

PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. RICARDO MANALO, DEFENDANT-APPELLANT.

G.R. No. L-49810. October 13, 1986

Ponente: ALAMPAY, J.

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ALAMPAY, J.:

This is an appeal from the decision in Criminal Case No. 3483 of the then Court of First Instance of Pampanga, Branch IV, finding the accused Ricardo Manalo guilty of rape and sentencing him to suffer the penalty of Reclusion Perpetua. The criminal complaint filed against the accused-appellant herein recites:

"That on or about the 2nd week of December, 1975, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court the above-named accused, with force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge of the complainant, EVELYN F. MARGALLO, against her will and without her consent."

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

"Evelyn Margallo, the complaining witness, her parents and three (3) brothers before, in and after the second week of December, 1975, at the time of the commission of the offense described in the complaint, were all living in one of three (3) rooms leased by them on the ground floor of the house owned by Ricardo Manalo, herein appellant, who was living on the second floor, upstairs of the same house.

"Appellant, on the date in question, was a widower, 43 years old, with seven (7) children, having lost his wife in April, 1975. His children sometimes lived with him and sometimes did not.

"The complainant is the oldest of four (4) children. In December, 1975, she was less than 16 years old and the rest of the children were aged 12, 9 and 6. Her father worked on the night shift in a hotel and her mother as a housegirl usually came home at 10:00 o'clock in the evening. She was a third year high school student, pretty, very frail looking, petite and short (Tsn, pp. 2-3, Jan. 3, 1977; Tsn, pp. 2-3, March 23, 1977).

"One evening in the second week of December, 1975, appellant Manalo went downstairs and asked the complainant Evelyn to buy him some cigarettes. After buying the cigarettes, Evelyn went upstairs to deliver the same to Manalo. Manalo opened the door and suddenly pulled Evelyn inside and in quick succession gave her fist blows on the stomach rendering her unconscious. While in this state, he abused her by having carnal relation with her. When she woke up, she found herself naked and discovered that accused Manalo had abused her and had sexual intercourse with her (Tsn, pp. 3-4, March 23, 1977). Manalo threatened to kill her and her parents if she should report the incident to her parents or to anyone and accused Manalo succeeded under his threat and with a knife to have no less than ten (10) more carnal encounters with Evelyn consummated at the second floor of the house or more often in the comfort room below (Tsn, p. 6, Ibid).

"On February 1, 1976, Leonora Margallo, mother of Evelyn, came home about 9:00 o'clock in the evening, earlier than usual and went direct to the comfort room to answer the call of nature. Here, she discovered her daughter and Manalo inside the comfort room. When her daughter came out, she was trembling and afraid and could not speak. Manalo, who followed after a while, ignored her presence (Tsn, p. 4, Jan. 3, 1977). The

following day, the mother fetched her daughter from school and inside the Apo Church, she succeeded in getting from her the entire story of her involvement with Manalo. Thereafter, Mother and daughter went to Camp Olivas to make their report and consequently this case was instituted in court (Tsn, pp. 5-6, Jan. 3, 1977; Tsn, pp. 6-7, March 23, 1977).

"Evelyn gave birth to a seven month premature baby on August 1, 1976 (Tsn, p. 7, Jan. 3, 1977).

In his defense, appellant claimed that complainant Evelyn Margallo was his sweetheart; that complainant, her parents and brothers, or six in all, were living in one of the 3 rooms he was leasing on the ground floor of his house; that the other room was occupied by one Gregoria Manalo with 7 members of her family and one room was occupied by a certain Pineda with four members of his family; that he courted the complainant and she accepted him; that among the things he received from her were a picture with dedication (Exhibit "1"), a ring (Exh. "2") and a Christmas card (Exh. "3"); that the initial sexual intercourse took place in his room upstairs on Nov. 9, 1975, and this was repeated several times, almost every night at 7:00 o'clock in his room or in the comfort room (Tsn, Aug. 8, 1977, pp. 3-5); that when appellant and the complaining witness were caught by the latter's mother in the comfort room on Feb. 1, 1976, he told the mother that they (complainant and appellant) were in love with each other and that he will marry Evelyn; that he sought the assistance of the Barrio Captain to arrange their marriage but the father of the complaining witness was not at home; that thereafter the parents of Evelyn hid her from him. (Tsn, pp. 5-6, Ibid).

