

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARNULFO FERNANDEZ, ACCUSED-APPELLANT.*G.R. No. L-49601. August 30, 1983*

Ponente: MELENCIO-HERRERA, J.

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Arnulfo Fernandez has interposed this appeal from the decision of the Court of First Instance of Pangasinan in Criminal Case No. L-1681, finding him guilty beyond reasonable doubt of the crime of Rape and sentencing him to suffer the penalty of reclusion perpetua, to indemnify Corazon Aquino in the amount of P12,000.00, and to pay the costs.

Complainant Corazon Aquino, at the time of the incident, was 17 years old, single, and residing at Caloocan Norte, Binmaley, Pangasinan. On May 4, 1978, at about 5:00 in the morning, complainant was gargling in the kitchen of their house. At that time her father, Saturnino Aquino, driver of the Provincial Assessor's Office, had just left for an official trip (Exhibit "H") to Manila, while her mother likewise left with her father to do her marketing at Binmaley, Pangasinan. Only a two year-old niece, who was then asleep, was with her in the house. Suddenly, accused entered the kitchen. Approaching from behind, accused held and dragged complainant to her room. She was about to shout but accused covered her mouth and poked a knife at her throat. During the struggle, complainant was able to take hold of his shirt, which got torn. This angered accused, who then boxed her twice on her belly. As a result, she became unconscious. As she regained consciousness, she discovered that accused was on top of her. She pushed him aside and said "Bastos ka". Accused laughed and retorted, "Never mind I am finished with you". Then she noticed that her panty (Exhibit "E") was on her right foot and was torn. While her duster (Exhibit "F") was also torn and raised up. She cried. At this juncture, her uncle, Alejandro Castillo, who wanted to ask a favor from her father, arrived. To his surprise, he met the accused at the door, who was hurriedly going down from the house. He (Castillo) called for complainant's father but nobody answered. When he heard someone crying, he decided to go inside. He saw complainant crying. He asked her what had happened. As complainant was narrating the incident, he saw an open knife (Exhibit "C") beside the pillow. Complainant informed him that the knife was used by the accused when she was abused by the latter.

At about 7:00 A.M., complainant's mother arrived. Upon being informed of the incident, she got nervous. Castillo suggested a report to the authorities but the mother decided to wait for the father out of nervousness and fear as complainant had been threatened with bodily harm should they do so.

On May 10, 1978, or six (6) days after the incident, at about 6:00 in the evening, complainant's father arrived. Upon learning of the incident, he got mad and immediately reported the matter to the Barangay Captain. While at the barangay, talk of marriage was initiated. But accused's parents were adamant and instead scolded complainant contending that she was using her sex to compel the accused to marry her because of his family's wealth. Complainant's family was advised to submit complainant to medical examination.

The following day, May 11, 1978, complainant was examined by Dr. Vicky Zulueta of the Pangasinan Provincial

Hospital. Medical findings (Exhibit "A") showed "healed laceration in the hymen." There-after, complainant, assisted by her father, filed a complaint (Exhibit "B") before the Municipal Court of Binmaley, Pangasinan. Complainant executed an affidavit (Exhibit "G") together with Alejandro Castillo (Exhibit "D") to support her complaint.

On the other hand, the accused, 25 years old, denied the commission of rape, alleged that he and complainant were sweethearts, admitted having carnal knowledge of her but contended that it was with her consent. The defense version in Appellant's Brief follows:

"Deeply in love with each other, Arnulfo and Cora took the liberty of mutually satisfying their sexual urge. They had indulged in sex in not too few encounters (tsn, p. 16, Oct. 6, 1978) One of such sexual conversation was on May 4, 1978 at about 10:00 o'clock A.M. in Cora's house. (tsn. p. 17, Ibid).

On that day, Cora was washing clothes in front of her house. Her mother was in the market and only small child was with her at home. (tsn. p. 18, Ibid). She saw Arnulfo passed by and she called him. She requested him to gather coconut leaves to place her laundry. Arnulfo complied. Then Arnulfo asked per-mission to wash his hands and to drink a glass of water. Cora told him to just help himself at the kitchen (tsn., pp. 18-19, Ibid).

As Arnulfo was up in the kitchen, Cora followed him, smiled, and went to her bedroom. Arnulfo understood the hint. He followed her and found Cora already lying on her bed. They made love with each other. Just as they were through, a tricycle stopped by the road. They sensed that it was Cora's mother, and indeed she was. The two got up hurriedly. Cora went down to meet her mother while Arnulfo followed her closely. He greeted Cora's mother, had a brief exchange of pleasantries, and then asked permission to leave. (tsn. pp. 2-24, Ibid).

