

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VICENTE C. VILLAMALA AND GAUDIOSA MALUNJAO VILLAMALA,
DEFENDANTS-APPELLANTS.**

G.R. No. L-41312. July 29, 1977

Ponente: FERNANDO, J.

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FERNANDO, J.:

The rather unique feature about this case was that a couple, now appellants Vicente C. Villamala and Gaudiosa Villamala, were jointly prosecuted for the crime of rape allegedly perpetrated on the complainant Eustaquia Bentulan. They were found guilty by the lower court and each of them sentenced to reclusion perpetua, with the accessory penalties provided for by law and with the pecuniary liability in the sum of P12,000.00 imposed by way of indemnification to the offended party. It was her clear-cut and straightforward testimony as to the commission of such crime reinforced by four other witnesses, one of whom was her son, that led to the finding of guilt. A reversal is sought on this appeal, the assignment of errors amounting to no more than an attack on the credibility of the evidence offered by the prosecution. What further weakens any persuasive force of this attempt at reversal is the weakness of the defense of alibi, the allegation being limited to the two appellants having stayed in their house on the night in question when admittedly their residence was only a few meters away from the scene of the crime. Nor was that the only weakness of such an attempt at freeing themselves from liability. They were identified as having been at the actual scene of the crime. An affirmance is thus called for. So we rule.

The testimony on which the finding of guilt was based did show that on the evening of November 5, 1974, complainant Eustaquia Bentulan was with her three children in their house in Barrio Nangka, Consolacion, Cebu, her husband being away as he was a fisherman.[1] About ten that night, she heard appellant Gaudiosa Villamala calling her by her nickname King, whereupon she stood up and opened the door to enable her visitor to enter.[2] That the latter did, at the same time asking where her husband was; she was informed that he was away.[3] While the two seated side by side were conversing, complainant heard Gaudiosa whistle, and immediately thereafter, her husband, appellant Vicente Villamala entered the house.[4] No sooner was he inside when Gaudiosa, who was at Eustaquia's left side, placed her left arm around her neck and pinned the latter to the floor, the left leg of appellant being thrust between Eustaquia's knees.[5] In that situation with Gaudiosa choking her neck, she was unable to extricate herself, being held fast by the bigger and taller Gaudiosa.[6] Vicente in turn took advantage of the situation and through force removed complainant's black skirt and panties.[7] Such torn garments appellant Vicente Villamala threw aside, removed his short pants, and placed himself on top of Eustaquia.[8] Thus he was able to consummate the sexual act,[9] with Gaudiosa continuing to hold and pin to the floor the victim's neck and left leg.[10] While Eustaquia was thus being sexually assaulted, both appellants told her in a low voice not to worry because she would be financially assisted, the needs of her children being attended to, and perfumes and dresses supplied her.[11] The two appellants continued to appease the victim telling the latter not to worry; they then left the victim who was in tears the whole evening.[12] When her husband, Vicente Bentulan arrived at 5:00 o'clock in the morning of November 6, 1974, she immediately reported her being ravished by the appellants.[13]

The enraged husband, with a scythe in his hands, was about to jump from the window to go after the appellants and avenge his honor, but she held him back and advised him against taking the law into his own hands, mostly for the reason that if he did what he intended to do, she and the children would suffer as he would have to go to jail.[14] Instead, that same day, the spouses still weighed down by the shame and stigma resulting from the deed, resolved to go back to Basilan where they had tilled a farm before they came to Cebu.[15] Upon arriving in Cebu City, they informed a cousin of hers, Pedring Degamo, of their decision to go back to Basilan; the latter persuaded them to file instead a case against the appellants.[16] The following day, the Bentulan spouses went to the Philippine Constabulary Headquarters at Gorordo Avenue, Cebu City and lodged their complaint for rape.[17] As noted earlier, complainant's son, Vicente Bentulan, Jr., who was seven years old when he testified and who had to stop going to school because of her fear that appellants might kidnap him to prevent him from being a witness, corroborated the narration of the mother. He was in a position to do so, as on the night of the occurrence, along with his younger brother Ronilo and the youngest child in the family, Lilibeth, he was asleep in the same room.[18] He was awakened by the voice created by what was being done to his mother.[19] He noticed his mother "wriggling," appellant Vicente Villamala, "on top" of her, and appellant Gaudiosa Villamala "choking [his] mother." [20] Due to the latter fact, the latter "was not able to shout" but "she was only able to moan." [21] There was confirmation of the latter fact from another witness, Agustin Dumaguít, who at about that time was passing by the house of the Bentulan and who testified that he heard a moaning sound, the word used in the Cebuano dialect being *nangkanguhal*. [22] When asked by the lower court what is its meaning, his answer was: "It means the voice of a person who is choked on the neck." [23] He was able to identify the sound as coming from complainant, as she and her husband were good friends, their houses being less than a hundred meters away. [24] Then, later, he saw both the appellants leaving the house. [25] He could identify them as the distance between them was only "three meters, more or less." [26]

