

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. BEN DAYAG, DEFENDANT AND APPELLANT.

G.R. NO. L-30619. March 29, 1974

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

Appeal from the judgment of the Court of First Instance of Nueva Ecija, Branch IV, Guimba, finding the accused, Ben Dayag, guilty beyond reasonable doubt of the crime of rape defined and penalized under Article 335 of the Revised Penal Code, and sentencing him to suffer the penalty of reclusion perpetua (life imprisonment); to suffer the accessories provided for by law and to pay the costs.

As charged in the information, the crime was allegedly committed as follows:

"That on or about the 5th day of February, 1968, in the municipality of Talugtog, Province of Nueva Ecija, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie with and have sexual intercourse with Lourdes Cinense, against the latter's will and consent.

"Contrary to law."

The accused having pleaded not guilty to the charge, the prosecution sought to establish its case through the uncorroborated testimony of the alleged rape victim, Lourdes Cinense. From the decision of the court a quo based on said uncorroborated testimony, We find the following:[1]

"The complaining witness Lourdes Cinense declared that on February 5, 1968, at about 4:30 on the afternoon, she went to her hut at Barrio Sta. Catalina, Talugtog, Nueva Ecija, to feed her pigs and chickens. This hut was about two kilometers away from their house in Barrio Cinense, Talugtog. At that time, her husband Juan Pedro was then in the farm at Barrio Cinense, attending to the second crop. While she was feeding her pigs under her house at Sta. Catalina, the accused Ben Dayag entered the door of the house, embraced her, kissed her and laid her down. She struggled but Ben Dayag forced her down and in the course of her struggle, her dress was torn. The accused, also through force, removed her pantie and forced her down and when she was lying down, this lay on top of her, kissed her, embraced her and did not loosen his hold on her. He then inserted his private organ in her sexual organ and commenced the act of sexual intercourse, all the time she was struggling to get loose from his hold but the accused held her tightly and threatened her with his long gun that if she would move, he would shoot her. This threat infused fear on her and as a result, the accused was able to commit the sexual intercourse which lasted for about ten minutes. After this sexual act, Ben Dayag released his hold on her, embraced her again and afterwards, left her after wearing his pants. Lourdes Cinense after the sexual intercourse, sat down and felt tired for what had been done to her. Afterwards, she went home and upon arrival, she cooked their food. Her husband Juan Pedro arrived home between 7:00 and 8:00 o'clock in the evening and saw Lourdes Cinense trembling. He then inquired why she was in that condition and Lourdes Cinense complained to him that she had been raped by Ben Dayag. Juan Pedro at once went out to call their children who were in the house of his mother. Afterwards, he returned to their house and there saw his wife lying prostrate with her mouth foaming and he learned that she had taken poison. He shouted for help from the

neighbors who came immediately and his brother also came to their succor. His brother and cousin took Lourdes Cinense to Guimba for medical treatment. Juan Pedro stayed in the house worrying of what had happened to his wife. He went out of his house in search of Ben Dayag to kill him but fortunately he did not find the accused. He returned to his house and on second thought he reflected that if he would kill Ben Dayag he would answer therefor so he finally decided to take the matter to the courts of justice. Lourdes Cinense was taken to the clinic of Dr. Duval at Guimba, Nueva Ecija, in a jeep owned by Barrio Captain Benjamin Patacsil. She was treated in the clinic for four days, beginning the night of February 5, 1968. After her release from the clinic, Lourdes Cinense filed the complaint against Ben Dayag, Exhibit "A". Thereafter Ben Dayag could not be seen anymore in the neighborhood."

On the other hand the accused denied the commission of the crime and interposed the following alibi, as stated in the decision:

"Ben Dayag, whose true name is Bienvenido Dayag, testifying for himself, declared that on February 5, 1968, he was in his house at Barrio Cinense, Talugtog, Nueva Ecija; that at about 8:00 o'clock in the morning of said date, he went to the barrio hall of Barrio Cinense to do some work there; that he had many companions in undertaking the work and some of his companions were Honorato Lomboy, David Gamit, Ventura Abad, Juan Pedro, Ireneo Santiago and others; that his wife Normacion Pascual was also in the barrio hall, working with Valeriana Santiago, Maria Manangan, Lourdes Cinense and others; that the men finished their work later while the women left their work very much earlier; that on the afternoon of said date, the men worked from 2:00 to 5:00 o'clock; that when he went home his companions were Lourdes Cinense, Valeriana Santiago, Maria Manangan and his wife; that Juan Pedro was also going home following them; that when he reached his house he let his carabao drink; that after his carabao had drunk, he went inside his house and did not leave it and slept at about 8:00 o'clock." (*Italics ours*)

