

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TIBURCIO RELACION, DEFENDANT-APPELLANT.

G.R. No. L-46521. January 22, 1980

Ponente: SANTOS, J.

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SANTOS, J.:

This is an appeal filed on June 7, 1977 from the judgment of the Court of First Instance of Bohol, 14th Judicial District, Branch IV, the Hon. Fernando S. Ruiz presiding, finding the above-named accused-appellant guilty beyond reasonable doubt of the crime of rape and sentencing him to reclusion perpetua, to indemnify the complainant Anecita Madronero in the sum of P5,000.00 as moral and exemplary damages, and to pay the cost.

Tiburcio Relacion was charged in Criminal Case No. 1357 for rape in an Information filed by Acting 1st Assistant Provincial Fiscal Jacinto S. Bautista on November 3, 1975 as follows:

"That on or about the 12th day of June, 1975 at 5:30 o'clock in the afternoon, more or less, in barrio Montehermoso, municipality of Carmen, province of Bohol, Philippines and within the jurisdiction of this Honorable Court, the above-named accused by means of force and intimidation with intent to have sexual intercourse, did then and there willfully, unlawfully and feloniously hug, push down, remove the pantie of Anecita Madronero and insert his penis into the vagina of the said Anecita Madronero, against the will and consent of the latter; to the damage and prejudice of the said offended party."[1]

At the trial, the accused having pleaded not guilty, the prosecution adduced in evidence the testimonies of Dr. Quintin T. Derikito, the complainant, Anecita Madronero, Pat. Placido Flores, and Fernando Madronero, father of the complainant and Exhibits "A" to "F" and "F-1". The defense in turn presented the testimonies of Oscar Egar, Francisco Yecyec, Tiburcio Relacion, the accused, Manuel Relacion and Exhibits "1" to "10".[2]

The prosecution, thru Asst. Provincial Fiscal Daniel B. Bernaldez, alleged and sought to prove that the complainant was, on June 12, 1975, in the late afternoon, by means of force and intimidation, ravished sexually by the accused against her will and consent. The accused, in turn, thru his counsel de oficio, Atty. Reinerio S. Namocatcat, defended on the ground that the sexual intercourse, contrary to the charge of the complainant, was voluntary since the accused and the complainant had for several times previously had sexual relations as sweethearts.

The trial court after an evaluation of the evidence adduced before it, appreciating the diametrically contradictory claims of the prosecution and the defense, and considering that certain circumstances . . . "in the afterglow of rigid and repeated analyses" . . . reveal that the prosecution's version is more credible, convicted the accused. The four circumstances are: first, that complainant's umbrella was broken, from which it concluded that there was a physical struggle between the complainant and the accused. Second, that Dr. Quintin T. Derikito found, per Exh. A, certain injuries sustained by the complainant, when he examined her the morning after the alleged sexual assault, consisting of—(a) lacerated wound 1 cm. long, medial side of right foot, planter portion, below medial malleolus; and (b) linear abrasions, scapular area, right and proximal of the left arm, from which it concluded that

she sustained the same in the course of the struggle and to prevent the accused from sexually abusing her. Third, that the complainant told her parents that the accused sexually abused her and that her parents reported the incident to the police authorities immediately thereafter. It inferred from these that the complainant was really wronged by the accused, citing *PP vs. Sacabin*, G.R. No. L-36638, June 28, 1974. And, finally, fourth, that the accused left Bo. Monte Hermoso for Bukidnon on June 16, 1975 and did not return until after his arrest on August 21, 1975. This it considered as evidence of flight, which is inconsistent with accused's innocence, and indicative of his guilt.[3]

The accused, in his brief filed by his counsel de oficio before this court, alleged that the trial court erred—(1) in finding that the evidence is sufficient to hold the accused guilty beyond reasonable doubt of rape, committed with force and intimidation; and (2) in not giving credit to the defense that the sexual act was voluntary and with the consent of both parties as sweethearts.[4]

The Solicitor General instead of filing a brief for appellee submitted on March 10, 1979 a "Manifestation in Lieu of Appellee's Brief". He submits that after considering the totality of the evidence adduced and considering the validity of the four circumstances mentioned by the trial court as bases for its finding of accused's guilt beyond reasonable doubt of the offense of rape, he has arrived at the conclusion that the guilt of the accused has not been so proved, and hence recommends that the accused be acquitted of the crime charged.[5]

We agree.

