

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DONATO V. TARLAC, ACCUSED-APPELLANT.***G.R. No. L-47280. August 20, 1990*

Ponente: NARVASA, J.

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Rape is a crime of furtiveness usually perpetrated in the shadows of night or, if by the light of day, in the loneliness of unfrequented places with none but the ravisher and his victim to witness its consummation. It is thus almost always on the sole testimony of the victim that prosecution for this offense must stand or fall. The present case is no exception, and the Court is now called upon to adjudge whether or not the Trial Court correctly convicted the accused in reliance upon the complainant's testimony and rejecting the countervailing evidence given by the former.

Donato V. Tarlac was convicted of the crime of rape by the Court of First Instance of Caloocan City[1] and condemned to suffer the penalty of reclusion perpetua and to pay the costs.[2] His conviction was made to rest principally on the testimony of the complaining witness, Angelita de la Cruz, 26 years of age at the time, and the "common-law wife" (paramour) of a driver[3] by whom she had two children, both boys, aged 5 and 3. Donato himself was 19 at time of the alleged offense.

As might be expected, there was considerable variance between the versions given on the stand by the complainant and the accused concerning what had transpired in the early morning of July 13, 1975 when the crime was allegedly committed. There is, however, no dispute that Donato had sexual intercourse with Angelita at between the hours of 3:00 and 3:30 on that morning in a rented room used by the latter as her residence and where her two children lay asleep,[4] and that another room about a meter away was being occupied and used also as a residence by a man and woman identified only as Jose and Maria.[5]

Angelita testified that she had been roused from sleep when she felt at her neck the point of a knife held by Donato who had gained access to the room by some means unknown to her. Thoroughly cowed, she offered no resistance even as Donato took off his pants, pulled her own shorts down her legs with his left hand and, placing himself on top of her, proceeded to have sexual intercourse with her. She had not cried, merely tried to push back his thighs with one hand. At some point during all this, Donato had also boxed her on the left ear (although no mark was found on her body by the attending physician[6]). Then, while that first act of intercourse was taking place, Angelita's children woke up and started to cry. This did not deter Donato from continuing to satisfy his desire, and Angelita told the children to stop crying and go back to sleep which, it would appear, they did. Afterwards, Donato sat up and, keeping his knife at her throat, rested beside her for about fifteen (15) minutes. Then, once more aroused, he touched her breast and forced himself on her again. After that he left, but not without threatening dire consequences to her lover and their children if she did not keep her peace.[7]

For his part, Donato admitted having had sexual congress with Angelita on the morning in question, but claimed that she had been a willing partner and that he had employed no force or intimidation to make her submit to him.

He claimed further that he and Angelita had had sexual intercourse at least five times previously and that it was in fact their mutual arrangement that whenever Angelita's lover left her to go home to his legal wife, he (Donato) could come and sleep with her. On that last morning when one of Angelita's children had awakened and caught them in the act of intercourse, said child had threatened to denounce them to his father and he had left for fear that it would make good that threat.[8]

Because, as already pointed out, it seldom happens that the commission of a rape is witnessed by a third person, this Court has, perhaps more often than not, affirmed convictions for the crime based solely on the testimony of the offended parties[9] in whose favor operates the presumption that a woman would not, unless her accusation were true, lay bare her honor and reputation to the suspicion, skepticism and salacious gossip that so often greet public revelation of the loss of that which she holds most dear. Withal, this Court has also quite consistently held that this same circumstance: that no corroboration in third-party testimony is available and the physical evidence may be inconclusive, naturally and necessarily calls for a most careful scrutiny and examination of the offended party's testimony, "* * if only to satisfy the judicial conscience that the accused committed the criminal act imputed to him." [10]

With the foregoing in mind, the Court has carefully gone over the recorded testimony of the complainant. Taking into account the fact that the findings[11] of the medico-legal officer who examined her in the afternoon of July 13, 1975, while consistent with intercourse having occurred at or about the date charged, indicate that no physical injuries, extragenital or otherwise, had been sustained by her and, therefore, furnish her version no direct support, her testimony fails to command that measure of credence necessary to convict the accused of so grave a charge.

