

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICARTE SIBAYAN, ACCUSED-APPELLANT.

G.R. No. L-41700. August 30, 1982

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This is an appeal from a decision of the Court of First Instance of Ilocos Sur, Branch IV, at Candon, convicting Ricarte Sibayan and Jecris Taqueban of the crime of rape, sentencing each of them to suffer reclusion perpetua and to pay the complainant Juanita Sagorsor P10,000.00 as moral damages.

Jecris Taqueban moved to withdraw his appeal and his motion was granted in Our resolution dated March 5, 1980. Hence this appeal concerns Ricarte Sibayan only.

The information against the accused reads as follows:

"The undersigned First Assistant Provincial Fiscal upon sworn complaint originally filed by the offended party accuses Ricarte Sibayan and Jecris Taqueban of the crime of rape defined and penalized under Article 335 of the Revised Penal Code committed as follows:

"That on or about the 7th day of January, 1973 in the municipality of Sigay, province of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused Ricarte Sibayan and Jecris Taqueban, conspiring together and helping one another, did then and there wilfully, unlawfully and feloniously have carnal knowledge of one, Juanita Sagorsor, by means of force and intimidation and against the latter's will and consent.

"Contrary to law, and with the aggravating circumstances that the crime was committed with the abuse of superior strength and in an uninhabited place."

The People's version of the facts to support the information is the following:

"On January 7, 1973, at around 1:00 o'clock in the afternoon, complainant Juanita Sagorsor, fifteen years of age, was walking along the mountain trail on her way home to Matalucod, Sigay, Ilocos Sur (p. 1, tsn, Jan. 7, 1975). On the way, at Sitio Butac, Barrio Sto. Rosario, Sigay, Ilocos Sur, she met accused Jecris Taqueban and Ricarte Sibayan who asked complainant where she came from (p. 2, tsn, Jan. 7, 1975). After answering the query of said Jecris and Ricarte, Juanita proceeded to walk but she noticed that Jecris and Ricarte were following her (pp. 2-3, tsn, Jan. 7, 1975). Jecris and Ricarte finally caught up with her and both held her hands (p. 3, tsn, Jan. 7, 1975). Juanita struggled with them but they succeeded in throwing her to the ground (p. 3, tsn, Jan. 7, 1975). Immediately thereafter, Ricarte, after having removed complainant's panty, placed himself on top of Juanita and despite the resistance put up by the latter, he was able to have carnal knowledge of her while Jecris was holding complainant by the shoulders (pp. 3-4, tsn, Jan. 7, 1975; p. 2, tsn, Jan. 28, 1975). After Ricarte had sexually abused Juanita, accused Jecris went on top of her and also had sexual intercourse with complainant who was already very weak (p. 3, tsn, Jan. 28, 1975). Juanita felt pains during the time that the two accused were having carnal knowledge of her (p. 5, tsn, Jan. 7, 1975; p. 3, tsn, Jan. 28, 1975). Thereafter, Juanita lost consciousness but when she regained her consciousness, Jecris and Ricarte were no longer around

(p. 4, tsn, Jan. 28, 1975). Being very weak, she rested for a while to regain her lost strength and then proceeded to the house of her grandfather, Valentin Sagorsor, at Matalucod, Sigay, Ilocos Sur (p. 4, tsn, Jan. 28, 1975). However, her grandfather was not there, so she proceeded to her father's house (p. 4, tsn, Jan. 28, 1975). Unfortunately, her father was also out (p. 4, tsn, Jan. 28, 1975). She decided to seclude herself in the house but she could not sleep because she kept on thinking of what happened to her (p. 5, tsn, Jan. 28, 1975). She felt like having influenza so, together with her brother, she decided to get a blanket and went to her auntie's place (p. 5, tsn, Jan. 28, 1975). The following day, when Juanita's grandmother, Marta Sagorsor arrived from Laoag, she reported to her that she was sexually abused by Jecris and Ricarte (p. 5, tsn, Jan. 28, 1975). Marta in turn reported to Juanita's uncle, Ernesto Dingoasin, a policeman of Sigay, what was related to her by complainant so Ernesto requested the presence of the Chief of Police in the investigation of the same (p. 6, tsn, Jan. 28, 1975).

