

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF – APPELLEE, VS. DOMICIANO BAYLON, DEFENDANT – APPELLANT.*G.R. NO. L-35785. May 29, 1974*

Ponente: FERNANDO, J.

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There is nothing unique to distinguish this appeal from a number of others where a conviction for the crime of rape is sought to be set aside. A careful scrutiny of the records of the case discloses that the unfortunate victim was suddenly pounced upon by appellant, Domiciano Baylon, and notwithstanding her resistance was, by virtue of his superior strength and the intimidation caused by a knife pointed at her chest, made to submit to his carnal desires. The absence of novelty is likewise reflected in the defense offered, that of alibi. The lower court rejected it and rightly so, considering the highly persuasive character of the narration by the offended party, hardly in her teens, as to how the offense was committed. The sentence imposed must be affirmed.

The complainant, Susana Aspili, only thirteen years of age at the time of the alleged crime, testified that as a first year high school student, she used to commute from the barrio where she lived to the poblacion, about four kilometers away from where she lived, where the Batac Institute was located.[1] She was on March 15, 1965, at about 5:00 o'clock in the morning, on her way to school, her classes starting at 7:30.[2] As she was nearing the barrio school of Colo, appellant, suddenly emerged from the thicket on the left side of the road, embraced her, and at the same time pulled her towards him.[3] She shouted and cried for help; she was silenced, appellant covering her mouth with his right palm, and pointing a knife on her right chest, saying, "You shout and I will kill you. [Expletive deleted], if you cry, I will kill you." [4] Her bandanna was then wrapped around her mouth by appellant, who dragged her in the direction of the canal on the left side of the road.[5] Upon reaching the spot, he tried to force her to the ground, but she strongly resisted. She was then hit by him on her abdomen, the painful blow resulting in her weakened condition. Appellant was quick to take advantage. Forthwith, he pushed her to the ground, raised her chemise, forcibly removed her panties, separated her legs and knelt between her thighs. He then unbuttoned his pants, went on top of her and tried to insert his penis into her private parts.[6] At first, he was unable to do so, as she continued her resistance, but ultimately he was able to pin her shoulders down with his elbows at which instance, he finally succeeded in putting his penis into her organ.[7] While thus on top of her, appellant moved his hips up and down, at the same time kissing her, after removing the bandanna tied over her mouth. Shortly thereafter, she felt something hot and slippery emitting from the penis of the appellant. Soon, he released her from his grip and left the place.[8]

Complainant, still suffering from pains in her vagina and on her hips, shoulders and thighs, searched for her panties and her skirt and put them on. She then ran back to her home which was around 300 meters away from the place of the commission of the offense. When she was running, she felt uneasy because of a sticky and slippery substance oozing down along her thighs which she wiped away with her chemise.[9] From a distance she saw her mother in their yard burning some leaves. She ran towards her, embraced her, and with tears rolling down her cheeks, called her, "Mother, mother." It was then that the offended party revealed to her what was done by

Domiciano Baylon.[10] Her mother was shocked and could only say, "It's too bad. Where did the incident happen?" She told her mother what happened, and after hearing the story, the mother, too, was overcome with sorrow and cried together with her daughter.[11] The father was then informed of what happened; he told the complainant to go up the house and rest, while he and her mother would report the matter to the barrio captain.[12] She continued to be uncomfortable with the slippery substance on her private part. She, therefore, washed her organ with soap and water and then went to bed.[13] Meantime; her parents proceeded to the house of the barrio captain, Juan Asuncion, who, after hearing what transpired, went to fetch the complainant and investigated her in his house.[14] With her father and mother present, the complainant described to the barrio captain how she was raped by the appellant Domiciano Baylon.[15] Thereafter, the barrio captain brought the three of them to the house of Fidel Ramos, a barrio councilor, as this house was the center of the barrio.[16] It was the councilor who had the appellant fetched for investigation. Appellant, as he had a right to, refused to deny or confirm the accusation against him, maintaining his silence, preferring to speak only if so advised by counsel.[17]

It was on the basis of the above testimony reinforced by three other prosecution witnesses, Dr. Ofelia Agabin Flor, the resident physician of the Provincial Hospital of Ilocos Norte, who conducted on the very same day the medical examination;[18] Aquilino Gamiao, a member of the police force of Batac, Ilocos Norte, with sixteen years of experience behind him, who investigated the matter;[19] and Monica Lagmay Aspili, the mother of the offended party,[20] that Judge Jose A. Madarang, in a well-written decision, convicted the accused, Domiciano Baylon. He would have us reverse, reiterating his defense of alibi. At the same time, his counsel would try to cast doubt on the finding that complainant was actually raped. As indicated at the outset, a careful study of the record fails to lessen the moral certainty that the crime of rape was committed and that appellant was guilty thereof.

