

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELOMINO GARCIANO, ACCUSED-APPELLANT,

G.R. No. L-46998. June 17, 1987

Ponente: CRUZ, J.

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CRUZ, J.:

There is between the 63-year old accused-appellant and his alleged 16-year old victim not only a generation but also a credibility gap. Crisanta Almaden claims he raped her, but Felomino Garciano denies the charge. The trial judge, relying more on the evidence for the prosecution, convicted the defendant and sentenced him to reclusion perpetua and civil damages in the sum of P12,000.00.[1] The accused-appellant is now before us to seek a reversal.

According to the prosecution, the rape was committed in the morning of February 21, 1975, in the health center building near the Tominamos Elementary School in Sta. Rita, Samar. Crisanta was a pupil of the accused-appellant, who was the head teacher of the school, and had reported that day for a song rehearsal. As soon as she arrived, Garciano closed all the doors and windows and, when Crisanta tried to get out, physically detained her, embracing, fondling and kissing her. She tried to shout but Garciano gagged her with his hand, forced her down to the floor, where he succeeded in violating her. Crisanta was then allowed to go home, where she promptly reported the incident to her mother.[2] They did not immediately inform Crisanta's father for fear that he might kill Garciano, and it was only three days later that he was told of the offense.[3] On his orders, mother and daughter went to the provincial hospital in Tacloban City, where Crisanta was medically examined by Dr. Lourdes Chan.[4] Later, upon their request, the National Bureau of Investigation sent Dr. Rodolfo Lezondra to make a second examination of the complainant.[5]

The defense, citing extensively from the transcript, makes much of the fact that Crisanta did not cry out when she was allegedly forced; that there were certain moments when she was not physically detained while she claims she was lying down and Garciano was unzipping his trousers; and that there were no effort on her part to get up and resist his attacker. These would indicate, it concludes, the falseness of her claims.[6]

All this could be explained, however, by the circum-stance that Crisanta was only sixteen years old at the time of the incident; that her head teacher exerted a strong moral influence upon her; and that she could have been plainly terrified - and petrified - by the attack upon her of her 63-year old teacher. A different reaction might be expected from a more mature woman, but we are dealing here with a teen-ager, who could have been intimidated and subdued more easily without the use of weapons or the employment of physical force that usually accompanies offenses of this nature.

It is significant that immediately after the alleged rape, Crisanta reported to her mother and thereafter never returned to her school for the song practice or for her classes until the end of the schoolyear,[7] presumably because she was ashamed of what had happened to her. All these acts constituted part of the *res gestae*, according to the Solicitor General.[8] Furthermore, the defense could not point to any plausible motive for the complaint

other than a supposed refusal of the accused-appellant to prepare for Crisanta's mother a petition against the barrio captain. This could not have induced Crisanta to make such a serious charge that would indelibly stain her own honor.

Still and all, the Court is not convinced. Insinuations of doubt prevent a categorical finding that the accused-appellant is guilty of raping the complainant.

First, there is the time and place of the alleged occurrence. It is supposed to be ten o'clock in the morning of Friday, a schoolday, and regular classes are going on in the adjoining buildings.[9] About two to five meters from the health center is the home economics building.[10] Beyond that is the classroom where Mrs. Garciano, the accused-appellant's wife, is teaching.[11] We may assume that there were students milling around; in fact, there were two of them who testified that they were peeping through the window of the health center.[12] Given this very "public" setting, we do not see how the accused-appellant (who, incidentally, was already 63 years old at that time) would have dared, let alone succeeded, in committing the crime imputed to him.

Then there is the complainant's testimony about Garciano securing the room where and before she was supposed to have been forced by him. She seems confused about which he closed first - the door or the windows - but in any case she herself declares she did not do anything while Garciano was busy with this task although she says she felt apprehensive[13] There were five windows in the room plus the door which the accused-appellant was allegedly closing one by one.[14] That must have taken some time. Yet, despite her fears, the complainant did or said nothing, neither fleeing nor shouting for help which she could have done then. No force had as yet been used against her. She says she attempted to leave later but that was after Garciano had closed the door, which meant he had earlier closed the windows as otherwise they could easily have been seen from outside. That does not seem to be the normal behavior of a girl who felt her virtue was being threatened.

