

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ERNESTO SYQUIOCO, DEFENDANT-APPELLANT.***G.R. No. L-37712. November 19, 1982*

Ponente: RELOVA, J.

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Prosecution for forcible abduction with rape committed against 19-year old Andrea Balce, with the accused, Ernesto Syquioco, having been convicted and sentenced "to the penalty of Reclusion Perpetual; to indemnify the offended party in the sum of FIVE THOUSAND (P5,000.00) PESOS, by way of moral damages and to pay the costs."

The facts as proved by the prosecution's evidence, and quoting from the People's brief are as follows:

"Complainant Andrea Balce, who is 19 years old, single and resident of San Roque II, San Jose, Occidental Mindoro, is a government employee and a student of the Divine Word College in San Jose, Occidental Mindoro (pp. 21, 38, tsn, May 29, 1972; pp. 53-55, tsn, May 31, 1972; pp. 7-8, 10, tsn, June 13, 1972). At about 6:00 p.m. on October 11, 1971 (Monday), she decided to forego her 6:30 to 7:30 p.m. class to go to the clinic of Dr. Apolo Liboro as she had a headache and felt sick (p. 50, tsn, May 31, 1972; pp. 19-20, 24, tsn, June 13, 1972; p. 50, tsn, Nov. 16, 1972). She requested Preciosa Cipres, a student of the Divine Word College whom she met near the school canteen, to accompany her to Dr. Liboro, but the latter refused because she had an examination (pp. 23-24, tsn, June 13, 1972; pp. 37, 42, tsn, Nov. 13, 1972). At the front gate of the school, Andrea Balce accompanied by Preciosa Cipres, waited for a tricycle (pp. 24, 26-27, 33, tsn, June 13, 1972). When a tricycle passed, she boarded it but appellant was already in it (p. 40, tsn, June 13, 1972; p. 71, tsn, Nov. 17, 1972). She told the driver to proceed to the clinic of Dr. Liboro (pp. 41, 43, tsn, June 13, 1972). But appellant ordered the tricycle driver to proceed to Labangan, outside the poblacion proper of San Jose, Occidental Mindoro, because he wanted to talk to complainant (pp. 43-44, tsn, June 13, 1972).

"On the way, appellant smoked and blew cigarette smoke on complainant's face (pp. 58-59, tsn, May 31, 1972). Upon arrival at Labangan junction, she refused to alight from the tricycle but appellant dragged her out of the tricycle and pushed her inside a warehouse owned by Emilio Gonzales, uncle of Danilo Lugtu (pp. 57, 61, 75, tsn, May 31, 1972; pp. 46, 52, tsn, June 13, 1972; pp. 5-6, 8, tsn, Nov. 16, 1972). Then appellant locked her inside the warehouse (pp. 56, 62, tsn, May 31, 1972; p. 9, tsn, Nov. 16, 1972).

"After the tricycle left, appellant entered the warehouse (p. 9, tsn, Nov. 16, 1972). As it was dark inside, he lighted a match (pp. 10-11, tsn, *ibid.*). Expecting an attack, complainant tried to look for a piece of wood to protect herself (pp. 10, 11, tsn, *ibid.*). Suddenly, appellant, who was armed with a fan-knife pulled her to a bamboo bed and forced her to lie down (p. 63, tsn, May 31, 1972). Complainant asked appellant why he was doing that to her and the latter replied that he likes her (p. 64, tsn, *ibid.*). She told appellant to marry her first, but she knew this was impossible because appellant was a married man (p. 64, tsn, *ibid.*). Appellant then replied that he was not legally married to his alleged wife (p. 64, tsn, *ibid.*). Complainant pleaded to appellant not to consummate his intention with her and appellant accede to her wish (pp. 64-65, tsn, *ibid.*). But after a short while, appellant forced complainant to drink one-half glass of water (p. 65, tsn, *ibid.*). After about 30 minutes after she drank the water, complainant felt sleepy and fell fast asleep (pp. 65-66, tsn, May 31, 1972;

pp. 68-70, tsn, Nov. 16, 1972).

"The following morning, complainant was awakened by the knocking at the door of the warehouse by Danilo Lugtu (p. 66, tsn, May 31, 1972; p. 37, tsn, Nov. 16, 1972). She then felt pains on her body especially her vagina which was bleeding (pp. 66-67, tsn, May 31, 1972; p. 37, tsn, Nov. 16, 1972). She confronted appellant about what he did to her (p. 67, tsn, May 31, 1972). Appellant told her not to talk too much otherwise he would kill her (p. 67, tsn, *ibid.*).

"Thereafter, appellant forced complainant to go with him to a house about 50 meters from the warehouse (pp. 68-69, tsn, May 31, 1972; p. 38, tsn, Nov. 16, 1972). While they were in that house, Patrolmen Cabuling, Artesano and Carding Lucena arrived. They talked with appellant in a low voice, near the table and left after 10 minutes (pp. 70, 73, tsn, May 31, 1972; pp. 13-18, tsn, Nov. 13, 1972; pp. 42-43, 46, tsn, Nov. 16, 1972). But Patrolman Artesano returned and told appellant to trans-fer complainant to another house (p. 73, tsn, May 31, 1972). So, appellant dragged complainant to another house about 300 meters from the warehouse (pp. 74-75, tsn, May 31, 1972; pp. 47--48, tsn, Nov. 16, 1972).

