

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ERNESTO SAMBILI, ACCUSED-APPELLANT.

G.R. No. L-44408. September 30, 1982

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

Charged with rape in the Court of First Instance of Quezon, Branch I, the accused Ernesto Sambili was convicted of the crime charged and sentenced as follows:

"WHEREFORE, finding the accused Ernesto Sambili guilty beyond reasonable doubt of the crime of rape as charged against him, this Court hereby sentences him to suffer the penalty of reclusion perpetua, there being no proof of aggravating nor mitigating circumstance, and to pay the costs." [1]

Appealing from the judgment of conviction, appellant claims that the trial court erred (1) in finding the crime of rape to have been committed and (2) in finding that the accused committed the act complained of, and therefore contends that his guilt was not proved beyond reasonable doubt.

The State counsels found the narration of facts in the decision of the trial court to have been duly established by the State evidence, and supplying the page reference to the transcript of the stenographic notes, they quoted from the appealed decision the following:

"On July 18, 1974, Nemesia Almero, 20 years old, married, a fish vendor from Barrio Bignay, Sariaya, Quezon, was selling fish at Lutucan, Sariaya, Quezon, which is about three (3) kilometers from her home. (pp. 2-4, tsn, May 21, 1975; Exhibit 1). At about 6:00 o'clock in that afternoon, she was riding in a passenger jeepney from Lutucan; she got off at the junction (or sambat), because the jeepney was bound for Manggalang. She decided to walk from the junction, meanwhile that no jeep pass by yet for Bignay, where her home is, which is 2 and 1/2 kilometers from the junction. (pp. 4-7, tsn, id.; Exhibit 1).

"It was already dark, as she was walking; she felt noise coming from behind. She looked back and saw the accused following from behind. She ran, but he chased her. She increased her speed to reach the house nearby, but she could not enter the yard, because of the barbed wire fence, and the house inside is still ten (10) to twelve (12) meters from the fence. (pp. 7-8, tsn, May 21, 1975; pp. 4-6, tsn, August 1, 1975; Exhibit 1).

"As she was about to go in, the accused held her hair. She shouted 'Help me! When she was about to shout again, the herein accused covered her mouth. Then he pulled her by the hair and dragged her to the forested area, which is about 200 to 500 meters from the road. He ordered her to keep quiet. She resisted to release herself, but he dumped her to the ground on its grassy portion. (pp. 8-9, tsn, May 21, 1975; pp. 8-11, tsn, August 1, 1975; Exhibit 1). He pulled down her short with garter and panty, as she tried hard to pull them up, but to no avail. Then he inserted his private parts into hers, saying 'Aasawahin kita! (I'll have sexual intercourse with you!)' (pp. 10-12-13, tsn, May 21, 1975; pp. 11-16, tsn, August 1, 1975; Exhibit 1).

"She knows the accused by face, because his wife used to buy fish from her, and she saw him also, whenever she passed by his house no less than 10 to 15 times before this incident in question (p. 11, tsn, May 21, 1975; pp. 6-7, 19, tsn, June 27, 1975; p. 32, tsn, July 18, 1975; Exhibit 1).

"However, at the moment he was raping her, when he asked whether she knew him, she denied, for fear that he might kill her. He ejaculated, stood and urinated with a warning on her not to get up. (pp. 16-17, 20-22, tsn, August 1, 1975; p. 11, tsn, May 21, 1975; Exhibit 1).

"As she was lying down, he pulled her to a place farther from the spot where she was first abused. He tore her dress and again raped her by forcibly having carnal knowledge with her and against her will, while this time she was already nude. She struggled to free herself, but she could not stand as he was on top of her. He finished and was already tired by this time; then she took the opportunity to run away though she was naked. (pp. 12, 14, tsn, May 21, 1975; pp. 17-19, 22-25, tsn, August 1, 1975).

"She saw a lighted house, which is about 40 meters from the second spot where she was raped. She ran faster, because she felt he was running after her. She reached the lighted house at around 7:00 o'clock that night. She called up loudly: 'Ka Marci, Ka Marci, open the door; something happened to me on the way!' (pp. 14-17, tsn, May 21, 1975; pp. 25-26, tsn, August 1, 1975; Exhibit 1).