1. In essence, appellant, by the defenses interposed, would have us ignore the well-settled doctrine that the determination by the trial judge who could weigh and appraise the testimony as to the facts duly proven is entitled to the highest respect, absent a showing that he ignored or disregarded circumstances of weight or influence sufficient to call for a different conclusion. There was a reiteration of that doctrine in the recent case of *People vs. Carandang*,[21] reference being made to an early formulation thereof in *People vs. De Otero*,[22] where Justice Malcolm, speaking for the Court, stated: "After everything is said and done, we come back, as we invariably do in cases of this nature, to a recognition of the rule that the Supreme Court will not interfere with the judgment of the trial court in passing on the credibility of the opposing witnesses, unless there appears in the record some fact or circumstances of weight and influence, which has been overlooked or the significance of which has been misinterpreted." [23] Since *People vs. Carandang*, there have been a number of cases to the same effect.[24]

The pertinence of the above doctrine is even more apparent considering that the principal reliance is on alibi, appellant relying on the testimony of his sister, Benedicta Baylon,[25] who stated that on the morning of March 15, 1965, from the time she woke him up at 4:30 until 7:00 o'clock in the morning, he was in a flue-curing barn collecting tobacco leaves, appellant at no time leaving the place.[26] The trial judge took careful note of the defense of alibi. He could not accept it as in his opinion, the complainant "definitely and unerringly identified the accused as the one who attacked her in the early morning of March 15, 1965." [27] He went on to state: "In fact, Susana testified that it took about ten minutes for the accused to consummate the crime, starting from the time the accused placed his knees between the thighs and pressing on the base of her hands, then inserting his penis into her private part up to the time he stood up. Said ten minutes would exclude the period of struggle and before the poor victim was finally subdued." [28] At a later portion of the decision, he identified the defense of alibi as a feeble "attempt at escaping responsibility considering that the scene of the crime was only two hundred meters from said flue-curing barn, and, therefore, the accused had all the facility of immediate flight from one place to the other." [29] Support for such a view may be discerned in this recent opinion of Justice Aquino in *People vs. Resayaga*: "It is obvious that no credence can be accorded to Resayaga's alibi. To establish an alibi, the accused

must show that he was at another place for such a period of time that it was impossible for him to have been at the place where the crime was committed at the time of its commission." [30]

The other point raised in the brief for appellant that the crime of rape was not shown to have been committed defies rationality, let alone common sense. Time and time again, this Court had correctly observed that no woman, especially one of tender age, would willingly expose herself to the embarrassment of a public trial wherein she would have not only to admit but also to narrate the violation of her person, if such indeed were not the case. Far better it is in not a few cases to spare herself the humiliation if there be some other way of bringing the offender to justice. Here, there was such a testimony coming from the offended party, firm, categorical, straight-forward. Her clothing, including the most intimate garments, soiled and smudged, ripped and torn, were mute witnesses of the futile resistance she put up. [31] It is quite a strain on one's credulity to believe that under such circumstances, the young girl's honor remained unsullied, the nefarious design unfulfilled. To repeat, appellant had not made out a case for a reversal.