"Appellant placed complainant inside the room of the house and guarded her (p. 76, tsn, May 31, 1972). At around 10:00 a.m. on the same day (October 12, 1971), complainant's mother arrived with Patrolman Artesano and Gerry Egina and Perlito Aurelio (pp. 32--33, tsn, May 29, 1972; pp. 76-77, tsn, May 31, 1972). Upon seeing her mother, complainant immediately embraced her and said 'I did not like it. It is not my voluntary will' (pp. 64-66, tsn, May 29, 1972; p. 77, tsn, May 31, 1972). Then complainant fainted (p. 39, tsn, May 29, 1972; p. 77, tsn, May 31, 1972).

"After complainant recovered consciousness, her mother wanted to bring her home but appellant threatened her mother that something would happen if she took complainant home (pp. 40-41, tsn, May 29, 1972). Then complainant, her mother, appellant, Patrolman Artesano, Gerry Egina and Perlito Aurelio went to the Police Headquarters at San Jose, Occidental Mindoro (pp. 42-43, tsn, May 29, 1972; pp. 77-78, tsn, May 31, 1972). There appellant again threatened complain-ant that something would happen to her and her family if she filed a complaint (p. 79, tsn, May 31, 1972). Appellant boasted that he can not be jailed because the Mayor is his godfather and also his father will not let him down (p. 79, tsn, *ibid.*). Complainant was then called by the Mayor to his office who advised her not to file any complaint because it would be expensive (pp. 47, 73, tsn, May 29, 1972; pp. 29, 47, 79-80, tsn, May 31, 1972; pp. 24, 26, tsn, Nov. 16, 1972).

"Thereafter, complainant become ill for one (1) week with 'trankaso' and bleeding of her private part (p. 81, tsn, May 31, 1972). On October 31, 1971, she was able to go to Dr. Valbuena of the San Jose Emergency Hospital who after examining her physically issued a medical certificate, marked Exhibit 'A', which states that she sustained hymenal laceration at 5 o'clock, (pp. 7-10, 13, 15, tsn, May 29, 1972; pp. 84-85, tsn, May 31, 1972)."

The issue presented is, as in most criminal cases, specially in a prosecution for rape, one of credibility of the victim, as against her ravisher who would offer his own testimony in an attempt at exculpation.

Ernesto Syquioco testified that complainant Andrea Balce was his classmate at the Divine Word College. It was during the induction ball on October 11, 1970 in honor of the officers of the various student's organization that he and Andrea fell in love with each other. Thereafter, their relationship was like husband and wife and at night he used to meet and have sexual intercourse with her in her bedroom in the house of Mrs. Subido.

On October 11, 1971, he decided to terminate her love affair with Andrea. About 6:00 in the afternoon they met at the back gate of the college where he hailed the tricycle of Nilo Empleo and they rode together until the Labangan junction where Nilo parked the tricycle and then alighted, leaving the two inside the tricycle where they continued conversing with each other. When Ernesto explained to Andrea that it would be for her own good that they end their relationship because he is a married man, she was taken aback, cried and then said that she would not agree

to his proposal because she could not bear the idea of separating from him. She insisted that they were meant for each other; and that if he would separate from her, she would kill herself. When Andrea refused to go home, Nilo went home, leaving the tricycle with them. Ernesto drove it and upon the suggestion of a friend, Danilo Lugtu, he brought Andrea to a bodega belonging to one Emilio Gonzales. He borrowed the key of the bodega from the overseer (Mang Matias) and, opening the door, he and Andrea entered and spent the night there. They indulged in sexual intercourse twice that night.

The following morning, they had breakfast at the house of the overseer. When Patrolmen Cabuling and Artesano, with Ricardo Lucena, arrived, Andrea told the peace officers that she went with Ernesto voluntarily. She refused to go with them and after the peace officers had left, Andrea and he transferred to Mrs. Belarmino's residence. Andrea's mother arrived and, upon seeing each other, Andrea lost consciousness. He placed her in bed inside the room. When complainant regained consciousness, she refused to go home with her mother until Mrs. Balce succeeded in convincing her. They were taken to the Police Headquarters where complainant was interrogated by Sgt. Lising. The Mayor asked them what happened and they answered that they eloped.

He denied having given Andrea any water during the night of October 11, 1971. He denied having ripped off her pantie. Andrea undressed herself naked as she remained naked the whole night of October 11, 1971. He had been married since July 5, 1968 to another with whom he has a child.

The trial judge's assessment of the relative credi-bility of the opposing witnesses admittedly is of great weight. In the case at bar, the trial judge has this to say:

"x x x The Court believes that at the very start of the tricycle, right at the gate of the Divine Word College, where there were supposedly many students going to and fro, the offended girl could have easily ordered the driver to stop or make an outcry for help, if she really did not consent to go with the accused. This, she failed to do, which convinces the Court that she was not abducted against her will.