The accused-appellant raised the following assignments of errors in his brief:

"1.

THAT THE LOWER COURT ERRED IN HOLDING THAT THE SEXUAL INTERCOURSE ON THE SECOND WEEK OF DECEMBER, 1975 WAS INVOLUNTARY;

"2.

THE LOWER COURT ERRED IN HOLDING THAT THE COMPLAINANT DID NOT TELL HER PARENTS BECAUSE SHE WAS AFRAID THAT SHE AND HER FAMILY WILL BE KILLED BY THE APPELLANT;

"3.

THE LOWER COURT ERRED IN NOT ACQUITTING THE APPELLANT ALTHOUGH THE PROSECUTION'S EVIDENCE IS WEAK AND DID NOT MEASURE TO THE DEGREE OF PROOF NECESSARY TO SUSTAIN CONVICTION."

All these assigned errors raised by the accused-appellant revolve around the issue of credibility of the witnesses.

Appellant contends that the sexual intercourse which took place in the second week of December, 1975, between him and Evelyn Margallo was a voluntary act on the part of the latter considering the following circumstances: that Evelyn went upstairs alone to deliver the cigarettes and entered appellant's room without knocking on the door indicating her familiarity with the appellant; that if Evelyn was really raped on said occasion, it is paradoxical that she failed to make an outcry which would be the normal reaction of a person forced to do something against her will; that when Evelyn and the appellant were caught by the former's mother on the night of February 1, 1976, inside the toilet, Evelyn was heard to be moaning which is a manifestation of sexual gratification; that Evelyn revealed to her mother that she was raped only on the day following; that the alleged rape in the second week of December, 1975, is not true because on November 9, 1975, and subsequent thereto, he had already freely enjoyed sexual intercourse with Evelyn Margallo whom he had courted previous to that alleged rape incident in the second week of December, 1975; and that Evelyn as his sweetheart even gave him a picture

with dedication (Exh. "1"), a ring (Exh. "2"), and a Christmas card (Exh. "3").

In a rape case, the testimony of the offended party is sufficient to sustain a verdict of conviction, the rationale being that owing to the nature of the offense, the only evidence that can often times be adduced to establish the guilt of the accused is the offended party's testimony (People vs. Loi, 132 SCRA 41). For this rule, to obtain the lone testimony of the woman victim must be clear and free from any serious contradiction and her story must be believable and must reflect absolute truth and candor.

Examining the case records, We find the prosecution evidence sufficient to sustain appellant's conviction for rape.

In denying the charge that he forcibly imposed himself on the complainant, herein appellant points out that on the night Evelyn Margallo bought the cigarettes and later brought it up to appellant's room, she did not hesitate to go upstairs and it was she herself who opened the door and entered appellant's room. Appellant claims these circumstances as indication of the intimacy of Evelyn Margallo with him.

This, in the view of the Court, is not necessarily so. We do not see the significance which appellant wish to attach to complainant's conduct. Evelyn Margallo entered appellant's room in a manner that is not unusual because Evelyn and her family are close family friends of the appellant. More than this, Evelyn states that she addresses the accused as KUYA, (Tsn, 15, Oct. 12, 1977). The existing familiarity at the time between the families of the complainant and the appellant could thus explain why Evelyn Margallo did not knock on the door of the room of the accused that evening. Such familiarity does not create an inference that an amorous relationship exists between the appellant and the offended party.

The failure of the complainant to make a loud outcry when forcibly subjected to the lustful desires of the accused has been explained by the fact that when she opened the door of the appellant's room, the latter pulled her inside, and suddenly boxed her stomach causing her to lose consciousness. It was then that she was abused while she was still unconscious, there being no other persons at appellant's house at the time. (Tsn, 3-4, March 23, 1977). Under such circumstances, there obviously could have been no opportunity for the complainant to protest and cry out for help when she was initially subjected to a sexual intercourse. In a vain attempt to show voluntariness on the part of the complainant in submitting to his carnal desires, appellant points to the admission of Evelyn's mother that her said daughter was moaning when the latter was noticed by her to be together with the appellant inside the toilet in the evening of February 1, 1976. Appellant contends that the moaning of Evelyn is a manifestation of her own sexual gratification. This matter is however irrelevant to the charge against appellant in this case. The crime of rape which appellant is accused of is for the act committed by him during the second week of December, 1975, and not for the sexual intercourse of February 1, 1976. Appellant's submission in this regard is beside the point and not persuasive of his innocence.

