

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS. GODOFREDO QUINTAL Y SANTOS, ACCUSED-APPELLANT.

G.R. No. L-49656. November 25, 1983

Ponente: GUERRERO, J.

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GUERRERO, J.:

This is a forcible abduction with rape case filed by the offended party, Carol Dumrique, then a 17-year old coed of the College of Commerce of Ortanez University, Cubao, Quezon City, in the criminal complaint subscribed and sworn to by her on February 3, 1977 in Manila, Philippines before Assistant Fiscal Arturo U. Barias, Jr., against her instructor in Mathematics at said school, herein accused-appellant Godofredo Quintal y Santos, a middle-aged married man, which reads as follows:

"The undersigned accuses GODOFREDO QUINTAL y SANTOS of the crime of FORCIBLE ABDUCTION WITH RAPE, committed as follows:

"That on or about the 4th day of January 1977, in the City of Manila, Philippines, the said accused, did then and there wil-fully, unlawfully and feloniously, with lewd designs, abduct the undersigned complainant CAROL DUMRIQUE y MESA, by then and there threatening to fail her in her Math 2B subject should she refuse to go with him, and by means of force and intimidation, took her inside the taxi and brought her inside the Maya Theatre of Quezon City and while inside said theatre, administered drugged chocolate candies on her and then subsequently brought her to the Rose Garden Motel where once inside the said motel, said accused had carnal knowledge of her against her will when she was deprived of her full possession of her mental faculties.'

"CONTRARY TO LAW.

s/t CAROL DUMRIQUE y MESA

Complainant"

The Assistant Fiscal having conducted an ex-parte investigation in accordance with law, filed the corresponding information against the accused for forcible abduction with rape with the Circuit Criminal Court, Sixth Judicial District, Manila. Upon arraignment, the accused, duly represented by counsel, entered a plea of not guilty. Trial then proceeded and upon termination thereof, the court rendered judgment against the accused as decreed in the dispositive portion, to wit:

"WHEREFORE, finding the accused GODOFREDO QUINTAL guilty beyond reasonable doubt of the crime of rape pursuant to the provisions of Article 335 of the Revised Penal Code as amended and there being no mitigating nor aggravating circumstance to off-set each other, the Court hereby imposes upon the said accused the penalty of RECLUSION PERPETUA, to pay the offended party the amount of P5,000.00 and the further sum of P1,000.00 as attorney's fees and to pay the costs.

"SO ORDERED.

"Manila, Philippines, October 6, 1978."

The version of the prosecution is succinctly summarized in the Appellee's Brief as follows:

At the time of the incident the offended party, Carol Dumrique, was a 17-year old Commerce student at the Ortanez University in Cubao, Quezon City, single and residing with her uncle at Provident Village, Marikina, Metro Manila. She was then residing in the city for barely three months as she was a transferee from the province of Isabela where her parents reside. She came to know of the accused-appellant because the latter was her professor in Mathematics 2-B. In fact, since November of the previous year (1976) she has been invited no less than three times by the accused-appellant to a merienda but she refused because she had already a boy friend who was also studying in the same school. (pp. 6-10, 10-27, t.s.n., June 30, 1977).

"At about 2:30 o'clock in the afternoon of January 4, 1977, the offended party was alone in Room 206 at the second floor of the school building reviewing her test paper in Management when accused-appellant entered the room and inquired from her what she was doing. After answering him, the offended party in turn inquired from the accused-appellant the results of their examination in his subject. The latter did not immediately answer, but continued staring at the offended party for a long time and remarked: "Hindi ka kasi sumasama." As the latter did not answer, accused-appellant continued: "You cannot do anything. All of those who are here are members of my barkada. You will still undergo two Mathematics subjects under me." Frightened, she consented when invited by the accused-appellant for a merienda. (pp. 11-20, 22-24, t.s.n., Ibid).

"From Ortanez University, the two boarded a jeepney bound for Cubao, Quezon City. Upon reaching the Banco Filipino building in Cubao, the two alighted. Whereupon, the accused-appellant hailed a taxi, prompting the offended party to inquire: "Sir, is it not that we are just going to take a merienda?" Accused-appellant did not answer. Instead, he opened the taxicab's door and pushed the offended party inside. Then, he ordered the taxicab driver to proceed to Maya Theatre. The offended party did not shout to avoid a scandal. Besides, she did not foresee any immediate danger since the one taking her to a movie was her professor. Upon arriving thereat, accused-appellant bought tickets, then took her to the lounge section where both sat on a bench. Shortly, thereafter, accused-appellant lighted a cigarette and as he pressed her on the shoulder told the offended party to smoke it, which she did as the former placed it into her mouth. This caused her to cough and get dizzy. Forthwith, accused-appellant led her to a secluded section on the balcony where they took their seats.