"Let us now go to the questions of whether rape was committed.

The commission of her alleged rape may be said to have commenced at the moment the offended girl was dragged to the vacant bodega and locked by the accused inside.

x x x x x x x x

"Weighing the evidence, the Court believes that the version of the prose-cution as to the alleged commission of the rape, although based only on the testimony of the offended girl, should be given full credence. The Court is convinced that she was forced to have sexual intercourse with the accused by force and intimidation sufficient enough to submit her body to the accused.

"The evidence does not show that the offended girl is a harlot. If it was only the claim of the accused that she is the sweetheart of said accused which is denied by the offended girl, then it stands to reason that from the moment the said accused proposed the idea of separation forever, she would not have consented to further sexual intercourse with the accused, but would naturally, in the ordinary course of things, refuse to give her body once again to said accused, unless she is a harlot, when in fact, she is not, as there is no evidence to show the same.

"Moreover, the offended party, beautiful and goodlooking as she is, in the very language of the defense counsel, would not file the complaint against the accused, what with the public scandal and humiliation upon her honor and that of her family engendered by a public trial."

x x x x x x x x "

As a rule, appellate courts will not disturb the findings of the trial courts on the credibility of witnesses, it being

acknowledged that the latter is in a better position to evaluate their testimonies having seen and heard the witnesses themselves and observed their demeanor and manner of testifying. To depart from such rule, appellant must satisfactorily show that the trial court overlooked, misunderstood or misapplied some fact or circumstance of weight and substance as would offset the results of the case (*People vs. Gan*, 46, SCRA 667).

The victim's narration of facts on how she was ravished is perfectly natural. To begin with, complainant categorically denied that she and appellant were ever sweethearts. Indeed, if they really were lovers he should have presented love letters to prove his contention. Having failed to present any, it can be presumed that they were not actually lovers, despite his assertion that he always returned to her all her letters immediately after reading them. And, if it was his intention to terminate their relationship, why did he have to choose a bodega for a venue. He could have easily done it in writing or just stopped seeing her as the most convenient way to avoid a scandal and/or detection from his wife. Otherwise stated, why did he have to hire a tricycle and bring complainant to a place outside of town if his only purpose is to end an illicit love affair. His actuations only show that it was his purpose and motive to have carnal knowledge with the offended party.

Likewise, she denied his claim that when she was staying at the Subido residence, he used to meet her under the trees and in her room to have sexual intercourse "like husband and wife." And, this is belied by the medical findings of Dr. Manuel C. Valbuena that there was only a single hymenal laceration on complainant.

When complainant boarded the tricycle at about 6:00 in the afternoon of October 11, 1971 she requested Preciosa Cipres to accompany her because she was not feeling well. The latter declined and just accompanied her to the front gate of the college to wait for a tri-cycle. As it was showering, the side of the tricycle was closed and when complainant boarded it appellant was seated inside. She instructed the tricycle driver to proceed to the clinic of Dr. Apolo Liboro but the tricycle stopped at the Labangan junction. Appellant dragged her out of it and pushed her inside the vacant warehouse where appellant, holding a fan knife, pulled her to a bamboo bed and forced her to lie down. She pleaded to him not to consummate his evil desire and the latter acceded for a moment. However, he compelled her to drink half a glass of water following which she went to sleep. It was only the following morning when she was awakened by the knocking at the door of the warehouse by Danilo Lugtu. She felt pains all over her body, specially in her vagina which was bleeding. She confronted appellant about what was done to her and he replied that she should not talk otherwise he would kill her.

When her mother, Angelita Balce, came they embraced each other and the complainant remarked: "I did not like it, it is not my voluntary will," As aptly stated by the trial court, "this utterance, which is part of *res gestae* commands strong probative value, considering that it was made by the complainant to her mother who in case of this nature, was the most logical person to whom a daughter would confide the truth."

We take note of the observations of the trial court that in the hearing on May 31, 1972, Andrea Balce cried before she could answer the question of the fiscal. She cried again at the hearing on November 16, 1972. Besides, she even complained to the Secretary of Justice, who, in turn, sent a telegram to the trial judge not to delay the trial of this case.

Finally, when the complaint was filed on October 26, 1971, the appellant was nowhere to be arrested. As a consequence, the fiscal had to move the court for the issuance of an alias warrant of arrest for service by the peace officers in Manila. The Municipal Judge had to send the warrant of arrest to the Manila Police Department and it was only on March 28, 1972 when appellant filed a motion to fix bail bond. Thus, he submitted himself to the jurisdiction of the court after more than one year from the filing of the complaint.

WHEREFORE, the guilt of appellant Ernesto Syquioco has been proved beyond reasonable doubt as found by the court a quo and, as recommended by the Solicitor General, the judgment appealed from is hereby

AFFIRMED, with the modification that the indemnity given the offended party be increased from P5,000.00 to P12,000.00. With costs against the appellant.

SO ORDERED.

Melencio-Herrera, Plana, Vasquez, and Gutierrez, Jr., JJ., concur.

Teehankee, (Chairman), no part.

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