

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DIEGO MALILLOS, DEFENDANT?APPELLANT.

G.R. No. L-26568. July 29, 1968

Ponente: ANGELES, J.

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ANGELES, J.:

Diego Malillos was charged with the crime of rape in the Court of First Instance of Batangas, Lipa City, under an Information filed by the Provincial Fiscal of the said province, on May 25, 1965, which reads as follows:

"The undersigned Provincial Fiscal, upon complaint of one Venancio Maloles, father of the offended party, one Leonida Maloles, an incompetent person, deprived of reason, and suffering from severe mental deficiency, accuses Diego Malillos of the crime of rape, penalized under the provisions of Article 335 of the Revised Penal Code, committed as follows:

"That in or about the month of October, 1964, in Barrio San Pedro of the Municipality of Sto. Tomas, Province of Batangas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by the use of force and intimidation, did then and there wilfully, unlawfully and feloniously lie with and have carnal knowledge of the said Leonida Maloles, a woman deprived of reason, against her will and consent."

Upon arraignment, the accused entered a plea of "not guilty". Thereafter, he stood trial, at the close of which the court a quo rendered judgment finding him guilty of the crime charged. The dispositive part of the decision reads:

"WHEREFORE, the Court finds the accused Diego Malillos guilty beyond reasonable doubt of the crime of Rape and pursuant to Article 335 of the Revised Penal Code as amended by Republic Act 4111 in relation to Article 345 of the same code, sentences him to undergo RECLUSION PERPETUA, to indemnify Leonida Maloles, the offended woman, through her father Venancio Maloles, in the sum of P5,000.00, to acknowledge Epifania Maloles his offspring with Leonida Maloles, to support Epifania Maloles in the sum of P50.00 every month, the said sum to be entrusted to Venancio Maloles until she reaches the age of majority, to pay the costs and to suffer all the accessories of the law."

Diego Malillos has appealed from the said decision.

Six witnesses appear to have testified during the trial in the court below in support of the People's cause, namely: Roberto S. Regalado, Enrico G. Recio, Venancio Maloles, Fortunato Magno, Adriano Villegas and Leonida Maloles. The evidence of the prosecution tended to show that sometime in the month of October, 1964, Fortunato Magno went to the farm owned by his grandfather (Mamay Pano) in Barrio San Pedro, Sto. Tomas, Batangas, to cut grass for his cattle. In the middle of that farm is the small hut of Mamay Pano, walled on four sides with bamboo slats (bamboo split into halves) set perpendicular to the ground, and roofed with galvanized iron sheets. Scarcely had Fortunato Magno started cutting grass some distance from the hut, when he heard the voice of a woman calling out for help which attracted his attention. Immediately, Fortunato Magno approached the hut, leaving his scythe behind on the grass. He looked into the hut through the holes in the southern walls, and saw Diego Malillos on top of Leonida Maloles, in the act of coition. Diego's pants were rolled down his knees, while

Leonida's dress was raised. The latter, however, was struggling, trying to avoid the attack upon her honor. Upon noticing Fortunato Magno's presence, Diego Malillos stood and raised his pants, then came out of the open door of the hut and approached Fortunato Magno. Levelling a gun at Fortunato Magno, Diego Malillos warned and threatened the former not to tell anybody what he saw. Fortunato promised not to tell to anybody about the matter. In fact, he did not reveal to anybody the incident he saw until at the preliminary investigation of the case, and when he was asked why he did not report the matter to the father of the girl, he said that it was due to fear that Malillos might harm him.

Some five months later, on or about the 26th day of March, 1965, Diego Malillos approached Adriano Villegas, a tractor operator, while the latter was plowing the farm of Eladio Maloles in Barrio San Isidro, Sto. Tomas, Batangas, with a tractor, and inquired how much it would cost him to have his land plowed. Having been told that it would cost P20.00, Malillos pointed to the land to be plowed. Villegas plowed the land with his tractor at an agreed price of P20.00. Knowing, however, that the land belongs to his co-brother-in-law (bilas), Venancio Maloles, Adriano Villegas became inquisitive, and asked Diego Malillos why he had asked him to plow the land. To his inquiry, Diego Malillos answered in the following wise: "Alam mo ba Ader na iyong isang anak ni Venancio Maloles na sira-sira ang bait ay nidisgracia ko, ay ang balita ko ngayon ay buntis." Adriano Villegas did not have the courage to inform the father of the victim about the matter confided to him by Diego Malillos, because he feared that Venancio Maloles might take the law into his own hands, and also because he did not like to be involved in the case. A few days later, however, he decided to reveal the confession of Diego Malillos to his brother-in-law, Modesto Gonzaga, who was the Barrio Captain of the place. The latter then immediately went to the house of Venancio Maloles with Adriano Villegas and informed Venancio about the outrage to his child; and thereafter, the crime was reported to the local authorities of Sto. Tomas, Batangas. On April 1, 1965, the statement of Adriano Villegas was taken in the Office of the Chief of Police of the place. A few days later, Venancio Maloles caused the medical examination of his daughter, Leonida by Dr. Enrico G. Recio, Municipal Health Officer of Sto. Tomas, Batangas, who, on April 7, 1965, issued the following Medico-Legal Certificate (Exh. B):

