

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSAN POBLADOR, DEFENDANT-APPELLANT.*G.R. No. L-44129. April 29, 1977*

Ponente: FERNANDO, J.

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A rather unique feature of this prosecution for rape was the fact that the accused, a young man in his early twenties, was alleged to have assaulted a woman in her middle forties, with eleven children, some of them young girls above the age of puberty, right at a room in her house likewise occupied by another man, with her husband and other members of the family in the immediate vicinity. It may be recalled that it was partly on the basis of disparity in age that in *People v. Mirasol*,^[1] Justice Recto acquitted a youth of twenty-four prosecuted at the instance of a widow of thirty-six, her claim being that there was an attempt to have forcible intercourse with her. That distinguished jurist found it "inexplicable why he had to set his eyes precisely on the complainant and not on [the daughter] who, by reason of her youth and virginity, should excel her mother in point of exciting the lust * * *."^[2] Appellant Josan Poblador's fate was different, having been convicted of the crime of rape. He could not quite convince the lower court that he was entitled to acquittal, notwithstanding the weakness of the evidence for the prosecution, the attendant circumstances moreover militating against his culpability. He could therefore rely on the presumption of innocence.^[3] It is understandable why that constitutional mandate would be vigorously stressed in the Brief submitted by his counsel. Thereafter, on April 19 of this month, a Manifestation in lieu of Brief was filed by Solicitor General Estelito P. Mendoza^[4] on behalf of the People of the Philippines recommending "the reversal of the decision appealed from and the acquittal of the appellant on the ground that his guilt has not been proven beyond reasonable doubt, with costs de oficio."^[5] He was quite emphatic about the matter too: "Much as it is to be desired that the author of the alleged abominable offense, were it committed, be penalized and given the corresponding punishment he deserves, punishing appellant herein, who may be really innocent thereof, will not serve the ends of justice but rather subvert it, which is worse than the crime itself."^[6] A careful study of the evidence of record yields the same conclusion. We accept such recommendation. The judgment of conviction, which moreover is tainted with unorthodoxy, appellant being ordered to pay damages for defamation in the amount of P20,000.00, as well as the further sum of P10,000.00 for exemplary damages, must be reversed.

The established facts about which there can be no conflict were set forth in the Manifestation of the Solicitor General thus: "On the night of August 29, 1972, defendant [Josan Poblador] and [Jason Mateus] were riding on a jeep driven by the latter on their way to the house of the former's second cousin, Abdon Bedro to [get] fertilizer. However, the jeep went out of order about half a kilometer from their aforesaid destination and finally stalled near the house of the spouses Dominador Baylon and Angelina Baylon at the barrio of Aglosong, Concepcion, Iloilo, where at the time said spouses and their five children were asleep * * *. As the jeep could not be started and it was then about 10 o'clock, Poblador and Mateus were constrained to seek shelter and pass the night in the aforesaid house, where they were allowed to sleep in a room, the door of which had no shutter * * *. Poblador and Mateus left the house at about 5 o'clock the next morning but could not proceed to their destination until 8

o'clock when they were able to start the jeep after pushing it to a distance of around 150 meters with the help of Dominador Baylon and three others, namely, Floro Trinidad, Junior Balida and Eliseo Obillos * * *." [7]

After which the Manifestation discussed the conflicting versions as to what transpired. First came the summary of the evidence for the prosecution. The facts testified to were set forth in a detailed and objective manner. It was narrated that "Poblador and Mateus, both armed with guns, called on the house of the Baylons and on entering it, Poblador asked where the latter's daughter Nenet was because he would marry her; that Angelina Baylon replied that Nenet was in Iloilo City and that in any event he could not marry her as he was already 'married' or had a concubine, one Trining Piosca; that on hearing this remark of Angelina, Poblador [was enraged], ordered the spouses Baylons to put out the light in the house and said, 'Now that you sent Nenet to Iloilo City, you sleep with me till morning' and, poking a gun on her chest, told her, Angelina, to come inside the room, where Poblador and Mateus were to sleep, which she did out of fear * * *; that once Angelina was inside the room, Poblador, without as much as kissing her or touching her breasts or any part of her body, pushed her to the edge of a bed therein; that he ordered her to take off her shorts and panties, which she also did; that thereafter Poblador ordered her to lie down on the bed, which she likewise complied with; that he then raised her duster; placed himself on top of her and ravished her without any struggle on her part to defend her honor, much less make any outcry for help, not only to her husband but also to the neighbors whose houses surrounded the Baylons' house, because of fear as he had a gun * * *; that having felt the urge to urinate, she stood up and urinated; that thereafter, she returned to the bed and Poblador again [had intercourse with her]; that she stayed the whole night with [him], save the time when her eight-month old still breast-fed baby cried, and [he] told her to attend to the child * * *; that Angelina's husband, who was in the sala near the door of the room which had no shutter, did not do anything during the time his wife was being raped, which he was witnessing, because Mateus was pointing his gun at him * * *; that when his wife came out of the room to attend to the child, he asked her if Poblador succeeded in having sexual intercourse with her * * *; that although she replied in the affirmative, he did not as much try to avenge the outrage to his wife's honor when Poblador and Mateus finally fell asleep, because of fear that they might be just pretending * * *; that Poblador, before leaving the house, warned the spouses Baylons not to report the incident to the authorities, otherwise he would kill all of them; that although Dominador Baylon, did not believe said threat, he did not report on the following day, the nefarious crime to the barrio captain of Aglosong * * *; that they reported the incident to Mayor Nerio Salcedo of Concepcion, Iloilo, but he merely advised them to relax as it would not happen again * * *; that Angelina Baylon's complaint was not filed with the Court a quo by the Provincial Fiscal until August 26, 1974, or almost two (2) years after the commission of the offense." [8]