To bolster his claim that there was voluntariness and acquiescence on the part of the complainant to the sexual act, appellant stresses the failure of Evelyn Margallo to confide at once to her mother that she had been raped by the appellant after she was discovered with the accused inside the toilet in the evening of February 1, 1976.

In this case, it should be considered that the Evelyn Margallo, who was born on May 19, 1960, (Exh. E) would be at the time she was raped and even in February, 1976, only fifteen and a half years of age. Her mother found her to be weak and afraid. Evelyn did not immediately confide to her mother the wrong done to her by the herein accused because of her fear on account of appellant's threats to kill her and her parents. In fact, because of this lingering fear entertained by this young girl, her mother had to wait till the next day when Evelyn regained fully her composure. It was after Evelyn and her mother had gone the next day to the local chapel when her mother was able to elicit from her daughter the full story of the appellant's misdeeds. The mother of Evelyn Margallo, testifying regarding this matter declared, as follows:

XXX XXX XXX

"A

I asked her as to what happened to her.

"Q

What did she say?

"A

She was not able to talk at that time because she was afraid and she was weak.

"Q

You said she was not able to talk at that time, did you go to some place?

"A

The next day that Evelyn went to school, I fetched her from school and went to the Apo Chapel and I asked her what happened to her and that is the place where she divulged everything.

"Q

What did she tell you?

"A

She said on the second week of December 1975 Ricardo Manalo ordered her to buy cigarette for him and when she went upstairs, Ricardo Manalo applied fist blows her stomach and she lost consciousness.

"Q

Aside from that, what else was revealed to you by your daughter?

"A

She said when she woke up, she was naked and there is some blood in her body and then she said Ricardo Manalo told her that she is not to tell about what happened to anybody or else she will be killed or his father.

"ATTY. MANITI:

We move to strike out the answer for being hearsay, your Honor.

"COURT:

Only as part of the narration but not to prove the truth.

"FISCAL SALENGA:

"Q

After what has been revealed to you by your daughter, what else did you do, if you did anything?

"A

She told me she want to seek justice for what happened to her and then we went to the authorities and we went to Camp Olivas.

(Tsn, p. 5, Jan. 3, 1977)

And from the victim herself:

XXX XXX XXX

"Q

What time did your parents arrive on the second week of December, 1975 when this incident happened?

"A

My mother arrived at about 10:00. My father is working at the nightshift.

"Q

What about when your parents went home, did you not report to them the incident that happened to you?

"A

No, Sir, because he threatened me not to tell anyone.

"Q

Will you tell the Honorable Court how Ricardo Manalo threatened you?

"A

He told me that if I will tell it to somebody else, he will kill my parents and me. (Tsn, p. 5, March 23, 1977)

XXX XXX XXX

Regarding the picture, ring and Christmas card allegedly given to appellant by Evelyn, the latter clearly explained how the former got hold of these things.

XXX XXX XXX

"ATTY. MANITI:

"Q I am showing to you a picture, will you please tell us whether the person depicted in this picture is you?

"A This is my picture but it has been missing, Sir.

"Q At the back of this picture there is a dedication, will you please read it aloud to the Court?

"A "Ugly taken but heartily given. I hope you will not forget me. Love Always, Lyn."

"ATTY. MANITI:

"May we ask that this picture be marked as Exhibit 1.

'COURT:

"Mark it.

"Q And this writing at the back of this picture is your own handwriting?

"A I wrote this down because he ordered me to write it down when I saw it in his possession and besides that he was threatening me.

"Q That was way back on December 1, 1975 as appearing at the back of this picture?

"A I did not write down that date it was only the other notations that I wrote down. (Tsn, pp. 2-3, April 5, 1977)

xxx xxx xxx

Complainant also denied that she gave the ring (Exh. 2) to him. She averred that it was only during the trial that she saw the ring for the first time.

xxx xxx xxx

"FISCAL SALENGA:

"Q When the accused was testifying on direct examination, he identified a piece of evidence consisting of a ring marked Exhibit 2 for the accused which he alleges that you gave the said Exhibit 2, the ring to him while you were coming from mass or church, what can you say about that testimony?

"A I did not give him my ring.

"Q This ring, Exhibit 2 for the accused, have you seen this ring before?

