

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELIPE SANTIAGO, DEFENDANT-APPELLANT.

G.R. No. L-46132. May 28, 1991

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

The accused, Felipe Santiago, was charged with the crime of rape in Criminal Case No. 1048 before the Court of First Instance, Branch I, Nueva Ecija. The criminal complaint filed by Mabini Garcia in the said case reads as follows:

"That on or about the 26th day of May, 1975 in Cabanatuan City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force or intimidation, did then and there, willfully, unlawfully and feloniously, have sexual intercourse with the undersigned complainant against the latter's will.

"CONTRARY TO LAW." (p. 3, Rollo)

Upon being arraigned, the accused entered the plea of not guilty to the offense charged. After trial on the merits, the trial court rendered its decision on February 23, 1977, the dispositive portion of which reads:

"WHEREFORE, the Court finds the accused Felipe Santiago guilty beyond reasonable doubt of the crime of Rape defined and penalized under Art. 335, pars. 1 and 2 of the Revised Penal Code, and hereby sentences him to the penalty of Reclusion Perpetua, civil interdiction for life and perpetual absolute disqualification. He will also pay the costs of the case (sic).

"It is here to be observed that while the accused is said to have pointed a gun to the side of the victim while riding the tricycle and in going up the Driftwood Hotel, the crime of rape was not actually committed with the use of the gun, hence, the death penalty is not imposed on the accused.

"SO ORDERED." (pp. 39-40, Rollo)

Not satisfied with the decision, the accused appealed.

The antecedent facts as summarized in the People's brief are as follows:

"The accused, Felipe Santiago, and the victim herein, Mabini Garcia, were officemates at the time of the incident in question. Felipe Santiago was the head of the GSIS Branch Office in Cabanatuan City. He was the superior officer of Mabini Garcia who was an employee in the Investment Unit of the said branch office.

"The incident in question transpired in the late afternoon of May 26, 1975, while Mabini Garcia was on her way to see her dressmaker in Cabanatuan City. She took a tricycle and was proceeding in the direction of the Development Bank Building when she heard the accused, Felipe Santiago, call her from another tricycle. She stopped her tricycle and Santiago approached her. He told her that he wanted to discuss some office matters with her, and he asked her to join him for a snack at the Manrio Restaurant. Mabini Garcia answered that she would proceed to the Manrio immediately after seeing her dressmaker. She then went to her dressmaker and,

as agreed, proceeded to the Manrio. She saw Felipe Santiago there sitting at a table drinking beer. Only a few people were present. When she went to his table, she found a chicken sandwich and a glass of lemon juice already on the table. She told him she was full. However, she was thirsty and so, she drank the lemon juice, about half of its contents at first, but as they conversed, continued drinking little by little until she consumed the glassful. (pp. 4-12, t.s.n., April 2, 1976)

"After conversing for a few minutes, Santiago professed his feelings for Mabini Garcia. He told her that he was in love with her. The latter was surprised and taken aback. She reminded him that he was a married man and she had no future with him. At this answer, the accused wrinkled his brow and look angry. Mabini Garcia bade him goodbye soon afterwards because she started to feel dizzy. The accused stopped her from leaving and held her thigh while she was still seated. She stood up and told him not to molest her (bastusin). She sat down again in order not to arouse the attention of the other people. After a while, Santiago went to the comfort room. Mabini Garcia took advantage of his absence and went out from the Manrio to go home. She called for a tricycle and was about to board it when, all of a sudden, Felipe Santiago appeared and pushed her into the tricycle. He sat beside her inside the tricycle and warned her not to make an outcry or scandal, otherwise, he would shoot her. Santiago put his left arm around her, while his right hand pointed a gun, covered with a jacket, at her right side. He ordered the tricycle to go straight ahead in the direction of the Driftwood Hotel. Mabini Garcia was afraid and nervous but unable to shout because she was dizzy. (pp. 12-20, t.s.n., April 2, 1976).

"When the tricycle stopped, Mabini Garcia saw that they were inside the compound of the Driftwood Hotel. Santiago alighted from the tricycle, pulling Mabini Garcia with him. The victim resisted and held onto the side of the tricycle with her two hands. However, because of her weak, nervous and dizzy condition, Santiago succeeded in pulling her out. He warned her again not to create any scandal or else, he would shoot her. Santiago then brought her to a room in the hotel and quickly closed the door. (pp. 21-30, t.s.n., April 2, 1976).