"TO WHOM IT MAY CONCERN:

"This is to certify that I have examined one LEONIDA MALOLES, single, 17 years old, female, of Bo. San Pedro, Sto. Tomas, Batangas on April 7, 1965, at 2 p.m. at the Rural Health Unit Center with the following findings:

1. Breast - deeply pigmented around the nipple and engorged, nipple erectile.
2. Uterus size of 5-6 months, soft to touch and pear shape.
3. Fetal heart sound not appreciable.
4. Vulva markedly pigmented.
5. Vagina and cervix uteri soft to touch.

On April 13, 1965, the statements of Fortunato Magno and Adriano Villegas were taken during the first stage of the Preliminary Investigation of the Complaint, dated April 8, 1965, filed by Venancio Maloles, father of the victim. In due time, the case was elevated to the Court of First Instance of Batangas, and the Provincial Fiscal filed the corresponding Information, quoted in the opening paragraph of this opinion, on May 25, 1965.

It appears that at about the same time that the proceedings in the Office of the Chief of Police and the Municipal Court of Sto. Tomas, Batangas were being had, Venancio Maloles also caused the medical examination of his daughter, Leonida, at the National Mental Hospital in Mandaluyong, Rizal. On April 23, 1965, Dr. Roberta S. Regalado, a psychiatry specialist in the said hospital, issued the following Medical

Certificate (Exh. A):

"TO WHOM IT MAY CONCERN:

This is to certify that Miss LEONIDA MALOLES, 17 years old, single, a resident of San Pedro, Sto. Tomas, Batangas, had undergone psychiatric examination at the Out-Patient Service of this hospital since April 2, 1965.

Diagnosis: - Mental deficiency, severe.

Remarks: - Her intellectual level is more or less equivalent to that of a 2-4 years old child.

This certificate is issued at the request of Mrs. Martina Maloles, mother of the patient, for legal purposes."

It was established further that the victim, Leonida Maloles, may be classified as an idiot or partly imbecile. She could hardly give answers to easy questions. At her age of 17 then, she showed intelligence equivalent to that of a child 2-4 years old (walang muang). That mental condition had been since childhood.

On July 4, 1965, Leonida Maloles, the victim of the dishonor complained of, gave birth to a baby girl. She was brought to court together with the child which was observed by the trial judge. On the witness stand, Leonida confirmed the fact that the child is hers, and that the father of her baby is Diego Malillos.

For his defense, Diego Malillos denied all the declarations of the witnesses for the prosecution regarding his alleged revelation to Adriano Villegas of the wrong he had committed upon the honor of Leonida Maloles, and his supposed employment of force and intimidation upon her by pointing his gun at her head in order to gain sexual intercourse with her. He admitted that he knew the hut in the farm of Mamay Pano referred to by one of the witnesses for the prosecution, because he used to pass by that place on his way going to his own hut in his "kaingin"; he denied ever having been in that hut (of Mamay Pano) much less with Leonida Maloles although, by his own calculation, that hut is only about 25 meters from the path he used to take in going to his farm. He admitted, however, that he and Leonida Maloles were once seen alone, but it was in his own hut in his "kaingin" and not in the hut of Mamay Pano which is far from his land; and it was the father of Leonida who saw them and not Fortunato Magno; that, that incident took place in the month of March, 1965, and not in October, 1964, as testified to by Magno; on that particular occasion, he did not do anything wrong on Leonida Maloles who had merely come to his own hut in his "kaingin" to ask for a glass of drinking water, and barely two minutes after her arrival, her father came and found Leonida there; Leonida was then seated inside the hut while he was busy cooking rice for lunch, and he was really surprised why Venancio Maloles should make anything out of the incident and get mad at him after that, considering that they have been good farm neighbors long before by reason of the fact that their "kaingins" adjoin each other; on that occasion, Leonida did not make any outcry for help, and he did not poke any gun at the father when he came, much less did he level any gun at Fortunato Magno who was not there at the time. He admitted, nevertheless, that Venancio did inquire from him why Leonida was there inside his hut, and from his attitude then, he noticed that he (Venancio) was mad at him; that his (Diego's) own wife was also there in his "kaingin", although, she was then working some 20 meters distant from the hut. Diego Malillos also revealed that he owns property worth about P45,000.00 in the locality.