This testimony of accused Dayag was corroborated by his wife, Normacion Pascual, but the trial court rejected their testimonies as unworthy of credence, accepted as true the uncorroborated testimony of complainant Lourdes Cinense and found defendant Ben Dayag guilty of rape as charged. Hence this appeal.

Appellant, through counsel de oficio, makes the following assignment of errors:

1.

"That the court erred in alleging (*sic* holding) that the defense of alibi of the defendant-appellant is not worthy of credit because no impartial and unbiased evidence coming from disinterested residents of barrio Cinense, Talugtog, Nueva Ecija, was presented to corroborate it;

2.

"That the trial court erred in alleging (*sic* holding) that evidence of maltreatment in the person of the complaining witness Lourdes Cinense, is not borne by competent evidence, it having been the result of mere insinuation;

3.

"That the trial court erred in alleging (*sic* ruling) that it cannot accept the testimony of Dra. Duval as to the true date of the admission of Lourdes Cinense in her clinic to be February 7, 1968;

4.

"That the trial court erred in finding the defendant-appellant, Ben Dayag, guilty of the crime of rape, and not giving credence to the defense of said defendant-appellant."

The sole issue in this case is whether or not the wholly uncorroborated story of the complainant as to the commission of the alleged rape is impeccably true and is sufficient basis for the conviction of the accused. The

corollary issue is whether the trial court, in finding the accused guilty and meting out the heavy penalty for the heinous crime of rape, did so after reaching that requisite degree of moral certainty as to the guilt of appellant Ben Dayag.

I

A careful review of the record and of the testimony of the offended party, a woman of 38 years, married for more than five years, with five children and in good health, discloses telltales of falsehood, contradictions and conflicts on vital details which make our conscience recoil in accepting the veracity of her story. In her sworn statement, dated February 12, 1968, given to support the complaint, she stated:

"That on Monday, February 5, 1968, at about 4:30 in the afternoon, I went to our hut in barrio Sta. Catalina, Talugtog, Nueva Ecija, to feed my pigs and chickens;

"That when I was getting the can of rice bran inside the hut, one Ben Dayag, entered the hut without my consent, so that I asked him "WHY"? and he said and pointed to me his firearm." IF YOU WILL SHOUT, I AM GOING TO SHOOT YOU", and dragged me inside the hut, and once inside the hut, he (Ben Dayag) began kissing me, embraced me, laid me down the floor and laid on top of me;

"That upon receiving such abusive acts, I struggled and tried to get loose of his hands, until I became unconscious so that he was able to have sexual intercourse on me;

"That upon regaining consciousness, I tried to stand up but again Ben Dayag, embraced me and laid me down to the floor and stepped on my legs to prevent me to stand up and pointed again his firearm to me and said "IF YOU ARE GOING TO TELL YOUR HUSBAND OR THE POLICE AUTHORITIES ABOUT THIS MATTER, I AM GOING TO KILL YOU AS SOON AS I HAVE THE OPPORTUNITY TO DO SO," then he left."

On February 16, 1968, in the preliminary examination before the Municipal Judge of Talugtog, the same Lourdes Cinense stated under oath that the accused said nothing to threaten her. She said as follows:[2]

xxx xxx xxx

"Q

Where did Ben Dayag enter that time, the door or the window?

A

At the door, sir.

Q

While Ben Dayag was inside the hut that afternoon, did you have any conversation if any?

A

No, sir.

Q

Did he talk with you?

A

No, sir.

Q

Did you talk with him?

A

I asked him why he entered inside the hut.

Q

And what did he tell you if any?

A

He said nothing but embraced me, sir.

Q

What did you do when he embraced you?

A

I tried to get off, but I was not able to do so.

Q

When you were not able to get loose from his hold, what did he do to you if any?