"Juanita Sagorsor was investigated in the house of her father in the latter's presence, after which they proceeded to the Municipal Building where Juanita related to the Municipal Mayor what happened to her but the Mayor told her to wait for the Judge (p. 6-7, tsn, Jan. 28, 1975). When the Judge arrived, Juanita told him that she wanted the two accused to die (p. 7, tsn, Jan. 28, 1975).

"Some people who were in the Municipal Building tried to settle the case amicably but Juanita refused, so the Mayor advised her to see a doctor (pp. 7-8, tsn, Jan. 28, 1975).

"On January 18, 1975, Dr. Ricardo Gacula physically examined Juanita and issued a Medical Certificate (Exh. "A") with the following findings:

'Hymen had a healing laceration on the upper right side of the slit and that there was insertion through the laceration.'

"Juanita, however, reported the matter to the 146 PC Co. at Candon, Ilocos Sur and gave a statement (Exh. "D") there because of the inaction of the police officers and municipal authorities of Sigay to file the necessary complaint (p. 8, tsn, Jan. 28, 1975; pp. 10-11, tsn, Feb. 18, 1974). She signed a Criminal Complaint (Exh. "C" and "C-1") before the Fiscal and based on the said complaint, an Information for Rape was filed by the Fiscal's Office."

There is no legal question involved in this appeal. The sole issue is the credibility of witnesses. The appellant claims that he did not ravish Juanita as set forth in the information and described in the People's version of the facts and that granting arguendo that Juanita was raped she had pardoned the offenders prior to the filing of the complaint.

Well-settled is the rule that an appellate court which has only the cold records of the case before it will not disturb the findings of the trial court which had the advantage of having seen and heard the witnesses and observed their deportment and manner of testifying. The only exception to the rule is when the trial court plainly overlooked certain facts and circumstances of weight and influence which, if considered, will materially affect the result of the case.

In the case at bar, We have examined the record and the facts are as stated in the decision of the trial court and re-stated in the People's brief. Juanita Sagorsor was indeed raped by Ricarte Sibayan in the afternoon of January 7, 1973, while she was on her way home from Suyu to Barrio Matalucod, Sigay, both in Ilocos Sur.

However, We have to look at the claim of the appellant that he had been pardoned by the complainant prior to the filing of the complaint. In support of this claim he cites the testimony of Simeon Wandas then Municipal Mayor of Sigay, Ilocos Sur. Testifying on February 18, 1974, Mayor Wandas, among other things, said:

"FISCAL S. VALDEZ: Now was there any further investigation that took place?

A I called the attention of the Judge to investigate the case, Municipal Judge to investigate the case, sir.

Q Municipal Judge you said to whom are you referring as your Municipal Judge?

A Attorney Judge Leonides Tilan, sir.

Q Now were you able to actually call the attention of Judge Tilan?

A Yes, sir.

Q What did you tell Judge Tilan?

A I told Atty. Tilan to help the Chief of Police to investigate the case and see if these persons are guilty or not.

Q And what further happened after that?

A Well, according to my information the Judge told them that it is up to the victim or the relatives of the victim to file a criminal complaint against those persons or anything they want if they want amicable settlement they could do as they wish, sir.

Q And you said according to you informed... from whom did you learn that advise of the Justice of the Peace, Atty. Tilan and that they may either file the charge or settle the case out of court?

A From the Chief of Police, sir.

Q Himself?

A Yes, sir.

Q Now because of that advice what did you do?

A Well, I just gave it to the Judge, sir.