It is also intriguing that - as both the prosecution and the defense agree - Garciano went to the girl's house and had a drinking spree with her father[15] the very afternoon of the same day when Crisanta was allegedly raped by him. Garciano joked with the father and talked occasionally to the mother.[16] Already informed of the supposed rape, the mother was not "very angry"[17] that afternoon, as she put it, despite the violation of her daughter just a few hours ago by this man who was drinking "tuba" in her very house. The father had not yet been told, it is true. But what is certainly perplexing is why Garciano should have gone there at all if it is true that he had ravished Crisanta not less than eight hours ago. Garciano is portrayed as ruthless and reckless, an aged lecher who would disdain caution or at least delicadeza and flaunt his wickedness before his violated victim and her parents in their own house. That is also abnormal behavior.

Finally, there is the question of the medical examination, or, to be more precise, the medical examinations. For indeed there are two. The first was made by Dr. Lourdes Chan but as this apparently did not satisfy the complainant she got another one, this time from the National Bureau of Investigation. The first was made on February 24, 1975, three days after the alleged incident and revealed that Crisanta had a hymeneal laceration about eight days old, or going back to February 16, 1975.[18] The second was made on March 6, 1975, or thirteen days later by Dr. Rodolfo Lezondra, who testified that the hymeneal laceration could have been caused on February 21, 1975.[19]

The mere fact that a second examination had to be made already introduces an element of doubt, and the discrepancy between the two examinations deepens that doubt. In any event, it seems to us that the earlier examination should be more accurate even if it was made by a general practitioner only as against the claimed superiority of the NBI physician. Not much expertise is needed for a rape examination, which in fact is usually made by ordinary physicians only.

The Court realizes that it is not easy for a woman to claim she has been violated and thus expose herself to the stigma that will inevitably attach to her as a result. Hence, as we have repeatedly said, we must as a rule give credence to such a charge as more than just a malicious or baseless accusation.[20]

Even so, this does not and shall not follow if the indictment, because of its inherent weakness or its palpable falsity, does not deserve to be believed. Where the evidence of the prosecution is tainted with inconsistencies, uncertainties and implausibilities that scorn the credence of this Court, it must be rejected as a feeble concoction.

So it must be in this case. Under the Constitution, the accused-appellant is presumed innocent until the contrary is proved. This has not been done beyond the shadow of a doubt, and so the charge must fail. The accused-appellant's guilt should not have been pronounced in the first place, and we will not affirm it now.

ACCORDINGLY, the appealed decision is REVERSED, without any pronouncement as to costs.

SO ORDERED.

Yap, (Chairman), Narvasa, Melencio-Herrera, Feliciano, Gancayco, and Sarmiento, JJ., concur.

[1] Decision, p. 18. By Judge Leon Rojas, Jr.

[2] Ibid., pp. 2-3.

[3] TSN, July 28, 1976, p. 149.

[4] Decision, p. 3.

[5] Ibid., pp. 3-4.

[6] Appellant's Brief, pp. 43, 53, 63-65.

[7] Brief for the Plaintiff-Appellee, pp. 12-13.

[8] Ibid.

[9] Decision, pp. 2, 10; Appellant's Brief, pp. 39, 42.

[10] Appellant's Brief, p. 42; TSN, May 20, 1976, pp. 28-29.

[11] Ibid.

[12] Decision, pp. 13-15; TSN, Aug. 20, 1976, p. 42; TSN, Sept. 17, 1976, p. 177.

[13] TSN, May 20, 1976, p. 36.

[14] Ibid., pp. 32, 36, 42; Exh. "E".

[15] Appellant's Brief, p. 59; Brief for the Plaintiff-Appellee, p. 11; TSN, July 28, 1976, pp. 161, 167-169.

[16] TSN, July 28, 1976, p. 168.

[17] Ibid., p. 169.

[18] TSN, May 20, 1976, p. 22; TSN, July 28, 1976, p. 163; Decision, p. 16.

[19] Decision, p. 16.

[20] People v. Selfiason, 1 SCRA 235; People v. Cawili, 65 SCRA 24; People v. Tejada, 107 SCRA 176; People

v. Macatangay, 114 SCRA 743; People v. Felipe, 115 SCRA 88; People v. Ganado, 116 SCRA 362; People v. Pimentel, 118 SCRA 695; People v. Senon, Jr., 121 SCRA 141; People v. Balane, 123 SCRA 614; People v. Sambangan, 125 SCRA 726.

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