

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LEONARDO CASTILLO Y CENIDO, ACCUSED-APPELLANT.

G.R. No. L-39152. January 28, 1983

Ponente: RELOVA, J.

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RELOVA, J.:

Appeal from the decision of the Court of First Instance of Rizal sentencing accused Leonardo Castillo y Cenido the penalty of Reclusion Perpetua and to indemnify the victim, Victoria Estrella y Lakandula, in the sum of P5,000.00 by way of moral damages, for the crime of Rape committed according to the evidence of the prosecution. We are quoting from the People's Brief, as follows:

"... At about 6:30 o'clock in the evening of February 15, 1971, her father Protacio Estrella sent her to Barrio Longos of said municipality to get his eyeglasses from the house of her cousin 'Ate Linda', which was quite far from the Estrella residence (pp. 5-6, tsn, Feb. 14, 1972; pp. 2-3, tsn, March 29, 1972). In barrio Longos but before reaching Linda's house Victoria was accosted by a man whom she did not know then (but whom she subsequently identified as the accused Leonardo Castillo) and who asked her where Tacio was. Thinking that the accused was referring to her father, she answered that she knew Tacio and that she would accompany him to her father's house. The accused then told her that since he had an 'aching foot', they might as well take a jeep. Just then, a Marikina Bus passed by. Victoria was reluctant to board the bus but she was dragged by the accused. The bus sped past the junction that led to the house of Victoria but she was so afraid and nervous that she did nothing to stop the bus. After the bus had passed the boundary sign between the municipalities of Cardona and Binangonan and had reached Barrio Mambog of the latter municipality, the accused and Victoria alighted (pp. 8-10, tsn, Feb. 14, 1972; pp. 8-13, tsn, March 29, 1972).

"The accused thereafter led Victoria through a barbed wire fence near a storehouse and when the latter asked him where she was being taken, he told her to keep quiet, then clamped his hand over her mouth, and threatened to kill her if she would make any noise. When they reached a place that looked to her like a rice field, the accused told her to sit down. Just then, however, a jeep passed by, its lights illuminating the place where they were, so that the accused brought Victoria to a dark and higher place (pp. 10, 13-14, tsn, Feb. 14, 1972). What happened afterwards was recounted by Victoria in her testimony as follows:

'A.

When we reached a secluded place, he placed his jacket on the ground and then he made me lie down and afterwards he started kissing me. While he was kissing me on the lips, he told me to put my tongue out and when my tongue was out he sucked my tongue.

'Q. And he was sucking your tongue, was there anything else that happened?

'A.

Afterwards he made me stand and then he himself knelt before me. He made me knelt and then he stood before

me and then he placed his penis in my mouth and urinated. After he urinated in my mouth, my mouth became full of urine and so I spit out the urine from my mouth and then he picked up the jacket from the ground and placed it around me and then we met an old man with a boy.

'Q. Now, what happened after that?

'A.

Then, afterwards, there was a jeep that passed by, so, the man took a ride in the jeep and left me beside the lamp post and while I was standing there, a jeep passed by and I hitched a ride home.' (pp. 14-16, tsn, Feb. 14, 1972).

"In her statement to the police authorities of Binangonan, Rizal, Victoria likewise narrated the incident in question, part of which reads as follows:

'Inalis po nitong lalaki ang aking panty at pinaghahalikan po ako sa bibig, pagkatapos po ay pinaghipuan po ako ng suso. Naghubad po ng pantalon itong lalaki at pagkatapos po ay pinahipo po sa akin ang kanyang titi pagkatapos po ay pinautot po sa akin at umihi po sa aking bibig. Pagkatapos po noon ay pinatungan po ako ng lalaki at naramdaman ko po na may pumasok sa aking harap. Nasaktan po ako. Makalipas po ang ilang sandali ay bumangon na po itong lalaki. Nagsuot na po ito ng pantalon niya samantalang ako naman po ay isinuot ko na po ang aking panty. Magkasabay pa po kaming umibis at ako po ay iniwan niya sa may poste sa tabi ng kalsada sa malapit po sa tapat ng bahay na bato.' (Exhibit 'B', p. 2, rec. of exhibits)