After a careful analysis of the evidence thus set forth, We are convinced that the trial court did not err in convicting herein appellant of the offense charged. Upon the facts relied upon in appellant's brief, We find that the issue hinges on the main proposition - that the court below erred in giving faith and credence to the testimonies of witnesses for the prosecution, and in disregarding the testimonies of witnesses for the defense.

First and foremost, appellant assails the credibility of the testimony of Fortunato Magno, the only witness for the prosecution who claimed to have seen herein appellant actually commit the crime of rape of which he now stands

convicted. Appellant has pointed out the various contradictions and inconsistencies in his testimony and now insists with vehemence that his testimony should be disregarded altogether. But while We find the contradictions and inconsistencies referred to in various portions of the testimony of this witness, We cannot but be slow in accepting the theory of herein appellant not only for the reason that We find his testimony on material points to be credible, but also because of the observations of the trial court relative to the credibility of this witness which We are legally bound to respect. The pertinent portion of the decision appealed from reads:

"The defense attacked the credibility of prosecution witness Fortunato Magno. Yes, there are contradictions and inconsistencies in his answer to the questions of the Court and the defense counsel. There are also exaggerations but those exaggerations and contradictions are with respect to the nature of how the accused committed the imputation, but there is no denial that whether there was force or there was none the Court could believe the said witness that he saw the accused enjoyed sexual intercourse with the offended party. x x x."

In a word, the lower court disregarded portions of the testimony of this witness, but gave credence to the portions thereof which it believed were consistent with the facts. And We find this to be legally sound, for our own examination of the testimony of this witness revealed that while he appears to have made exaggerations and contradictions in portions of his testimony, he stuck fast in and never wavered from his declaration that he saw herein appellant with pants rolled down to his knees, on top of the victim who was lying on her back with her dress raised to her waist. To this facts Fortunato Magno testified with unflinching consistency, notwithstanding that the trial court appears to have flogged him with derogatory remarks whenever the court noticed any inconsistency in his statements, even threatening him with imprisonment, at one instance, if he would not tell the truth. It is perfectly reasonable to believe the testimony of a witness with respect to some facts and disbelieve it with respect to other facts.[1] And it has been aptly said that even when witnesses are found to have deliberately falsified in some material particulars, it is not required that the whole of their uncorroborated testimony be rejected, but such portions thereof deemed worthy of belief may be credited.[2] Suffice it to say, in this connection, that a trial court, by reason of its proximate contact with witnesses, are in a more competent position to discriminate between the true and the false,[3] and We really find no cogent reason to disturb the above-quoted conclusion of the court below in the decision appealed from.

But assuming, for the moment, that We should place the testimony of Fortunato Magno wholly out of consideration, still We find enough evidence of record to sustain the conviction of herein appellant as We shall hereinafter show.

Other evidence tends to show, as testified to by Adriano Villegas and Venancio Maloles, that the prosecution of the case against herein appellant was commenced soon after the commission of the crime was revealed to Villegas by herein appellant himself. Villegas testified that he plowed the farm of Venancio Maloles at the instance of herein appellant, and this point appears to be uncontroverted in the record, after which herein appellant confided to said witness that he caused the said land to be plowed as an act of gratitude or to appease Venancio Maloles, one of whose daughters he had ravished. Such revelation, in point of time, is confirmed by the testimony of Venancio Maloles, that upon the information of Villegas, he reported the matter to the authorities of Sto. Tomas, Batangas. Above all these, the stubborn fact stands out in the record that the victim himself, though intellectually deficient, had positively and repeatedly pointed to herein appellant during the trial of the case, as the father of her child. We find the conclusion of the trial court in this regard truly enlightening:

