

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CHARLIE VILLORENTE AND TERESITA VILLORENTE, ACCUSED-APPELLANTS.

G.R. No. 100198. July 01, 1992

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal from the decision* of the Regional Trial Court of Kalibo, Aklan, Branch I, convicting accused-appellants Charlie Villoriente and Teresita Villoriente of the complex crime of abduction with rape and imposing on them the penalty of reclusion perpetua and the indemnification of the offended party in the amount of P50,000.00.

Appellants were charged with abduction with rape in an information which reads as follows:

"That on or about the 25th day of March, 1986, in the Municipality of Kalibo, Province of Aklan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deceit and abuse of confidence, did then and there, willfully, unlawfully and feloniously, abduct one JONA NERON, a woman of tender age from the house of Claire Tioco at New Buswang, Kalibo, Aklan, where said JONA NERON was working as domestic servant, to Ogsip, Libacao, Aklan and once there in the house of the accused, the above-named accused CHARLIE VILLORENTE, in conspiracy with the other accused TERESITA VILLORENTE, by force and intimidation employed upon the person of the offended party, have sexual intercourse with JONA NERON against her will.

"That as a result of the criminal acts of the accused, the offended party suffered moral damages in the amount of FIFTY THOUSAND PESOS (P50,000.00)." (Rollo, p. 18; Original Record, p. 98).

Upon arraignment, both appellants entered a plea of not guilty (Original Records, p. 41).

At the trial, the prosecution presented five (5) witnesses, namely: Claire Tioco, Jona Neron, Sofia Neron, Giovanni Roma and Dr. Emily Bacolod.

CLAIRE TIOCO, a teacher and employer of Jona Neron, testified that on March 15, 1986, a man whom she later identified as accused Charlie Villoriente came to her house at New Buswang, Kalibo, Aklan, to fetch Jona Neron on the pretext that Jona's father was sick. She did not, however, allow Jona to go with the man as she was suspicious of the latter (TSN, Hearing of Nov. 9, 1989, pp. 3-5).

On March 25, 1986, a woman who claimed to be Jona's mother and who later turned out to be accused Teresita Villoriente, the mother of Charlie Villoriente, came to her house. This woman identified herself as the mother of Jona and she asked permission from her (Claire Tioco) to bring along Jona with her. Jona likewise asked her permission to go home to Balete for several days. The two left the Tioco house at around 3:00 o'clock in the afternoon of that day. At a certain distance from her house waited a man whom she later identified as accused Charlie Villoriente (Ibid., pp. 4-5, 9). On March 29, 1986, however, another woman who claimed to be the real mother of Jona, came to her house (Ibid., p. 4).

JONA NERON testified that on March 25, 1986, she was employed as a helper in the house of Claire Tioco at the Ati-Atihan Compound, New Buswang, Kalibo, Aklan. On that day, Teresita Villorente, allegedly her aunt, told her that she had to go home with her because her father was sick (Ibid., Hearing of November 13, 1989, pp. 14, 16). Charlie Villorente was with Teresita at that time. The three of them took a jeep from Kalibo reaching the poblacion of Balete at about 4:00 o'clock in the afternoon (Ibid., p. 6; Hearing of January 5, 1990, p. 11). From the poblacion, they took a tricycle to Bgy. Morales instead of Bgy. Arcangel where Jona's family lived (Ibid., Hearing of Nov. 13, 1989, pp. 5-6). From Bgy. Morales, they proceeded to Bgy. Ogsip where accused Teresita and Charlie Villorente lived. (Ibid., p. 7).

On their way to Bgy. Ogsip, both accused kept on threatening her not to run away. Charlie had a bolo which he took from a house in the poblacion of Balete (Ibid., Hearing of Jan. 5, 1990, pp. 11-12, 14). His hand was on its handle all the way to Bgy. Ogsip and he kept on unsheathing it. She was "not in (her) mind at that time because they (Charlie and Teresita) put a handkerchief over (her) head" (Ibid., p. 15), but along the way, she complained to them why they were proceeding to Bgy. Morales instead of Bgy. Arcangel (Ibid., pp. 7-8).