"Inside the room, Santiago held her by the shoulders and began to kiss her with the gun still pointed at her side. She pleaded with him not to pursue his evil intentions, and to have pity on her as she had not done him any wrong. Santiago continued to kiss her while she struggled to avoid contact with his body. Then Santiago slapped her and she fell. She managed to rise up but Santiago boxed her in the stomach and she became unconscious. (pp. 31-35, t.s.n., April 2, 1976).

"When Mabini Garcia came to, she found herself on the bed totally naked, her vagina bleeding, her thighs painful, and she felt that Santiago had succeeded in abusing her. Santiago was also in bed, embracing and kissing her. She felt weak, then, she cried and cursed Felipe Santiago. Although she felt weak, she kicked him. (pp. 4-11, t.s.n., June 4, 1976)

"After a few minutes, Santiago stood up and told Mabini Garcia to dress up. He threw her clothes to her and she got up, still crying, and started to dress. The accused warned her not to report the matter to anybody or he would kill her. Mabini Garcia was afraid, because she had known the accused to have been involved before in a murder case. She knew he was not joking. The accused told her to go with him. Mabini Garcia obeyed because she was afraid of the accused and she felt weak. They rode on a tricycle. Again, the accused warned her not to report the matter to anybody or he would kill her. Mabini Garcia continued to cry softly in the tricycle, taking care not to make the driver notice her condition. When the tricycle reached the intersection of the highway, and Mabini Street, the accused went down and told the victim to proceed home. (pp. 14-18, t.s.n., June 16, 1976).

"Mabini Garcia reached her house at around 8:00 P.M. and her mother, brother and sister were already resting. Only the household helper was in the sala. She informed Mabini that supper was ready, but Mabini answered she will not eat supper anymore. She went to her room right away because she did not want the helper to notice that anything was wrong. She cried the whole night over the injustice committed upon her by Felipe Santiago. (pp. 6-11, t.s.n., July 19, 1976)

"Mabini Garcia went as usual to office the following day because she did not want anyone to know what had happened to her. Besides, she thought that Felipe Santiago would not report for work because earlier, she heard him announce at a Division Meeting that he would be out on official business for two weeks starting that day. However, at around 10:00 o'clock in the morning, Felipe Santiago suddenly arrived in the office. Mabini Garcia was surprised and disturbed but she concealed her feelings. She frequented the comfort room to give vent to her crying. (pp. 11-18, t.s.n., July 19, 1976).

"The following day, Santiago did not come to office. He reported again only on the following Friday. Mabini Garcia continuously reported to the office from May 27, 1975 until the end of the week, keeping her shame to herself. She tried to conceal her sadness, but sensed that her officemates must have noticed, after some time, that she was not her usual self. (pp. 19-20, July 19, 1976).

"The GSIS Cabanatuan Office celebrated its office anniversary on May 31, 1975, with a dinner-dance at the La Parilla. Mabini Garcia did not want to attend the affair but she was prevailed upon by Mrs. Benjamina de Vera, their Chief in the Salary Loan and Policy Section, who fetched her from her house. At the La Parilla, she joined her companions in the Investment Unit of the GSIS. She noticed that some of the employees did not attend, but she was the only one fetched from her house. Mabini Garcia did not feel like dancing but an office mate kept approaching her for a dance, so, finally she agreed to dance with him. While they were dancing, Felipe Santiago, whose presence she had not noticed until that time, tapped her partner's shoulder, and took his place in dancing with her. She pushed him away, but Santiago held her tight, and said in a low, but firm voice that he would slap and humiliate her if she tried to leave him in the middle of the dance hall. After the piece, Mabini Garcia wanted to go home. She went back to her seat and asked for Mrs. de Vera, but she was nowhere to be found. Pretending that she had a headache, she told the person sitting beside her to inform Mrs. de Vera that she left because she was not feeling well. (pp. 20-30, t.s.n., July 19, 1976)

"Mabini Garcia continued going to office regularly, still ashamed to reveal her misfortune because it might bring dishonor to her family. Finally, she felt that her problem was too much to bear, alone. On June 30, 1975 she revealed to her brother Rufino the abomination committed upon her by Felipe Santiago. He suggested that they inform their other brothers and their mother about the incident. After revealing the incident to their eldest brother, Atty. Mario T. Garcia, he advised them to report the incident to the operatives of the Philippine Constabulary, which they did. (pp. 34-49, t.s.n., July 19, 1971)." (pp. 2-9, Brief for Plaintiff-Apellee, p. 126, Rollo)