"Accused-appellant, then pre-tending to relieve the offended party of her dizziness, offered her a choco-late candy, which she ate unsuspecting of the accused-appellant's evil intention. Thereafter, accused-appellant gave her another one which she also ate still believing that it was also intended to relieve her further of her dizziness. Thereafter, the offended party already felt different. She was feeling warm inside, and could no longer control her feelings. She did not reveal this to the accused-appellant who must have sensed it just the same because the former did not resist when he started stroking her. Subsequently, accused-appellant gave her a third candy, this time, directly from his mouth through kissing, as she already lost control of her reason or will power. Taking advantage of her situation, accused-appellant started kissing her and fondled her private parts, including her breasts for quite sometime. Then accused-appellant invited the offended party to leave, to which she did not object as she was no longer herself. (pp. 28-32, 34-36, 54-56, t.s.n., Ibid).

"The two took a taxicab and proceeded to the Rose Garden Motel, in Sta. Mesa, Manila. Upon reaching the motel, they entered a room whereupon, the offended party proceeded to a bed and laid down. After closing the door, accused-appellant sat beside her and gave her another candy, the fourth. He also gave her a cigarette but she was not able to smoke it because she was too dizzy that she fell from the bed, causing her hips to hit the edge of a dresser. She tried to stand but she fell on the bed. The accused-appellant then was beside her. He started undressing her slowly, but before removing her panty, he fondled her breasts, and then gave her the fifth chocolate candy. The next thing she knew was that accused-appellant was able to have carnal knowledge of her. She trembled with pain just as she also noticed the accused-appellant tremble. This was repeated for four times; after which she laid down motionless as she felt so weak to move. (pp. 57-67, t.s.n., June 30, 1977; pp. 4-9, t.s.n., July 13, 1977; pp. 3-6, t.s.n., September. 7, 1977).

"Before the offended party could regain her strength, accused-appellant pulled her inside the bathroom and flushed her with water. This made her feel alive ('nabuhayan ako') until she regained her normal feelings. She started to cry, but accused-appellant tried to stop her in order not to attract attention. And, believing that she was worried about getting pregnant; accused-appellant teasingly told her that "with two hundred pesos (P200.00), it could be removed." Whereupon, accused-appellant warned the offended party not to inform anybody about the incident threatening to take her life, reminding her of her night classes and of the two mathematics subjects she shall be taking under him. Thereafter, accused-appellant told her to dress up, and after advising her not to attract the attention of anybody, they left the motel and took a taxicab for Cubao where accused-appellant alighted near the Farmer's Market. From there the offended party proceeded home to Provident Village in the same taxicab. (pp. 10-15; t.s.n., July 13, 1977; pp. 66-67, t.s.n., Aug. 9, 1977; pp. 10-15, t.s.n., Sept. 7, 1977).

"The offended party was not able to report the incident to anybody because she did not know what to do. She attended her classes including her Mathematics class under the accused-appellant. Everytime she met the accused-appellant in his classes, the latter would threaten to kill her and reveal their affair to her boyfriend, should she not accede to his wishes. Because of these threats, she was forced to meet the accused-appellant in front of the National Book Store in Cubao at 10:00 o'clock in the morning of January 8, 1977, which was then a Saturday. From there, accused-appellant took her to the Rose Garden Motel, where the former again succeeded in having carnal knowledge of her for four times. They left the motel at about 3:00 o'clock in the afternoon in order that she could attend her classes (pp. 15-21, t.s.n., July 13, 1977; pp. 15-30, t.s.n., September 7, 1977; Exhibit 'E').

