

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FEDERICO BESO, JR. Y BANGIBAN, DEFENDANT-APPELLANT.

G.R. No. L-44033. September 30, 1982

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

Federico Beso Jr., appeals from the decision of the Court of First Instance of Quezon City (Branch V) finding him guilty of rape and sentencing him as follows:

"Wherefore, this Court finds the accused Federico Beso Y Jr, Bangiban GUILTY as principal and beyond reasonable doubt of the crime of Rape under Article 335 of the Revised Penal Code with the attending aggravating circumstance of abuse of confidence and no attending mitigating circumstance and hereby sentences him for the two separate acts which constitute two separate crimes of rape to suffer the penalty of life imprisonment (reclusion perpetua) for each of said two crime.

"Further, the accused is sentenced to indemnify Erlinda Lachica in the amount of Two Thousand Pesos (P2,000.00) for actual damages which includes a reasonable compensation for attorney's fees, moral damages in the amount of Ten Thousand Pesos (P10,000.00), and exemplary damages in the amount of Five Thousand Pesos (P5,000.00). He is also sentenced to pay the costs of suit"[1]

The fact as proved by the evidence of the prosecution, consisting mainly of the testimony of the complainant, Erlinda Lachica, are narrated in the decision appealed from with such clarity and accuracy that same could very well be quoted as follows:

"Erlinda Beso, the wife of the accused, and Erlinda Lachica are natives of Iloilo. Sometime before May 20, 1974, Erlinda Beso took her vacation in Iloilo. She was looking for a helper who can assist her in her store at the Veterans Memorial Hospital. Mrs. Beso talked to Erlinda's mother who agreed to her daughter's joining the Beso family. Erlinda also wanted to pursue her studies. Mrs. Beso and Erlinda and her mother took the boat for Manila. Arriving in the City on May 20, 1974, Mrs. Beso brought mother and daughter to the Beso residence at No. 6 Palawan St., Bagong Pag-asa, Quezon City. Erlinda's brother, Romeo Lachica, was then also working with the Fabella's Tailoring Shop at 108 Road 1, Project 6, Quezon City. Erlinda's mother did not stay long in the City. Leaving home for the province, she entrusted her daughter Erlinda to the Beso couple and left her with them.

"Erlinda was made to sleep in one of the two bedrooms of the house. The Beso couple occupied the other room. Their only child Juvy slept with an old woman relative in a neighboring house. In the early morning of November 9, 1974, at about 4:00 o'clock, Erlinda was suddenly awakened. Somebody was pressing a pillow against her mouth. Opening her eyes, she saw the accused. By then Mrs. Beso had left for the Balintawak market. He held her right and with his left hand while his right hand pressed the pillow. He told her not to shout otherwise he would kill her. He knelt on her thighs and pressed harder on her arm. She wanted to resist the advances of the accused but then she felt weakened by the presence of his knees on her thighs and his left hand on her arm which he squeezed ("piniga") tight. The accused then pulled of her pants which was torn and then removed her panty. He also took off his brief and succeeded in having sexual intercourse with her for

three (3) times in that morning. The accused then warned her not to tell what happened to anybody or else he would kill her. She reported the incident to Mrs. Beso but the latter only warned her not to report what happened to anybody or else something will happen to her and her brother. Since then, the Beso couple kept watch over her and did not allow her to leave the house.

"On January 2, 1974, at 9:00 o'clock at night the accused again succeeded in having sexual intercourse with Erlinda against her will. When she fought back, he boxed her on various part of her body making her feel very weak and unable to resist. The accused committed the sexual act for two times. Her olive green pants (Exh."B") and her flesh colored panty (Exh."C") were torn when they were forcibly taken off by the accused. On this occasion Mrs. Beso was also out of this house as she had gone to the fair grounds.

"On January 3, 1974 at about 3:30 o'clock p.m. while the accused had gone to his work, Mrs. Beso went to the store after feeding her pigs. She took the opportunity to escape, bringing along her torn pants and panty. She proceeded directly to her brother Romeo's place and related to him what happened. A custom-friend of her brother advised them to go to the National Bureau of Investigation.

"On the following morning, Erlinda was accompanied to the NBI and there she was physically examine by Dr. Valentin T. Bernales, Jr., a medico-legal officer. In his report, Living Case No. MG-75-9 (Exh."A"), Dr. Bernales indicated the following findings he made on the person of Erlinda Lachica.