On the basis of the above evidence, but with a thorough analysis of what was testified to by the witnesses for the defense, Judge Juan Y. Reyes in a comprehensive decision of twenty-five pages [27] found the accused, now the appellants, guilty "beyond doubt of the crime of rape" and sentenced them according to law. Hence this appeal. The brief filed on their behalf hardly caused a dent in the well-reasoned opinion of the lower court. It did not help their cause at all when their counsel limited his efforts to twelve pages, with the facts being hardly discussed. Instead, he laid emphasis on legal doctrines, which, unfortunately for them, do not fit the situation, as revealed by the competent evidence of record. Moreover, with the stress being on the alleged lack of credibility of what was testified to by the prosecution and with reiteration of the defense of alibi, the lack of persuasiveness of such brief becomes even more apparent. The attempt at reversal is doomed to futility.

1. The glaring weakness of the brief for appellants, outside of its brevity, is that it manifests less than full awareness of the principle invariably followed by this Tribunal that on the question of the credence to which the conflicting versions of prosecution and defense are entitled, the answer given by the trial court is generally viewed as correct and thus entitled to the highest respect. Such a principle was reiterated in a recent decision, *People v. Cudalina*, [28] the prosecution likewise being for rape. Thus: "Moreover, counsel ought to have realized that such an approach has to hurdle the obstacle arising from the well-settled doctrine that the greatest weight is accorded the conclusion reached by the lower court on the question of credibility. Unless it could be shown that it has not duly taken into consideration matters of significance bearing materially on the outcome, its determination is to be left undisturbed. In *People v. Manos*, this Court stated the following: 'At any rate, the lower court is vested with considerable discretion in determining which of the conflicting versions is to be lent credence. What is said in *People v. Gumahin* finds application in the present case. Thus: "The findings of the lower court embodied in a well-written decision cannot only stand the test of the most rigid scrutiny but also has in its favor the 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 this Tribunal." People v. Tila-on and People v. Lumayag were cited in support of the Gumahin opinion.' This also from People v. Angcap: 'There is need to stress anew that this Court has long been committed to the principle that the determination by a trial judge who would weigh and appraise the testimony as to the facts duly proved is entitled to the highest respect, unless it could be shown that he ignored or disregarded circumstances of weight or influence sufficient to call for a different finding. So it was announced by Justice Moreland in 1915 in the first case of consequence enunciating such a doctrine. As he pointed out, in the event of a conflict in the testimony of the witness, "the peculiar province of the trial court is to resolve the question of credibility, and, unless there is something in the record of impeaching by fair interpretation the resolution of the trial court in relation to that question, this court will assume that he acted fairly, justly, and legally in the exercise of that function."' [29] After People v. Cudalina, such a principle was again reiterated in four subsequent decisions.[30]

2. Why should not the lower court believe complainant? Her narration of what transpired was characterized by simplicity and veracity. It yields the impression of a witness revealing the grim ordeal to which she was subjected and finding it difficult but quite necessary to face her tormentors. At one stage, she broke down and cried.[31] Then she was subjected to an intensive cross-examination by counsel for appellants with many embarrassing questions directed at her.[32] It was all in vain, as she stood firm; her answers merely confirmed the fact that one of the gravest offenses was committed against her. The emotional stress she was laboring under was quite evident. It cannot be doubted that if she were not thus sexually assaulted, she would not have been bold and brazen enough to accuse not only the man but also the wife as it could have aroused misgivings as to the truth of what was narrated by her, until it was made clear that the appellants were engaged in the trade of supplying girls to a house of prostitution and the wife was quite reconciled to the practice followed by her spouse of sampling prospective merchandise, as it were, even without their consent. It is unbelievable that she could have entertained the thought of imputing to them such a heinous offense if there were no basis for it, considering that they were her compadre and comadre, she having stood as sponsor to one of their children.[33] It cannot be forgotten that the crime for which they were indicted carries with it the most severe penalty.