"That evening of January 8, 1977, accused-appellant had a drinking spree with the offended party's boyfriend, Jesus Tolentino, to whom the former must have divulged his affair with the offended party. Because of that, Tolentino waited for the offended party to come out of her last class and invited her for a talk which she accepted. They proceeded to Barrio Fiesta Restau-rant in Cubao where Tolentino confronted her about her affair with the accused-appellant. At first, she denied, but had to admit it after a long argument. As a result, Tolentino spanked her and forcibly brought her to his residence at St. Ignatius Village, in Quezon City, where the former also succeeded in having carnal knowledge of her for seven times. He also told his board mates to take their turns, but they took pity on her and refrained from molesting her. (pp. 21-27, t.s.n., July 13, 1977; pp. 30-32, 37-51, t.s.n., Sept. 7, 1977; Exhibit 'E').

"It was already 4:30 o'clock in the morning of the following day (January 9, 1977) that the offended party was able to leave the place of Tolentino. Instead of proceeding home, she went to Cubao where she boarded a taxicab. And, because she was already so weak and did not know what to do, the driver brought her to Vito Cruz where somebody by the name of Gerry Ibañez saw her and took pity on her. Ibañez took her to a lady cousin who resides in Pasay City. She stayed there until January 13, 1977, when she decided to go home upon the advice of Ibanez and his cousin, who both convinced her that no other person could help her better than her own relatives. As soon as she arrived home, she learned that her uncle and aunt were looking for her while she was away. That same afternoon, they accompanied her to Camp Crame to report what happened to her. After investigation, she was told to go to the NBI for medical examination, which she did the following day (January 15, 1977 - sic: January 14, 1977 per Exhibit 'B') in company of her aunt. Then she returned to Camp Crame to give her sworn statements wherein she narrated how she was sexually abused by the accused-appellant and her former boyfriend, Jesus Tolentino (Exhibit 'E'). Aside from the criminal complaint against the accused-appellant, she also filed administrative charges against him with the President of Ortanez Univer-sity, the Assistant Dean of the Department of Commerce of the same university, and also with the Bureau of Higher Education. A formal inves-tigation, was conducted at the University; as a result of which, accused-appellant was no longer allowed to teach (pp. 27--57, t.s.n., July 13, 1977)."

Dr. Rodolfo Lesondra, NBI Medico-Legal Officer, pursuant to a request for medico-legal assistance for the alleged crime of rape committed on the offended party, examined her and after the examination, the doctor

prepared the following report (Exhibit 'B'):

"Living Case No. MG-77-34

Subject: name - Carol Dumrique y Mesa

age - 17 years old

Alleged Case: RAPE

Commission: 4 January 1977 at the Rose Garden Motel, Sta. Mesa, Manila and 8 January 1977 at No. 17 Riverdale Street, St. Ignatius Village, Quezon City, Metro Manila.

FINDINGS

GENERAL PHYSICAL EXAMINATION;

"Normally developed, fairly nourished, conscious, coherent, cooperative, ambulatory, afebrile subject.

"Breasts in early stage of development, conical, doughy in consistency. Araeola, light brown, 2.0 centimeters in diameter. Nipples, protruding, pinkish brown, 0.6 centimeters in diameter."

EXTRAGENITAL PHYSICAL INJURY:

"Abrasion, healed recently, left supra-gluteal region 2.5 x 6 centimeters, with bright reddish pink central portion and with brown scab which readily falls off on manipulation."

GENITAL EXAMINATION:

"Pubic hairs, fine, short, and with scanty growth. Labia mejora, plump, moist, coaptated. Labia minora, pinkish, moist, coaptated. Four-chetted, tense. Vestibular mucosa, moist and pinkish. Hymen, moderately wide, thick, with healing lacerations complete at 3:00 o'clock, deep at 9:00 o'clock positions, corresponding to the face of a watch. Edges of these lacerations are bright red, coaptated, and when separated reveals a V-shaped base which are bright red and slightly congested. Hymenal orifice annular, admits a glass tube 2.8 centimeters in diameter with moderately marked resistance. Vaginal walls tight. Rugosities, prominent. Cervix small, closed, hard."

CONCLUSIONS:

"1. Extra-genital physical injury described above noted on the body of the subject at the time of examination, age of which is compatible with the alleged date of infliction.

"2. Genital findings present compatible with sexual intercourse with man on or about the alleged dates of commission."