They reached the house of the accused at about 6:30 p.m. (Ibid., p. 15). Teresita's family prepared supper, but she did not eat because of her headache. She was directed by Charlie's parents to a room with two beds and on the wider one, she and the two sisters of Charlie slept (Ibid., pp. 15-17; Hearing of Jan. 10, 1990, pp. 16 & 19).

Sometime during the night, she was awakened when Charlie started molesting her. He so held her feet and her hands that she could not move. (Ibid., Hearing of January 5, 1990, p. 19). Charlie dragged her to the smaller bed. She kicked and punched him and struggled, but Charlie was much stronger than she was (Ibid., Hearing of Jan. 10, 1990, pp. 20-21). He also threatened to cut off her head should she shout or run away (Ibid., Hearing of Jan. 5, 1990, p. 23). In fact, he was holding the bolo with his right hand, while his left hand was pressing her down (Ibid., Hearing of January 5, 1990, pp. 22-23). After removing her panty, Charlie had sexual intercourse with her. She felt pain because it was her first sexual intercourse. Although she did not cry out loud, she knew Charlie's parents heard her (Ibid., Hearing of Jan. 10, 1990, pp. 18-19). She did not call for help from Rosemarie and Jovita, Charlie's sisters, who had gone outside the room while she was sleeping (Ibid., Hearing of Jan. 5, 1990, p. 20).

After she had been abused twice that night, she transferred to the sala, but Charlie also followed her. She lay down on the floor, but Charlie remained seated. She did not think of going home because it was only about 3:00 a.m. and it was very dark. She was also afraid of Charlie (Ibid., pp. 78-80). She was abused two times a night for three nights (Ibid., Hearing of Jan. 5, 1990, pp. 21-22; Hearing of Jan. 10, 1990, p. 3).

At about 6:00 o'clock in the morning on the second day of her abduction, she was brought to the house of Jerry, Charlie's older brother, so that her parents would not find her. She was also brought to the house of the Barangay Captain of Ogsip who told her that she would be married to Charlie if her parents would consent thereto, but she refused saying that she was not yet of age and she had no love for Charlie. She did not tell the Barangay Captain that she had been abused by Charlie because she was ashamed about what happened to her. Instead, she told the Barangay Captain that she wanted to go home, but Teresita, Charlie and the latter's father Leopoldo, prevented her from doing so. Despite his knowledge about her predicament, the Barangay Captain just told her that the Villorente couple wanted her to be their daughter-in-law (Ibid., Hearing of Jan. 10, 1990, pp. 4-9).

On the 26th of March, her father went to the house of Charlie and stayed there for ten minutes. Her father told the father of Charlie that he would not consent to her marriage as he wanted her to continue with her studies. She could not talk to her father because Charlie's mother and two sisters were always by her side. They kept a watch on her even if she would go to the toilet. She was finally able to go home when she was fetched by her uncle from the house of the Villorentes. Her uncle told the father of Charlie that they should go to their (Neron's) place if

Charlie was determined to marry her. However, she refused to marry him and opted to file this case (Ibid., pp. 10-17).

According to Jona, she learned from her grandmother that Teresita, Charlie's mother, was their distant relative. However, it was only while she was studying in Balete that she first saw Charlie. He used to stay in the house of her grandmother where she also stayed or that of his sister-in-law which adjoined the house of her grandmother. He would look at her, but he never talked to her although he told other people that he wanted to court her. He was always in Balete because of her, but during the only chance that he talked to her, she ignored him (Ibid., Hearing of Jan. 5, 1990, pp. 28-30).