"From the evidence submitted, there is no dispute that Leonida Maloles had carnal knowledge with somebody and out of that she became pregnant and ultimately gave birth to a normal child on, July 4, 1965. During the trial, she was noticed to be an idiot. Dr. Roberta Regalado, resident physician and undisputedly a psychiatrist of the National Mental Hospital supporting that observation of the Court testified and certified as shown in Exhibit "A" that Miss Leonida Maloles during her examination of her mental condition from April 2, 1965 to

April 22, 1965 was suffering a severe mental deficiency. Her intellectual level is more or less equivalent to two to four years old. She also testified that the mental deficiency of Leonida Maloles was with her since birth. In Court, at her first appearance, Leonida Maloles was then with her child and was observed to be looking up and down. After her child was ordered by the Court to be held by her mother, she sat down and continued to look up and down. And when the Court or the lawyers asked her questions, she used to give sharp looks and made no answers except those that could be answered by either yes or no through the nod of her head and similar to a small child, she would point somebody if the question called for her to indicate. Majority of the questions propounded were not answered by her and it took difficulties for her to make one but not through her lips but through her finger and head. Some of the queries are the following: "Question by the Court - Is that your child?" She answered in the affirmative through the nod of her head and when the Court also asked her, who was the father of said child, she pointed to the accused Malillos. When the Court again asked her to approach the man whom she claimed to be the father of her child, she went nearer the accused and indicated him. x x x."

Such revelation of the commission of the crime by herein appellant, and his positive identification by the victim as the father of her child are, to our mind, sufficient to convict herein appellant, independently of the testimony of Fortunato Magno.

Appellant, however, also assails the credibility of the testimony of Adriano Villegas and Venancio Maloles, father of the victim. He points to the fact that the testimonies of these witnesses are, likewise, not free from contradictions and inconsistencies. Indeed, such inconsistencies exist, but from our own examination of the evidence, We found that they refer merely to minor details which do not detract any substance from the value of their testimonies. Such discrepancies - referring to trivial facts as to whether it was Villegas or Gonzaga (Barrio Captain) who personally gave the information to the victim's father about the dishonoring of his child by herein appellant; whether Villegas was alone or was with the Barrio Captain when the said information was transmitted to Venancio Maloles; whether or not the mother of the victim was present in the house when the information referred to was given; whether the information was revealed to the father of the victim sometime on March 29 or 30, 1965, or early in April of the same year; whether it was at noon or in the afternoon when Villegas and/or the Barrio Captain came to the house of the victim to give the information; whether it was the father of the victim or the Barrio Captain who initiated the move to report the commission of the crime to the local authorities of Sto. Tomas, Batangas; whether Venancio Maloles alone reported the matter to the police of the place and had Villegas fetched afterwards, or Maloles, Villegas and the Barrio Captain went to town altogether to make the report and whether the respective statements of said witnesses were then and there taken by the police, or sometime thereafter - may be overlooked. It is but natural that different witnesses will vary in detail in their testimonies about a single past occurrence, unless they are first rehearsed. Rather than being indicia of falsehoods, such inconsistencies reveal clear signs that the said witnesses had neither been tutored nor trained, which may be taken as evidence of their good faith. Nor do We find any merit in the claim of herein appellant, that because these witnesses are related to the victim, their testimonies deserve no credence because they are necessarily biased, partial, prejudiced and interested witnesses. Relationship to the victim alone does not impair the positive and clear testimony of witnesses.[4]

Appellant decries further the reliance made by the court below upon the identification of herein appellant by the victim as the father of her child. He capitalizes on an answer made by the victim to a leading question of the defense counsel during the cross-examination of said witness:

"CROSS-EXAMINATION BY ATTY. ENDAYA:

"P - You pointed to the accused as the father of your child simply because somebody has instructed you to point him as the father, am I right?

"R - Yes, sir." (Tan, Lunar, p.13)

Apparently, however, the victim, whose intelligence has been conclusively proven to be equal to that of a 2 - 4 years old child, did not understand the question; for in her second appearance in court, having been present-ed later as a defense witness, she testified as follows:

"ATTY. ENDAYA:

"Q. - When you revealed after having been called by the Court and in answer to my question you stated that you were pointing to the accused as the author of your pregnancy only because you had been so instructed, my question is who instructed you to do so?

"A. - No, sir.

"COURT:

Just put that 'No, sir', and then repeat, I cannot answer that.