Dr. Lesondra further testified that there were no traces of male semen found in the offended party's vagina due to the long intervening period from the dates of the rapes complained of and the NBI medico-legal assistance conducted; that the abrasion located at the complainant's left buttock could have been caused by contact with a hard or rough object or surface; that the complete laceration of the complainant's hymen at 3:00 o'clock and 9:00 o'clock positions is compatible with the alleged time or date of the acts complained of; and that he is of the opinion that the victim was physically a virgin prior to the acts complained of (i.e., that her hymen was intact prior to the rape although it does not necessarily mean that she has had no previous sexual experience since it is possible that the hymen might still be intact despite previous sexual knowledge).

The version of the defense tends to show voluntariness on the part of the complainant in going with the

accused-appellant to the movies on the 4th of January 1977 and that their sexual interlude at the Rose Garden Motel immediately thereafter was not one which constitutes rape. Thus, the defense, in its Brief, recites the following version:

"Appellant testified that he knew the complaining witness since she is her student in Math 2-B from November 1976; that at 3:00 p.m., January 4, 1977 he was at the Ortanez University compound and at 4:00 p.m. of the same date, he entered his classroom which is Room 206 to meet his students in Mathematics; that he has few students who were present and around five minutes after he arrived, complaining witness went inside his classroom and joined the class but because of the number of absences he decided to dismiss them; that while inside the classroom he talked to complainant in the presence of his students and when his students left leaving her behind he jokingly invited her to see a movie and that they will meet at the National Book Store, after saying that he left and proceeded to the Office of the Vice-President where he stayed for about five minutes; that he then went to the National Book Store, Cubao, Quezon City; that he did not threaten to fail complaining witness or forced to go down the Ortanez University; that when he arrived at the book store, he saw her and they have a short conversation; that they walked from said store to the International Drug Store around 100 meters away to get a ride; that they boarded a bus bound for Caloocan and both of them alighted in front of the Grand Theatre along E. de los Santos Ave., Cubao, Quezon City; that upon alighting from the bus they went to the lobby of said theater to look for the pictures being shown which she did not like, so they went walking to Maya Theater also along E. de los Santos Ave., Cubao, Quezon City, just around 200 meters away; that when they reached Maya Theater they bought two orchestra seat tickets; that from Ortanez University and all the places where they went or passed up to Maya theater there were many people as well as Security Guards and Policemen; that they then went up to the mezzanine floor using the stairs and upon reaching said floor, he gave her P2.00 to buy peanuts but there was none at the store so he suggested to buy chocolate instead and she bought Nips chocolate; that at the ground floor of Maya theater up to the mezzanine floor there were people around and on the ground floor there were guards; that after she bought Nips chocolate, she went to the comfort room while he waited for her near the person who collects the tickets for orchestra seats; that when complaining witness came out of the comfort room there were people in the mezzanine and they passed by the person who collects the tickets of the orchestra seats; that he did (not) force her to smoke at the lounging area of the theater or forced her to eat chocolate candy and the seats near them were occupied by other movie goers; that after they were seated, he placed his right hand over her shoulder and finding no reaction, he lowered it to her right side and again there was no reaction so he tried to put his hand over her breast but she removed it by a jirk.

"That after around 2 minutes, he tried again to put his hand on her breast, this time she held it and she gave by hand a Nips chocolate candy which she bought in the store at the mezzanine of the theater which he accepted also by hand, then another for the second by the same manner and the third one, which she gave it to him by the mouth and he received it also by the mouth.

"That he suggested to her to go out because it is very shameful (embarrassing) for doing such in the place where there are many people but she did not answer and they went out of the movie after staying for around 35 minutes.

"That while they were going out there were many people that they have passed; that from the Maya theater they walked towards New York street to the direction of Caloocan and while walking they passed many people; that they walked towards said street because he suggested that they go to a private place; that at the corner of New York and E. de los Santos Ave. there was a police outpost and a policeman was conducting traffic at the time; that when they boarded a taxi, appellant directed the driver to bring them to the Rose Garden Motel which is located at Sta. Mesa, Manila; that she entered the taxi voluntarily and she did not attempt to get out; that while inside the taxi she asked him where they are going and he told her that they will go to the Rose Garden Motel; that she did not make any protest when he told her where they will go; that in going to the motel they passed by several vehicles and pedestrians along Aurora Blvd., where they passed; that while inside the

taxi they were holding hands.

"That when they reached the motel they were allowed to enter by a male person and at the gate there was a guard; that she did not make any protest; that they alighted at the motel compound where there were people and and they walked to the motel to register; that while registering there were motel personnel around and when they went to the room they were accompanied by a personnel of the motel.

