

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LEOPOLDO TAYCO, ACCUSED-APPELLANT.

G.R. No. 100283. August 25, 1994

Ponente: PUNO, J.

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PUNO, J.:

In an Information,[1] dated November 27, 1986, accused LEOPOLDO TAYCO was charged with the crime of RAPE, allegedly committed as follows:

"That on or about the 13th day of September, 1986, in the evening, in Barangay Buswang Old, Municipality of Kalibo, Province of Aklan, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a knife, with lewd designs and by means of violence and intimidation, did then and there, wilfully, unlawfully and feloniously, have carnal knowledge of said JELLY INOCENCIO, against her will and without her consent, thereby causing upon the latter physical injuries, as follows:

'Presence of 3 linear abrasions right, thigh middle 3rd, medial side.

Presence of redness inner portion of the left labia minora and region of the fourchet.

Hymenal tear 3:00; 7:00 & 9:00 o'clock positions but no bleeding noted.'

As per Medico-Legal Report on Physical Injuries signed by Dr. Velvet C. Diangson, Senior Resident Physician of Dr. Rafael S. Tumbokon Memorial Hospital, Kalibo, Aklan, hereto attached and forming an integral part hereof.

"That as a result of the criminal acts of the herein accused, the offended party suffered damages in the amount of Thirty Thousand Pesos (P30,000.00) Pesos.

"CONTRARY TO LAW."

The case was docketed as Criminal Case No. 2393 before the Regional Trial Court (Branch VII) of Kalibo, Aklan. After his arraignment on July 6, 1987, accused pleaded not guilty[2] and was tried.

The essential facts, as stated in the assailed trial court Decision, dated February 28, 1991, are as follows:

"The offended party Jelly Inocencio was, at the time of the incident, a 16 year old high school student. She was residing with her parents at Buswang Old, Kalibo, Aklan. The uncontradicted facts disclose that in the early evening of September 13, 1986, the accused Leopoldo Tayco, with his friends Rey Ismael and Jimmy Inisa, arrived at the girl's house, bringing (with them) a native drink known as tuba. While they were drinking xxx, they were entertained by Jelly and her parents Juanito and Sherlita Inocencio, sisters Joela and Jelsen (sic), and Joela's common-law husband, Joni Inisa, who was the (sic) brother of Jimmy. The rest of the people in the house were small children aged 12 to 3 (years old). xxx. The complainant and her mother testified that Juanito suffered an attack of asthma, compelling Sherlita to go out to buy medicines. Sherlita said she left the house at 9:00 P.M. Ten minutes after her mother (had) left, Jelly went out of the kitchen and urinated. She pulled up her pants and was fastening its hook when she was accosted by the accused with a drawn knife. He held her left

arm and led her to the coconut grove more than 50 meters away (from their house) and raped her. The accused then left the scene, while she proceeded to her grandparents' house, afraid that Leopoldo and his companions might still be around. Sherlita returned home at about 11:00 P.M., and saw that Leopoldo and her daughter Jelly were not in the house. Leopoldo's companions went home, while she retired for the night. At about 4 o'clock the following morning, she went to her parents' house and found Jelly with them. (emphasis ours)

"The accused Leopoldo Tayco testified, on the other hand, that when he left at 9 PM (sic), Jelly and her mother were still in the sala, while the father, Juanito, had gone upstairs to take medicines. Leopoldo asked permission to leave from Sherlita, went home directly, and slept. Rey Ismael testified that after Leopoldo departed, Jelly and her mother went upstairs, leaving them in the sala with Joela's husband Joni. They went home about 30 minutes later but before leaving, Joela came to them murmuring that Jelly was not in the house. Jimmy Inisa was equivocal. He said that Jelly and her mother were in the sala when they left, but (when) confronted by (sic) his affidavit, (he) admitted that Jelly left the sala about 10 minutes after Leopoldo went out, and (she) did not return. Leopoldo said that at about midnight, he was awakened by the arrival of Joela and Joni who were looking for Jelly. He told them that she was not with him.

"The physical examination to which the offended party was subjected in the morning of September 14, 1986, disclosed incontrovertibly that a man had a (sic) carnal knowledge of her the night before. Spermatozoa, or male sex cells, were found in the vagina of the girl (Exh. A). The doctor who made the examination affirmed that the life span of spermatozoa inside the vagina can extend up to 36 hours. There is no question that a man had gained access to the offended party in the night of September 13."

In the afternoon of September 15, 1986, Sherlita, Juanito, Jelly and her sister, Joselle, went to the house of Crestito Tayco, elder brother of the accused. Later, accused and his parents were summoned to go to Crestito's house. According to Leopoldo, a confrontation ensued and the parents of the victim wanted him to marry their daughter, saying: "If you will not marry her, something will happen to you." [3] He refused and denied the accusation of rape. In the afternoon of September 15, 1986, another confrontation took place in the house of policeman Jimmy Melgar. The victim and her family were there. They were allegedly forcing the accused to marry the victim. Accused, again, demurred.