"A I have not seen that ring, it is only now in this Court.

"Q Do you know whose ring is this?

"A I do not know.

"Q And you did not give this ring to the accused?

"A No, Sir.

"Q So that the testimony of the accused saying that you gave this ring to him is not true?

"ATTY. MANITI:

"Objection, it is without basis and imagine it is the witness telling us that what the accused has testified is not true.

"COURT:

"This is rebuttal you are entitled to a surrebuttal, you do the same thing.

"WITNESS:

"That is not true, Sir.

(Tsn, pp. 12-13, October 12, 1977)

XXX XXX XXX

Evelyn Margallo also disclaimed having given the appellant the Christmas card (Exhibit 3):

XXX XXX XXX

"FISCAL SALENGA:

"Q There is also presented by the accused a Christmas Card which has been marked as Exhibit 3 which according to him you gave this Christmas Card to him on December 17, 1975, what can you say about that testimony of the accused?

"A I did not give that Christmas Card to him, Sir.

"Q Did you buy this Christmas card marked as Exhibit 3?

"A No, Sir.

"Q There is also presented by the accused a document which is an envelope marked as Exhibit 3-A allegedly the envelope, container of Exhibit 3? Did you give this Exhibit 3-A to the accused?

"A No, Sir.

"Q But there is a writing on Exhibit 3 which I quote. Merry Christmas and a Happy New Year to Ricky, will you kindly look at this writings and tell this Honorable Court if this is your handwritings?

"A That is my handwritings, he ordered me to write that down, Sir.

"Q Meaning to say that this is not voluntarily made by you?

"A No, Sir.

"Q When did you see for the first time this Exhibit 3, the Christmas card and the envelope?

"A Before Christmas day.

"Q That was December 17?

"A Yes, Sir.

"Q What about this dedication written on Exhibit 3, whose handwritings is this?

"A I wrote it down.

(Tsn, pp. 16-18, Ibid)

xxx xxx xxx

There is no satisfactory evidence that appellant and the complainant were ever sweethearts, particularly at the time the initial sexual intercourse took place in the second week of December, 1975. The denial by complainant that she and appellant were sweethearts is clear and unequivocal (Tsn, April 5, 1977). It is significant to note that Evelyn Margallo even denied that she addresses the accused Ric, which is the name written at the back of the picture and on the Christmas card. Evelyn Margallo's testimony given on October 12, 1977, is as follows:

"Q Can you tell the court what name do you call him?

"A I call him "Kuya"

"Q Do you not call him by name?

"A I call him Kuya Carding.

"Q Why? Had you not been calling him by the name of Ric?

"A No, Sir. (Tsn, p. 15, October 15, 1977)

These candid declarations of a teenage school girl strongly sustain her protestations that she did not give her picture (Exh. 1) to the appellant (Tsn, p. 13, October 12, 1977); that the picture cut-out was from a missing class picture which was apparently taken from her home album by Ricardo Manalo; that she was only forced to write down the dedication at the back thereof as well as those on a Christmas card (Exh. 3) so as to make these articles appear as addressed to Ricky. She further testified that the dates written thereon were not made by her. (Tsn, pp. 15-18, October 12, 1977).

Considering that the complainant addresses the appellant as "Kuya" or "Kuya Carding" and not Ric or Ricky, there is stronger reason to believe Evelyn Margallo's submittal that the writings purporting to be addressed to Ricky were involuntarily made by her upon dictation of the accused who forced her to do by means of threats on her at the time. (Tsn, pp. 17-18, October 12, 1977). We agree with the trial court when it stated in the decision appealed that, "This Court is of the opinion that these Exhibits: the ring; the Christmas card, and the picture are all manufactured evidences." (Decision, pg. 11; Rollo, 157).