Q Now that amicable settlement which accord-ing to you was brought from the advice of Atty. Tilan, do you know for a fact . . . how did that happen?

A Well, according to the Chief of Police, both parties have a conference and I do not know where they held a conference and after con-ferring with each other they appeared before the Judge and stated that they wanted for an amicable settlement, sir.

Q Did you know for a fact that the parties in-volved in the matter actually went to the Municipal Judge?

A Yes, sir.

Q Who were those who appeared before the Municipal Judge?

A Those persons who were present with Miss Juanita Sagorsor, her father, her grand-father, and I think Sofronio Wandas was there, the Chief of Police and so with one of my policemen, Paulino Calleng, sir.

Q What happened there?

A I noticed that before . . . when they were before the Municipal Judge they told the Judge that they wanted for an amicable settlement and so the Judge advised them to state what amicable settlement they wanted to have, sir.

Q Do you know if Jecris Taqueban and Ricarte Sibayan the accused were also present during that so-called conference?

A Yes, sir, Jecris Taqueban and Ricarte Sibayan, so with the uncle of Sibayan, Ser-gio Sibayan were present,

sir.

Q Then what happened in that conference?

A After the points have been laid before them they performed the amicable settlement in written statement, sir.

Q Do you have a copy of that?

A I think the Chief of Police has the copy, sir.

Q Who were the signatories?

A According to the Chief of Police the signatories were Jecris Taqueban and Ricarte Sibayan so with the father of the victim, the barrio captain of Abacan and I think there are others who signed that amicable settlement, sir.

Q Do you know for a fact if Juanita Sagorsor was a party to that?

A I think she was a party because she was present at that time, sir.

Q Did she sign?

A I can not exactly tell if she signed, sir.

Q Why do you say that you can not exactly tell?

A Because then I did not actually see if she signed it, sir."

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"ATTY. L. BELLO, JR. ON CROSS EXAMINATION:

Q Mayor, you stated that you know as a fact that there was an amicable settlement?

A Yes, sir.

Q You were present when this amicable settlement was being made?

A Yes, sir.

Q And in that amicable settlement Juanita Sagorsor pardoned the two accused herein, Ricarte Sibayan and Jecris Tequeban?

A Yes, sir.

Q Even the father, Mauricio Sagorsor pardoned the two accused herein?

A Yes, sir."

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"COURT: Now who initiated that amicable settlement?

A I think both parties, Your Honor.

Q What do you mean when you said both parties?

A Because then when Ricarte Sibayan and Jecris Taqueban were there they requested for an amicable settlement as I heard them, Your Honor.

Q So it was Ricarte Sibayan and Jecris Taqueban who requested for an amicable settlement?

A Yes, Your Honor.

Q To whom did they request this amicable settle-ment?

A To the alleged victim, Your Honor.

Q The party of the alleged victim?

A It is the father, Your Honor, of Juanita Sagorsor.

Q Were you present when those accused requested for an amicable settlement?

A Yes, Your Honor.

Q How did those two accused request for that settlement?

A They requested that inasmuch that they have not done anything against Juanita Sagorsor they wanted that the case be settled amicably, Your Honor.

Q How did they say that?

A They told to the father . . . they stated that they did not do anything against Juanita Sagor-sor, Your Honor.

Q Now if they did not do anything what kind of settlement did they propose?

A I did not hear what kind of settlement, Your Honor.

Q Now you testified here that the complainant expressly pardoned the accused, how did the complainant pardon the accused?

A By reading their written statement because the Chief of Police showed me the written statement, Your Honor.

Q Written statement of whom?

A Written statement of the aggrieved party, Your Honor.

Q Do you have in your possession now that written statement?

A I think it is in the possession of the Chief of Police, Your Honor.

Q Now Dr. Gacula has testified here that the Municipal authorities of Sigay refused to file the complaint despite of the fact that the medical certificate was issued to the Chief of Police, are you one of those muni-cipal authorities who refused to file this complaint?

