

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TELESFORO MACATANGAY, DEFENDANT-APPELLANT.

G.R. No. L-40726. June 29, 1982

Ponente: RELOVA, J.

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RELOVA, J.:

Telesforo Macatangay appealed from the decision of the Court of First Instance of Oriental Mindoro, convicting him of rape, sentencing him to reclusion perpetua and ordering him to pay the offended woman, Florencia Marasigan, moral damages amounting to P6,000.00, exemplary damages of P6,000.00 and the costs of suit.

The complainant Florencia Marasigan is a widow, whose husband died in 1967. The accused, Telesforo Macatangay, is the husband of the sister of complainant's husband.

About four o'clock in the afternoon of October 20, 1969 complainant was on her way home in Leuteboro, Socorro, Oriental Mindoro when she was accosted by Telesforo who held her left arm, embraced and threw her on the ground, placing himself on top of her with a leg on either side and kissing her several times. The complainant struggled, and tried to free herself by boxing the accused but it was of no avail. Telesforo boxed her thighs which weakened her. Eventually, he was able to remove her pants-suit and panty which became torn and smudged with mud. He tried to have carnal knowledge with Florencia who shouted "Inay ko po" and pleaded with him not to do it because her deceased husband was his brother-in-law. Notwithstanding, the latter turned a deaf ear to complainant's plea. He was able to consummate the sexual act despite her resistance because she lost strength after she was given fist blows by Telesforo. The accused warned her not to reveal the incident to anyone, otherwise he would kill her.

Thereafter, the complainant, still with her soiled clothes, reported the matter to her sister who called their mother and aunt. They accompanied her to the Office of the Chief of Police who took down her affidavit and then advised her to undergo medical examination at the Municipal Health Center.

Dr. Umbao examined the complainant at about 8:00 in the evening of the same day, October 20, 1969, and found on her the following injuries:

"Bruises and hematoma in the anterior aspect of the right and left thighs, and after the internal examination the patient complained of severe pain in the right and left thighs."

Dr. Umbao testified that the bruises and hematoma sustained by the complainant in the right and left thighs could have been caused by a hard instrument.

Several months after the incident attempts were made by the relatives of the accused to settle the case amicably. The complainant and her parents refused the offer of settlement.

In his defense, appellant testified that in the afternoon of October 20, 1969, he was alone in his house when the complainant arrived to inquire when they would elope and live together. Their illicit relationship started in April

1969 and since then they have had several sexual relations. As he was alone in the house that afternoon they were having another carnal intercourse when he heard somebody calling his name. Florencia exclaimed: "May tao, may tao." He remarked: "Hintay ka muna." (Wait a minute). They stood up. Immediately thereafter, the door opened and his Uncle Serafin Madlangbayan entered. Florencia hurriedly left and proceeded to the direction of her house. He followed the complainant and overtaking her, said: "Let us talk first." Florencia answered that they might be seen by others and things might get worst. He then told her that it would be better if they would continue with their plan to elope; he would proceed to Calapan and she would follow. Returning to his house, he told his Uncle Serafin Madlangbayan not to tell anyone what he had seen. His uncle agreed. He left for Calapan and waited for Florencia but she never came. He then went to Tagkawayan, Quezon where he stayed in a house of a friend for three months, waiting for the complainant. It was on January 1970 when a relative told him that a case has been filed against him in Mindoro.

He denied the truth of the testimony of the complainant regarding their sexual intercourse which was allegedly done with the use of force and violence. He claimed that what they did in the afternoon of October 20, 1969 was with her full consent.

On the question of credibility to which the conflicting versions of the prosecution and the defense are entitled, the finding of the trial court is generally viewed as correct and entitled to great respect. In the case of *People vs. Manos*, 36 SCRA 457, it was held that "the lower court is vested with considerable discretion in determining which of the conflicting versions is to be lent credence. It is a well-settled principle that as far as credibility is concerned, the findings of the lower court which had the opportunity to see, hear and observe the witnesses testify and to weigh their testimonies will be accorded the highest degree of respect by the appellate court." In the case at bar, the trial court said:

"By and large, the mainstay of the prosecution evidence is the testimony of the complainant, without which the information would have no leg to stand on, considering that said testimony is not corroborated. As adverted to above the Court reviewed and meticulously assessed this evidence and having likewise weighed and evaluated that adduced by the defense, it is fully and morally convinced that the crime complained of had been committed by the herein accused, the latter's pretension that he and the complainant being sweethearts, notwithstanding. It may not be amiss to state that the version of the defense as adduced in evidence that the complainant and the accused were sweethearts and the sexual act that precipitated the filing of the complaint took place in the house of the accused does not deserve any probative value, not only because it was vigorously denied by the complainant in her testimony in rebuttal, but also because the same cannot overcome the direct and positive declaration of the said complainant that she was raped by the accused not in his house but in the open field in the vicinity of her house where she was suddenly accosted and the accused threw her to the ground and then and there was forcibly and without her consent, made to have sexual intercourse with her.

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"Considering that the complainant herein was boxed in both thighs after she was thrown to the ground by the accused, as a result of which she got weakened and could no longer resist his lustful advances, said accused was able to accomplish his vicious purpose, there is sufficient force, it appearing that her strength gave out, so that he was able to do the act with impunity."

The testimony of the appellant that it was not possible for him to have sexually abused the complainant because the latter was his sweetheart and in fact they had previous intercourses in the house of Eulogio Dris in Batingan, Gloria, Oriental Mindoro and in the house of Florencio Magpantay in Tagkawayan, Quezon was vehemently denied by the complainant. Indeed, if it is true that they had previous sexual acts, then the best evidence to prove the same would be the alleged owners of said houses. His failure to present them to corroborate his testimony only gave rise to presumption that their declarations would be prejudicial or adverse to appellant if they had been

presented in court. And, if complainant voluntarily submitted to his sexual advances, why did she file charges against him? It is hard to believe that a woman would undergo the trouble and inconvenience of a public trial and allow an examination of her private parts if her motive was not to bring to justice the person who had abused her.

Finally, the fact that he left the place after the incident and returned only in February 1970 strongly indicates consciousness of guilt. It has been truly said, since long ago that "the wicked flee, even when no man pursueth, but the righteous are as bold as the lion." (US vs. Sarikala, 37 Phil. 486). And, it has been held that flight is evidence of guilt and of a guilty conscience. (US vs. Alegado, 25 Phil. 510). On the other hand, the fact that immediately after the incident the complainant reported the matter to her relatives who accompanied her to the local authorities following which she was examined by the municipal health officer only shows that appellant had indeed sexually abused complainant against the latter's will in the open field of Leuteboro, Socorro, Oriental Mindoro and not voluntarily in appellant's house as claimed by him.

WHEREFORE, the decision appealed from is hereby AFFIRMED, with costs against the appellant.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Plana, and Vasquez, JJ., concur.

Melencio-Herrera, J., on leave.

Gutierrez, Jr., J., no part.

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