"At this juncture, Marceliana Makipagay corroborated with complainant Nemesia Almero. 'Why, who are you?' asked Marceliana. Complainant answered: 'I am from Aplaya, a fish vendor!' She pleaded the door open and let her in. Witness' husband opened the door. She entered wailing and said that something bad was done to her (ginawan ng mahalay). She bent and squated trying to cover her body. Marceliana's husband went to the balcony of the house. Nemesia Almero requested witness to lend her a dress. Witness entered the room to get it; complainant followed and put on the duster and short inside the room. (pp. 15-17, tsn, May 21, 1975; pp. 1-2, tsn, August 1, 1975; pp. 7-9, 15-16, tsn, Nov. 13, 1975; Exhibits A and 1). Witness noticed the scratches which bled on Nemesia's thighs. When asked, she said she got entangled with the barbed wire. (pp. 9, 12-13, 16-18, tsn, Nov. 13, 1975). She narrated to Marceliana everything. Later, asked who abused her; and whether complainant knew him. She said she knows him by face and can identify him. She indicated to Marceliana Makipagay the place where she was raped; which is north of witness' house near the road, some 150-200 meters far. (pp. 1-2, tsn, August 1, 1975; pp. 9-10, 18-22, tsn, Nov. 13, 1975; Exhibits A and 1). She appealed to the spouses to help her go home. They heard the oncoming jeepney, which they stopped; and Marceliana Makipagay instructed the driver to bring Nemesia Almero to her home in Barrio Bignay. (pp. 17-18, tsn, May 21, 1975; p. 10, tsn, Nov. 13, 1975; Exhibit A).

"She [Marceliana Makipagay] executed an affidavit regarding this case (Exhibit A), which she signed (Exhibit A-1). (pp. 11-12, tsn, Nov. 13, 1975).

"Meanwhile, Nemesia Almero reached Bignay between 7:00 and 8:00 o'clock that same evening. She saw her husband waiting in a store; she asked the driver to stop; he rode with her in the jeep to their home. He asked her why she was so late; she said she would tell everything to him in their house; which she did. (pp. 18-19, tsn, May 21, 1975; pp. 8-9, 13-14, tsn, June 27, 1975).

"The next day, July 19, 1974, at about 7:00 o'clock in the morning, her husband Bernardo Galit went to fetch his mother Celestina de Ramos; and she learned what happened to her daughter-in-law Nemesia Almero the previous evening. (pp. 4-5, 12-13, tsn, Feb. 12, 1975). She went to their house and found complainant crying. She affirmed the crime committed on her. She told her mother-in-law that she knows the offender, who is tall with long hair and big eyes. (pp. 5-6, tsn, Feb. 12, 1975). The two women went to the place of the crime, and found there complainant's wearing apparel on that evening in question, such as the dress, the bra and the panty. They brought them to the authorities, and now offered in Court as Exhibits C, C-1 and C-2. (pp. 4-6, 12-13, 16-17, tsn, June 27, 1975; pp. 6-8, 13-14, 16, 34-35, tsn, Feb. 12, 1975).

"Later on the two with Paciano and Bernardo Galit went to Barrio Lutucan, Sariaya, Quezon, as Nemesia claimed that the accused might be there; which turned out to be true. She pointed him to them as the offender. Her mother-in-law said that the man is Ernesto Sambili, a cow puller for fee (corridor). (pp. 19-20, tsn, May 21, 1975; p. 20, tsn, June 27, 1975; pp. 2-8, 32, tsn, July 18, 1975; pp. 8-10, 16-18, tsn, Feb. 12, 1975; Exhibit 1) Paciano, the brother-in-law of Nemesia Almero, left to report the matter to PC Sergeant Poco. (pp. 10-11,

22, tsn, Feb. 12, 1975; p. 2, 7, tsn, March 7, 1975).