"That while inside the motel room they sat on the bed; that he did (not) force her to smoke or eat chocolate candy; that it was she who took his cigarette when he placed it in the ashtray and puffed it; that for around two minutes they had a conversation and after that he tried to kiss her; that she did not protest and she also kissed him so they embraced each other kissing; that he suggested to her to remove her dress because it might be crumpled, which she did alone and after she removed her dress they started kissing each other again while already lying on bed; that she removed her bra and panty, he also removed his clothes and brief then they had sexual intercourse without any protest from her; that after they had intercourse she went to the comfort room still naked and after coming out she lie down beside him and they were kissing again.

"That after they were kissing each other, he sat down and took a cigarette; that they had a conversation and have the second intercourse which lasted about 2 to 3 minutes, then another conversation about their plan on their next date on January 8, 1977 while they were still naked; that they were kissing again and after which they have again the third intercourse; that she went to the comfort room for the second time and when she came out they had a conversation that they will go home and they both dressed up.

"That he did not threaten her while inside the motel and she was in her natural condition while in the taxi going to the motel and when they entered the motel; that in going out they asked the permission of the motel personnel and when they asked said permission she was beside him; that they walked in going out of the motel compound, passed the guard at the gate and when they were already at the street they hailed a taxi and boarded it for Provident Village, Marikina; that she did not complain to the motel personnel, guard or the taxi driver; that upon reaching the gate of Provident Village, he alighted from the taxi because she did not want her auntie to see them.

"That he did not threaten her; that he has many friends in the school and she could vanish easily, or meaning, to kill her; that she is close to him since November 19, 1976 and said relationship has not changed after January 4, 1977; that the following day January 5, 1977 she attended her class with him in Math and on January 7, 1977 he met her and talked to her and on both occasions she was in her natural way.

"That on January 8, 1977 at 10:00 a.m., a Saturday, they met at the National Book Store, Cubao, Quezon City, the date, time and place they agreed to meet on January 4, 1977 at the Rose Garden Motel; that she even arrived ahead of him; that in the place where they met there were many people, security guards as well as policemen; that when they met, she was in her normal way but in a hurry because according to her, her auntie is going to Cubao and she might see us (sic) that is why we had to go to Aurora Boulevard.

"That in going to Aurora Blvd., they passed by the alley of business establishments crowded with people, guards and policemen; that upon reaching Aurora Blvd., he hailed a taxi in front of Banco Filipino where there were security guards and many pedestrians and when the taxi stopped she opened the door, entered first and he followed; that when they were already inside the taxi, she was very happy for having avoided her auntie.

"That from Cubao to the Rose Garden Motel the taxi passed along Aurora Blvd., which at the time, traffic was heavy; that in getting inside the motel compound they passed by the security guard at the gate and a person opened the door for them; that all this time she was happy and made no sign of protest.

"That while he was registering she never attempted to get out; that on that date they stayed in the motel from 10:45 a.m. to 1:30 p.m. where they had conversation, kissing and sexual intercourse; that in getting out of the motel they asked the permission of the motel personnel and they walked towards the street passing the guard at

the gate.

"That when they reached the street they boarded a taxi for Cubao, Quezon City and he alighted at the gasoline station near Ortanez University while she went home to Marikina; that at around 5:30 in the afternoon of the same day he saw her at the Ortanez Uni-versity acting in her normal way strol-ling at the second floor after their short conversation.

"That she filed this case against him because her boyfriend, Jesus Tolentino got mad at her when he learned or found in her notebook the word "Lyndiol," a name of a pill for birth control; that Tolentino told her that he (appellant) revealed what happened between us (sic).

"That Tolentino brought her to a Cubao restaurant then to his house; that Tolentino spanked her and had sexual intercourse with her forcibly."