"That same evening of February 15, 1971, Estrella was brought by her father to the Morong Emergency Hospital where she was physically examined by Dr. Rimberto Sangalang (p. 15, tsn, March 29, 1972; pp. 2-3, tsn, April 3, 1973). According to the certification by Dr. Sangalang, which was approved by the Chief of Hospital Dr. Patrocinio B. Angeles, Victoria suffered the following lesions:

1. Contusion labia minora, 1 to 5 o'clock, 7 o'clock, 11 o'clock position.
2. Lacerated wound, hymen 7 o'clock position (bleeding).
3. Contusion around urinary meatus.
4. Vaginal orifice admits one finger easily.' (Exhibit 'F'. p. 4, rec. of Exhibits).

"During the trial, Angeles declared that he supervised and was actually present during the physical examination of the victim by Dr. Rimberto Sangalang; and that the girl's lacerated hymen, which was bleeding at the time of the said examination, indicates that 'it is extremely possible that a sexual intercourse penetration had been accomplished.' (pp. 2-4, tsn, April 13, 1973).

"The victim's father, Protacio C. Estrella, who was likewise presented as one of the prosecution witnesses, testified that in the evening of the incident in question, her daughter Victoria arrived home crying, wet from her neck up to her chest, and could not go up the stairs. Upon his inquiry, Victoria told him what had happened. He immediately went to the municipal building of Cardona (Rizal), reported the matter, and requested for policemen to accompany them to the place of the incident. Accompanied by two policemen, he, Victoria and his two sons proceeded to the place where the incident took place and then proceeded to the cabaret of Binangonan where they surmised the accused might have gone, but they did not find him there (pp. 19-26, tsn, March 29, 1972; pp. 2-4, tsn, April 26, 1972).

"Policeman Francisco Alcantara of the Police Department of Binangonan, another prosecution witness declared that the accused Leonardo Castillo was arrested by them in connection with a complaint for rape allegedly

committed by the latter on one Lolita Cenito. Based on the description of the accused that was previously given to them by Victoria Estrella through the police authorities of Cardona, he suspected that the accused in the Cenito case might be the same man who attacked Victoria, for which reason they invited Victoria to their police department on April 6, 1971. When Victoria informed him that she could identify her attacker, he lined up all the 12 detainees in the municipal jail and in the line-up, Victoria identified the accused. Pat. Alcantara thereafter investigated and took down the statement of Victoria marked as Exhibit 'B' (pp. 2-10, tsn, July 25, 1973)."

The accused-appellant alleged that the lower court erred (1) in holding that the accused was identified in a line-up by the complaining witness; (2) in holding that El Monteverde Subdivision is in Binangonan, Rizal and that the accused was at Binangonan, Rizal since February 15, 1971; (3) in holding that the accused was at El Monteverde Subdivision, Taytay, Rizal hiding to avoid arrest; (4) in not considering the evidence for the appellant to establish his innocence; (5) in considering alibi as the only defense of appellant Leonardo Castillo; and (6) in not acquitting the appellant because his guilt has not been proved beyond reasonable doubt.

Appellant assails the observation of the trial court that "he was identified in a line-up by the complaining witness who has no reason to lie about his identification" as not supported by the facts on record. He claims that Victoria Estrella did not testify that she was able to identify him in a line-up; that the "alleged identification of the accused-appellant by the complaining witness, as testified to by Patrolman Francisco Alcantara of the Binangonan Police Department was made under circumstances which were positively suggestive." Thus, he cites the testimony of Patrolman Alcantara as follows:

"FISCAL:

Q What led to the investigation of Victoria Estrella?

A

Because of the description given by Victoria Estrella of her attacker on February 15, 1971, we have suspected Leonardo Castillo which was held for another crime of rape as the person being complained of by the victim in this case.

Q And that is the reason why you called on Victoria Estrella?" (pp. 6-7, tsn, July 25, 1973)

and

"ATTY. ARAN:

Q

Now, in this Exhibit B there is a question No. 4 which states and I quote: '4. T- Nakikilala mo ba kung sino ang lalaking gumahasa sa iyo?' Do you remember having asked that question?