"PHYSICAL INJURIES:

Contusions, purplish: forearm right, lateral aspect, upper and lower third 2.5 x 3.0 cm., 3.1 x 2.5 cm. respectively; forearm, left, upper third, anterior aspect 3.0 x 5.0 cm.

"GENITAL EXAMINATION:

Pubic hairs fully grown, moderate in number, Labia major, gaping, Labia minora, coaptated. Fourchette, lax. Vestibular mucosa, pinkish. Hymen, wide, moderately thick with old healed lacerations; complete at 1:00 o'clock and superficial at 3:00 o'clock positions corresponding to the face of a watch, edges, of these a lacerations are rounded, non-coactable, bases retracted. Hymenal crifice, originally annular, admits a tube of 3.1 cms. in diameter with moderate resistance. Rugosities, shallow. Vaginal walls, moderately lax.

"CONCLUSION:

1. The above described physical injuries were noted on the body of the subject at the time of examination, ages of which are compatible with the alleged time of infliction.
2. She could have had sexual intercourse with man on or about the alleged dates or commission.

"From the NBI clinic, Erlinda proceeded to Precinct 3 of the Quezon City Police Department where she was investigated by Pat. Melencio Lim who took down in writing (Exh. "D") her statement in the form of questions and answers.

"Erlinda Lachica was born on March 18, 1956 in Bancal, Carlos, Iloilo as shown by her Baptismal Record (Exh. 'F') so much so that she was 18 years and eight months old at the time of the first incident on November 9, 1974."[2]

As also stated in the appealed decision, the defense version, as given by appellant's testimony, is as follows:

"The accused denied having forcibly imposed himself on Erlinda. Testifying for himself he stated that Erlinda Lachica and her mother were brought to their house by his wife on May 20, 1974. They were allegedly together in the boat from Iloilo and when nobody met Erlinda and her mother at the pier, both of them went along with his wife. Erlinda's mother left for home a week after, leaving Erlinda with them until such time as her brother Romeo can find a job for her. He and Erlinda got to like each other and during the period of

October to December, 1974 they had relationship and something happened. Erlinda slept with his daughter Juvy in one of their house's two bedrooms. Upon their mutual agreement, he visits Erlinda in the room where she sleeps and on such occasions she was in ordinary woman's dress and not in pants. It is not true that he and his wife had been keeping watch over Erlinda to prevent her from leaving the house because she even went to school at the Guzman Institute of Technology from where she arrived at 8:00 to 9:00 o'clock p.m. On December 28, 1974, at 5:00 o'clock p.m., Erlinda drank rubbing alcohol and he and his wife brought her to the Veterans Memorial Hospital where he is also employed for treatment. Erlinda was not confined and they brought her home on the same day. On December 29, 1974, Erlinda was talking to him and telling him: 'Nonong (that is how she address him), look at my arm. It has bruises because of needles.' On December 31, 1974, at midnight, he and Erlinda were sitting by the door of their house kissing each other. Her brother Romeo arrived, went into the house, picked up a rattan chair and struck Erlinda with it, saying to her: 'You take care of your life, Erlinda. From now on I have nothing to do with you.' On January 2, 1975, Erlinda complained to him that her brother Romeo had inflicted injuries on her and she showed him her bruises. That set him to thinking deeply. On January 3, 1975, Erlinda was advised by Nuclecia Lambot who then accompanied her to her brother's place. He was not then around when Erlinda left and he was only so informed by his wife."^[3]

The only question for resolution in this appeal is which of the opposing versions of the prosecution and the defense is more credible. The appellant imputing errors to the trial court, all in its giving full credence to complainant's testimony as against his testimony and that of his witnesses.

We find no cause to disturb the finding of the trial court on the issue of credibility, if only on the doctrine so well-settled to require citation of authorities to the effect that the trial court's finding on such issue is entitled to great respect and rarely, if ever, is set aside by appellate courts.

Thus on the main issue of whether appellant and complainant were lovers when the sexual intercourse, the first and the second were performed, it is extremely hard to believe that a girl already of sufficient discretion, being then already 18 years of age, would even entertain an offer of love from a man she knows to be married, whose wife was responsible in bringing her to Manila to be able to continue her studies, and in whose house she was staying. That would be the height of ingratitude, not typical of Filipino women, and so contrary to this traditional modesty. Their high regard for their chastity and womanly virtues, would not permit complainant to accept the offer of love, much less allow it to be the cause of her defilement.

