

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO DE LA PEÑA, ACCUSED-APPELLANT.

Ponente: BARRIOS, J.

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BARRIOS, J.:

On November 4, 1994, the twelve (12) years old and Grade VI complainant Mylene B. Salvador (or Mylene for brevity) accompanied by her grandmother Rosalie P. Bartolome (or Rosalie) trudged to the police of Santiago City for a sad purpose: to complain of rape committed on her by the live-in partner of her mother, the appellant Romeo de la Peña (or de la Peña).

Mylene was investigated, her statement taken, and her body submitted to an examination by Dr. Genaro Manalo.

On November 10, 1994 a criminal complaint for Rape as defined and penalized under Article 335 of the Revised Penal Code, as amended, was filed against de la Peña. It specified:

That on or about November 02, 1994, at Brgy. Villasis, Santiago City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by means of violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the complainant Mylene B. Salvador, a young girl in her tender age of 12 years old, against her will.

CONTRARY TO LAW. (Information, p. 1, record)

Earlier on November 3, 1994, de la Peña was already arrested or invited by the local police.

The case was set for a simultaneous arraignment and pre-trial conference. He entered the plea of Not Guilty, but the record does not disclose what happened at the pre-trial conference. At the trial the prosecution presented as witnesses the complainant Mylene B. Salvador and Dr. Genaro Manalo and the Medico-Legal Certificate (Exh. "B") which was based on his examination but signed by Dr. Bruno Bautista. The defense relied on the testimonies of the accused himself Romeo de la Peña, and his friend and workmate Rodrigo Domingo.

Assessing the versions of the prosecution and the defense and weighing the proofs submitted, the trial court found de la Peña guilty as charged in the decision that disposed:

WHEREFORE, finding the accused ROMEO DELA PEÑA GUILTY beyond reasonable doubt of the crime of RAPE, the Court sentences him the penalty of Reclusion Perpetua and to pay the victim the amount of P100,000.00 as exemplary damages and P50,000.00 as moral damages.

SO ORDERED. (Decision, p. 231, record)

The only testimony on the actual rape came from Mylene. She started by saying that she was born on July 2, 1982 and that on November 2, 1994 she was then 12 years old and residing in Villasis, Santiago City with her mother Gertrudes Cardenas, a niece Evangeline Flores, and her stepfather Romeo de la Peña. After lunch on the said date, she was alone with her stepfather in their house when he called her upstairs. She was hesitant, but he called her again and in obedience she went up. Her stepfather told her to remove his gray hair, but while she was doing this

de la Peña ordered her to remove her panties. She refused but de la Peña threatened to kill her and her mother, so she obeyed. He commanded her to lie on the floor, and he then removed his belt and pants and started raping her. He propped her head with a pillow, placed saliva on her vagina, directed his penis on her vagina and penetrated her by about an inch. He kept on at it for about thirty (30) minutes, mashing her breasts, pumping and penetrating her and when she cried of the pain he warned her to keep silent or he would insert her panties in her mouth. When he was done he allowed Mylene to put back on her panties and shorts, and she went to the bathroom to urinate. She felt pain as she urinated and saw a whitish fluid come out of her vagina.

On the same afternoon, Mylene revealed what happened to her to their 12 years old neighbor Madelyn Talledo. That night Jovelita Temporal, the mother of Madelyn Talledo, called Mylene and inquired about the things that she had earlier revealed to her daughter. Mylene soon left home and went to her grandmother, and it was only then that her mother learned of the rape.

Dr. Genaro Manalo said that he is now the Assistant City Health Officer of Santiago City. He was then still applying for the job on November 4, 1994 when Mylene was brought to him for medical examination. In the course of this he made routine questions about the nature of incident, the date, time and place where it happened. He physically examined Mylene focusing on her genitalia and took some specimen for laboratory examination. He found that there was an "Old laceration of the hymen at 1, 3 & 6 o'clock" which he then submitted to Dr. Bruno Bautista who signed the Medico-Legal Certificate (Exh "B").

The defense set up was denial. Romeo de la Peña testified that in the morning of November 2, 1994 he asked his stepdaughter Mylene to buy coffee and she came back with a small pack instead of the big pack that he wanted. He scolded her for this and Mylene cried. He wanted this changed and he asked her to also buy gas for their cooking. When she did not return after a long time he followed her to the Petron where she was supposed to get this. But she was not there so he proceeded to the market because she was wont to go there when she is scolded, but she was not there too. She did not return home, and de la Peña learned from their neighbor's daughter that Mylene was at Divisoria, Santiago City in the house of her Lola Pacio Bartolome, the mother of his wife. He ordered his wife to get Mylene but she failed to bring home Mylene because according to her his "in-laws" refused to give her. The following day, November 3, 1994, de la Peña and his wife went to the house of his "in-laws," but they were told to just proceed to the Municipal Hall because Rosalie "Pacio" Bartolome was there with Mylene. Moments later while they were still at the house of his "parents-in-law," policemen arrived and when they saw de la Peña they invited him to go with them to the Municipal Hall.