On the same day, the victim was examined by Dr. Leonides Soriano, the senior resident physician at the Paulino J. Garcia Memorial Medical and Research Center in Cabanatuan City. Her findings were as follows:

"Breast - epherical, popilla, brownish pink
Pubic hair - moderate in amount
Labia majora and minora - pinkish in color
Hymen - laceration old healed at 1:00, 5:00 & 9:00 o'clock fading the clock
Vagina - admits 1 finger with ease, 2 fingers with difficulty
SMEAR FOR SPERMATOOZOA ... NEGATIVE." (p. 23, Rollo)

In this appeal, the accused-appellant assigned eight (8) errors committed by the lower court, to wit:

"FIRST ASSIGNMENT OF ERROR

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE UNCORROBORATED STORY OF THE COMPLAINANT AND CONVICTING THE ACCUSED ON THE BASIS THEREOF.

"SECOND ASSIGNMENT OF ERROR

THE TRIAL COURT ERRED IN NOT HOLDING THAT THERE WAS AN ABSENCE OF ANY OPPOSITION, STRUGGLE OR TENACIOUS RESISTANCE ON THE PART OF THE COMPLAINANT

AND THAT NO FORCE, VIOLENCE OR INTIMIDATION WAS EMPLOYED BY THE ACCUSED.

"THIRD ASSIGNMENT OF ERROR

THE TRIAL COURT ERRED IN HOLDING THAT A DELAY OF THIRTY-FIVE (35) DAYS IN REPORTING THE ALLEGED RAPE IS NOT OVERLY LONG AND THAT COMPLAINANT'S EXPLANATION FOR THE DELAY HAS THE SEMBLANCE OF TRUTH.

"FOURTH ASSIGNMENT OF ERROR

THE TRIAL COURT ERRED IN NOT HOLDING THAT THE CONDUCT AND BEHAVIOR OF THE COMPLAINANT AFTER THE ALLEGED RAPE BELIE AND NEGATE HER CHARGE OF RAPE.

"FIFTH ASSIGNMENT OF ERROR

THE TRIAL COURT ERRED IN NOT HOLDING THAT THE COMPLAINANT LIED IN RESPECT OF HER CLAIM OF VIRGINITY AT THE TIME OF THE ALLEGED RAPE AND THAT THIS LIE DESTROYED HER CREDIBILITY ON OTHER MATERIAL MATTERS.

"SIXTH ASSIGNMENT OF ERROR

THE TRIAL COURT ERRED IN HOLDING THAT NOTHING IN THE SUBSTANTIAL ALLEGATIONS OF THE PROSECUTION HAS BEEN REFUTED.

"SEVENTH ASSIGNMENT OF ERROR

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED NOT UPON THE STRENGTH OF THE EVIDENCE OF THE PROSECUTION BUT UPON THE ALLEGED WEAKNESS OF THE EVIDENCE FOR THE DEFENSE.

"EIGHTH ASSIGNMENT OF ERROR

THE TRIAL COURT ERRED IN NOT HOLDING THAT THE PROSECUTION FAILED TO MEET THE QUANTUM OF PROOF - WHICH IS EVIDENCE BEYOND REASONABLE DOUBT - NECESSARY TO OVERCOME THE PRESUMPTION OF INNOCENCE." (pp. 21-24, Brief for Appellant, p. 100, Rollo)

The appellant contends that the testimony of the victim, Mabini Garcia is doubtful as it is uncorroborated, aside from the fact that it contains serious inconsistencies and contradictions as follows: Firstly, the alleged abduction of the victim could not have happened in a busy thoroughfare outside the Manrio Hotel, considering that the meeting between the accused and the victim appears to have been accidental. Secondly, the victim failed to state in her affidavit submitted to the Philippine Constabulary that she was raped at the Driftwood Hotel. Thirdly, in her testimony in court, the victim stated that she was pushed into the tricycle by the accused after she left the Manrio Hotel but in her affidavit before the Philippine Constabulary, she stated nothing of this incident. Fourthly, the complainant's earlier testimony upon direct examination that she felt the gun poked at her side all the way from Manrio Hotel to the Driftwood Hotel is inconsistent with her latter testimony that the first time she saw the gun was after she had been allegedly abused by the accused.