"ATTY. ENDAYA:

"Q. - It was necessary that somebody should order you or teach you to point to the accused as the author of your pregnancy be-cause in truth and in fact it was somebody else and not the accused, am I right?

"MR. FISCAL:

"Argumentative.

"COURT:

"Make it simpler.

"ATTY. ENDAYA:

"Q. - The truth is somebody else and not Diego, is the author of your pregnancy?

"INTERPRETER:

"No answer.

"ATTY. ENDAYA:

"That is all.

"COURT:

"Q. - To make clarification in order to help the Court, that is your child, is it not?

A. - Yes, sir.

Q. - Who is the father of that child?

A. - Diego.

Q. - That Diego? Stand up and point at him.

A. - (Witness standing up and go down; the witness stand and pointed to the accused Diego MaLillos.)

Q. - Are you sure and positive?

A. - Yes, sir.

Q. - How many times were you used by Diego?

INTERPRETER:

The witness does not answer.

COURT:

Q. - Why do you know that it was Diego who is the father of your child?

A. - I know.

Q. - Why, did he lay on top of you?

A. - Yes, sir.

Q. - How many times did he lay on top of you?

A. - Once.

Q. - Where?

A. - In a hut.

ATTY. ENDAYA:

Additional questions.

Q. - I will repeat the same old question. Who taught you to point to the accused?

A. - Nobody taught me.

Q. - So you were not telling the truth previously when you testified that somebody taught you, is that it?

INTERPRETER:

The witness does not answer.

ATTY. ENDAYA:

That is all." (Tsn, Leynes, pp. 28-30)

By and large, therefore, We find that the evidence for the prosecution has convincingly shown herein appellant's guilt which, it would certainly not be trite to add here, was never overcome by the evidence for the defense. As a matter of fact, We find the answers of here-in appellants to questions touching upon the acts imputed to him unresponsive and equivocal, if not evasive. This will illustrate our point:

"ATTY. ENDAYA:

x x x x x

"Q. - According to Adriano Villegas, sometime in March or April, you admitted to him that you had sexual intercourse with Leonida, is that true that you admitted to him?

A. - I do not know that.

COURT:

Q. - Why you don't know?

A. - No, sir.

ATTY. ENDAYA:

Q. - At anytime even on other month, did you ever admit or tell Villegas that you had had sexual intercourse with Leonida?

A. - No, sir.

Q. - According to Fortunato Magno in that month of October, you were surprised by him on top of Leonida and forced to have sexual intercourse with her inside the hut of Mamay Pano, is that true?

A. - No, sir.

Q. - According to him, he even approach-ed and pipped (sic) through a hole of the hut and he saw you with his eyes having sexual intercourse with her by force, what can you say as to that?

A. - No, sir.

Q. - According to him, you even had your drawer and your pants down while you were lying on top of Leonida, is that true?

A. - No, sir.

Q. - According to him also you were even holding a .45 caliber pistol and (sic) your effort to force Leonida to a sexual intercourse, is that true?

A. - No, sir.

Q. - According to him also, Leonida shouted for support that is why his attention was called, what can you say as to that?

A. - No, sir.

x x x x x" (Tsn. Leynes, pp. 34-35)

Finally, We are convinced of the correctness of the observation of the trial court that monetary consideration, as a motive that might have impelled the parents of the victim to charge herein appellant, must be ruled out, for it has been convincingly shown that both appellant and the father of Leonida Maloles own property of substantial value. It is also significant to note that, any way, appellant had admitted that at one time, he and Leonida Maloles were found alone in the hut in his "Kaingin" by the father of the victim. Leonida Maloles was then five months pregnant, and We are more inclined to believe that the victim must have gone there for some purposes other than to secure drinking water as claimed by Diego Malillos. Added to this is the fact, also admitted by appellant, that there is no known plausible reason why the witnesses for the prosecution should impute to him the commission of such a heinous crime, from which the conclusion may be drawn that the charge must be true. Consequently, We find the decision of the lower court in accordance with the law and the evidence, and the same must be upheld.

WHEREFORE, the decision appealed from is affirmed, with costs against herein appellant.

Concepcion, C.J., Reyes, JBL, Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, and Fernando, JJ., concur.

[1] People v. Dasig, et al., 49 Of. Gaz. No. 8, p. 338.

[2] See People v. Li Bun Juan, et al., L-11077, Aug. 23, 1966.

[3] See People v. Catalino, L-25403, March 15, 1968.

[4] See People v. Villaba, L-17243, August 23, 1966.

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