

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REYNALDO RAMOS, DEFENDANT-APPELLANT.

G.R. No. L-47627. March 31, 1980

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

Reynaldo Ramos was charged with rape committed on his own sister-in-law, Leticia Requerma, and for which, after trial, upon proper complaint and information,[1] he was convicted and sentenced to reclusion perpetua, to indemnify the offended party in the sum of P12,000.00, without sub-sidiary imprisonment in case of insolvency, and to pay the costs.[2]

In the instant appeal interposed by appellant Ramos, We affirm the judgment of the court a quo, as recommended by the Solicitor General,[3] and as wholly warranted by the evidence.

The crime was committed, according to the Solicitor General, quoting from the People's Brief,[4] as follows:

"About 3:30 o'clock in the afternoon of June 27, 1976, Leticia Requerme was walking on the road towards sitio Kiagawan, Bo. Plaridel, Claveria, Misamis Oriental. Coming from her house in Plaridel, Leticia as going to Kiagawan to help her father Julian tend their farm (pp. 128, 150, 160, tsn, Jan. 24, 1977). As she was passing near the uninhabited house of appellant's parents, she saw appellant, whose wife Perla is her sister, approach her and heard him say: 'Tic I will borrow your bolo. I will use it in getting (kalamungay) horse radish.' (pp. 129, 152, 161-162, id). Leticia gave him the bolo; and after giving it to him, she observed that appellant threw the bolo away while he held her left hand. Then appellant held her more firmly and pulled her closer to his body. She resisted and he 'dropped' her down. On the ground, she kicked appellant, throwing him away (pp. 129-130, 181-183, id). Leticia rose to her feet, but again appellant moved towards her and forcibly held her down. Her back hit a big stone upon which she leaned. Next appellant grabbed her pants and panty from the waistline and pulled them down. She struggled to free herself, but she weakened and fell to the ground, face up. Then appellant knelt on both her knees and boxed her diaphragm (pp. 131-132, 139-142, id). Leticia fainted. When she later regained consciousness, she realized that her private parts were already bleeding, causing her intense pain. Her arms, too, were bleeding, her back and diaphragm painful (pp. 133-135, id). Appellant was meantime putting on his pants (p. 133, id). And he told Leticia that 'Tic, if you are going to tell [to] your father I will kill you.' (p. 134, id).

"Thereafter, appellant ran away. Leticia got up, put on her panty, wore the dress paired to her pants, retrieved the bolo and placed it inside the bag with her pants, already torn with a 'dislodged' zipper (pp. 134-137, 143-147, id; Exhs. 'B', 'D' & 'E'). The garter of her panty on the waistline was torn and ripped; the panty's left lower portion where the leg is inserted was loosened, too (pp. 136, 138, 139, id; Exh. 'C').

"Leticia rushed to her father at their farm-house. Crying, she related all that happened to her. She showed her pants and panty; she also displayed that abrasions on her arm and diaphragm, and her back that hit against the stone. Her father asked her, 'Are you filing a charge against Reynaldo Ramos? He is our in-law'. In a determined voice, she answered, 'Come what may. We must file a charge against Reynaldo Ramos because he abused my womanhood. (pp. 149-151, id).

"About 6:00 o'clock p.m. of the same day, father and daughter saw Jesus Tagud, the barrio captain of Plaridel, at his residence. There Leticia related to the barrio official the incident of a few hours ago. She also showed him her torn panty (Exh. 'A'), her pants (Exh. 'C') which was ripped on its front covering the private parts, her dress (Exh. 'D') and the bolo (Exh. 'E') (pp. 152-154, id). As it was already nighttime, Jesus Tagud advised her to report to the police authorities at Claveria the following morning (p. 153, id; pp. 47-56, tsn, Nov. 29, 1976).

"That same evening, the barrio captain went to see the appellant at the house of Julian Requerme where appellant was then staying with his wife who had just given birth to a child. But appellant was not there. In-stead, he told the wife, Perla, what her hus-band did to her sister. That was the first time Perla learned of the incident; and she cried. When he went back early the next morning, Tagud could not still see the appellant; the latter was not still at the house (pp. 162--163, id; pp. 68-70, tsn, Nov. 29, 1976).