A Yes.

Q And her answer (was) 'hindi po', do you remember (the complainant) having given that answer to your question?

A She said she does not know the man or her attacker." (p. 12, tsn, July 25, 1973)

Appellant contends that the complainant could not have identified him because she admitted that she did not know him and that the alleged identification was made on April 6, 1971, or about 2 months after the incident; that from February 14, 1971 he was on vacation at the residence of Abner Francisco in El Monteverde Subdivision, Taytay, Rizal until he was arrested on April 6, 1971.

We are not persuaded. As aptly pointed out by the Acting Solicitor General in his Brief, appellant conveniently overlooked the testimony of the victim during the cross examination:

"Q When for the first time did you come to know the name of the accused in this case?

A

I was taken to the municipal hall of Binangonan and while we were there, I was asked to point out from among the inmates there if I could recognize the man and I was able to point him out.

Q Were you alone when you went to the municipal building of Binangonan?

A No, sir.

Q Who were your companions?

A My father and my mother, sir." (p. 4, tsn, March 29, 1972)

The trial court had reasons to believe complainant, a minor, less than 12 years old, when the crime was committed. Her narration of what transpired was described with simplicity and sincerity. For, indeed, how can anyone forget the grim ordeal to which she was subjected, or how can a victim fail to remember the face of the man who made her undergo that horrible experience as described by her in her statement to the police (Exhibit B) which was admitted in evidence without objection and which statement was not assailed or refuted in this appeal. It was the finding of the lower court that "he was identified in a line-up by the complaining witness who has no reason to lie about his identification; his identity is sufficiently established. His defense of alibi that on February 15, 1971 up to April 6, 1971 he was vacationing in the El Monteverde Subdivision in the house of a friend is not credible because the El Monteverde Subdivision is in Binangonan and that was the first time he allegedly took his vacation. The truth of the matter is that he was then in hiding to avoid arrest for the crime he has committed. Flight is an evidence of guilt."

The allegation that Victoria's identification of appellant was made "under circumstances which were positively suggestive" because it was Patrolman Alcantara who invited her for a possible identification of the accused, who had been apprehended for allegedly raping another child, has been explained well by the Acting Solicitor General, thus—

". . . after the arrest of appellant, who answered said description, it was but logical for them to invite Victoria for the possible identification of her attacker. As earlier stated, it turned out that Victoria was able to finger out the appellant among a line-up of 12 other persons as the one who abused her.

"It is also argued that Victoria Estrella could not have positively identified the appellant because in her sworn statement Exhibit 'B', she stated that she did not know the man who attacked her (p. 8, her Brief). But what Victoria must have meant by said statement was that she had not known the man who abused her before, but this did not preclude her from remembering who he was and identifying him, as in fact she later did, at the Binangonan Police Headquarters. How, indeed, could a girl of so tender an age as Victoria Estrella ever forget such a revolting, horrible experience at the hands of a human animal?"

Relative to the defense of alibi in that since February 14, 1971 appellant has been on vacation in the house of a friend in Binangonan, Rizal, in El Monteverde Subdivision, suffice it to say that on the question of credibility to which the conflicting versions of the prosecution and the defense are subjected to, "the answer given by the trial court is generally viewed as correct and thus entitled to the highest respect." (People vs. Villamala, 78 SCRA 145). And, even assuming that appellant was in El Monteverde Subdivision, in Binangonan or in Taytay, Rizal on the night of the incident in question, it does not mean that he could not have committed the crime which he was accused of. In the first place, he was positively identified by his victim and the defense of alibi cannot prevail over it. Secondly, to successfully establish alibi, it must be shown that it was impossible for him to have been at the place where the crime was committed at the time of its commission. (People vs. Alcantara, 33 SCRA 812).

WHEREFORE, the judgment appealed from, being in accordance with the law and evidence, is AFFIRMED in toto, with costs.

SO ORDERED.

Melencio-Herrera, Plana, and Vasquez, JJ., concur.

Teehankee, J., in the result.

Gutierrez, Jr., J., took no part.

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