Even more hard to believe is that the illicit relation, assuming it had developed to such state from how it started with the usual courtship, would be carried on in the very conjugal abode of appellant and his wife, with a daughter already of the discerning age, sleeping in the same room with complainant, for it to be so easily noticeable whenever appellant and complainant performed the sex act in said room as appellant claimed.

If as alleged by appellant during the period from October to December, 1974, appellant already had relationship with complainant, the two mutually agreeing that appellant would visit complainant in her room in which appellant's daughter also slept, the complainant wearing ordinary woman's dress, not pants, why all of a sudden, did complainant, Erlinda, denounce appellant for forcible sexual intercourse or rape for no apparent reason at all? Appellant alleged that complainant's brother saw Erlinda and appellant kissing on the night of December 31, 1974, for which the brother laid hands on her, hitting her with a rattan chair, according to appellant, but with a piece of wood, according to appellant's witness, Felipe Laurel. Is it hinted that Erlinda complained against appellant so as to appear to her brother as chaste and well-behaved as her brother expected her to be? If appellant and Erlinda were lovers, and since the only act seen by his brother is that of kissing on a December 31, 1974, which was New Year's Eve, Erlinda would not go as far as to charge appellant with the serious offense of rape. That it was her brother who accompanied her to the legal authorities to file her complaint against appellant cannot

in least make the supposed motive as intimated herein hold water.

There can be no doubt then that appellant did commit the sexual assault on complainant against the latter's will. Erlinda declared that after the beastly act, she immediately reported the matter to appellant's wife. The latter of course denied this; but there simply is a distinct ring of truth in complainant's words as her act of reporting to appellant's wife the wrong committed on her is but the natural reaction after having been forcibly abused by appellant.

She further testified that appellant's wife warned her not to tell anybody; otherwise, something will happen to her and her brother, and that since then, the couple closely watched her, so she would not leave the house. This behavior of the spouses is more consistent with appellant having raped Erlinda than that the latter and appellant were maintaining an affair as lovers. After appellant's wife had known of such secret relationship she would have sent away Erlinda, not try to keep her in the house. What evidently the spouses wanted is to prevent Erlinda from reporting to the authorities the grievous wrong committed against her by appellant.

Hence, she had to escape from the house, so that she could take steps to have appellant brought to justice, as she and her brother did. They first went to the NBI, then Erlinda submitted herself to physical and medical examination, incontestable proof of her having been abused sexually against her will, as she unashamedly gave her statement thereafter to the police, which she repeated during the trial. All these facts and circumstances have invariably been held by judicial pronouncements as showing the honest desire of rape victims to bring the culprits before the bar of justice and thereafter placed behind bars.[4] Such desire or motive can arise only from the commission of a grave offense against their honor and chastity which, to all virtuous women, are prized even more than life itself.

Upon the other hand, the testimonies of the defense witnesses, particularly appellant himself, are contradictory in important details, not just minor one's as appellant avers. Thus, Juvy Beso, appellant's own daughter, said that it was Erlinda who would go to her parent's room at 4:30 in the morning, but appellant said it was he who would go to the complainant's room during the nights. Juvy also declared that although she had heard her father and Erlinda in soft conversation whenever the latter went to her parent's room, she never reported what she had seen and heard to her mother, despite her already being a person of discernment, being 13 years of age and this was allegedly because Erlinda gave her fifty centavos everytime she (Erlinda) went to the room of her father. This is simply incredible coming from a daughter of sufficient discernment to be possessed at in a sense of morality and decency.

It is no wonder that the trial court simply discarded Juvy's testimony as incredible as it did with another defense witness, Nucrecia Lambot. The trial court justified its impression of this witness as not credible saying: "If it is true that Erlinda had confided to her as early as September, 1974 that she was in love with a married man and that man, she later learned in October, 1974, was the accused why did she not call the attention of Mrs. Beso who is her neighbor? She admitted having known of the arrest of the accused on January 8, 1975 and even having met Fiscal Rogelio Concepcion who was then conducting the preliminary investigation. Why then did she go to Camp Crame, alone and allegedly of her own volition without having been requested by any of the Besos, to give a statement (Exh."1") before Lt. Walbert Alatraca of the Philippine constabulary who is her relative? The actuations of this witness are most surprising. According to her, after giving her statement, she took three (3) copies thereof and gave one to Mrs. Beso. If her interest was to let the truth be known, why did she not tell Fiscal Concepcion what she know? She did not even furnish Fiscal Concepcion of a copy of the statement she gave at Camp Crame. All these could only lead to the conclusion that Nucrecia Lambot is a put-up witness for the defense."