Furthermore, We find unworthy of belief the version of the appellant that on November 9, 1975, when he, Ricardo Manalo, a 43 year old widower, expressed his love to a fifteen year old third year high school girl, the latter, reciprocated and disclosed her love for him and that it was Evelyn Margallo herself who even suggested that same evening that they proceed upstairs to the living quarters of the herein accused where the two of them engaged in their initial sexual intercourse, freely and voluntarily. Appellant's account is extremely improbable and

consequently unacceptable. We fully agree with what the lady trial Judge stated in the decision appealed from and which we hereunder quote:

"x x x It is very hard for this Court to believe these assertions. Even the average matured Filipino girls do not behave like this. It just does not happen this way. For a proposal of love to be accepted on the very moment it was made, without any previous courtship, and worst of all, for the girl to agree to a sexual relation right on that day, The testimony of the accused seemed to state that the girl even hinted or invited him upstairs to indulge on this sexual act. For the records, an unbiased appraisal by this Court of the complainant, picture her as a very innocent girl of 12 or 13 years. This tiny wisp of a girl is aged 16 years in fact, but she looks younger than her age. At the time of her testimony she had been subjected to the abuses complained of in the complaint, and she has already given birth to a child; but her demeanor during her declaration in the witness stand her over all appearance, is that of a natural, unaffected, and unsophisticated girl bereft of any artificiality, sophistry or worldly "come hitherlook." This is not the kind of girl the accused Manalo wish to portray in his testimony. The complainant definitely does not look and behave as an easy girl. x x x". (Decision, pp. 10-11; Rollo, pp. 156-157, Case Records)

The age difference between the accused widower who is forty three years of age and a fifteen and a half years old high school girl, is a factor which rejects the notion of an instant love affair. More unbelievable is that if there be any such, the same would be characterized by a complete, reckless abandon to passion initiated by an immature teen-ager. We find this extremely difficult to believe specially when we consider our culture and the inherent modesty attributed to the women of our country in general.

We see no error, therefore, on the part of the trial court in its appreciation of the facts and evidence adduced in this case. It is a well-established rule that on matters of credibility, the Appellate Court will generally not disturb the findings of the trial court which had the benefit of having heard the witnesses themselves and also observed their deportment and manner of testifying during the trial. The trial judge even stressed in its decision the fact that the declarations of the complaining witness in the witness stand, and overall appearance, are those of a "natural unaffected and unsophisticated girl, bereft of any artificiality." (Decision, p. 11; Rollo, 157 supra).

It is also hard to believe that an unmarried teen-ager, a high school student, would endure the shame and embarrassment of being publicly known that she had been ravished and would undergo the attendant difficulties of a court proceeding if she and her family were not sincerely and strongly motivated by a common desire to obtain retribution against the person who grievously wronged them.

In a desperate effort to avoid criminal responsibility, the accused offered to marry the complainant. However, this offer was rejected by Evelyn Margallo and her parents. In this regard, We agree with the ratiocination of the trial court when it said:

"As weighty a reason behind her apparent rejection of the accused, why did her parents also reject the offer of marriage of the accused to the complainant considering that an acceptance of the offer of marriage would give Evelyn a better financial stability, as the records show, that at the time of testimony, Evelyn was working as a housegirl in an American home, and aside from this, their grandson in Evelyn's womb would have a name. Why? Time was when parents run with bolos after a suitor of their daughter, for having stolen a kiss no more, no less than her? It was considered a dreadful shame. Here in the case at bar, Evelyn is an expectant mother and the culprit wants to marry her. What parent would refuse matrimony for a daughter 1 1/2 to 2 months pregnant with the man who is the cause of it all? This Court can see only one reason both for the parent and the complainant. It is very obvious that complainant Evelyn did not want marriage with the accused because she does not care and never did love the accused. And the parents cannot do anything. Evelyn and her parents prefer disgrace to marriage with the accused.

"By accepting the offer of marriage of the accused, as stated above, the complainant can be saved from

disgrace and public ridicule, and most important would legitimize the child she is carrying in her womb. If she really loves the accused, as the accused wishes this Court to believe, why did she reject him? Now free from the accused's threat and intimidation and the employment of force, this 16 years old minor girl showed indubitably her great repugnance and hate to this man who cut short her youth. xxx". (Decision, p. 13; Rollo, p. 159).

The records fail to show and appellant has not pointed to any ulterior motive which could have prompted herein complainant and her family into filing and pressing this serious case against the appellant who was previously their close friend. We are led to conclude that this criminal case was instituted by the aggrieved party in order to vindicate the affront against her honor and virtue and for no other cause.

WHEREFORE, the judgment of the trial court is hereby affirmed with the sole modification that appellant is ordered to indemnify the offended party the sum of P20,000.00 as moral damages. Costs against the appellant.

SO ORDERED.

Feria, Acting C.J., (Chairman), Fernan, Gutierrez, Jr., and Paras, JJ., concur.

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