The following discussions by way of traverse on the four circumstances relied upon by the trial court are well-taken.

1. Alleged broken umbrella, which was not produced, not evidence of force or intimidation.

A rather remarkable feature of this case is an alleged broken umbrella of the complainant assumed by the trial court to be conclusive evidence of a physical struggle between the complainant and the accused. The court went even further to say that the umbrella would not have been broken had the sexual intercourse been the product of mutual consent (p. 9, *supra*).

But where is the broken umbrella? The prosecution did not present it as evidence and the complainant made no mention of it during her direct examination. In fact, the matter of the broken umbrella was brought out by counsel for the accused during his cross-examination of the complainant. Thus:

"Q -

What did you take with you from the house of Anie Madronero?

A -

Umbrella. I was bringing umbrella.

x x x

Q -

x x x Where did you get that umbrella - is it from the house of Anie Madronero? (pp. 24-25, *tsn*, June 29, 1976).

x x x

"Q -

Do you remember at the time of the incident, before the incident happened you were carrying with you umbrella?

A -

Yes, sir.

Q -

You did not use this umbrella in protecting yourself during the incident?

A -

I was not able to use my umbrella because I lost hold of my umbrella and the umbrella and the umbrella dropped." (p. 35, tsn, July 20, 1976; italics supplied).

x x x

"Q -

In fact you could tell the Honorable Court that when you went home you brought along with you your umbrella which you were carrying before?

A -

Yes sir, when I stood up and walked away I passed by my umbrella and it was already broken.

Q -

Where is the broken umbrella now?

A -

It is at home.

Q -

In fact you did not submit that to the chief of police?

A -

No, sir, because it was sometimes after the incident that remained the umbrella at home." (p. 13, tsn, July 21, 1976).

Reliance by the trial court on the broken umbrella as evidence of force appears to be misplaced, because:

- As admitted by the complainant herself (supra) she was not able to use the umbrella in protecting herself because she dropped it;
- The prosecution did not present it formally as an exhibit. The omission is unwarranted because such physical evidence is evidence of the highest order (People vs. Sacabin, 57 SCRA 707) and should have been presented for examination by the Court and by the defense;
- Both the complainant and Felipe Acorda, a witness for the prosecution, testified that they met each other as the complainant was halfway home after she was raped (pp. 10, 14, tsn, March 19, 1976; p. 17, tsn, July 21, 1976). They further testified that Felipe Acorda accompanied the complainant to her house (p. 11, tsn, Mar. 19, 1976; p. 18, tsn, July 21, 1976). Yet, Felipe Acorda was insistent that the complainant did not carry an umbrella. Thus:

"Q -

Was she bringing anything with her?

A -

No, sir.

Q -

Are you sure that you have seen her bringing nothing?

A -

I am sure." (pp. 21-22, July 21, 1976).

With the foregoing, it is extremely doubtful if the broken umbrella may be considered as evidence that compulsion or force attended the sexual act between the complainant and the accused. (Emphases supplied).

2. Medical findings of Dr. Quintin T. Derikito do not support, but discredit, complainant's testimony.

x x x

The complainant recounted the details of how she was allegedly forced to submit to the appellant some of which are the following:

- From the road, the accused held both her hands and dragged her for twenty (20) fathoms to the cornfield where she was raped (pp. 26-27, tsn, June 29, 1976);

- At the place where she was raped, she fought back and wrestled with the accused; she even kicked him (p. 5, tsn, Mar. 19, 1976);

- The accused tried to lower her pant suit but she bent her right knee. To accomplish his purpose, he pounded her right thigh with his clenched right fist five (5) times until she felt numbness and pain on her thigh due to the pounding (p. 6, *ibid.*);

- After the sexual intercourse was over, which complainant claimed was her first, she felt pain in her vagina which was bleeding (p. 9, *ibid.*).