In convicting the accused for the crime of rape, the court said that: "This version of the accused is quite unbelievable not only because the victim is pictured as a sex-starved young girl but also worse than a prostitute, who, with everything in her power will arouse a man to the height of his passion even in a crowded place in order to get what she wants. She is shown to be even lower than a common prostitute, a tempting Jesebel and a hussy who made all the aggressive moves to consummate their intercourse. But even assuming that this unfounded allusions on the character and behavior of the victim is true, the Court can (not) but condemn the accused, a professor in a university, a married man and who because of his age, could be considered a father to the victim, to take liberties on the body of his young student in a public place and in the presence of many people. Also, as an instructor and teacher, it is his obligation to guide and counsel his students on what is right, on what should be, on what ought to be. As a teacher, he should be a model of good behavior and morality. His conduct alone is the best evidence to show his depraved manner and which the Court can (not) but condemn. His behavior, in putting the victim in a situation in which he took liberties on her body, more than speak clearly and con-vincingly that his intentions towards her were not moral but on the contrary, immoral and depraved. Sad to say that the accused even came to realize later that what they were doing inside the theater was shameful. Was it really his realization that his intentions while carressing the victim in the presence of many (people) was shameful? Or was it because his passion was already aroused to a height that his lust must be satisfied, so that he has to suggest their leaving the theater? Or was it because he already came to realize that the victim has become an easy prey of his human desires and lust? Or yet, was it because the accused know that after giving the victim chocolates to eat and cigarette to smoke, her passion was already aroused so that she could no longer resist him? The answers to these questions find more meaning in the version of the victim herself."

Justifying its conviction of rape against the accused-appellant, the trial court recounted the evidentiary basis in the following wise and manner:

"The victim had categorically declared she was given chocolate no less than three times before copulation and made to smoke cigarette also twice, in addition to the fact that the accused made threats at her. All these in effect, had deprived the victim of her reason, weakened her resistance which the accused took advantage of in order to satisfy his lustful and animal desires. The Court believes that the three pieces of choco-late given to the victim which she ate, as well as the cigarette she was made to smoke, contained drugs which caused her to be dizzy, weak and had also aroused her passion. At the motel, after taking the third chocolate, her physical condition worsened causing her to fall off the bed. The condition in which the victim was in, could not make her offer any effective resistance to any actual assault on her person and virtue."

As earlier indicated, the accused-appellant was found guilty of rape and sentenced to RECLUSION PERPETUA; to pay the offended party the amount of P5,000.00 and the further sum of P1,000.00 as attorney's fees and to pay the costs. The court found no sufficient evidence that there was a forcible abduction of the victim. The evidence

presented by the prosecution does not even show that the personal liberty of the victim was violated for the same is the essence or nature of the crime. The evidence shows that the victim went voluntarily with the accused when invited to take merienda until she was given chocolates and made to smoke, the effects of which after eating and smoking has deprived her of her resistance when she was raped."

On appeal, accused-appellant assigns the following errors:

I

"The lower court erred in finding that the evidence presented constitute the crime of rape.

II

"The lower court erred in disregarding the motive in the filing of the case."

Article 335, Revised Penal Code, provides when and how rape is committed, to wit:

"Art. 335. When and how rape committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age, even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present.

The crime of rape shall be punished by reclusion perpetua.

Whenever the crime of rape is committed with the use of deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.

When the rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be likewise death.

When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death. (As amended by Rep. Act No. 2632 and Rep. Act No. 4111)."

There is no question that rape is a most detestable crime and should, therefore, be severely and impartially punished. But a rape charge is easy to make, hard to prove and harder to defend by the party accused, though innocent. (Cornelio Flores, 26 Phil. 262, 268; Ignacio Landicho, 8 ACR 580; Rafael Lacson, CA 53 O.G. 1823; Francisco Salvador, CA 52 O.G. 7290; Lago, CA 45 O.G. 1356; Barbo, 56 SCRA 459). Experience has shown that unfounded charges of rape have frequently been preferred by women actuated by some sinister, ulterior or undisclosed motive. Convictions for such crime should not be sustained without clear and convincing proof of guilt. (Bay, 27 Phil. 495; Pantaleon Ramos, 35 Phil. 671; Brocal, CA 36 O.G. 857; Topacio, CA 36 O.G. 1358). On more than one occasion it has been pointed out that in crimes against chastity, the testimony of the injured woman should not be received with precipitate credulity. When the conviction depends on any vital point upon her uncorroborated testimony, it should not be accepted unless her sincerity and candor are free from suspicion. A little insight into human nature is of utmost value in judging matters of this kind. (Fernando Fausto, 51 Phil. 852) (See The Revised Penal Code, Vol. III, 1977 Edition, pp. 1679-1680, by Justice Ramon Aquino).