2. Nor is this all. As was noted in a recent case, *People vs. Molina*, [32] it is manifest in the decisions of this Court that where the offended parties are young and immature girls like the victim in this case, [33] there is a marked receptivity on its part to lend credence to their version of what transpired. It is not to be wondered at. The state, as *parens patriae*, is under the obligation to minimize the risk of harm to those, who, because of their minority, are as yet unable to take care of themselves fully. Those of tender years deserve its utmost protection. Moreover, the injury in cases of rape is not inflicted on the unfortunate victim alone. The consternation it causes her family must also be taken into account. It may reflect a failure to abide by the announced concern in the fundamental law for such institution. [34] There is all the more reason then for the rigorous application of the penal law with its severe penalty for this offense, whenever warranted. It has been aptly remarked that with the advance in civilization, the disruption in public peace and order it represents defies explanation, much more so in view of what currently appears to be a tendency for sexual permissiveness. Where the prospects of relationship based on consent are hardly minimal, self-restraint should even be more marked.

WHEREFORE, the decision of Judge Jose Madarang of May 18, 1972 finding the accused Domiciano Baylon guilty beyond reasonable doubt of the crime of rape and sentencing him to reclusion perpetua is affirmed with this modification. Appellant Baylon must likewise pay an indemnity of P5,000.00 to the offended party, Susana Aspili. Costs against appellant.

Zaldivar, (Chairman), Antonio, Fernandez, and Aquino, JJ., concur.
Barredo, J., no part.

[1] T.s.n., Session of September 23, 1966, 77-78.

[2] *Ibid*, 79-80.

[3] *Ibid*, 85-87.

[4] *Ibid*, 87.

[5] *Ibid*, 86.

[6] *Ibid*, 89-92.

[7] *Ibid*, 93 and 108-109.

[8] *Ibid*, 93.

- [9] T.s.n., Session of September 28, 1966, 106-111.
- [10] Ibid, 112.
- [11] Ibid,
- [12] Ibid, 113-114.
- [13] Ibid, 114.
- [14] Ibid, 132-133.
- [15] Ibid, 133.
- [16] Ibid, 133-134.
- [17] Ibid, 135-136.
- [18] T.s.n. Session of August 10, 1966, 2-33.
- [19] Ibid, 35-75.
- [20] T.s.n. Session of August 11, 1967, 129-142.
- [21] L-31012, August 15, 1973, 52 SCRA 259.
- [22] 51 Phil. 201 (1927).
- [23] Ibid, 209.
- [24] People vs. Abboc, L-28327, Sept. 14, 1973, 53 SCRA 54; People vs. Geronimo, L-35700, Oct. 15, 1973, 53 SCRA 246; People vs. Macaraeg, L-32806, Oct. 23, 1973, 53 SCRA 285; People vs. Resayaga, L-23234, Dec. 26, 1973; People vs. Tamani, L-22160, Jan. 21, 1974; People vs. Diaz, L-24002, Jan. 21, 1974; People vs. Reduca, L-26729, Jan. 21, 1974; People vs. Doria, L--26188, Jan. 31, 1974; People vs. Carino, L-33608, Feb. 12, 1974.
- [25] T.s.n., Session of April 30, 1970, 181-202.
- [26] Ibid, 184-186.
- [27] Decision, Appendix to Brief for the Defendant-Appellant, 5.
- [28] Ibid,
- [29] Ibid, 8.
- [30] L-23234, Dec. 26, 1973, Cf. People vs. Tamani, L-22160, Jan. 21, 1974; People vs. Turalba, L-29118, Feb. 28, 1974; People vs. Ybanez, L-30421, March 28, 1974.
- [31] The clothing materials submitted as evidence consisted of the blouse. Exhibit C, the skirt, Exhibit D, the bandanna, Exhibit F, the panties. Exhibit G and the chemise, Exhibit H.
- [32] L-30191, Oct. 27, 1973, 53 SCRA 495.
- [33] Cf. United States vs. Rojo, 10 Phil. 369 (1908); People vs. De Guzman, 51 Phil. 105 (1928); People vs. Alqueza, 51 Phil. 817 (1928); People vs. Apiado, 53 Phil. 325 (1929); People vs. Lomibao, 55 Phil. 616 (1931); De los Santos vs. People, 69 Phil. 321 (1940); People vs. Soriano, L-29057, Oct. 30, 1970, 35 SCRA 633; People vs. Modelo, L-29144, Oct. 30, 1970, 35 SCRA 639.

[34] According to Article II, Section 4 of the Constitution: "The State shall strengthen the family as a basic social institution. The natural right and duty a parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the aid and support of the Government."

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