The main question raised by appellant is credibility of the prosecution's main witness - the victim herself. It is well-settled that the lone testimony of the victim in the prosecution for rape, if credible, is sufficient to sustain a verdict of conviction, the rationale being that owing to the nature of the offense, the only evidence that can oftentimes be adduced to establish the guilt of the accused is the offended party's testimony (People v. Lor, L-47440-42, September 12, 1984, 132 SCRA 41). Hence, if the testimony of the offended party is not improbable, a defendant may be convicted on the lone testimony of the victim. We have perused the long testimony of the victim and We found nothing improbable about it. On the contrary, the victim has testified clearly and logically as

to events which happened on that fateful day. Her narration of events even included details which she could not have supplied if they were not true.

Based on the victim's testimony, the incident happened at 6:00 in the evening when there were only few persons passing by. She also stated that she felt weak and dizzy after drinking the lemon juice offered to her by the appellant at the Manrio Hotel. It is therefore not impossible for the appellant to easily force the victim into the tricycle without much resistance and bring her to the Driftwood Hotel where he would consummate his evil intentions.

The failure of the victim to state certain details in her affidavit before the PC, i.e., the name of the hotel where she was raped and the fact that the appellant pushed her into the tricycle refer merely to minor details which do not destroy her credibility. The victim's statements in her affidavit and her testimony in court are substantially the same, the latter being more accurate as the victim had ample opportunity to clearly narrate the incident in court. The victim's alleged contradictory statements concerning her perception of the gun held by the appellant is of little importance. In fact, We could not find any inconsistency therein. The facts are clear that she felt the gun poked at her while she and appellant were riding in the tricycle but she saw the gun only after she was abused. Inconsistency on matters of minor details do not detract from the actual fact of rape. Testimonial discrepancies would have been caused by the natural fickleness of memory which tend to strengthen rather than weaken credibility as they erase any suspicion of rehearsed testimony (*People v. Cayazo*, L-47398, March 14, 1988, 158 SCRA 586).

A reading of the assailed decision will reveal that the trial court has carefully analyzed and discussed not only the victim's testimony but also her conduct while in the witness stand. Said the trial court:

"... On the other hand, the whole gamut of the statements made by Mabini Garcia cannot be assailed anywhere as a prevarication. She has not stated anything that is in itself an impossibility or an improbability. Her story is complete in long and numerous details covering an expanse of so many days. Had she just invented the story of the rape, she could not have just as easily invented all the details she gave and in fact, it would have been safer for her not to tell such a long story. She even mentioned a part played by Mrs. Benjamina de Vera, Chief of Salary Loan and Policy Section of the GSIS office and subordinate of the accused. In fact, this part she mentioned does not touch on the rape itself, but what this Court sees is that had Mabini Garcia fabricated the rape incident, she would not have mentioned the name of Mrs. de Vera at all. Her manner of declaring, her demeanor, her straight-forwardness all mark her as a reliable witness, telling the whole truth as she saw it. This Court does not even take into account her occasional outbursts of weeping, except to say that they did not appear to be in the way of acting or, as is said in the vernacular, mere 'arte.' Nothing has ever been said, nor can it be in any manner deduced, that Mabini Garcia had an axe to grind against the accused or that she was bent on extracting money from him. She was his subordinate employee and she was never threatened with removal, demotion or punishment of any kind. There was never any previous incident by which one could say that she wanted money. There was a lapse of thirty-five days between the incident and the time she reported the matter to any member of her family for the purpose of a complaint. This delay is not overly long and her explanation on how and why she kept the secret to herself for a while has every semblance of truth." (pp. 37-39, Rollo)

As can be gleaned from the above quoted discussion, the trial court upheld on justifiable grounds the testimony of the victim as to the truth of the perpetuation of the crime charged. Where the issue is credibility of the witnesses, the findings and conclusions of the trial court are binding upon this Court.