There are three (3) well-known principles that guide an appellate court in reviewing the evidence presented in a

prosecution for the crime of rape and these are: (1) that an accusation for rape can be made with facility; it is difficult to prove it but more difficult for the person accused, though innocent, to disprove it; (2) that in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) that the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.

In the light of the above considerations and after a careful and conscientious study, analysis and review of the prosecution evidence, We have come to the conclusion that the government has not proved the guilt of the accused beyond reasonable doubt. There is merit to the contention of the accused-appellant that the act of sexual intercourse he had admittedly with the offended party does not constitute the crime of rape because he did it with the consent of the latter, there being no evidence showing that he used force or intimidation nor was the offended party deprived of reason or otherwise unconscious. There are indeed a number of facts and circumstances that belie the claim of the offended party that she was raped by the accused-appellant in the manner testified to by her:

1. That the complainant, after having been raped on January 4 by the accused as charged in the information, did again meet with him four days subsequently on January 8, 1977 at the National Book Store in Cubao, Quezon City at 10:00 o'clock a.m. and thereafter both proceeded to the Rose Garden Motel where they had sexual intercourse four times, leaving the motel only at about 3:00 o'clock p.m., at which occasion the complainant never complained of threats, intimidation nor of having been given chocolate candy to eat or cigarette to smoke and, therefore, consented freely and voluntarily to such repeated sexual pleasure, cannot but indicate serious doubt and suspicion to her claim of rape at the first instance, that is four days earlier at the same motel on January 4, 1977. It is quite improbable that the victim of an alleged rape would consent so soon to another tryst with the rapist and enjoy sexual gratification with him, unless she had previously given herself to him freely and easily on an earlier occasion. For her now to claim that she was ravished and deflowered under threats and intimidation by the accused-appellant who allegedly told her that she had two Mathematics subjects under him, cannot be believed. Such a conduct simply is diametrically opposed to what is expected and is normal to a girl whose virtue had been destroyed, her honor ruined, for then she would have been furious, bitter and resentful against him who had violated her.

2. That in the evening of January 8, 1977, the complainant met with her boyfriend, Jesus Tolentino, who brought her to his residence at St. Ignatius Village, Quezon City where he had sexual intercourse with her for seven times, indicates the laxity of complainant's moral behavior, detracting from the traditional and proverbial modesty and decency of the Filipina.

3. The delay in subjecting the complainant to a medical examination which took place eleven (11) days after the sex assault and the lack of proof that the chocolate candies taken by her were really "drugged" reflect the weakness of the prosecution evidence.

The conclusion is inevitable that the complainant was not sexually assaulted against her will but that she yielded her honor and virtue willingly.

The original information filed against the accused-appellant was for forcible abduction with rape. The trial court acquitted him of the forcible abduction charge, there being no showing that the personal liberty of the victim was violated when she accepted the invitation of the accused-appellant to take merienda with him and thereafter proceeded to the motel in Sta. Mesa, Manila. While there is proof that the complainant was a virgin, above twelve years of age and below eighteen years at the time and the facts and circumstances on record show the commission of the crime of consented abduction, the failure in the information to allege these vital elements do not warrant a conviction for consented abduction under the present information (See Art. 343, Revised Penal Code; Valdepeña

vs. People, 16 SCRA 871; Barba vs. People, 89 SCRA 112; People vs. Castro, 58 SCRA 473; People vs. Samillano, 56 SCRA 573; People vs. Magat, 94 Phil. 118; People vs. Ernesto Sison, G.R. No. L-45857, Oct. 27, 1983). The prosecution should file the corresponding valid information for consented abduction against the accused-appellant.

WHEREFORE, IN VIEW OF ALL THE FOREGOING, the accused-appellant Godofredo Quintal y Santos is hereby ACQUITTED. Costs de oficio.

His immediate release is hereby ordered unless he is held for some other valid charges.

SO ORDERED.

Makasiar, (Chairman), Concepcion, Jr., Abad Santos, De Castro, and Escolin, JJ., concur.

Aquino, J., dissents for reason stated in the opinion of Judge Felix B. Barbers. The rule is where the ability to resist is taken away by the administering drugs, even though the woman may be conscious, sexual intercourse with her is rape (75, C.J.S. 480). One should not ignore the fact that the girl was only 17 years old and that the accused was her professor.

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