

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TIRSO CANOY, DEFENDANT-APPELLANT.

G.R. No. L-40422. June 24, 1985

Ponente: CONCEPCION JR., J.

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CONCEPCION JR., J.:

Accused Tirso Canoy was charged with the crime of Robbery with Rape in the Court of First Instance of Lanao del Norte allegedly committed as follows:

"That on or about September 3, 1973, in the City of Iligan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, taking advantage of the night and with intimidation upon one RESTITUTA G. SASIL, did then and there willfully, unlawfully and feloniously, with intent of gain, take, steal and carry away a diamond valued at P90.00, belonging to the said Restituta G. Sasil without the consent and against the will of the said Restituta G. Sasil, to the damage and prejudice of the said owner in the aforesaid amount of P90.00, Philippine Currency, and on the occasion of such robbery the said accused by means of force or intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of said Restituta G. Sasil, and against her will."

After due trial, the court a quo found the accused guilty beyond reasonable doubt of the crime charged and sentenced him to suffer the penalty of reclusion perpetua; to indemnify the offended party Restituta G. Sasil the sum of P100.00 as actual damages, P4,000.00 as moral damages and P2,000.00 as exemplary damages plus costs. From this judgment, the accused has appealed to this Court.

The facts of the case as narrated in the People's Brief are as follows:

"The spouses Ruben Sasil and Restituta Sasil were, on September 3, 1973 tenants of Isidro Canoy, father of the accused Tirso Canoy, in Mimbalot, Baruun, Iligan City. In fact, their house was just 25 to 30 meters away from Canoy's (p. 62, tsn, Oct. 8, 1974).

At about 7:00 o'clock in the morning of September 3, 1973, the accused Tirso Canoy visited Restituta Sasil and pretended to ask for the whereabouts of the latter's husband. Just the same, Restituta told Tirso that her husband was in barrio Lumbating harvesting corn and will not be returning for some time (pp. 13, 14, tsn, Aug. 22, 1974). At about 8:00 o'clock in the evening of that same day, while Restituta and her children were listening to a drama from their radio, she felt like answering the call of nature and so, she asked her eldest son Bonifacio to go down and accompany her to the toilet by the creek. But since it was at time when the drama was mounting to its climax, Bonifacio asked his mother to be excused for the meantime and promised to follow in just a short while (pp. 67-69, id.).

While Restituta was on her way to the toilet, the accused who came from behind, suddenly grabbed Restituta's hand, then held her by the neck and pulled her to the ground where she rolled to a distance of about two arms length (pp. 16, 17, id.). While prostrate on the ground, the accused pulled her skirt and took away the belt which was tied around her waist and in which was concealed a pair of earrings and a ring which were valued at P70.00 (pp. 22, 23, 41, 45, 46, 47, id.).

Then the accused pointed his pistol at Restituta's face, removed her panty, got on top of her and began forcing his intentions on her. Restituta tried to ward off her attacker by pushing him and wiggling her body, but after her resistance was weakened because of appellant's threatened to kill her if she ever shouted, he was able to insert his penis into her private organ. (pp. 17, 18, 25, 26, 43, 48, 49, id.).

While the accused was still in the act of satisfying his lusts on her, complainant told him she would report the matter to her husband, that she would sue him and that she would brave the shame and embarrassment of even being examined by a doctor (pp. 27, 28, id.). Obviously, realizing the grave consequences of his beastly act, the appellant withdrew his organ but warned her not to report the matter to her husband nor to anyone else (p. 42, id.). The accused then left but nevertheless took away with him Restituta's jewelry valued at P70.00 and a fighting cock worth P30.00 and at the same time he told Restituta to immediately vacate the land tenanted by her and her husband (pp. 23, 27, id.).

The following morning, September 4, 1973, Restituta left for barrio Lumbating to report the matter to her husband. Because the river at barrio Tipanoy was flooded and hence not passable, Restituta spent the night in the house of her brother-in-law in barrio Tipanoy. The following day, after the flood had subsided, Restituta was finally able to reach her husband who at that time was harvesting corn in barrio Lumbating. Restituta immediately unburdened to him what had transpired (pp. 30-31, tsn, Aug. 22, 1974).

At first, Ruben did not know what to do, as he felt embarrassed bringing the matter to public knowledge by reporting the matter to the authorities (p. 82, tsn, Aug. 22, 1974). But after careful deliberation, the spouses finally mustered enough courage to report the matter to the authorities (pp. 30-33, 54, id.).

