

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALEX CABRADILLA ALIAS FELIX, DEFENDANT-APPELLANT.

G.R. No. L-33788. November 29, 1984

Ponente: CONCEPCION, JR., J.

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CONCEPCION, JR., J.:

Appeal from the judgment of the Court of First Instance of Manila finding the accused-appellant, Alex Cabradilla alias Felix, guilty of the crime of Rape and sentencing him to suffer the penalty of reclusion perpetua, with all the accessory penalties of the law, and to indemnify Norma P. Valera in the amounts of P20,000.00 as moral damages and P10,000.00 as exemplary damages, without subsidiary imprisonment in case of insolvency, and to pay the costs.

It is not disputed that on November 3, 1967, the appellant Alex Cabradilla alias Felix and the complainant Norma P. Valera had sexual intercourse at Apartment 672-A, Antipolo St., Manila. The only issue in this appeal is whether or not the act took place against the will of Norma, as found by the trial court, or with her consent, as the appellant claims.

The People's version of the facts of the case, as stated in its Brief, is as follows:

"On November 3, 1967, between 2:00 and 2:30 in the afternoon Norma P. Valera was sleeping alone in her room at Apartment 672-A Antipolo, Sampaloc, Manila. She was awakened when the accused Alex Cabradilla suddenly forced the door open, and being naked was removing her panties (tsn, p. 8, Jan. 8, 1969). She fought to her last strength but because Alex Cabradilla was stronger, the latter succeeded in placing himself on top of Norma with a Batangas knife pointed at her neck (tsn, p. 10, Jan. 8, 1969). Norma lost consciousness and Alex succeeded in putting his private part in hers (tsn, p. 11, Jan. 8, 1969).

"After the sexual intercourse, accused Alex Cabradilla left and warned Norma not to report the incident. He threatened to kill Norma and her parents (tsn, pp. 11-12, Jan. 8, 1969).

"On March 1, 1968, at about 5:00 o'clock in the afternoon while Norma was in the compound of the De Ocampo Memorial School at Nagtahan, Manila, Alex Cabradilla arrived trying to force Norma to go to a hotel for the purpose of having sexual intercourse. She fought back and resisted attracting many people who gathered around them. Thereupon, Alex left the place (tsn, pp. 12-13, Jan. 8, 1969).

"When Norma arrived home the same after-noon, she reported the incident to her aunt Beatriz Torres who informed the parents of Norma. Upon arrival of her parents from the province, Norma narrated to her parents the incidents that happened to her. On March 5, 1968, Norma and her parents went to Precinct No. 6, Manila Police Department to complain (tsn, p. 14, Jan. 8, 1969). Norma was investigated and her statements were reduced to writing (Exh. 'A', tsn, p. 15, Jan. 8, 1969). Norma underwent medico legal examination and Dr. Luis Larion submitted his finding that Norma could have had sexual intercourse on or about November 3, 1967 and that the basis of such findings is the presence of the healed laceration at 5:30 o'clock position of the hymen and the slight thickening of the hymen of Norma (Exh. C, tsn, p. 92, Nov. 14, 1969)."

The accused-appellant, Alex Cabradilla alias Felix, upon the other hand, denied using force. He claims that he and the complainant were sweethearts and had sexual intercourse on November 1, 1967 and several times thereafter. His testimony is corroborated by Angelina Ondo, a bed-spacer in their apartment, who declared that she saw the appellant and the complainant kissing and making love in the dining room, and by Saturnino Lopez, Jr., who testified that he saw the appellant and the complainant enter the New Silver Moon Hotel at R. Hidalgo St., Quiapo, Manila, on January 9, 1968.

After carefully reviewing the records of the case, We are convinced that the act complained of was made through force and intimidation, as testified to by the complainant and affirmed by the trial court. To begin with, the flight of the appellant and his efforts to evade prosecution are utterly incompatible with his claim that he and Norma were sweethearts and that the carnal act with Norma was voluntary. Pat. Rodrigo Rosario, a member of the Manila Police Department, declared that after Norma had filed charges of rape against Alex Cabradilla on March 5, 1968, he was instructed by Det. Galicano Lagadi to pick up Alex who was said to be then working at the Air France Agency at the CBN Building in Aduana, Manila, so that he could give his side. He and a companion went to the CBN Building at 11:00 o'clock at night since he was informed that Alex worked during the night shift. They knocked at the door of the building and after identifying themselves to the guard of the building to be police officers, they asked if Alex Cabradilla was inside and the guard said he was. The guard told them to wait and sent to fetch Alex. After about 5 minutes, the guard returned and told them that Alex had escaped by passing through the back door of the office. The following night, they went back but they were informed that Alex had not reported for work. They tried the residence of Alex, but they also failed to see him there as Alex had reportedly gone to the province.[1] Alex was ultimately apprehended by PC officers at Koronadal, South Cotabato in September 1968.[2] The flight of the appellant and his sojourn in far places until his arrest are circumstances which strongly militate against his claim that he and Norma were sweethearts and that the sexual intercourse complained of was voluntary.