There was corroboration of her story from her son, Vicente Bentulan, Jr., only seven years of age at the time he testified, perhaps not even fully conscious of the enormity of the misdeed inflicted on her mother. He was quite calm on the stand. He did not exaggerate at all. The effect, of course, was to inspire greater credence. Nor is this the only instance in the annals of our jurisprudence that a child of tender years has been so fortuitously situated as to be thereafter the bane of the malefactors in view of what was seen by him. In People v. Zapatero,[34] this Court, through Justice Aquino, categorically affirmed: "The testimony of a seven-year old girl and that of an eight-year old boy was admitted in certain cases * * *." [35]

3. Nor does it lend any persuasive tone to the brief for appellants when the defense relied upon is alibi, to which three sentences were devoted in less than half a page. Nor could counsel be blamed as the sole reliance for this attempt at exculpation was that appellants "firmly testified that they were in their house during the whole evening of November 5, 1974 * * *." [36] Such a bare allegation merely compounded the inherent weakness of their case. It cannot stand the test of even the slightest scrutiny. Their houses were not far from each other, they being neighbors.[37] How easy it was then for appellants to go to complainant's residence. What is more, there was positive identification of their presence therein, from her, her son, an eyewitness to the offense, and from the first witness for the prosecution, another neighbor, Agustin Dumaguit, who explicitly affirmed on the witness stand that appellants were precisely "the ones who came out from the house of Vicente Bentulan," he having seen them "clearly because of the light of the lamp." [38] An excerpt from Cudalina is again relevant: "It suffices to state that this Court when confronted with the defense of alibi in rape cases has invariably found it unconvincing and

unsatisfactory." [39] Reference may likewise be made to the later case of *People v. Cawili*. [40] To repeat, there is no justification for a reversal of the judgment of conviction.

WHEREFORE, the appealed decision of June 23, 1975, finding both appellants "guilty beyond doubt of the crime of rape," and sentencing each of them to suffer an imprisonment of reclusion perpetua, with the accessory penalties provided for by law, as well as to indemnify the offended party, Eustaquia Bentulan in the sum of P12,000.00, is affirmed. Costs against appellants.

Barredo, Antonio, Aquino, Concepcion, Jr., and Santos, JJ., concur.

[1] T.s.n., Session of February 11, 1975, 9.

[2] Ibid.

[3] Ibid, 9-10.

[4] Ibid, 10.

[5] Ibid.

[6] Ibid, 11-12.

[7] Ibid, 12-14 and Exhibits B and C.

[8] Ibid, 15-17.

[9] Ibid, 18.

[10] Ibid, 19.

[11] Ibid, 20.

[12] Ibid, 21.

[13] Ibid, 22.

[14] Ibid.

[15] Ibid.

[16] Ibid, 23.

[17] Ibid, 23-24.

[18] Ibid, Session of February 18, 1975, 29.

[19] Ibid, 29-30.

[20] Ibid.

[21] Ibid, 30.

[22] Ibid, Session of February 10, 1975, 8.

[23] Ibid, 9.

[24] Ibid, 5, 6, 9.

[25] Ibid, 9-10.

[26] Ibid, 10.

[27] Appendix A to Brief.

[28] L-34969, April 29, 1975, 63 SCRA 499.

[29] Manos, L-27791, Dec. 24, 1970 is reported in 36 SCRA 457; Gumahin, L-22357, Oct. 31, 1967 in 21 SCRA 729; Lumayag, L-19142, March 31, 1965 in 13 SCRA 502; Angcap, L-28748, Feb. 29, 1972, 43 SCRA 437; People v. Tila-on was decided in 1961 and reported in 112 Phil. 546. Justice Moreland's opinion was announced in a 1910 decision and reported in 15 Phil. 549.

[30] Cf. People v. Cawili, L-30543, July 15, 1975, 65 SCRA 24; People v. Ordonio, L-33829, Dec. 19, 1975, 68 SCRA 397; People v. Sarile, L-37148, June 30, 1976, 71 SCRA 593; People v. Velasco, L-31922, Oct. 29, 1976, 73 SCRA 574.

[31] T.s.n., Session of February 11, 1975, 22.

[32] The cross-examination is reported in the transcript of stenographic notes of the Session of February 11, 1975, 28-61.

[33] Ibid, 28-29.

[34] L-31960, August 15, 1974, 58 SCRA 450.

[35] In support of the above, he cited the following cases: U.S. v. Tan Teng, 23 Phil. 145 (1912); U.S. v. Buncad, 25 Phil. 530 (1913); People v. Bustos, 51 Phil. 385 (1928); People v. Sasota, 52 Phil. 281 (1928).

[36] There was a statement that such testimony was corroborated by a daughter, Vilma Villamala, but the transcript of steno-graphic notes of the session of February 20, 1975, 2-33, does not support such assertion.

[37] Cf. T.s.n., Session of February 11, 1975, 2.

[38] T.s.n., Session of February 10, 1975, 10.

[39] 63 SCRA 499, 507. Fifteen cases were cited from People v. Sardoma, 79 Phil. 607 (1947) to People v. Baylon, L-35785, May 29, 1974, 57 SCRA 114.

[40] L-30543, July 15, 1975, 65 SCRA 24.

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