A

He embraced and kissed me and did what he like because I was then unconscious.

Q

Can you remember the precise time when you fell unconscious?

A

No sir.

Q

For how long did you remain in the state of unconsciousness?

A

More or less 45 minutes, sir.

Q

When you regained consciousness, Ben Dayag was already gone?

A

He was still there, sir.

Q

He was still embracing you when you revived your senses?

A

Yes sir, that was the time when I saw the gun.

Q

Was he naked at the time you regained consciousness?

A

Yes, sir.

Q

Do you mean to say his pants and inner trousers were totally taken off?

A

Yes, sir.

Q

How about you, were you totally undressed when you regained consciousness?

A

My pantie was taken off.

Q

Where was your pantie then placed at the time?

A

It was placed by my side.

Q

Did you place it by your side?

A

No, sir.

Q

Did sexual intercourse take place between you and Ben Dayag that afternoon?

A

Yes sir, perhaps he consummated this act because I was then in state of unconsciousness.

Q

You were still laying frustrate (prostrate) with Ben Dayag on top of you naked when you first noticed him upon regaining consciousness, is that correct?

A

Yes, sir.

Q

You have already revived your senses when you noticed him on top of you, is that correct?

A

No, sir.

Q

In other words, when Ben Dayag was on your top, you did not notice nor feel what was going or being done to you?

A

No, sir.

Q

You did not feel the insertion of his private part because you were then unconscious at that time?

A

No, sir.

Q

You did not feel any pain in your vagina?

A

I did not feel anything because I was unconscious.

Q

Was he able to penetrate your genital organ and secreted his spermatozoa to yours?

A

I do not know, sir because I was too unconscious."

* * * * *

Thus complainant claims that the accused employed force and threats which made her unconscious for sometime, and that she did not even feel anything when ravished, by accused. However, her own testimony during the trial[3] militates against her thesis. She said:

"Q

To where did Ben Dayag enter?

A

At our door, sir.

Q

Door of your house or what?

A

The door of our house, sir.

Q

Why? Where were you feeding your pigs then?

A

Under the house, sir.

Q

What happened when Ben Dayag entered?

A

He embraced me sir.

Q

What else did he do after he embraced you?

A

He kissed and laid me down.

Q

What did you do when he kissed and embraced you and laid you down?

A

I struggled, sir.

Q

When you struggled, what happened to you?

A

He did what he wanted to me, sir.

Q

Will you please tell us in detail what he did to you?

A

He did what he wanted to me, sir.

Q

You stated he laid you down on the floor, to what floor are you referring to?

A

On the floor of the living room of our house, sir.

Q

Will you please tell us what happened, how did it come that you were laid down in the sala when you were feeding your pigs according to you, downstairs of your house?

A

When he entered our house, he laid me down.

Q

Where were you at that time Ben Dayag kissed and embraced you and laid you down on the floor?

A

I was inside our house, sir.

Q

When Ben Dayag was able to lay you down, what happened?

A

He did what he wanted, sir.

Q

Were you wearing any clothes at the time Ben Dayag forcibly laid you down?

A

I had, sir.

Q

What happened to that clothes of yours or dress of yours at the time you were laid down by Dayag?

A

It was torn, sir.

Q

Why was it torn?

A

How could it not be torn when I struggled with him?

Q

Were you wearing a panty or not?

A

I had, sir.

Q

What happened to that panty of yours?

A

It was torn sir. How could it not be torn when he was forcing what he wanted to do.

Q

What did he do with that panty of yours, if any?

A

He removed it, sir.

Q

After Ben Dayag was able to remove your panty what did he do to your person?

A

He did what he wanted, sir.

Q

Yes. What did he do? The Court can not understand.

A

He laid on me sir.

Q

On top of you?

A

Yes, sir.

Q

When he was already on top of you, what did he do to you?

A

He did what he wanted, sir.

Q

What is that thing he did to you because we can not understand that?

A

He laid on top of me, sir.

Q

Afterwards?

A

He kissed me sir.

Q

After he kissed you what else transpired?

A

He just kissed me, sir. He did not loose his hold on me.

Q

Yes, when he was kissing you, what else transpired?

A

No more sir.

