occupation. He saw Erlinda in the evening of that date. The two of them ate and drank at Eliza's restaurant, which was at the Iligan Supermarket, in front of which was the Laya Building. From the restaurant, they went to her house owned by her master, Patrolman Villondo. While in the house, Erlinda told him that she wanted to go with him. He left and Erlinda followed him to the Laya Building where he used to sleep. He was working there as a laborer and the building was still under construction. When they arrived at the Laya Building, he told Erlinda that he would go to Cagayan upon the termination of his work. Erlinda told him that she would go with him to Cagayan.[5]

“q

What was your answer, if any, when she told you that she is going to Cagayan with you?

a

I answered, 'yes, really you love me?'

q

What was her answer, if any?

a

'Yes, I love you.'

q

By the way, you have stated before this Court that you are sweethearts with Erlinda, when did you become sweethearts?

a

While I was working at Laya building this Erlinda was selling refreshments.

q

Where was she selling refreshments?

a

Sometime she bring refreshments at Laya building.

q

More or less, can you tell the Court what time when was that when your love was accepted by Erlinda?

a

August 2, 1968.

q

Did you consider that you were sweethearts, did you receive anything from her, some sort of letters or tokens?

a

I did not ask anything because we used to see each other and I did not ask any remembrance from her because she is poor like myself."

Erlinda then told appellant that she loved him. They slept together in a room upstairs in the Laya Building. In the room where they slept, there were no tenants for that particular unit of the apartment. But there were already electric lights inside that room. They slept on a bed made of plywood. They had two sexual intercourse, the first time from 8:00 to 9:00 o'clock p.m., and the second in the early morning. They had already one sexual intercourse about one week prior to November 23, 1968, also at the Laya Building. At that time, she was getting water.[6]

After a very careful review of the evidence, We affirm. The lower court's finding that the version of the offended party is the one that should be believed over that of the appellant.

The offended party, Erlinda, was a young provinciana, barely over 15 years of age, uncouth and almost unlettered,

was a mere household helper but at the same time engaged in the selling of native bread and cakes. She belonged to the poor and was one of them, and was still possessed of the traditional and proverbial modesty of the Filipina, especially the provinciana. She would not have filed a complaint for rape and suffered the torment if not the ignominy of having to testify in a court of justice about the wrong done to her, if in truth she was not really raped.

Early in the morning of November 24, 1968, she was brought by the appellant to his father's house in Rosario Heights. She went with him because she was threatened with death if she would not do so. Patrolman Villondo was already there because he was previously informed that Erlinda failed to return to their house and that appellant was the one that brought her. And according to Erlinda, she did not tell Patrolman Villondo that she was raped as she was "ashamed to tell him because he is a man." And at that time, Villondo's wife was in Cebu. But when she arrived about six days later, she was at once informed by Erlinda that appellant raped her.

And immediately thereafter, she was brought to the medico legal officer of Iligan City, Dr. Manuel Simon, who testified that on December 2, 1968, he examined the offended party, found lacerations in her hymen, in positions 10 and 8 o'clock, which had just recently healed (a laceration heals in 7 days). The lacerations could not have been more than one month old "because at the edge of the lacerations, the color was reddish and therefore they have healed recently."

Physical evidence is evidence of the highest order. It speaks more eloquently than a hundred witnesses. And the physical evidence in this case strongly corroborates the testimony of the offended party that she was raped. They consist of the green color dress and the panty that Erlinda was wearing at the time she was raped and which show a torn portion of the left side of the dress and a torn portion of the panty. According to Erlinda, they were torn when appellant forcibly pulled her dress up and removed her panty shortly before she was raped. Surprisingly, appellant did not at all rebut the testimony of Erlinda on this point.

Francisco Bagohin, who was then also residing in the house of Patrolman and Mrs. Constancio Villondo, he being the driver of the rig owned by the latter, corroborated the testimony of the offended party, Erlinda, that Teodelita Dagondon was the one who fetched Erlinda "because the puto and bread that she is selling will all be bought by Teodelita for the next day would be her birthday."

The testimony of the appellant that he and Erlinda were sweethearts is unworthy of belief. Erlinda denied vehemently this testimony of the appellant and even stated that he never courted her. And if they were really sweethearts, Erlinda would not have filed this serious charge of rape against him.

IN VIEW OF ALL THE FOREGOING, the decision appealed from is hereby affirmed in its entirety with costs against the appellant.

Zaldivar, (Chairman), Fernando, Barredo, Antonio, and Aquino, JJ., concur.

[1] Art. 335, Revised Penal Code, as amended.

[2] Judge Erlito L. Echivarri.

[3] Judge Eduardo C. Tutaan.

[4] Hearing of August 19, 1969, t.s.n., pp. 33, 34 to 37.

[5] Hearing of September 1, 1971, t.s.n., pp. 8-9.

[6] Ibid, pp. 9-13.

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