They reported the matter first to barrio captain Elino Alya of barrio Buru-un who advised them to go at once to the Philippine Constabulary (pp. 83, 84, id.). Mrs. Depas, a member of the barrio council, accompanied them to the PC headquarters where Restituta narrated the horrible incident she underwent (p. 85, id.).

Meantime, the appellant's father drove the Sasils away from his land. For fear of reprisal, the Sasils immediately left the land (p. 88, id.). On September 7, 1973, Dr. Manuel Simon, the medico-legal officer of the Iligan City Police Department, examined Restituta Sasil. Dr. Simon found on her person the following injuries: Multiple small abrasion neck lateral right.

Multiple abrasion left lower lumbar area and posterior chest left." (Exh. A, Medical Certificate)

Dr. Simon gave the opinion that the aforementioned injuries could have been suffered when the affected parts of Restituta's body were rubbed on a rough surface (pp. 5-6, tsn, Aug. 22, 1974).

At the time Tirso assaulted Restituta, Bonifacio Sasil, the 12-year old son of the Sasils, witnessed the incident at close range by peeping through a small opening of their house. It was Bonifacio who was supposed to have accompanied his mother to the toilet at a nearby creek but when he saw Tirso attack his mother, he ran back to their house for fear of his life (pp. 68-72, id.)."[1]

The accused-appellant, while admitting that he went to the house of the offended party which is only about 25 to 30 meters away from his own residence, in the morning of September 3, 1973, vehemently denied having gone back in the evening to commit the crime imputed to him. He claims that he has sufficient income and property so that there was no need for him to steal, and if he wants to have a good time, he can afford to go to Iligan City where prettier women abound. Besides, the offended party is not only his tenant, whom he is expected to protect, but also a close relative, being the wife of his father's second cousin. He further claims that the case was filed against him because he had ordered the offended party and her husband to vacate the landholding they were cultivating.[2] In support thereof, he presented Porfiana Tabora and Segundino Canoy who both testified that Restituta Sasil had threatened to file a criminal case against Tirso Canoy if Restituta Sasil and her husband are not restored to the landholding they were cultivating in Tinai-manok.[3]

The mere denial of the accused-appellant, without even a word or two as to his whereabouts at the time the crime was committed near his own residence, is not sufficient to counteract the positive declarations of the witnesses for the prosecution which the trial court found to be most credible. We have examined the testimonies of the said witnesses and find no reason to reject them as untrue. While there may be some variance in their statements, the contradictions are on minor details which do not adversely affect their credibility.

We cannot doubt the sincerity of the victim, Restituta Sasil, for no woman, especially a married woman like her, would go to court and air a dishonorable act performed upon her by someone if the same is not true. It is unthinkable that to give vent to an alleged grudge against the accused, which has certainly not been satisfactorily established, she would concoct a story that would put an infamous stigma upon her as the victim of the crime of rape. There is no proof in the record that she is so degenerate and base that she would sacrifice her honor and that of her family just to satisfy a personal urge for a petty vengeance.

The appellant's claim that he has ample means and income so that he could not have robbed Restituta Sasil of her valuables is not a guarantee that he cannot commit robbery. The fact that the victim is his tenant and a close relative, being the wife of his father's second cousin is not a deterrent to rape, because a man, when overcome by his perversity and beastly passions seeks not the time, the place, nor his victim. He selects not the old or the young, the ugly or the beautiful; he is only after the satisfaction of his bestial desires.

Pursuant to paragraph 2 of Article 294 of the Revised Penal Code, which punishes robbery with violence against or intimidation of persons, the penalty of reclusion temporal in its medium period to reclusion perpetua shall be imposed upon the culprit when the robbery shall have been accompanied by rape. In view of the presence of the aggravating circumstance of nighttime in the commission by the appellant of the offense of which he had been found guilty, without any mitigating circumstance to offset the same, the penalty of reclusion perpetua imposed upon him is in accordance with law. The indemnity to be paid to the victim, however, should be increased.

WHEREFORE, with the modification that the indemnity to be paid to the offended party is hereby increased to P30,000.00, the judgment appealed from should be, as it is hereby **AFFIRMED**. With costs against the accused-appellant.

SO ORDERED.

Makasiar, (Chairman), Aquino, Abad Santos, Escolin, and Cuevas, JJ., concur.

[1] Appellee's Brief.

[2] tsn of Oct. 8, 1974, pp. 61-71.

[3] tsn of Oct. 7, 1974, pp. 18, 42.

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