Q

What was the position of his body at the time he was kissing you?

A

He was on top of me and embracing and kissing me.

Q

What was his body doing while his body was on top of you and kissing you?

A

His body was trembling, sir.

Q

Why did you say his body was trembling?

A

He could not rest because he was kissing me.

Q

How was his body trembling as you have stated?

A

It was strong, sir.

Q

Sidewise or what?

A

Direct, sir.

Q

Will you please demonstrate how was his body trembling?

A

This way, sir (witness demonstrating a forward backward motion)

Q

Was Dayag wearing a pant at the time he was on top of you?

A

No, sir.

Q

What did you notice in his person when he was about to lay on top of you when he was not wearing a pant according to you?

A

When his pant was removed, he did what he wanted with me, sir.

* * * * *

Q

Please understand my question. When Ben Dayag lay on top of you, what did he do next aside from kissing and embracing you?

A

He removed my pantie, sir.

Q

When Ben Dayag removed your pantie, what next did he do?

A

He lay on top of me, sir.

Q

What is that? He just remained there? He laid above you? He was just remaining there, remaining still on top of you? He was still?

A

He was still.

COURT

Now proceed.

Q

What did he do with that penis, if he did anything when you saw it hard?

A

He put it in.

Q

Where did he put it in?

A

To my private parts.

Q

What were you doing when he was actually putting that private parts to you?

A

I was lying down, sir. * * * (Italics ours)

Her theory of force and intimidation, manifested in her sworn statements of February 12 and 16, 1968, and which rendered her "unconscious" is belied by the aforementioned testimony which engenders serious doubt as to the trustworthiness of said statements. She speaks of resistance, struggle and unconsciousness allegedly caused by force and fear, but complainant was able to give a detailed description of what transpired, including the acts and movements of the accused with all the details. All these testimonies were supposed to relate to only one incident — that which allegedly occurred on February 5, 1968, at 4:30 P.M., in Barrio Sta. Catalina, Talugtog, Nueva Ecija. There is absolutely no evidence on record of any mark of violence, bruise or scratch on the body, face or hands of the assailant or of the offended party except those found by Dra. Duval on the latter. But the swelling and contusions found by the doctor appear to have been caused by blows received from Lourdes' brother and husband and not from herein accused, (TSN Nov. 20, 1968 and February 11, 1969). The alleged torn dress and panties were not presented in evidence. Complainant's uncorroborated yarn is not that kind of innocent story of a rape victim on the basis of which one accused of so heinous an offense may be condemned to a living death (People vs. Ariarte, G.R. No. 40736, 60 Phil. 326, 328). The prosecution, therefore, miserably failed to prove that force and intimidation were really employed by accused to cow the victim to make her submit to his lustful desires. It is

well-settled that —

"Evidence to be believed, must not only proceed from the mouth of a credible witness but it must be credible in itself such as the common experience and observation of mankind can approve as probable under the circumstances. We have no test of truth of human testimony, except its conformity to our knowledge, observation and experience. Whatever is repugnant to these belongs to the miraculous, and is outside of juridical cognizance." [4]

The alibi of accused Ben Dayag, corroborated by his wife, Normacion Pascual, while weak in itself, was never contradicted by the prosecution. In the case of *People vs. Fraga* [5] this Court said:

"The rule that alibi must be satisfactorily proven was never intended to change the burden of proof in criminal cases; otherwise, We will see the absurdity of an accused being put in a more difficult position where the prosecution's evidence is vague and weak than where it is strong."

The onus probandi in establishing the guilt of the accused still rests with the prosecution and in this case We can see that it does not have strong and solid grounds to stand on. In *People vs. Bulawin*, 29 SCRA 710, 721, it was ruled thus:

"Of course alibi is known to be the weakest of all defenses. It is easy to concoct, difficult to disprove. Nonetheless, where the evidence for the prosecution is weak and betrays lack of concreteness on the question of whether or not defendant is the author of the crime charged, alibi as a defense assumes importance."

The accused cannot be convicted because of the weakness of his alibi. The prosecution must prove his guilt by the strength of its evidence and not by the weakness of that of the accused. During the trial, the prosecution never questioned or impugned the veracity of defendant's alibi and we see no reasonable explanation why both the complainant, Lourdes Cinense, and husband, Juan Pedro, did not refute appellant's testimony that they were all in the barrio hall of barrio Cinense the whole day of February 5, 1968, working on a community project in connection with a beautification contest between barrio Cinense and barrio Casanova.