Equally significant is the admission of guilt by the appellant. Ignacio Pastores testified that while he was in Sitio Obdog, Natividad, Pangasinan, on March 17, 1968, Alex Cabradilla came to him and admitted to him that "he did what he wanted with Norma," and asked Pastores to intercede for him in settling the case, but Pastores refused as Norma is his niece.[3]

Furthermore, the question of whether or not the sexual intercourse in question was free and voluntary, hinges on the credibility of witnesses, the determination of which, under well-known precedents, is largely addressed to the sound discretion of the trial court. In the instant case, the trial court found to be "an unsophisticated, simple and modest girl, and unspoiled by modernistic influences of a big city like Manila," and "not a conscienceless and unscrupulous, scheming woman out to destroy the reputation and life of an innocent person", and "told her story in a direct and spontaneous manner and without any veneer of artificiality which would be the case had she been coached by someone to accuse falsely her cousin," to that of the appellant which it found to be fantastic and unnatural, so much so that in this appeal, the appellant assails the credibility of the complainant and points to alleged improbabilities, inconsistencies and contradictions in her testimony. Thus, the appellant claims, as unnatural, the failure of the complainant to shout or utter a cry of protest when she awoke and found the appellant, naked, inside her room and removing her clothes and underwear. The appellant argues that "the natural tendency of a girl without any inkling of what a man would do to her at first blush, particularly when the man is coming into her room alone, as she is alone herself seeing him naked, is to shout in surprise, then as a naked man is taking out her clothes and underwear, immediately, the thought of a girl normally is to shout or even get up in surprise and trying to avoid not only from the sight of a naked intruder but if possible from the place where the intruder is entering."

The workings of a human mind when placed under emotional stress, however, are unpredictable and people react differently. In the given situation, some may shout; some may faint; and some may be shocked into insensibility; while some may openly welcome the intrusion. In the instant case, the complainant sufficiently explained her failure to shout. She declared that she was "surprised" and unable to say a word, and when she had sufficiently recovered in order to shout, the appellant covered her mouth and pointed a "balisong" at her neck.[4]

Also pointed out as unnatural and contrary to the ordinary and common human experience is the failure of the complainant to report the attack immediately, despite the numerous opportunities she had and it was only after the lapse of four (4) months when she was allegedly accosted by the appellant in her school and invited to make love that she reported the rape incident to her aunt.

The complainant's failure to report the rape incident earlier, however, had been fully and satisfactorily explained. The complainant testified that she did not report the incident immediately because of the continuous threat on her life and that of her parents by the appellant who, at one time, even followed her to her hometown and made trouble in their house.[5] She further said that she was confused and did not know what to do,[6] and besides, she was ashamed of her dishonor and afraid that she would be made to stop her studies and go back to the province.[7] Four (4) months is not unreasonably long, considering that the complainant was a confused young student in Manila far from her parents in the province.

The appellant also impugns the credibility of the complainant on the ground that her testimony conflicts with the sworn statement she had executed before police investigators.

The alleged variance, however, refers to trivial details which do not materially affect the main story of the complainant that the appellant had sexual intercourse with her against her will. Besides, the difference had been sufficiently explained, in that the investigator did not ask her in detail. It is well known that omissions are not infrequent in affidavits which are almost always incomplete and often inaccurate sometimes from want of suggestion or inquiries.

As well observed by the trial court, the claim of the appellant that he and Norma were sweet-hearts is unfounded since the said appellant could not even produce any note he addressed to the complainant offering his love, neither could he produce any note coming from Norma addressed to him accepting his proffer of love and expressing her affections towards him.

WHEREFORE, the judgment appealed from should be, as it is hereby, **AFFIRMED**. With costs against the appellant Alex Cabradilla alias Felix.

SO ORDERED.

Makasiar (Chairman), Aquino, Abad Santos, Escolin, and Cuevas, JJ., concur.

[1] tsn of July 11, 1969, pp. 11-13.

[2] Original Record, p. 10

[3] tsn of July 11, 1969, pp. 2-3, 5-6.

[4] tsn of Jan. 8, 1969, pp. 46, 55-56.

[5] tsn of Jan. 8, 1969, pp. 65, 68-69.

[6] tsn of Feb. 21, 1969, p. 31.

[7] tsn of March 5, 1969, p. 3.

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