It is not true that he raped Mylene, and she falsely accused him because she was prevailed upon by his "parents-in-law" who were angry with him because he has two (2) live-in wives.

He asserted that rape could not have been committed in their house at Villasis, Santiago City. It is a 12 x 20 meters two-storey house, with the groundfloor occupied by a certain Inday, while the second floor was occupied by him, his wife Gertrudes Cardenas, Evangeline Flores and Mylene Salvador. The flooring of the second floor was made of 1 x 3 wooden slats with gaps of one and a half (1/2) inches and there was nothing else which separated or obstructed the first from the second floor. The distance of their house to the next is about 1 1/2 meters and the other houses are about five (5) meters away, and on that date the said neighboring houses were inhabited.

Rodrigo Domingo testified that he knows de la Peña being residents of Villasis, Santiago City and work companions. On November 2, 1994 at 7:00 a. m. he went to fetch de la Peña because they were to treasure hunt in the cemetery. He was invited to have coffee and de la Peña sent Mylene to buy coffee. She returned with a small pack of coffee, and de la Peña was a little peeved and sent her back to change it with a big pack and ordered her to

buy kerosene too. They waited for a long time but Mylene did not return, and because he did not have the patience he bade goodbye. He returned at around 10:00 o'clock in the morning, and Mylene was not yet back. So he asked him if he will still be going treasure hunting with him but de la Peña asked him to come back and if by that time the child has already returned, then he will join him. He went back to the house of de la Peña at noon but nobody was there, and he even peeped inside as the door was open. That house of de la Peña is of two-storeys, the flooring is made of bamboo, while the roofing is of galvanized iron. The flooring in the second floor was of 1 x 3 wooden slats gapped at one and a half (1 1/2) inches that a finger could pass in between. The ground-floor of the house was occupied by boarders. He said that the testimony of Mylene that she was raped by de la Peña at about noontime of November 2, 1994 is not true.

Convicted, de la Peña asks that this be reversed and set aside because:

DUE TO THE EXISTENCE OF REASONABLE DOUBT, THE COURT OF ORIGIN HAS COMMITTED AN ERROR IN NOT ABSOLVING AND FREEING THE ACCUSED-APPELLANT OF THE CRIME CHARGED IN THE INFORMATION. (Appellant's Brief, p. 52, rollo)

Not that this is focal to the case, but it is noticeable that there is an unorthodox use of surnames for the persons involved or mentioned in the case. The complainant Mylene carries the surname Salvador while her sister Evangeline uses Flores and their common mother is Gertrudes Cardenas, and all of them are single. On the other hand the latter's mother is Rosalie "Pacio" Bartolome and mentioned to be married to Bonifacio Bartolome who is the brother of Gertrudes Cardenas. Then there is the complainant's friend Madelyn Talledo whose mother is Jovelita Temporal. These curiosities were not clarified at the trial, although as said these are not essential in the resolution of the case.

The gravamen of rape is carnal knowledge of a woman against her will or without her consent (People vs. Cadampog, G. R. No. 148144, April 30, 2004). Mylene's candid narration --- notwithstanding her youth, innocence and cluttered examination --- was a categorical declaration that de la Peña used force and threats before and while inserting his penis into her vagina. Evidently, all the required elements to convict for rape are present: 1) the offender had carnal knowledge; and 2) by using force, threats or intimidation (People vs. Abanilla, G. R. Nos. 148673-75, Oct. 17, 2003).

Mylene had testified that de la Peña directed and placed his penis at her vagina and inserted it, causing her much pain. She estimated that initially he had penetrated her by about one (1) inch and he kept on at it for about thirty (30) minutes. The fact of penetration is corroborated by the testimony of Dr. Genaro Manalo who said that when he examined Mylene he found that her hymen had old lacerations in three (3) places. This is consistent with the claim that she was raped a few days earlier.

Rape is not gainsaid by the depth of the penetration. The mere entry of his penis into the labia of the pudendum, even if only for a short while, is enough. In rape cases, there are no half measures or even quarter measures, nor is their gravity graduated by the inches of entry. Partial penile penetration is as serious as full penetration. In either case, rape is deemed consummated (People vs. Mantis, G. R. No. 150613-14, June 29, 2004). Otherwise said in more colorful language, the bombardment of the drawbridge is invasion enough even if the troops do not succeed in entering the castle (People vs. Nequia, G. R. No. 146569, Oct. 6, 2003).