"When the three of them reached home, Sgt. Romualdo Poco and Paciano were already waiting. The barrio councilman Vicente Rodriguez was also informed of the crime committed on her. Sgt. Poco verified with the complainant, which she confirmed; and she told him she can identify the offender. (pp. 9, 11-12, 16-17, tsn, July 18, 1975; pp. 5-6, 19-20, tsn, June 17, 1975; pp. 23, 25-31, 33, tsn, Feb. 12, 1975; pp. 6-7, tsn, March 7, 1975). Sgt. Poco presented to her a suspect, but she said he was not the one. (pp. 25-29, tsn, July 18, 1975; pp. 6-7, 19-22, tsn, Jan. 15, 1975) Later, he learned the name of the offender as Ernesto Sambili. They all went to Barrio Monticillo. Sgt. Poco called the barrio captain Hilario Dinglasan; latter accompanied him to the house of the accused Ernesto Sambili. (pp. 12, 15, 30, tsn, July 18, 1975; pp. 7-9, 26-27, 28-30, 31-34, tsn, Jan. 15, 1975; pp. 7-9, tsn, March 7, 1975).

"Upon arrival they were informed by accused wife that he was sleeping; they asked her to wake him up; Sgt. Poco with the accused went to the balcony of the house, while she was on the ground. She responded: 'Iyan na nga po!' (He is the one, sir!) (pp. 15, 18-19, 31, 33, tsn, July 18, 1975; pp. 4-5, 9-10, tsn, Jan. 15, 1975; pp. 9-10, tsn, March 7, 1975). Accused was asked by Sgt. Poco to go with them to the camp at Lucena City due to the complaint filed by Nemesia Almero for rape against him. Accused was turned over to Sgt. Dellosa. (pp. 19-21, tsn, July 18, 1975; pp. 10-11, 35, tsn, Jan. 15, 1975; p. 11, tsn, Feb. 12, 1975; p. 10, tsn, March 7, 1975). Nemesia Almero was asked to execute an affidavit (Exhibit 1), then she was referred to the Quezon Memorial Hospital for medical examination. (pp. 21-23, tsn, July 18, 1975; pp. 20-21, tsn, Feb. 12, 1975; pp. 2, 4, tsn, March 7, 1975).

"Dra. Lucita Goyma, who examined Nemesia Almero, issued a medical certificate (Exhibit B) with her signature (Exhibit B-1). Her findings show also abrasions on her thighs, such as 1, 2 and 3, which could have possibly caused by bumping against hard object in the course of struggle. (pp. 3-5, tsn, Dec. 6, 1974."[2]

We find the above facts supported by the evidence and adopt the same as basis for the determination of the guilt or innocence of appellant who pleaded alibi as his sole defense.

If only from the fact that he was positively identified by the victim, appellant's alibi is totally futile. The identification is most credible and reliable since the complainant, in pointing to appellant as her ravisher, was not shown to have any motive, which should be of a sinister character, for her to impute falsely to appellant the commission of so grave a crime as rape. As a married woman she would certainly not wish herself publicly exposed as a victim of such a crime just to satisfy some motive had there been any. The only obvious motive she had is to vindicate her honor and bring to justice the person responsible for his disgrace.

For complainant to have a motive of such sinister character, she and appellant ought to have been well known to each other, with some dealings that could give rise to such motive. But complainant was candid enough, as a mark of her sincerity and credibility, to admit that appellant was known to her only by face and not by name, when asked who her assailant was.

Everything is, likewise, naturally credible in all the other portions of her testimony, such as how the appellant first caught up with her while she was walking alone towards home with darkness having overtaken her, then dragged her forcibly, practically carrying her bodily, to a forested area where he ravished her not only once, but twice. What particularly imprints the badge of truth on her story is her having been rendered entirely naked by appellant and that even in their nudity, she had to run away from the latter and managed to gain sanctuary in a house owned by spouses hardly known to her. All these acts she would not have done nor would these facts have occurred unless she was sexually assaulted in the manner she narrated.