The appellant's submission that the victim failed to raise an outcry or offer serious resistance when she was abducted and later raped has no merit. The suggestion of the victim that she was drugged after drinking the lemon juice given by the appellant explains why the victim was unable to resist the accused effectively or make an

outcry. While no chemical test was undertaken to concretely prove that the juice she drank actually contained drugs, the fact remains uncontroverted as appellant did not even take the witness stand in order to deny that after the victim drank the lemon juice already prepared for her, she began to feel weak and dizzy. Even the driver of the tricycle where she and appellant rode towards the Driftwood Hotel observed that she was very pale (TSN, Dec. 2, 1975, p. 20, Records). Further, where appellant succeeded in bringing her to the Driftwood Hotel, he boxed her in the stomach which rendered her unconscious and allowed appellant to satisfy his beastly desires (TSN, June 16, 1976, p. 117, Records). It is clear that the acts of appellant were deliberately done to deprive the victim of reason and the will to resist his sexual assault. The effect is thus similar to that of violence in overcoming resistance with which she could very well have successfully thwarted the lustful act. Appellant undoubtedly had clearly committed the crime charged by depriving complainant of reason to be able to have carnal knowledge of her without the latter having in the least shown any sign of consent (People v. Bautista, No. L-49778, January 27, 1981, 102 SCRA 483). In a rape of a woman deprived of reason or who is unconscious, the victim has no will. In that case, it is not necessary that she should offer real opposition or constant resistance to the sexual intercourse.

Records show that it took the victim thirty-five (35) days before finally reporting the crime to the police authorities. The lapse of the said period cannot be considered as unreasonably long to render the victim's testimony doubtful. In her testimony in court, she related how she suffered emotionally and psychologically in trying to keep to herself the outrage done to her; that at first, she did not want to reveal what had happened to her because of the shame it will bring to her family, aside from the fact that her brothers might take the law into their own hands and create trouble; that she finally told her family about the rape because she felt aggrieved by the incident (TSN, July 19, 1976, pp. 160-165, Records). Where the complainant or victim has fully explained her failure to report the sexual abuse immediately after the rape, there is no reason to cast doubt on the veracity of her testimony (People v. Cabradilla, L-33788, November 29, 1984, 133 SCRA 413). The delay in reporting the crime to the authorities may be due to fear of the malefactor or the shame that would result from the disclosure of the dishonor done to the offended woman (People vs. Taño, 109 Phil. 912; People vs. Castillo, 111 Phil. 1024).

Appellant contends that the victim lied when she testified that she was a virgin at the time of the rape incident, since the doctor-witness for the defense stated that the round edges in the lacerations found in the hymen of the victim show that the victim had sexual intercourse at least six months previously long before the alleged rape.

We agree with the conclusions of the trial court that virginity is not a necessary element in the crime of rape and that the time in which wounds heal differ among people, in addition to the fact that methods of treatment of a wound may result in differences in the period of healing. We have held in one case that lack of fresh lacerations does not negative sexual intercourse where medical examination was conducted 16 days after alleged assault (People v. Deus, No. 63729, May 31, 1985, 136 SCRA 660). Moreover, the fact that hymenal lacerations were found to be "healed round edge" and no spermatozoa were found do not necessarily negate rape (People v. Malabad, No. 63219, November 28, 1984, 133 SCRA 392).

Furthermore, the appellant has not shown any improper motive on the part of the victim for her to testify as she did (People v. Mañago, No. 90669, November 21, 1990). It has long been held that no young Filipina of decent repute would publicly admit that she had been criminally abused and ravished, unless that is the truth. For it is her natural instinct to protect her honor (People v. Averó, No. 76483, August 30, 1988, 165 SCRA 130).

Unfortunately, the accused did not take the witness stand to explain his side. We cannot hold this against him, for an accused has the right to remain silent and no adverse inference should be drawn from that silence. In view thereof, in order to gain conviction, the prosecution must rely on the strength of its evidence rather than on the weakness of the defense (People v. de Dios y Exconde, G.R. No. 58174, July 6, 1990). Considering the totality of the evidence on record in the instant case, We find that the guilt of the accused has been established with proof

beyond reasonable doubt. However, We find on the basis of the evidence that the offense was committed with the use of a deadly weapon. The applicable provision is Article 335, paragraph 3 of the Revised Penal Code which provides that whenever the crime of rape is committed with the use of a deadly weapon, the penalty shall be reclusion perpetua to death (People v. Orita, G.R. No. 88724, April 3, 1990). No aggravating circumstances attended the commission of the offense. Hence, the trial court correctly imposed the penalty of reclusion perpetua upon the accused but failed to impose an indemnity for the victim.

ACCORDINGLY, the appealed decision of the trial court dated February 23, 1977 is AFFIRMED. The accused, Felipe Santiago is hereby found guilty beyond reasonable doubt of the crime of rape and sentenced to reclusion perpetua as well as to indemnify the victim in the amount of P40,000.00.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Griño-Aquino, JJ., concur.

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