SOFIA NERON, mother of Jona, testified that in March, 1986, Jona worked in the house of Claire Tioco as a domestic helper (Ibid., Hearing of Jan. 4, 1990, p. 5). On March 26, 1986 at about 9:00 o'clock in the morning, she was informed by her brother, Revico Dominguez, that her daughter Jona was in the house of the Villorentes at Bgy. Ogsip. She and her husband went to the house of Bgy. Councilor Blas Ruiz in Ogsip, who informed them that the father of Charlie came to his house early in the morning, informing him that Jona was in their house. Jona, Charlie and the latter's parents were present at the time (Ibid., p. 44). She was asked by Ruiz if she was amenable to the wedding of Jona and Charlie, to which she replied in the negative. She then manifested her intention to bring home Jona with them, but the Villorentes would not allow Jona (Ibid., pp. 6-10). On Friday, she, her husband and Bgy. Councilor Giovannie Roma of Arcangel went to the house of the Villorentes in Ogsip and they were finally able to get Jona from the Villorentes. Because Jona told her that she was sexually abused by Charlie, she sought the advice of the Barangay Captain of Arcangel. He told her to report the matter to the police station of Balete (Ibid., pp. 10-13).

Sofia testified further that she was angered by the fact that the Villorentes filed a "complaint" before the Barangay Captain against her and her husband, alleging that Jona was staying with the Villorentes when in fact she was the aggrieved party (TSN, Hearing of Jan. 11, 1990, p. 9). At the house of Ruiz, she was prevented by Ruiz from conversing with Jona, notwithstanding the fact that her daughter was only two meters away from her. When she saw Jona, she noticed that she was in a state of shock with her head "hanging" (Ibid., pp. 13-14). At home, after they had finally taken Jona from the Villorentes, her daughter narrated to her how, in Balete, while she was struggling to go home, Teresita took out a smelly white handkerchief from her pocket, put it over Jona's head and Jona "lost her senses" and that, when they arrived at the Villorente's house, Leopoldo, Charlie's father, put some pounded ginger on Jona's head and stomach causing her to fall asleep (Ibid., p. 16). Jona also related to her that Charlie sexually "used" her by force for three nights (Ibid., pp. 17-18).

GIOVANNIE ROMA, Bgy. Councilor of Arcangel Sur, Balete, Aklan, testified that sometime in the latter part of March, 1986, Sofia Neron sought his help in getting Jona from the Villorentes in Bgy. Ogsip. He first asked permission from the Libacao police to summon Teresita Villorente and Charlie Villorente. His request not having been acted upon, he personally went to the house of the Villorentes in Bgy. Ogsip, together with Jona's parents, to fetch Jona. Charlie and his parents were angry with him for taking Jona and even threatened to file a complaint for hold-up against him (Ibid., Hearing of Jan. 4, 1990, pp. 14-20). In fact, after Jona had requested him to take her home, he heard Charlie screaming loudly inside the room (Ibid., Hearing of Jan. 10, 1990, p. 24). He tried to facilitate the marriage of Charlie to Jona, but the latter refused to marry Charlie and opted instead to file this case (Ibid., p. 28).

DR. EMILY T. BACOLOD, a senior resident physician of Mr. Rafael S. Tumbokon Memorial Hospital, examined Jona at 2:00 p.m. on April 2, 1986 (Ibid., Hearing of June 27, 1990, p. 140). Her findings, as indicated in the medico-legal report, were: "No hematoma nor abrasion appreciated. Hymen - old laceration at 5:00 o'clock 7:00 o'clock. Admits 1 finger easily, admits 2 fingers with difficulty" (Exh. "D"). She testified that a hematoma or

an abrasion may disappear between 24 to 48 hours from the time it was inflicted and that the laceration in the victim's sexual organ could have been due to sexual intercourse on March 25, 1986 (TSN, Hearing of June 27, 1990, pp. 8-9).

On its part, the defense presented only appellant Teresita Villorente as the lone witness. Appellant Charlie Villorente, although given several opportunities by the lower court, failed to testify in his own behalf.