"About 8:30 o'clock in the morning of June 28, 1976 (the day after the incident), Leticia, her father Julian and Barrio Captain Tagud were in the Office of the Chief of Police at Claveria to make the report. Leticia narrated the incident to the Chief of Police, Ranulfo Mendoza, and showed her injuries and the other evidence of the crime, the same things she showed her father and the barrio captain. The police chief advised her to see a doctor for examination (p. 63, tsn, Nov. 29, 1976; pp. 154-156, tsn, Jan. 24, 1977; pp. 236-243, tsn, Feb. 7, 1977).

"On the same day (June 28, 1976), Leticia was examined by Dr. Ulderico V. Supremo, Muni-cipal Health Physician of Claveria, Misamis Oriental (pp. 156-157, id; pp. 6-12, tsn, Nov. 29, 1976). The examination disclosed the follow-ing:

"Physical Injuries -

- Contusion over the posterior part of the body four in number, one is located at the right interior scapular angle, two at the left axillary part of the scapular and one at the vertebral part.
- Abrasion over the lateral distal part of the arm and two abrasions located at the medial middle portion of the left forearm.
- Contusion over the abdominal region, five inches above the umbilical area middle part.

Examination of Genitalia and Breast -

1. Abrasions over the lateral part of the breast above three inches from the left nipple.

Hymen –

Superficial laceration observed and located about six o'clock at the entrance of the vaginal canal.

Pubic hair Examination –

Dried stain can be appreciated matting some pubic hairs."

(Exhs. 'A' & 'A-1', pp. 79 & 79-A, respectively, rec.; pp. 12-22, tsn, Nov. 29, 1976; under-scoring supplied)

According to Dr. Supremo, the laceration of the hymen was caused by the insertion of an object like a penis or a finger, occurring 18 to 20 hours before examination (pp. 20-21, tsn, id).

"After the examination, Leticia went back to the Chief of Police and gave her statement (Exh. 'G', p. 4, rec.) in writing. The following day, June 29, 1976, the complaint for rape was prepared, and Leticia signed and swore to it (Exh. 'F', p. 3, rec.; pp. 157-159, tsn, Jan. 24, 1977; pp. 243-244, tsn, Feb. 7, 1977)."

Appellant's claim of having had sexual intercourse with Leticia with the latter's full consent,[5] which constitutes his sole defense, is utterly incredible.

As found after the physical and medical examination to which she promptly submitted herself, Leticia sustained contusions and abrasions on her arm and diaphragm. Her pants (Exhibit 'C') were ripped on its front covering her private part, and her panty (Exhibit 'A') was torn. These are evidence of resistance and struggle which negates the claim of a consented sexual act.

Leticia reported the harrowing incident to her father, Julian Requerme, right after its occurrence, narrating her story exactly as it was presented in court. The reporting to the legal authorities, as well as to the medical examiner was instantaneous. The complaint was filed soon there-after.[6] These are also circumstances that would prove that the prosecution's version represents the truth, while that of the defense, particularly on its claim that the injuries found on the body of Leticia, were inflicted by his sister Perla,[7] appellant's wife, who allegedly surprised them in actual sexual intercourse, is pure concoction. With the acts of violence committed on her, Leticia could not have meekly submitted herself thereto without retaliating and somehow also inflicting injuries on her sister, Perla, who was still weak from a recent child delivery. But Perla appeared unscathed.

If Leticia consented to having the sexual intercourse with appellant because they have been, before his marriage, and continued to be, sweethearts,[8] as is the pretension of appellant, she would have kept the act a secret instead of revealing it to her father, which she did with genuine agony and indignation, accompanied by a grim resolve to charge her ravisher even if he is her brother-in-law, and notwithstanding the apparent reluctance of her father to take such action, if only to save the family honor. If the father had also heard the story of appellant's wife as to how the incident took place, as claimed by the latter,[9] the father would have tried to first ascertain who as between the sisters was telling the truth before taking the legal steps to subject appellant to prosecution. This he could have done with ease and facility through a direct confrontation that he should have naturally brought about between the two sisters. The fact is that the defense version is a clever but manifestly eleventh-hour fabrication, that was never told to anyone, not even to the father, before the complaint was filed. This fact was affirmed by the said father, in his testimony,[10] whose credibility cannot in the least be impugned. For that matter, appellant, in his brief, has not mentioned anything about the contusions and abrasions allegedly inflicted by his wife, Perla, on the complainant, Leticia, a strange omission considering that it is a principal element in the theory of the defense. As a sister, Perla could have only reproached Leticia with bitter admonition, not to inflict injuries on her, assuming as true that she surprised her sister in sexual conversation with her husband as she claimed. Disbelief in Perla's story is heightened by the fact that she had a two-month old baby[11] whom she could not have left behind uncared for and alone, to go out in search for her husband. If she brought the baby along, she could not have inflicted the injuries on her sister with such human burden restricting her freedom of movement.