II

The defense contends that the complainant took poison not because of the dishonor she allegedly suffered by reason of the rape committed by appellant but because of the maltreatment administered on her person by complainant's own brother, Nolasco Cinense, and her own husband, Juan Pedro, who was jealous of appellant Ben Dayag whom he suspected of having an affair with his wife, Lourdes Cinense. This was revealed to appellant's wife, Normacion Pascual, who had a conversation with Lourdes in the latter's house early in the morning of February 7, 1968 (T.S.N. pp. 5-6, Jan. 20, 1969). This incident of maltreatment when she was boxed on the face and kicked was witnessed by Normacion Pascual, wife of accused Ben Dayag, when she was in the house of Rosita Barawid. (T.S.N. January 20, 1969, pp. 5, 11). This was corroborated by the Barrio Captain and Dra. Duval who came to know of the maltreatment from Celedonia Cinense, aunt of the victim, who was among those who ran to the rescue of Lourdes Cinense immediately after the attempted suicide and later accompanied Lourdes (in the jeep of the Barrio Captain and with the Barrio Captain himself) to the clinic of Dra. Duval. It is not true that Lourdes Cinense was taken to the clinic of Dra. Duval on the night of February 5th but on the 7th. Dra. Nonila Duval who treated Lourdes Cinense testified thus: (T.S.N. November 20, 1968)

* * * * *

"Q

There is an entry here, Doctora, which shows "ingestion of glacial acetic acid" and "big except for swelling and contusions around both eyes, ingestion of glacial acetic acid, contusion face", will you please explain to us the meaning of this appearing in that card of Lourdes Cinense?

A

Lourdes Cinense was admitted on complaint of taking acetic acid. This history was gathered from the aunt of the patient. The patient was somewhat in unconscious state and on physical examination, it was noted there was swelling and purphid marks on both eyes, on the face, just below the mouth, anterior chest, upper extremity.

Q

Doctora, what could have been the cause of those marks that you have explained you have found on the face of Lourdes Cinense?

A

It may be caused by a bladed instrument.

* * * * *

Q

Now in that entry it shows also that Lourdes Cinense had a quarrel with her brother, from where did you get that information as appearing in the record?

A

This was according to the aunt who brought the patient. This is the complete physical examination when she was in the clinic and then that below is the record of the clinic."

The foregoing, We believe establishes the fact that the maltreatment stated by Celedonia Cinense was no concoction or a figment of the imagination. And the testimony of Dra. Duval regarding the physical appearance of the patient was likewise not a fabrication nor a "result of mere insinuation" as held by the court a quo.

III

It is undisputed that the alleged victim of rape, Lourdes Cinense, took glacial acetic acid, a poison, and that she was rushed to the clinic of Dra. Nonila Duval in Guimba, the next town. The date when she took the poison and when she was taken to Guimba is disputed by the prosecution and defense. Lourdes Cinense averred during the cross-examination that it was February 7th. She said (T.S.N. September 10, 1968 p. 12):

"Q

And is it a fact, Mrs. Cinense, that on February 7, 1968, you were brought at the clinic of Dr. Duval?

A

Yes, sir.

Q

And, the person who brought you at the clinic of Dr. Duval was the barrio captain Benjamin Patacsil?

A

Yes, sir.

Q

And the driver of the jeep was Gregorio Batong?

A

Yes, sir.

Q

And the other persons inside the jeep were Celedonia Cinense, Pedro and your two other children, is that correct?

A

Yes, sir."

* * * * *

In the redirect examination We likewise have on record the same complainant saying it was on February 6th. She said (T.S.N. September 10, 1968 p. 15):

"Q

When did you appear in the clinic of Dra. Duval?

A

After I had drunk, I was taken there directly.

Q

When was that?

A

That was after the incident happened to me.

Q

You took the poison on February 6, the following day when you were abused by Ben Dayag?

A

Yes, sir.

Q

Were you able to go home that same day after you went to the clinic of Dra. Duval?

A

No, sir.