Under these circumstances, it seems incredible that the only injuries sustained by the complainant are minute abrasions on her left arm and one scratch on her right foot. If she was dragged for twenty (20) fathoms, would not the finger grips be evident on her wrist and serious injuries on her feet be seen? Would not the struggle she allegedly put up result in marks or scratches on her body? How about the total absence of any mark on complainant's right thigh which the accused allegedly pounded five (5) times in succession? If she bled because the incident was her first intercourse, why was there no laceration or any kind of injury to her organ, inside or out? And why was there no bloodstain in her pubic hair or on her panty and pant suit?

If there is any significance to be attached to the medical findings, it is not that they corroborate the testimony of the complainant. Rather, they point to the opposite conclusion. And the importance of medical findings was underscored by this Honorable Court in *People v. Lopez*, 74 SCRA 205, 209, thus:

While it is to be admitted that conviction may rest on the testimony of a single witness, especially in the case of rape which is seldom committed in the presence of third parties, still the testimony of a victim of rape must be corroborated by physical facts, such as finger grips or contusions on her throat, face, body, arms and thighs, as well as torn and stained garments, particularly the panties worn by the victim, to prove force and violence. (*italics supplied.*)

3. Credibility of complainant and her witnesses dubious.

The trial court gave credit to the testimony of the complainant, holding that she would not have told her parents that she was raped had the sexual intercourse that transpired been the product of mutual consent and that she would not have filed a complaint for rape and suffered the torment, if not the ignominy, of having to testify in court were she not really raped (p. 10, *supra*).

While the cogency of the court's reasoning is manifest, nonetheless, can trust be placed on the testimony of the offended party? Can it be believed with that degree of moral conviction sufficient to overthrow the presumption of innocence in favor of the accused? (*People v. Dramayo, supra*). The answers to the aforesaid questions are in the negative. For there is much in complainant's version that strains the limits of credulity (see *People vs. Godoy*, 72 SCRA 69, 77).

The complainant testified that she did not see the accused at the wedding party (p. 5, *tsn*, March 19, 1976) but first saw him at about 5:00 o'clock in the afternoon of June 12, 1975 (p. 16, *tsn*, June 28, 1976; p. 36, *tsn*, July 20, 1976), or immediately before she was raped. But she was contradicted by her own father who testified as follows:

"Q -

In fact you saw Tiburcio Relacion talking with your daughter Aniceta in that wedding party where you attended?

A -

Yes, sir."

x x x

COURT:

The woman admitted that she had conversation with the accused. That this man was courting her." (pp. 29-30, *tsn*, Oct. 20, 1976)

The falsity of complainant's testimony, as shown above, demonstrates in one instance her proclivity to give false testimony.

The complainant also testified that the accused dragged her from the path leading to her house to a cornfield about twenty (20) fathoms away (p. 26, *tsn*, June 29, 1976) and later, after some struggle, pushed her to the ground and sat on her waist (p. 5, *tsn*, March 19, 1976). Yet, there were no mud-stains on her pant suit and blouse (p. 12, *tsn*, July 21, 1976). Her explanation that the sustains were removed when she passed through grass wet with dew (*ibid.*) defies belief.

The complainant further testified that she was boxed on her thigh five times in succession (p. 6, March 19, 1976), which she confirmed during her cross examination (p. 38, *tsn*, July 20, 1976), as follows:

"Q -

x x x Now you mentioned that you were hit five times in your thigh by the accused at the time of the incident. Do you confirm to the statement that it was by the use of close fist?

A -

Yes, sir.

Q -

Which part of your thigh were you hit?

A -

Right thigh.

Q -

Considering the strength of the accused, naturally the five-times-hit would make an imprint on that thigh of yours?