Solicitor General Mendoza in his Manifestation recommend-ing acquittal stated that the evidence for the defense is substantially "a denial of the charge of rape by defendant Poblador, a 24-year old bachelor, who testified that he could not have embarrassed himself by having sexual intercourse with Angelina Baylon, an old woman of about 45 years of age whom he respected, much less do it in the presence of her husband, Dominador Baylon * * *; that he could not have forced her to have coition with him at the point of a gun, because he did not own a gun; that he was taken aback by the instant charge, which he later learned from Angelina herself that she did so at the instigation and pressure made to bear on her by the CIS and one Conte Baldoza who suspected him of having been the one who killed the latter's son, so that he, Poblador, could be jailed; that had he desired to have sexual intercourse, he would have gone to Iloilo City for the said purpose; and that Teodorico Piosca, the father of his common-law wife, Ofelia, likewise urged her, Angelina, to prosecute this unfounded charge for spite, because Teodorico was mad at him as he did not approve of his cohabiting with his daughter Ofelia Piosca. * * *." [9]

It is thus easily understandable why counsel for appellant in the able brief [10] he submitted was quite vehement in his denunciation of the decision rendered by the lower court. It is a fair appraisal that the guilt of his client was not shown beyond reasonable doubt. The constitutional presumption of innocence was thus not overcome. The

Solicitor General, after a thorough study of the record, reached the same conclusion. It could not be otherwise. He had to recommend the acquittal of appellant. As mentioned at the outset, we are in agreement.

1. The evidence for the prosecution, to put it at its mildest, leaves much to be desired. There was a failure to live up to the moral certainty as to the guilt of an accused being shown to justify his conviction. As stated in *People v. Dramayo*:^[11] "The proof against him must survive the test of reason; the strongest suspicion must not be permitted to sway judgment."^[12] It would appear that the lower court did not pay due heed to such admonition, which is merely a reiteration of a host of decisions with a similar approach. That is as it should be. To view it differently would result in rendering illusory the constitutional mandate that an accused is presumed innocent. There must be proof beyond reasonable doubt. Failing that, he must be acquitted. "Accusation," to quote from *Dramayo* anew, "is not, according to the fundamental law, synonymous with guilt. It is incumbent on the prosecution to demonstrate that culpability lies."^[13] The lower court, in considering the version of the prosecution, failed to exhibit that requisite measure of objectivity and detachment. It could be that the natural sympathy for a woman claiming to have been the victim of a man's lustful desires and the abhorrence such an act provokes led him astray. Not so the Solicitor General, who in his *Manifestation* took pains to point out the lack of credibility of the version for the prosecution, which he characterized as "fantastic" as well as the contradictions and inconsistencies that vitiated it.^[14] He did not stop there. He went further. He mentioned other circumstances, the fact that the previous relationship between the appellant and the Baylons was characterized by respect and deference on the part of the former; that if it were a case of the former's wanting to satisfy his carnal desire, he could have, as he testified, gone to Iloilo City, and there indulged such proclivity; that if he had committed an outrage on the Baylons, the husband certainly would have refrained from helping appellant push his jeep to make it start; that it was rather strange that the Baylons failed to report such occurrence at the earliest possible opportunity, the complaint being filed with the Provincial Fiscal of Iloilo City on August 26, 1974, or almost two years after the perpetration of the alleged offense.^[15] The recommendation, considering the above, had to be one of acquittal.