On the other hand, Dra. Nonila Duval, referring to her clinical records, testified as follows on November 20, 1968: (T.S.N.)

"Q

In this card it shows the following: "2-7-68, Lourdes Cinense." What does this mean?

A

She was admitted on that date, sir. Lourdes Cinense was admitted on February 7, 1968.

* * * * *

Q

Was that the first time, Doctora, that Lourdes Cinense entered your clinic, February 7, 1968?

A

Yes, sir.

Q

In your records, Doctora, when did Lourdes Cinense come out of your clinic?

A

February 10, 1968, sir.

Q

And so she stayed in your clinic for three days?

A

Yes, sir two and a half.

Q

Is this the only record that you have, the card?

A

No, this is the clinical record.

Q

Let me see. There is an entry in this record Doctora which reads as follows: "2-7-68, Admitted for the first time is a 38 years old young woman with a CC of ingestion of glacial acetic acid as a result with a quarrel with the brother. General appearance — patient seems to be in an unconscious state as she does not respond to questions and other stimuli but on raising the left upper extremity over the face and then suddenly letting it fall, the hand falls to the side of the body an evidence that she is not really in a comatose state. Skin, presence of swelling in areas of ecchymosis around both eyes, face anterior chest, and upper extremities." Will you please explain to us, Doctora, what does that entry appearing thereat mean?

A

Patient, when she came, was somewhat unconscious. To determine the unconsciousness, we used physical stimulation like pinching, and if she does not respond to the stimuli we raise the hand. If the patient is really unconscious, the hands fall on the face, but if the unconsciousness is not very deep then the hands fall on the side."

After delving into the record, We have arrived at the conclusion that the testimony of Dra. Duval is credible. For We do not find any reason or motive why she would falsify her clinical records. It is undisputed that she prepared the card on the very day the complainant was admitted, which was on the 7th, and not on the 5th or 6th as prosecution would like it to appear. The testimony of Dra. Duval was corroborated by none other than that of the Barrio Captain, Benjamin Patacsil, who accompanied Lourdes Cinense to Dra. Duval's clinic and whose jeep was used in conducting her to the same. Significant too is the fact that Barrio Captain Patacsil is the nephew of Juan Pedro, husband of Lourdes Cinense (T.S.N. September 11, 1968 p. 8) and, therefore, the Barrio Captain could not have contrived lies to contradict the testimony of his aunt-in-law. Barrio Captain Benjamin Patacsil testified as follows: (T.S.N. February 11, 1969)

"Q

Are you the same Benjamin Patacsil subpoenaed in this case against the accused Ben Dayag?

A

Yes, sir.

Q

On February 7, 1968, do you have any government position?

A

I was the barrio captain of Barrio Cinense, sir.

Q

On that date at 7:00 o'clock in the evening, do you remember where were you?

A

Yes, sir.

Q

Where were you?

A

I was at barrio Cinense, Talugtog, sir.

Q

At around six in the evening or afternoon of February 7, 1968, do you remember having gone somewhere?

A

We took Lourdes Cinense to Dra. Duval, sir.

Q

How come you brought Lourdes Cinense to Dra. Duval?

A

Arsenio Pedro called us because of an emergency, sir.

Q

Who is this Arsenio Pedro?

A

Brother of Juan Pedro, sir.

Q

What did Juan Pedro tell you when he came to you?

A

He told me to deliver Lourdes Cinense to Dra. Duval because of her taking poison, sir.

Q

What did you do when informed about that?

A

I told my driver to give my jeep to them or take them to my jeep that afternoon, sir.

Q

Why, do you have a jeep?

A

Yes, sir.

Q

Did you bring Lourdes to Dra. Duval as requested by Arsenio Pedro?

A

Yes, sir.

Q

When you brought Lourdes to the place of Dra. Duval, who were your companions, if any?

A

My companions were the driver, Celedonia Cinense, Hilaria Pedro and two children of Lourdes Cinense.

Q

How about Lourdes Cinense?

A

She was taken to Dra. Duval, sir.

Q

What is the name of your driver?

A

Gregorio Batong, sir.

Q

When you were in the jeep as Barrio Captain, what did you do?

A

I asked Celedonia Cinense what was the cause of the matter.