TERESITA VILLORENTE merely swore that she was in Manila on March 25, 1986, and that she did not know Claire Tioco. She was however, ambivalent as to whether she went to Manila in 1986 or 1989 (Ibid., Hearing of September 27, 1990, p. 151).

On January 29, 1991, as stated at the outset, a judgment of conviction was rendered by the trial court. The dispositive portion of the decision reads as follows:

"WHEREFORE, judgment is hereby rendered finding accused Charlie Villorente and Teresita Villorente guilty beyond reasonable doubt of the crime of Abduction with Rape and sentencing each accused to suffer the penalty of Reclusion Perpetua, to indemnify the offended party the amount of P50,000.00, to suffer the accessory penalties prescribed by law and to pay the costs." (Rollo, p. 50).

In this appeal, the appellants insist in their innocence and claim that the evidence of the prosecution does not warrant their conviction. They argue that the failure of the complainant to shout for help while in the presence of several people in Kalibo and also while at the parking lot in Balete when she was brought there by the appellants, or to make an outcry or protest when she was allegedly raped inside the room where the two (2) sisters of appellant Charlie Villorente were also sleeping, rendered her testimony incredible. The appellants likewise argue that complainant's claim that appellant Charlie Villorente was holding a bolo in his right hand and her mouth with his left hand, while said appellant was in the process of raping her, is unbelievable and unnatural. Finally, it is the contention of the appellants that the lacerations found in the private part of complainant upon examination by Dr. Emily Bacolod showed that the same may have been older by ten (10) days prior to March 25, 1986, when the offense in question was committed.

Clearly then, this appeal is primarily on the issue of credibility of the prosecution witnesses. As the Court has time and again ruled, the findings of the trial court on the matter of credibility of witnesses will not be disturbed on appeal in the absence of any showing that the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance that would have affected the result of the case (People v. Baduya, 182 SCRA 57 [1990]). In this case, such findings should be accorded much respect if not conclusive effect (People v. Caldito, 182 Phil. 66 [1990]; People v. Dinola, 183 SCRA 493 [1990]) in view of the appellant's failure to show convincingly that they should be disregarded.

As in most rape cases, the testimony of the victim seals the culpability of the accused and therefore it should be subjected to close scrutiny. On this issue, worth quoting are the trial court's observations on Jona Neron's demeanor and credibility:

"At the time of her abduction and rape, Jona Neron was only fifteen (15) years old. When she first took the witness stand on November 13, 1989, she was already eighteen (18) years old, a married woman who has borne a child. Yet her comeliness is very evident. Complainant is petite, fair complexioned and with a fresh, innocent expression. She is quite a pretty girl. Four (4) years ago when the offense complained of was committed, she must have looked really attractive so much so that accused Charlie Villorente, ten (10) years her senior was attracted to her.

"x x x x x x x x.

"The Court had observed Jona as she testified. Her testimony had been straightforward and without any inconsistencies on material points. She did not hem and haw under the rigid cross-examination of the defense counsel. Her whole declaration was characterized by candor and lack of guile. Furthermore, all the testimonies of the prosecution witnesses corroborated each other." (Decision, p. 5; Rollo, p. 46).

Indeed the simplicity of the testimony of Jona convincingly shows that she was telling the truth about her having been taken by appellants and later sexually abused by appellant Charlie Villorente.

"x x x

Q. When you left the house of Claire Tioco, you were accompanied by Teresita Villorente and Charlie Villorente on the pretext (sic) that your father was sick, am I correct?

A. Yes, sir.

x x x

Q. Why did you go with them at (sic) the house of Charlie Villorente when you know very well that your father according to them was sick then at Arcangel, Balete, Aklan?