2. On a specific level, to refer to our decisions where the offense charged is rape, it is not amiss to recall *People v. Delfinado*,^[16] the opinion being penned by Justice Recto. After a careful examination of previous cases starting from *United States v. Flores*,^[17] promulgated as early as 1906, he stated that it could be laid down as a general rule that a judgment of conviction for the crime of rape cannot be based on the testimony of the offended party unless such testimony is "clear, positive and convincing, or supported by other undisputed facts and strong circumstantial evidence disclosed by the record."^[18] In support of such a holding, he cited in addition to *Flores*, *United States v. De la Paz*;^[19] *United States v. Magsisi*;^[20] *United States v. Tan Teng*;^[21] and *United States v. Ramos*.^[22] He did affirm that in the above decisions, "the accused were acquitted because the only evidence of their guilt was the uncorroborated, contra-dictory, and unconvincing testimony of the alleged victims."^[23] Then came this citation from *United States v. Ramos*: "The mere apparent improbability that the alleged crime could have been committed in the manner and form described by the witnesses for the prosecution does not necessarily justify an acquittal if the evidence submitted by the prosecution is otherwise clear, satisfactory and convincing, unless the degree of improbability is such as to amount to a practical impossibility—but in the absence of a clear, satisfactory and convincing testimony in support of the charge, a judgment of conviction will not be sustained in the face of the apparent improbability that the crime could have been committed as charged."^[24] There is no need to reiterate that appellant's position is much stronger considering the strain on human credulity posed by the testimony of complainant. What is undoubted is the absence of clear, satisfactory and convincing evidence against appellant. In recommending acquittal, the Solicitor General's position has the clear support of authoritative doctrines. Moreover, it is bolstered by decisions of the past three years where the constitutional presumption of innocence sufficed to call for acquittal in rape prosecutions. Mention may be made of *People v. Alvarez*;^[25]

People v. Barbo;[26] People v. Castro;[27] People v. Reyes;[28] People v. Joven;[29] People v. Ilagan;[30] People v. Ramirez;[31] People v. Godoy;[32] People v. Lopez;[33] and People v. Omega.[34]

3. The tenor of this opinion is not to be misinterpreted. It goes no further than to accept the plea of the Solicitor General after a careful study of the record that the accused is entitled to acquittal, his guilt not having been shown beyond reasonable doubt. He is thus entitled to the protection afforded by the constitutional presumption of innocence. The motivation that led the Baylons to testify as they did is immaterial. It suffices to state that what they said could not be given credence. There are indications that appellant had displeased one or more individuals of influence. That could have led, as he asserted, to the filing of this complaint. The matter, however, need not be pursued further. It could be that there are puzzles still unresolved. That may very well be, but for the disposition of this appeal, the inquiry is necessarily limited to the quantum of proof that must exist. That is all that is relevant to the decision reached.

WHEREFORE, the decision of January 24, 1976 finding the accused Josan Poblador guilty of the crime of rape is reversed and he is acquitted of such a charge. This decision is immediately executory. Costs de oficio.

Barredo, Antonio, Aquino, and Martin, JJ., concur.

Concepcion, Jr., J., on leave.

[1] 62 Phil. 120 (1935).

[2] Ibid, 123.

[3] According to Article IV, Section 19 of the Constitution: "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, * * *."

[4] He was assisted by Assistant Solicitor General Reynato S. Puno and Solicitor Ramon Barcelona.

[5] Manifestation, 15.

[6] Ibid.

[7] Ibid, 3-4. The transcript of the sessions of December 20, 1974, 10, 15, 18, 27-28; of January 22, 1975, 23, 24, 29, 31, 34; and of October 23, 1975, 4-5, 6, were referred to in support of the above narration.

[8] Ibid, 4-6. Reference was made to the transcript of December 20, 1974, 11-20 and of January 22, 1975, 24, 27-28, 31, 37.

[9] Ibid, 7-8. The transcript of January 12, 1975, 24-28 and 34; of July 25, 1975, 2-5; of October 23, 1975, 6 and of January 22, 1976, 39-42, were cited.

[10] In the discussion of the legal issues involved, it could have been improved had there been reference to decisions of more obvious significance.

[11] L-21325, October 29, 1971, 42 SCRA 59.

[12] Ibid, 64.

[13] Ibid.

[14] Ibid, 9-13.

[15] Ibid, 13-14.

- [16] 61 Phil. 694 (1935).
- [17] 6 Phil. 420.
- [18] 61 Phil. 694, 700.
- [19] 9 Phil. 738 (1907).
- [20] 9 Phil. 739 (1907).
- [21] 23 Phil. 145 (1912).
- [22] 35 Phil. 671 (1916).
- [23] 61 Phil. 694, 700.
- [24] 35 Phil. 671, 677.
- [25] L-34644, January 17, 1974, 55 SCRA 81.
- [26] L-30988, March 29, 1974, 56 SCRA 459.
- [27] L-33175, August 19, 1974, 58 SCRA 473.
- [28] L-36874, September 30, 1974, 60 SCRA 126.
- [29] L-36022, May 22, 1975, 64 SCRA 126.
- [30] L-36560, May 28, 1975, 64 SCRA 170.
- [31] L-30635, January 29, 1976, 69 SCRA 144.
- [32] L-31177, July 16, 1976, 72 SCRA 69.
- [33] L-41974, November 29, 1976.
- [34] L-29091, April 14, 1977.

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