As the complainant would have it, or at least as might be reasonably deduced from her testimony, the accused kept his knife's point at her throat, not only throughout the two acts of sexual intercourse to which he forced her to submit, but also during a period of fifteen (15) minutes while he rested between the first and second acts. It seems highly improbable that he could have done this without relaxing such vigilance even for a moment during such an extended period of time. Common experience can attest to how long, subjectively, a 15-minute period of time, not to mention preceding and succeeding intervals of unknown duration, can seem to one trying to concentrate on a single act while simultaneously engaged in performing other separate actions. It is even more improbable that the frenzied, even violent, motions and struggles that would accompany two acts of forcible copulation, would not have caused a slippage of the knife-point and produced, albeit unintentionally, some scratches or wounds in the complainant's neck of which, however, no trace was found when she was examined in the afternoon of the same day.

Complainant's statement given to the police on July 14, 1975[12] that while the accused was having sexual intercourse with her the first time, her children had awakened and started to cry and she had "shushed" them back to sleep, also raises grave doubts about her version of the occurrence. Apparently she had done that of her own accord since she also stated that the accused had not minded the interruption and simply continued his coupling with her. Why, instead of welcoming her children's awakening and letting them cry on, thereby possibly alerting her neighbors whose room was only a meter away, she ordered them back to sleep is unexplainable except on the assumption that what occurred was in fact a lovers' tryst as the accused claimed. Such an assumption is also consistent with nonchalance with which, according to the complainant, the accused regarded the children's awakening.

Given the foregoing, it becomes difficult to believe that unless he was certain of his welcome and familiar with the surroundings, the accused, whom complainant says she had seen only a few times, would dare creep into her room (which must have been unlocked or otherwise easy to break into, because she became aware of his presence only when he was already inside and lying beside her) risking discovery and exposure by a couple who lived a

scant meter away, to say nothing of any struggle or defense that his intended victim might put up.

The complainant's version simply fails to persuade, and the Court will not affirm a capital penalty on an account which, besides being in direct contradiction with that of the accused, will not by itself stand up under objective scrutiny. It is, therefore, unnecessary to examine in greater detail the version of the accused, since an appraisal of that of the complainant alone suffices to create a reasonable doubt of his guilt.[13]

WHEREFORE, the appealed judgment of the Trial Court is REVERSED and SET ASIDE, and the accused-appellant herein is ACQUITTED on reasonable doubt, with costs de oficio.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Branch XII, then presided by Hon. Fernando A. Cruz

[2] Rollo, p. 12

[3] Id., p. 6

[4] Exhibit B, Original Record, p. 78; Complainant's testimony, TSN Sept. 8, 1976, pp. 3-5; TSN Oct. 19, 1976, p. 6; testimony of Accused, TSN March 16, 1977, pp. 8-15

[5] TSN Sept. 8, 1976, p. 8

[6] Id., pp. 11-12; Medico-Legal Report, Exhibit C, Original Record, p. 79

[7] Exhibit B, supra; TSN Nov. 9, 1976, p. 6

[8] TSN March 16, 1977, pp. 8-12

[9] People vs. Ausan, 152 SCRA 52; People vs. Tadyo, 154 SCRA 349; People vs. Managbanag, 155 SCRA 669

[10] People vs. Antonio, 162 SCRA 72, 78; see also People vs. Lungayan, 162 SCRA 100

[11] Exhibit C, supra

[12] Exhibit B, supra

[13] People vs. Sahagun, G.R. No. 62024, Feb.12, 1990; People vs. Alzaga, G.R. No. 83695, Sept. 15, 1989; Bernal vs. CA, 165 SCRA 316; People vs. Tuazon, 159 SCA 315; Oeioke vs. Quima, 159 SCRA 613; People vs. Pancho, 145 SCRA 323; People vs. Maisug, 27 SCRA 742

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