A. Because according to them, my mother is taking care of my father and they were the ones who knew the house where I was staying here in Kalibo.

x x x

Q. Now, what time did you arrive at the house of Charlie Villorente on March 25, 1986?

A. About 6:30 in the evening.

Q. After you arrived in the house of Charlie Villorente what did you do?

A. I was surprised why they brought me in their house, I was rather naive.

x x x

Q. What time did you sleep?

A. I do not know what time.

Q. Where did you sleep, in what portion of the house did you sleep?

A. In their room.

Q. Who was your companion in the room?

A. His brothers and sisters.

Q. You have stated here in your sworn statement and I quote: On March 25, 1986, at about 8:00, I was forced by Charlie Villorente to have sexual intercourse in the house of Teresita Villorente, now, do you still affirm to the correctness of this statement?

A. Yes, sir.

Q. How did Charlie Villorente force (sic) you to (sic) sexual intercourse with him when you were sleeping inside the room with his brothers and sisters?

A. I did not agree but still he forced me.

Q. When you said you (sic) not agree, what do you mean by that?

A. He threatened me if (sic) I will make noise, he will use his bolo because he had a bolo on his side.

Q. Did you not shout or make noise so that the other persons who were sleeping inside the room will take note what is happening to you?

A. I was at a loss on what to do.

x x x

Q. Now, you have stated here in your statement that you pushed him. You are referring to Charlie Villorente that it was true (sic) and also threatening not to shout because if you shout he will use his bolo, do you still confirm to the correctness of your statement?

A. Yes, sir.

Q. And you also stated that he abused you twice in the same evening. When you say abused, sexual intercourse?

A. Yes, sir.

Q. And it was also against your will that he had sexual intercourse with you during the second time?

A. Yes, sir.

x x x

Q. According to your statement where you were sexually abused in the evening of March 26, 1986, that is the following night, is it already with your consent that he had sexually (sic) intercourse with you on that night?

A. At first, I refused but later, consented (sic) him because I was afraid I might, (sic) he always had a bolo on his side.

Q. How long did you stayed (sic) in the house of Charlie Villorente?

A. About five (5) days.

Q. And during the time that you were staying in that house, he sexually abused you during the night?

A. Yes, sir."

(TSN, Hearing of Nov. 13, 1989, pp. 16-21).

Even if Jona's testimony on how she was raped was uncorroborated, it is sufficient to justify a conviction for it is credible and positive as it in fact satisfied the trial court beyond reasonable doubt (*People v. Soliao*, 194 SCRA 250 [1991]). Moreover, this Court cannot doubt Jona's sincerity. It would be hard to believe that a naive barrio girl like Jona would undergo the expense, trouble and inconvenience of a public trial, not to mention suffer the scandal, embarrassment and humiliation such action inevitably invites, as well as allow an examination of her private parts if her motive were not to bring to justice the person who had abused her. A victim of rape will not come out in the open if her motive were not to obtain justice (*People v. Rio*, 207 SCRA 702 [1991]; *People v. Pasco*, 181 SCRA 233 [1990]).

On the other hand, Jona's testimony on how appellants used a ruse in enticing her to go with them is corroborated by Claire Tioco's confirmation in court of her earlier sworn statement to the effect that Teresita Villorente misrepresented herself as the mother of Jona who wanted her home because of the alleged ailment of her father and that while Teresita conversed with her, Charlie waited at a certain distance (TSN, Hearing of November 9, 1989, pp. 5-6).

Of course, Teresita Villorente tried to extricate herself from the crime by testifying that she was in Manila on March 25, 1986 and that she did not know Claire Tioco. Her defense of alibi, however, carries no weight in the face of Jona's positive identification of her as the person who, pretending to be her mother, took Jona from her employer's place. Teresita was also positively identified by Claire Tioco as the same person who fetched Jona on March 25, 1986. As between the version of said prosecution witnesses and that of appellant Teresita, the former is more credible because their testimonies are clear and free from contradictions (*People v. Bacalzo*, 195 SCRA 557 [1991]). It should be noted that Teresita, inspite of proddings from her counsel, could not definitely state in court whether it was in 1986 or in 1989 that she was in Manila. The trial court also found her deportment at the witness stand to be wanting as she was hedging and evasive (Decision, p. 7; Rollo, p. 48).