Q

What answer was given by Celedonia Cinense if any?

A

She said that her brother Nolasco Cinense repeatedly boxed Lourdes Cinense, sir.

Q

What was the condition of Lourdes Cinense when you saw her and you were bringing her to Dra. Duval's place?

A

Her face was swollen and she was vomiting, sir.

* * * * *

The rejection by the Trial Judge of Dra. Duval's testimony, supported as it is with records duly signed by her, on the sole ground that the doctor wrote the date on the line which bears the sign: "Binding margin, do not write here," is based on a flimsy and hollow justification. In the usual course of business there are occasions when one inadvertently writes on a restricted space such as the one aforementioned.

There is one incident the significance of which runs counter to the usual pattern of human behavior and normal reaction in times of stress. Reference is made to the fact that immediately after the occurrence of the foiled suicide by herein complainant, when the Barrio Captain was called for and the patient was brought to the hospital, no report to him was made about the commission of rape by appellant as the impelling factor for the attempted suicide. What Celedonia Cinense, an aunt of the victim, related to the Barrio Captain is that Lourdes took poison after a quarrel between Lourdes and her brother, Nolasco Cinense, and the former was maltreated by his brother and by her husband himself, Juan Pedro. (T.S.N. February 11, 1969 p. 11) This narration was repeated to Dra. Duval when the latter took the history of the case. In a small barrio as Cinense news about crimes against chastity, as the alleged attack against the complainant herein, spread like wildfire and will certainly not escape the ears of everyone, much less the Barrio Captain who is highly regarded as a person in authority therein. But nowhere in the record was the matter of rape reported nor mentioned to the barrio captain or to Dra. Duval either by the aunt or the children of Lourdes who, according to her husband, Juan Pedro, were called immediately after their mother was raped by Dayag. Lourdes Cinense testified too that when she took poison, her son, Nonito Pedro, 15 years of age, was around. (Summary Statement of February 16, 1968 before the municipal court of Talugtog).

The above circumstances cast a heavy pall of doubt on the prosecution's evidence that rape was committed on the person of the complainant, or that the accused committed the same.

"Of course We are agreed, that no woman in her right senses would concoct such a tale repugnant to her virtue, and undergo the rigors of a public trial covering her very honor, but this is no guaranty that all self-inflicted indignities are for the sake of truth"[6] for the books disclose too many instances of false charges of rape, attempted rape and kindred offenses to permit the courts to enter a judgment of conviction of a crime of this nature without having in mind the possibility that the complaining witness may have been actuated by some sinister motive in bringing the charge. On the other hand, the only evidence on which convictions of these heinous offenses can be had is frequently the uncorroborated testimony of the injured woman, ... It becomes necessary, therefore, for the courts to exercise the most painstaking care in scrutinizing the testimony of the witnesses for the prosecution."[7]

Rape is a most detestable crime, and therefore ought severely and impartially to be punished with death; but it must be remembered that it is an accusation easy to be made, hard to be proved, but harder to be defended by the party accused, though innocent."^[8]

Having considered the above factors and having read and re-read the record and weighed the evidence presented, We hold that the guilt of the accused has not been established beyond reasonable doubt.

WHEREFORE, We vote to reverse the judgment appealed from, acquit the defendant of the crime charged and order his release from custody, unless he is held for some other lawful cause. Costs de oficio.

SO ORDERED.

Makalintal, C.J., Castro, Teehankee, and Makasiar, JJ., concur.

Muñoz Palma, J., took no part.

[1] Rollo pp. 85-87.

[2] Summary Statement of Lourdes Cinense taken before the Municipal Court of Talugtog, Nueva Ecija, subscribed and sworn to before Municipal Judge thereof.

[3] T.S.N. September 10, 1968 p. 3-7.

[4] Vreeland vs. Vreeland 21, A 627, 631; People vs. Lacson, 53 O.G. 1823, 1838; People vs. Nicanor Alvarez, L-34644, Jan. 17, 1974.

[5] L-12005, 109 Phil. 241, 250.

[6] People vs. Flores 43 SCRA 310, 326.

[7] U.S. vs. Ramos 35 Phil. 671, 677.

[8] U.S. vs. Flores 26 Phil. 262, 269.

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