

PEOPLE OF THE PHILIPPINES, PLAINTIFF, VS. ELEUTERIO TORRES ALIAS “BOY”, ACCUSED.

G.R. No. L-44429. October 26, 1983

Ponente: ESCOLIN, J.

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ESCOLIN, J.:

Appeal from the decision of the Court of First Instance of Pangasinan, finding Eleuterio Torres guilty beyond reasonable doubt of the crime of rape committed against his 11-year old daughter Elria Torres, and sentencing him to suffer the penalty of reclusion perpetua, to indemnify the victim in the amount of P12,000.00 and to pay the costs.

Appellant assails the credibility of his wife, Gloria Castro-Torres and his daughter, Elria Torres, whose testimonies he would characterize as "extremely improbable".

The composite testimonies of Gloria and Elria established the following facts: At about 3:00 in the morning of June 25, 1975, Elria was suddenly awakened when she noticed that someone was on top of her. It was her father who was naked from the waist down. When her father inserted his penis into her private part, she felt intense pain. She asked him, "Father, what are you doing to me?"

At that moment, Gloria, who was sleeping nearby, was likewise awakened. She saw the appellant on top of Elria whose panty was down to her knees. Gloria immediately kicked the appellant, then asked "Why did you do this to our child?" To this query, appellant remained silent. The girl, crying aloud, stood up, and was embraced by her mother. Whereupon she told her mother that appellant had placed himself on top of her and raped her. When the appellant put off the lamp, Gloria and Elria ran to the house of Anastacio Castro, Gloria's father, located about 15 meters away, to seek his help. Upon being informed of the crime committed against his grandchild, Anastacio went to the appellant's house, but the latter was no longer there.

That same morning, mother and daughter reported the crime to the police authorities of Urdaneta and executed their respective sworn statements.[1] In the afternoon, Elria was brought to the Urdaneta General Hospital where she was physically examined by Dr. Rodolfo Parayno. The doctor's findings are set forth in the medical certificate he issued:[2]

"P.E. - No external injury

I.E. - Contusion vaginal orifice at 11:00 1'clock

Vaginal smear - negative for sperm cells."

The doctor testified that the contusion at the vaginal orifice could have been caused by a blunt object or instrument such as the "penis of a man." [3]

On the following day, June 26, 1975, Gloria Castro filed a criminal complaint against her husband in the Municipal Court of Urdaneta; and on September 4, 1975, Assistant Fiscal Juan Sicam, after conducting a

preliminary investigation, filed the corresponding information for rape.

Dominador Torres, father of the appellant, took the stand to corroborate his son's assertion that nothing untoward happened in the night in question.

Since the only issue raised herein hinges on the credibility of witnesses, We advert to the settled rule that the factual findings of the trial court are entitled to great weight and respect, in view of its opportunity to observe the demeanor of the witnesses on the stand. In the case at bar, the trial court found the testimonies of the victim and her mother to be reliable, sincere and straightforward. We have carefully scrutinized the records, and We find no cogent reason to disturb the said findings. Neither had the trial court overlooked any circumstance of weight and importance that could have materially affected the conclusion reached.

Indeed, it is extremely difficult to believe that the offended party, who was still in the awkward age of puberty, would perjure herself by imputing to her own father the commission of a crime against her honor.

Appellant denied having abused his daughter. He claimed that his wife had despised him for being "a poor provider," an "estambay," and a "drunkard", and that because of her desire to separate from him, she had instigated this rape charge for the purpose of getting rid of him. The trial judge correctly brushed aside "this claim as a product of the appellant's imagination x x x not buttressed by actual facts."^[4] Thus ?

"The accused claims that this rape charge against him has been motivated by the fact that Gloria, his wife, wanted to separate from him, that they were always quarelling, citing two instances, sometime after the first child was born and the second time in 1972. But upon questioning by Fiscal Fernandez, the accused declared that from 1972 up to the time this incident happened, he and Gloria were living peacefully; that they had no more quarrels. At any rate, this alleged motive mentioned by the accused is only a product of his fertile imagination and is not buttressed by actual facts. Consequently, the Court cannot give any credence at all."

And even assuming that Gloria Castro had wanted to discontinue her marital life with appellant, this alleged motive was not sufficient to impel her to fabricate a rape charge against her own husband, knowing fully well that it would certainly bring ignominy, humiliation and dishonor to her daughter.

We agree with the lower court that Elria Castro was the victim of a "condemnable, beastly act" perpetrated by her own father.

WHEREFORE, the judgment appealed from is hereby affirmed, with costs against appellant.

SO ORDERED.

Makasiar, (Chairman), Aquino, Concepcion, Jr., Guerrero, Abad Santos, and Gutierrez, Jr., JJ., concur.
De Castro, J., on sick leave.

[1] Exhibits C and D.

[2] Exhibit B.

[3] TSN, pp. 3, 4, August 3, 1976.

[4] p. 13, lower court's decision.

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