In short Mylene convincingly testified on her consummated rape, and this suffices even without the presentation of Dr. Bruno Bautista and could stand by itself even sans the corroborating testimony of Dr. Genaro Manalo and the Medico-Legal Certificate (Exh. "B"). In a rape case, what is most important is the credible testimony of the victim. A medical examination and a medical certificate are merely corroborative and are not indispensable to a prosecution for rape. The court may convict the accused based solely on the victim's credible, natural, and

convincing testimony (People vs. Borromeo, G. R. No. 150507, June 3, 2004).

As to the methods by which the sexual intercourse was had, the amount of force required in rape cases is relative. It need not be overpowering or irresistible. All that is necessary is that the force employed as an element of the offense be sufficient to consummate the purpose which the accused had in mind. The intimidation employed by the malefactor in rape must be viewed in the light of the victim's perception and judgment at the time of the offense and not by any hard-and-fast rule or standard. All that is required is that the intimidation be sufficient to produce fear in the victim, a fear that if she does not yield to the brute demands of the appellant, something injurious would happen to her. This Court has previously observed that victims of tender age are easily intimidated and cowed into silence even by the mildest threat against their lives. Well established is the rule, that in instances of rape committed by a father, or a father's surrogate, his moral ascendancy and influence over the victim sufficiently substitutes for the elements of violence and intimidation (People vs. Mantis, G. R. No. 150613-14, June 29, 2004).

As against this case built up by the prosecution, de la Peña set up the defense of denial which with alibi has been characterized as the weakest of defenses in criminal cases (People vs. Bulan, G. R. No. 143404, June 8, 2005). The positive testimony of Mylene which is reflected in her straightforward recollection of the vile thing done to her by her surrogate father cannot be rebutted by his mere denial. The rule is that an unsubstantiated defense of denial cannot prevail over a positive and categorical testimony of a minor victim (People vs. Cayabyab, G. R. No. 167147, Aug. 3, 2005). It is a self-serving negative evidence and cannot prevail over the spontaneous, positive and credible testimony of Mylene who pointed to and identified de la Peña as her rapist and detailed how he did this.

De la Peña attempts to assail the charge by claiming that rape could not have been committed at that time and in the said place, and that the complaint is a concoction instigated by his "in-laws" because they were mad with him for having two (2) wives.

These are futile. Lust is no respecter of time and place. It has been held that evil knows no bounds and the beast in man respects neither time nor place, driving him to commit rape anywhere, even in places where people congregate such as parks, along the roadside, within school premises or in a house where there are other occupants (People vs. Alviz, G. R. Nos. 144551-55, June 29, 2004). Nor can credence be given to the nonsensical defense claim that the charges were concocted by his angry "in-laws". It is hard to believe that Rosalie "Pacio" Bartolome would concoct and scheme for her granddaughter to admit and detailedly describe in public the embarrassing elements of rape just to get back at him for two-timing his live-in partner. Rather she supported her granddaughter for justice to prevail and to punish the lecherous man who defiled her. Jurisprudence holds that if an accused had really nothing to do with a crime, it would be against the natural order of events and of human nature, and against the presumption of good faith, that a prosecution witness would falsely testify against him (People vs. Simon, G. R. No. 130531, May 27, 2004).

In rape cases, an accused may be convicted on the sole testimony of the victim if such testimony is credible, natural, convincing, and consistent with human nature and the normal course of things. A credible witness and a credible testimony are the two essential elements in determining the weight of a particular testimony (People vs. Limio, G. R. Nos. 148804, May 27, 2004). The trial court found Mylene credible and her testimony convincing. It is a hornbook doctrine that findings of fact of trial courts are entitled to great weight on appeal and should not be disturbed except for strong and valid reasons because the trial court is in a better position to examine the demeanor of the witnesses while testifying (Giambattista vs. King Const. & Dev't. Corp., G. R. No. 141715, Oct. 12, 2005). We accord the trial court's findings with respect and finality not only because of the said doctrine, but also because its findings are borne by the extant evidence.

The prosecution having proved beyond reasonable doubt the guilt of de la Peña and he having failed to present a creditable defense, his conviction of the felony charged must be sustained. Additionally, civil indemnity must be imposed.

WHEREFORE, the appealed Decision is AFFIRMED with the MODIFICATION ordering de la Peña to further pay Mylene the sum of P75,000.00 as civil indemnity.

SO ORDERED.

Guariña III and Romilla-Lontok, JJ., concur.

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