The following day, May 5, 1978, at about 2:00 o'clock p.m., Arnulfo visited Cora at home. (tsn. p. 24, Ibid). Cora's mother confronted him about the report of the small girl that he and Cora had done already 'something wrong'. (tsn. p. 25, Ibid). Arnulfo replied that they just kissed each other which is normal for sweethearts (tsn. p. 25, Ibid). Cora, however, intervened and said 'Don't deny it anymore because they know everything of what we have done'. (tsn. p. 26, Ibid). Whereupon, Cora's mother told Arnulfo to return on May 6 as her husband will arrive home by then. (tsn. p. 27, Ibid). As his parents were in Isabela (tsn, p. 31, Ibid), and sensing that he will be trapped into marriage, Arnulfo went to Baay, Lingayen, Pangasinan on May 6, 1978 to attend a barrio fiesta. The next day, he went to his aunt's residence in Malasiqui, Pangasinan. He did not leave that place until on May 9, 1978 when he was told to come home because his parents already arrived home from Isabela. (tsn. pp. 27-29, Oct. 6, 1978)."

To evidence that he and complainant were "sweethearts" accused exhibited, as having come from complainant, a Valentine card with a textual greeting (Exhibit "2"), a letter inserted inside the card (Exhibit "2-B"), a Christmas card (Exhibit "3") on the back of the envelope of which were written in block letters "Sweetheart I love you Much love Dad" (Exhibit "3-B"), a graduation picture (Exhibit "4"), a group picture taken after graduation with the accused and another male companion (Exhibit "5"), a picture in cadet cap and uniform dedicated "For you Papa I love you until the death Love much Cora Aquino" (Exhibit "6"), a photograph at a studio with accused's arm discreetly around complainant's waist (Exhibit "7"), and a towel from her with embroidered letters reading "heart".

The lower Court rejected the accused's version, saying:

"Under the pertinent evidence, this Court must convict. The prosecution had established guilt beyond reasonable doubt. For so it is that on May 4, 1978, there was actual copulation. The medical findings were confirmed. (Exhibits "A" and series). An insignificant variance relates only to the time of the intercourse. But this is not determinative of the case.

"Corazon Aquino, in no uncertain terms, described the abuse against her honor. She clearly pictured a situation

at which Arnulfo Fernandez, bent on his lust, boxed her on the belly, thereby rendering her unconscious. The accused made sure that his desires were not thwarted. He used a knife (Exhibit 'C') to prevent an effective resistance. That Corazon Aquino was only with a small girl, was of no moment. He must have his way.

"What is more, the panty was torn on the side (Exhibit 'E'). Even the duster (Exhibit 'F') appeared crumpled. These are indicative of force. Voluntariness is thus negated.

"So that, this Court disbelieves the theory that as lovers, the accused and the victim only satisfied a mutual desire. It would have been needless for Corazon Aquino to seduce Arnulfo Fernandez. Rather, it would be naturally believable for Arnulfo Fernandez to just ask Corazon Aquino to do their thing because there was nobody around. There was no need for pretensions.

"It may be that Corazon Aquino showed signs of admiration for Arnulfo Fernandez. She was only acting as an ordinary teen-ager. But, this is no excuse to commit rape. More so here that Corazon Aquino attributed the cards (Exhibits '2' and series; '3' and series) and the pictures (Exhibits '4' and series; '5'; '6'; '7') to her classmate's folly. She discounted any serious relationship with the accused.

"Significantly, the accused had manifested a perverted sense of moral values. He pictured Corazon Aquino as a temptress, always hungry for sex. Yet, Corazon Aquino is admittedly a product of a Catholic education. Her religious background could have deterred her from publicly exposing herself the way she did. So that, far from helping his defense, the accused had gravely taxed his own credibility. His narration is just a re-hash of an erotic movie serving no other purpose but to entertain.

"This is not all. Arnulfo Fernandez, on actual confrontation on May 5, 1978, took refuge first, at Baay, Lingayen, Pangasinan and then, to Malasiqui, Pangasinan. He had to be fetched personally. In other words, he felt guilty. By then, he knew that what he did already came to the knowledge of Corazon Aquino's mother.

"It is inconsequential that the charges were filed days later. Certainly, Saturnino Aquino, then out of town must be awaited. (Exhibits 'H' and series and 'I' and series). Legally, he must initiate action because his daughter is a minor. He did so at the first opportunity (Exhibits 'B' and series).

"Similarly, the proposals for the marriage did not affect the case for the prosecution. If at all, the idea was to avoid a public scandal."

Accused assails the Decision of the Trial Court and assigned 10 errors committed by it, all of which, however, focus on the issue of credibility.

In *People vs. Villamala* (78 SCRA 145, 1977), we held:

"x x x On the question of the credence to which the conflicting version 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* (63 SCRA 499, 1975), 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 determining which of the conflicting version 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 weigh their testimonies will be accorded the highest degree of respect by this Tribunal.' *People v. Tila-on* and *People vs. 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 (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)."

The foregoing pronouncements find cogent application in the case at bar.

We uphold the finding of the lower Court convicting the accused of the crime of Rape. We have reviewed the record thoroughly and we are satisfied that the lower Court has not overlooked facts of substance and value which, if considered, might affect the result of the case.