Through counsel, Charlie, who had shunned from the witness stand, claims that it could have been impossible for him to have raped Jona inside the room where his two sisters were also sleeping. This claim is unfounded. Rape can be committed even in places where people congregate: in parks, along the road side, within school premises, and even inside a house where there are other occupants. As this court said in *People v. Mangalino*, (182 SCRA 329 [1990]), lust is no respecter of time or place (See also: *People v. Rafanan*, 182 SCRA 811 [1990]; *People v. Dolores*, 188 SCRA 660 [1990]).

Neither is there merit in Charlie's contention that Jona could not have been raped because she did not shout for help. Jona's testimony on how the rape was committed which was totally unrebutted by the defense, shows that Charlie had not only rendered her struggles useless by holding her hands, but he also threatened to cut off her head with his bolo which he always had with him when he slept (TSN, Hearing of Jan. 5, 1990, pp. 80-81).

Since as Jona was only fifteen years old when she agreed to leave her employer's house to go with Charlie and his mother Teresita, the crime committed was forcible abduction under Art. 342 of the Revised Penal Code. Jona's virginity may be presumed from the fact that she was an unmarried barrio girl when the crime was committed. The element of lewd design on the part of Charlie may also be inferred from the fact that while Jona was then a naive fifteen-year old, Charlie was ten years her senior and although unmarried, was much wiser in the ways of the world than she was (Aquino, *The Revised Penal Code*, Vol. III, 1988 Ed., p. 454). Charlie's alleged desire to marry Jona is not a defense considering that no marriage license was presented and parental consent was wanting (*Ibid.*, p. 456). Moreover, had Charlie really intended to marry her, he could have gone to her parents' house considering that he was invited by Jona's uncle to do just that.

Inasmuch as the abduction was proven to have been perpetrated as a necessary means for the commission of the rape, under Art. 48 of the Revised Penal Code, appellants committed the complex crime of abduction with rape for which the penalty of reclusion perpetua was correctly imposed by the lower court on both appellants. Charlie and his mother are equally liable for the crime in view of the conspiracy between them which was alleged in the information and duly proven at the trial. However, the penalty is too excessive for Teresita Villorente. Unschooled like her son who also affixed his thumbmark in the documents pertinent to this case, she appears to have acquiesced to cooperate with Charlie on account of maternal concern. She must have agonized with Charlie who did not know how to court the girl of his dreams. As the lower court aptly observes, "not knowing how to court (Jona), (Charlie) just looked at her from a distance until he could no longer hold his desire for Jona Neron and with the complicity of his mother, abducted and raped her." It is therefore, necessary that, under the provision of Art. 5 of the Revised Penal Code, the attention of the President should be called on the matter.

Significantly, appellants, through their counsel, filed a motion for new trial before this Court on the ground of a new and material evidence consisting of an Affidavit of Desistance purportedly executed by the complainant and sworn to before the Municipal Mayor of Kalibo, Aklan. The affidavit states that the case below arose out of a misunderstanding between her and the appellants and that she is no longer interested in prosecuting this case

(Rollo, pp. 60-61).

This Court is not impressed by the said document. After completion of the trial and the rendition of judgment convicting the accused, an affidavit of desistance of the complaining witness has no probative value and is ineffectual to nullify a judgment. The real aggrieved party in a criminal prosecution is the People of the Philippines whose collective sense of morality, decency and justice has been outraged. Once filed, tried, and decided, control of the prosecution for the crime of rape is removed from the victim's hands. To warrant the dismissal of the complaint, the victim's retraction or pardon should be made prior to the institution of the criminal action (*People v. Soliao*, *supra*).

PREMISES CONSIDERED, the decision appealed from is **AFFIRMED** subject to the modification that executive clemency is recommended with respect to appellant Teresita Villorente.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Nocon, JJ., concur.

* Penned by Judge Marieta J. Homena-Valencia.

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