In refusing to give credence to still another defense witness, Felipe Laurel, the trial court observed:

"The testimony of Felipe Laurel is another picture of a story drawn from imagination. He claims that Erlinda went to their house which was just two meters away from the Beso house on Saturdays and from there Erlinda asked him to call the accused. He even went to the extent of making his own mother an accomplice to an alleged illicit relationship when he stated that on the first Saturday when Erlinda was already in their house, it was his mother who instructed him to call the accused. If it is true that the accused and Erlinda had some relationship, then it was not necessary for Erlinda to still move to the laurel house and then have the accused called. They already live in the same house. And, if the intention of the accused and Erlinda were to meet at some other place, perhaps away from the prying eyes of Mrs. Beso, why of all places should it be in the Laurel house which was only two meters away from theirs? The statement of laurel is just not logical. It is unbelievable. In an anticipated attempt to corroborate what the accused will later state, Laurel testified that one December midnight, he was awakened by the sound of fire-crackers and rising and looking out of the window to spit, he saw the accused and Erlinda kissing each other. This must be December 31, 1974 because the accused stated that at that time he and Erlinda were at the door of the Beso house talking and kissing each other. This, laurel testified, he witnesses. Unfortunately he did not foresee what the accused will later say regarding the arrival of Erlinda's brother Romeo. While laurel claimed that Romeo slapped Erlinda on the face and hit her with a piece of wood, the accused testified that Romeo hit Erlinda with a rattan chair picked from inside the house itself. While the accused was silent as to whether he did anything when Romeo hit his sister, Laurel tried to do better by stating that the accused pacified Romeo Lachica." [5]

The variance between appellant's testimony and that of Laurel on what object Erlinda's brother used in hitting his sister has earlier been pointed out. In contrast, Erlinda's testimony finds corroboration in the findings of the examining physician, including the bruises found on her body which Erlinda's testimony would show to have been caused by how she struggled against appellant when he resorted to violence to satisfy his lust. From the uncontradicted fact that her brother accompanied her when she reported the outrage on her honor to the NBI, the act imputed to the brother of having smack her with a rattan chair or a piece of wood, as the cause of the bruises as found by the medical examiner is simply unbelievable and untrue.

Equally futile is appellant's attempt to prove that Erlinda's testimony that they did not allow her to go out of the house after she had reported appellant's misdeed to the latter's wife is not true. The testimony of her teacher, Editha Millora, as to her continued attendance of her classes was inconclusive, supported as it was with Erlinda's attendance card which bear signs of tampering as the trial court expressly noted in its decision. [6]

It was a love letter supposedly written by Erlinda to appellant, alleged to have been found by appellant's wife that gave the latter knowledge of the illicit relation of her husband and Erlinda. Again, as the trial court rightly observed, why should Erlinda have to write letters when she and her lover are in the same house? This letter was not presented in evidence because according to appellant's wife, Erlinda grabbed it from her and tore it to pieces. Again, this is a most preposterous claim. So solid an evidence as the letter of her husband's marital infidelity, Mrs. Beso should have guarded it closely. Upon getting hold of such letter by which she learned of her husband's unfaithfulness to her, she should have lost no time in driving away Erlinda from the conjugal abode in anger, with all her dresses and other belongings. The truth, however, is she had to escape, as shown by her having to leave behind her dresses in doing so, which had to be retrieved with the help of the clerk of court, because the spouses refused to give them to her. Evidently, they were afraid of the torn pants being used as evidence to prove appellant's heinous acts.

If the various witnesses of appellant failed to give convincing corroboration to his claim of having had an amorous relation with complainant, the latter's testimony, although standing alone, found forceful support in the findings of the medical examiner. The choice then as to whose version, between that of the prosecution and the defense, is credible is not hard to make, as the trial court made an unerring choice in favor of that of the prosecution, which We sustain.

WHEREFORE, the judgment appealed from is hereby affirmed with costs.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., Guerrero, Abad Santos, and Escolin, JJ., concur.

[1] p. 19, Decision, p. 4, Rollo.

[2] pp. 2-6, Ibid.

[3] pp. 6-7, Ibid.

[4] People v. Gan, 46 SCRA 667; People v. Francisquite 56 SCRA 764; People v. Baylon, 57 SCRA 114.

[5] ?????

[6] p. 13, Ibid.

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