The credibility of Jesus Tagud, as a state witness, was also impugned by the defense on the ground of alleged bias.[12] His wife, being the sister of Leticia and Perla, his fidelity could be only to the truth. He would have felt pity for Perla as the party aggrieved, and anger for Leticia as the party in guilt. He then would not have testified against appellant as he did when he declared that it was he (Tagud) who for the first time, told appellant's wife, Perla, of the incident the latter crying upon learning of what her husband did to her sister.[13]

From what has been said, the defense version is entirely unbelievable. It derives no support from the facts and circumstances that have been solidly established by the evidence. The defense witness, Olegario Gansang, stated nothing more than seeing appellant sitting on a bed with a woman whose head was resting on his lap, inside the house of appellant, and that he met appellant's wife on her way to the house.[14] Firstly, it is highly improbable that if appellant and Leticia were to perform the sexual act, they would not have provided cover from and insure themselves against any prying eyes outside the house. Secondly, if Gansang had gone near the house, he would have called out for anybody inside who could have helped in his mission of looking for a lost cow, instead of peeping through a hole in the house. Thirdly, his witness is not even known by Julian Requerme, father of Leticia

and Perla, before the former testified for appellant. Evidently, Gansang is a mere accommodation witness.

We are convinced beyond doubt that Leticia's claim of having been raped by her own brother-in-law is true. She could not have fabricated the charge only to send appellant behind bars and thereby cause great misery to her own sister who has just given birth to her first child and, therefore, in need of the care and support of her husband. She would also lose appellant as a sweetheart which she could ill-afford to do, if we were to believe appellant. The victim, a barrio and unsophisticated girl of only 17 years, acted as one who had been ravished would have done, when she told her father of her defilement without loss of time, charged the villain no matter how closely related he is to her as the husband of her sister, thereby showing convincingly her truthfulness and sincerity in seeking vindication of her outraged honor.

The only issue in the instant appeal is one of credibility. As has been demonstrated, it is to the story given by the witness for the prosecution that credence is easily due. The credibility of the witnesses themselves is best gauged by the trial court to whom their demeanor and manner of testifying are made observable personally to the presiding judge, who in the instant case, gave full faith and credit to the state witnesses, a finding this Court has found no reason to disturb. In raising the issue of credibility, appellant unavoidably comes to grip with the well-settled rule that the assessment of the trial court of the witness's credibility is generally and almost invariably given full weight and respect by the appellate court which is not given the opportunity to observe the witness's manner of, and demeanor in, testifying on the stand.[15]

WHEREFORE, the judgment appealed from is affirmed in toto, with costs.

SO ORDERED.

Teehankee, Acting C.J., (Chairman), Makasiar, Fernandez, Guerrero, and Melencio-Herrera, JJ., concur.

[1] p. 5, Rollo.

[2] p. 21, CFI decision, p. 6, rollo.

[3] p. 21, People's Brief, p. 86, rollo.

[4] pp. 2-7, Ibid.

[5] pp. 12-14, Appellant's Brief, p. 80, rollo.

[6] pp. 3-7, People's Brief, supra.

[7] p. 9, Appellant's Brief, supra.

[8] p. 10, *ibid.*

[9] p. 11 CFI decision, supra.

[10] p. 16, *ibid.*

[11] p. 12, *ibid.*

[12] p. 15, Appellant's Brief, supra.

[13] pp. 3-4, CFI decision, supra.

[14] p. 8, Appellant's Brief, supra.

[15] People v. Cabeltes, 91 SCRA 208 (1979); People v. Gargoles, 83 SCRA 282 (1978); People v. Elizaga, 73 SCRA 524 (1976); People v. Ancheta, 60 SCRA 333 (1974); People v. Cardenas, 56 SCRA 631 (1974); People v. Cristobal, 1 SCRA 151 (1961).

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