A -

Yes, sir."

The medical findings of Dr. Derekito as well as his testimony (pp. 4-5, tsn, Feb. 10, 1976) do not mention of any mark on the complainant's thigh. In fact, the doctor testified that he did not treat the complainant because "there was nothing to treat" (p. 8, *ibid.*) and the complainant did not complain of any pain (p. 9, *ibid.*).

The complainant testified that her vagina was painful and bleeding as a result of her first sexual intercourse when she was allegedly raped (p. 9, tsn, March 19, 1976; p. 61, tsn, Dec. 28, 1976). Yet, there was no trace of blood in her pubic hair (pp. 10-11, tsn, Feb. 10, 1976) nor bloodstain on her panty and pant suit (p. 30, tsn, June 29, 1976). The medical findings of Dr. Derekito also show that there was no evidence of a fresh hymenal laceration (Exh. "A"). In fact, in his testimony, he declared that the complainant was not a virgin. Thus:

"Q -

In this case - your third findings - there was no evidence of fresh hymenal laceration. What do you mean by this?

A -

Usually, even in superficial hymenal laceration, the healing time will not take two or three days-not superficial one. But in my findings, I have noted that there was no fresh laceration on the hymen. Since the hymen was already not intact the deformity of the hymen must have been in the patient." (p. 68, tsn, Jan. 10, 1977).

In this connection, it should be borne in mind that the medical examination was conducted the very next morning after the date of the incident (p. 4, tsn, Feb. 10, 1976, *emphasis supplied*).

x x x

4. Alleged flight of the accused not supported by evidence -

In its decision convicting the accused, the lower court also relied on the alleged flight of the accused to Bukidnon, which it held to be an indication of guilty. It does not appear from the evidence on record, however, that the accused fled Bohol to avoid arrest. The accused left Bohol on June 16, 1975 to work at the Philippine Packing Corporation in Bukidnon (pp. 70-71, tsn, Nov. 12, 1976). On the other hand, the affidavits upon which the complaint was based were executed before the municipal judge only on June 17, 1975. This fact supports the accused's testimony that he left Bohol without knowing that there was a warrant for his arrest (p. 71, tsn, Nov. 12, 1976). It should also be mentioned in this connection that a cousin of the complainant was working with the accused in the Philippine Packing Corporation (p. 86, tsn, Nov. 12, 1976). (*italics supplied*).

In the light of the foregoing discussions of the rationale which impelled the trial court to find the accused-appellant guilty of the offense charged—which We find to be supported by the evidence on record and fully justified in the light of the circumstances discussed—it is apparent that the learned trial judge either

misinterpreted the circumstances and/or failed to take into account certain facts in arriving at his conclusions. Thus with respect to the umbrella he failed to take into account the fact that it was not even introduced as evidence, and that it was not admittedly used by the complainant during the alleged sexual assault. With respect to the medical report the significance of the testimony by the complainant that she was boxed five times on the thigh was not properly related to the results of the medical examination. His honor also failed to take note of the tendency of the complainant to testify falsely which induced him to consider her report as an indication that she was raped. And, finally, it does not appear, after all, that the accused fled to Bukidnon because of fear but due to a desire to seek employment.

It results that there is actually only an equiponderance of evidence to support the respective theories of the prosecution and the defense; that the submission of the accused that the sexual act was voluntary is equally if not more feasible than forcible rape. This being so, the evidence for the prosecution does not establish the guilt of the accused beyond reasonable doubt. He is, therefore, entitled to acquittal.

WHEREFORE, the decision appealed is hereby REVERSED and SET ASIDE and the accused ACQUITTED of the offense charged. No costs.

SO ORDERED.

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

[1] Rollo, p. 4.

[2] Id., p. 3.

[3] Id., pp. 19-21.

[4] Id., p. 66.

[5] The Solicitor General was assisted by Assistant Solicitor General Lorenzo O. Timbol and Trial Attorney Edgardo C. Miranda; Rollo, pp. 123-146.

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