No fact or circumstance was pointed to by appellant which would in any way tend to detract reasonably from the credibleness and veracity of the story of complainant. She set forth the highlights thereof in an affidavit she

executed when she, without loss of time, denounced appellant to the authorities. The spontaneity with which she, even in a state of shock, reported the grave offense committed against her, lends credence to the sordid details of her harrowing experience as she spelled them out in said affidavit, and later testified on them in court. What happened after the actual commission of the rape was testified to by disinterested persons such as the recovery of complainant's panty, bra, and her torn dress, from where they were left behind, in her frantic desire to run away from appellant, even if she had to do so with her body exposed in sheer nakedness. The same witnesses also testified to giving complainant a dress to wear upon reaching their house naked, direct from where she was assaulted sexually. Appellant points to the absence of abrasions in other parts of the body of complainant except those on the thigh as tending to render complainant's story unnatural and untrue. The part of complainant's body that went in contact with hard objects and where abrasions could have been caused, was her back, but it was somehow protected by her dress because it was when she was already down on her back on the ground that appellant tore her dress. It was therefore, her front part that was exposed, her back retaining the protective cover of her dress. This would explain why no other abrasions were seen by the medical examiner except those on the thigh, which would, however, suffice to show that complainant was subjected to violence, as the means that enabled appellant to satisfy his beastly passion. The finding of her panty, bra and torn dress in the forested area the day following the outrage would unerringly attest to the sexual assault[3] plus the healed lacerations in her vagina (Exhibit B)

Against the version of complainant as to how she got to be naked when she ran away from appellant, the latter's counsel would have his own surmise, evidently purely speculative and imaginary, that complainant and her lover must have quarrelled violently during the tryst that she was sent home naked.[4] If what brought the complainant and her lover in the forested area was a tryst, it is hardly believable, in the first place, that two trysting lovers could not have chosen a better place to satisfy their mutual desire for sexual pleasure; and in the second place, that they would part from each other, the girl leaving behind her panty, bra and torn dress, running in a state of nakedness, and seeking sanctuary in the nearest house within her reach, driven by a feeling of horror, certainly not how one feels just after a blissful tryst with a lover.

Appellant has tried laboriously to show that complainant pointing to him as her ravisher was not that positive as would exclude all form of alibi as what appellant offered to repel the accusation against him. There can hardly be any doubt as to complainant having had all the opportunity to know the identity of her sexual assailant. She saw appellant overtaking her when she was walking alone towards home. She resisted when he was held by the hair and dragged towards the forested area where she was sexually attacked. She tried to prevent appellant from consummating his beastly desire by struggling against the hold of appellant to pin her down on her back when appellant placed himself on top of her. Appellant got up to urinate after the first copulation, after which he dragged complainant again for a second assault thereby giving complainant full view of him. Complainant, therefore, had more than enough opportunity to know who her attacker was, which identity she must have endeavored to know, as all victims of violent attack do.[5] The evidence, indeed, shows that the first opportunity appellant was shown to complainant to be identified, the latter, instantly and without hesitation, pointed to him with all certainty as the rapist.

A careful evaluation of the evidence, also considering with all objectivity the circumstances painstakingly pointed to by appellant to show that the latter's identification by complainant was far from being positive, yields nothing but a firm conviction on Our part that complainant was raped, and was certain in identifying appellant as her ravisher and sadist attacker on the night of record.

WHEREFORE, the guilt of appellant, had been proved beyond reasonable doubt. The judgment appealed from, being in accordance with the law and the evidence, except as to its failure to appreciate nocturnity as an

aggravating circumstance, and to order the payment of indemnity in the sum of P12,000.00 in favor of the offended party, said judgment, modified as herein indicated, is affirmed in all other respects. Costs against appellant.

SO ORDERED.

Barredo (Chairman), Aquino, Concepcion Jr., Guerrero, Abad Santos and Escolin, JJ., concur.

[1] p. 2, Appellee's Brief, p. 152, Rollo.

[2] pp. 3-10, Id.

[3] People vs. Sacabin, 57 SCRA 707.

[4] pp. 9-10, Appellant's Brief, p. 83, Rollo.

[5] People vs. Selfaison, 1 SCRA 235.

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