A I do not know that, Your Honor.

Q Now how many days after the commission of the alleged crime did that amicable settle-ment take place?

A I can not exactly remember, Your Honor.

Q You can not tell to the Court even the number of days or weeks?

A It did not take a week I think, Your Honor.

Q But it was before the complaint was filed?

A Yes, Your Honor.

Q Do you know why the complaint was finally filed despite of that amicable settlement?

A I do not know, Your Honor."

A reading of the above transcript will readily show that Mayor Wandas did not really know what he was talking about and that by and large his testimony on the supposed amicable settlement is hearsay. The document embodying the alleged amicable settlement could have been the best evidence but it was never introduced during the trial. On the contrary, Juanita testified on January 28, 1975, in part as follows:

"FISCAL VALDEZ: After the Mayor has heard what happened to you what did the Mayor tell you or what did he do?

A He told me to.. that we should wait for Judge Tilan and he sent somebody to call for him, sir.

Q Was Judge Tilan able to arrive?

A He was able to arrive at night, sir.

Q Upon the arrival of Judge Tilan what did he do that same night?

A He asked what I wanted to be done to the two men, sir.

Q And what did you tell Judge Tilan?

A I told him that it is better if they die, sir.

Q What did Judge Tilan answer you?

A That was his only question, sir.

Q You have seen Judge Tilan and the Mayor, after that what happened next?

A None, sir, because they had been conversing with each other.

Q After that night of Sunday what happened?

A They had been talking about amicable settlement, sir.

Q Who were talking about that amicable settlement?

A I do not know the persons, sir.

Q While they talk about amicable settlement, did you see the two accused, Ricarte Sibayan and Jecris Taqueban in Sigay?

A No, sir.

Q Did you ever agree to an amicable settlement?

A No, sir.

Q Did you ever sign something regarding that amicable settlement?

A None, sir.

Q After refusing all maneuvers for an amicable settlement, what else happened?

A Because I refused to an amicable settlement, the Mayor told that we should see a doctor, sir."

Sofronio Wandas, Barrio Captain of Abacan, Sigay, Ilocos Sur, testifying on November 6, 1974, said that both Ricarte Sibayan and Jecris Taqueban are his nephews and in respect of the alleged amicable settlement said:

"PROVINCIAL FISCAL: Now when you informed Judge Tilan about your relationship with Jecris Taqueban and Ricarte Sibayan what transpired next?

A Nothing transpired yet but as far as their relatives are concerned I am one of them and when the Judge asked me further I told him that the offended wo-man is a relative of my wife, sir, a niece of my wife.

Q Now when you informed Judge Tilan about that fact what did he tell you if any?

A None yet, as humble head of the barrio it is the law that will decide, sir. It must be the law that will prevail, I said, sir.

Q To whom did you say those words?

A To the Judge, sir.

Q And what did the Judge say?

A The Judge said that you have to talk the matter over among you and whatever you decide upon that I will accept.

Q Now when Judge Tilan suggested that matter to you what did you do if any?

A I sent my relative women, women relatives who were also there to go and look for Juanita's father and beg for mercy, sir.

Q And did they in fact go to the father of Juanita Sagorsor?

A They went, sir.

Q Where did they go?

A They went to look for him within the poblacion, sir.

Q Do you know if they were able to confer with the father of Juanita Sagorsor?

A Yes, sir, they conferred with the father of Juanita Sagorsor.

Q And do you know what matter was taken up during that conversation, or conference?

A I know because they returned and I made inquiries, sir.

Q Now what was the result of your inquiry?

A Mauricio Sagorsor refused to have the case be settled amicably, sir."

WHEREFORE, finding that the decision of the trial court is amply supported by the evidence and that it committed no reversible error, the appealed judgment is hereby affirmed in toto with respect to Ricarte Sibayan. Cost against appellant.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., Guerrero, De Castro, and Escolin, JJ., concur.

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