The defense offered by the accused that there was consent on the part of complainant, being his sweetheart, and picturing her as a person of loose morals does not inspire belief. She herself vehemently denied any intimate relationship with him. If they were sweethearts, she would not have filed so grave a charge against him. It is true that she had given a Valentine card (Exhibits "2", "2-A", "2-B"), a Christmas card (Exhibit "3"), on the back of the envelope of which were written in block letters "sweetheart I love you Much love Dad (Exhibit "3-B"), and a graduation picture (Exhibit "4") to the accused. Another photograph (Exhibit "7") is a picture of the two of them taken at a studio with the accused's hand around her waist. A picture (Exhibit "6") is dedicated "for you Papa I love you until death Love much Cora". But these are not necessarily indicative of the most intimate of relationships. For one, in the cards, pictures and envelope, the dedications to the accused like one addressed to "Papa" (Exhibit "6"), another from "Dad" (Exhibit "3-B"), were obviously written by different hands thereby inducing the Trial Court to attribute them to her "classmates' folly". "Papa" certainly cannot refer to the accused, nor "Dad" to complainant. For another, as a teen-ager, complainant could have entertained a "puppy love" for the accused but not to the extent pictured by the accused of her being a seducer and a temptress nor to the extent of going to bed with him many times in the past.

That complainant did not submit to the accused's beastly advances is shown by the fact that she cried and struggled, tearing the accused's shirt in the process and prompting him to box complainant on the belly in anger and rendering her unconscious. Her crumpled duster and her torn panty presented as exhibits during the trial (Exhibits "F" and "E") mutely attest to the force employed by the accused. She immediately disclosed to her uncle, Alejandro Castillo, the abuse on her person when she could have kept it to herself, if she really had an amorous relationship with the accused. The pain that she suffered, the weakness that she felt after the occurrence, negate the accused's claim of having known her carnally many times before.

The sexual assault on complainant's person is confirmed by the findings of Dr. Vicky Zulueta, a Resident Physician at the Pangasinan Provincial Hospital, in her medico-legal certificate showing "hymen - healed laceration at 3 and 9 o'clock position". In her respect, the presumption of regularity in the performance of official functions applies.

Complainant's uncle, Alejandro Castillo, positively identified the accused as the person who hurriedly went down complainant's house at the time and date in question. He called for complainant's father but nobody answered.

Overhearing someone crying, he decided to enter the house and saw complainant crying. The latter immediately told him that the accused had abused her and that the knife near her pillow was what the accused had used to threaten her.

Complainant's mother was likewise informed of the assault upon her arrival from the market. Alejandro Castillo suggested that they report the matter to the authorities but the mother decided to wait until the father's arrival. She was nervous and fearful. Upon her husband's arrival and after being informed of the incident, he immediately reported to the Barrio Captain. Soon after, a complaint was filed with the Municipal Court of Binmaley, Pangasinan, after complainant had been medically examined.

Negotiations to have the accused marry complainant to avoid a scandal and to hide her shame were initiated but the same were rebuffed by the accused and his family. Those attempts are by no means an indication that the complainant and the accused had mutually indulged in an indiscretion. They were a typical and natural reaction intended to save the honor of complainant and her family, actually not a highly educated one.

The accused's testimony that he went back to complainant's house the day after, or on May 5, 1978, to visit her and was confronted by her mother about the report of a small child is highly incredible. A little girl of two years could have had nothing to "report".

In point of fact, the accused, two days after the commission of the offense, sought refuge at Baay, Lingayen, Pangasinan where he had a girl friend, and then at Malasiqui, Pangasinan. His explanation that it was because complainant's parents were insistent on his marrying her is unworthy of credence because it was only on May 10, 1978, when complainant's father arrived from his trip to Manila that a report was made to the Barangay Captain, and it was only then that possible marriage was mentioned.

The circumstances that the knife found beside complainant by the uncle was not a kitchen knife, as testified to by him, but a fan knife; that the torn panty and the crumpled duster were not immediately turned over to the authorities; that the accused's T-shirt, which complainant alleged was left in the house, was not presented in evidence, are insignificant details that will not affect the result of the case.

This Court has time and again observed that it is unthinkable that an unmarried teenager like the victim, would endure the shame and humiliation of being publicly known that she had been ravished, allow an examination of her private parts and undergo the trouble and expense of Court proceedings if her motive were not to bring to justice the person who had grievously wronged her (*People v. Garcines*, 57 SCRA 653 [1974]; *People v. Cawili*, 65 SCRA 24 [1975]; *People v. Gargoles*, 83 SCRA 282 [1978]; *People v. Albarcico*, 100 SCRA 280 [1980] and *People v. Felipe*, 115 SCRA 88 [1982]). This is by no means a "hackneyed postulate", as the defense submits. It is a truism.

WHEREFORE, the judgment appealed from, being in accordance with law and the evidence, is hereby affirmed, with costs against accused-appellant, Arnulfo Fernandez.

SO ORDERED.

Plana, Vasquez, Relova, and Gutierrez, Jr., JJ., concur.

Teehankee, (Chairman), J., no part.

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