Pfc. Franklin Pastrana of Kalibo Integrated National Police investigated the complaint. On September 20, 1986, he conducted an ocular inspection and found that the sala and the kitchen (where the victim urinated) were separated by a lawanit (Exhibit "C-3"), about one and one-half meter wide and eight feet in height. [4] The clothes worn by the victim the night she was molested, i.e., her soiled pants and blouse; torn panty; [5] and the knife [6] left behind by accused, were submitted to him.

The defense presented witnesses [7] to show that the victim is of loose moral character. Witness Conrado Tayco testified that the victim and her boyfriend, a certain Boboy, had coitus in the evening of July 28, 1986. [8] On October 10, 1986, he also saw Jelly and a certain "Toto" embracing each other in a cassava farm. [9]

After trial, accused was found guilty of rape. He was sentenced to suffer the penalty of reclusion perpetua, to pay the offended party thirty thousand pesos (P30,000.00), as civil indemnity, and to pay the costs. Hence, the appeal.

These are the assigned errors:

I

THE LOWER COURT ERRED IN GIVING CREDENCE TO THE TESTIMONY OF THE COMPLAINANT AND IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED.

II

THE LOWER COURT ERRED IN NOT FINDING THAT THE CASE WAS FILED TO FORCE THE ACCUSED-APPELLANT TO MARRY THE COMPLAINANT.

We affirm the judgment of conviction.

In rape cases, trial courts discharge the difficult task of weighing the testimony of the victim vis-a-vis the testimony of the accused. We accord great respect, if not finality, to their findings since they observed the demeanor of witnesses at the trial and, therefore, could discern better their credibility.[10]

In its assailed decision,[11] the trial court analyzed the evidence as follows:

"In open Court, the girl pointed to the accused Leopoldo Tayco as the person who threatened her into submitting to his advances. Again, there is no reason to doubt her ability to make the identification. She and the accused definitely knew each other prior to the incident. Contrary to his claim that it was only on September 13 when he came to know her, his companion Rey Ismael admitted that he had known her previously (tsn, May 17, 1988, at 20-21). Rizaldo Ismael, a neighbor of the Inocencios, testified that he had seen Leopoldo several times in August 1986 going to Jelly's house. The place where the girl said the aggression was initiated, was outside the kitchen of the house. There was a lamp in the kitchen which cast its light to the area. Leopoldo's companion Jimmy Inisa said that the light xxx was put off only when he and Rey departed from the house. They were the last to leave. (tsn, July 5, 1988, at 18-19). The girl disclosed that the doorway of the kitchen was open, and she was about 4 1/2 meters away from the lamp. (tsn, December 21, 1987, at 27-28). xxx there was a toilet some distance away from the house xxx. The girl said that the toilet was about 15 or 20 meters away from the kitchen (tsn, December 21, 1987, at 29). Considering the setting, and the circumstances of the aggression which involved the most intimate physical proximity, the offended party would have no difficulty knowing the identity of her aggressor.

"The Court has searched the records for anything to even remotely suggest that the offended party had a motive to falsely accuse him of the offense, and could not find none (sic). The girl was a student, young and unmarried. It is very difficult to believe that she would have had the resolve and cunning to cry rape, and consequently, expose herself to public embarrassment and humiliation." (emphasis ours)

We have carefully examined the records of this case, and we agree with the foregoing findings of the trial court. The aforequoted findings are fully supported by the evidence adduced during trial. It is also meet to note the observation of the trial court on the sincerity of the victim, viz:

"Indeed, the Court finds no reason to doubt the sincerity and candor of the offended party in bringing this case against the accused. Having observed her deportment, and manner of testifying and reaction to the often intense and embarrassing questioning by counsels, we are morally convinced of the truthfulness of the accusation." (emphasis ours)

(Decision, February 28, 1991, p. 26)

Even then, accused-appellant points out that there were many persons in the sala when the victim went to the kitchen to urinate. Hence, when accused-appellant accosted her, she had the opportunity to call their attention, yet she did not. He also alleges that the knife poking incident was but a product of the leading question propounded by the prosecution counsel. He stresses that the victim did not sustain injuries on her neck. The defense concludes that, since force and intimidation were not substantiated, accused-appellant should be acquitted. We disagree.

The prosecution had sufficiently established the elements of force and intimidation. Jelly testified:

(FISCAL PERALTA)

"Q: Now, after your mother left to buy medicine for your father, do you know of any incident that took place in your house?

(JELLY INOCENCIO)

"A: Yes, sir.

"Q: What happened?

"A: I urinated in the kitchen.

"Q: While you were urinating in your kitchen, what happened, if there is (sic) any?

"A: Leopoldo Tayco went near me.

"Q: After Leopoldo Tayco went near to (sic) you, what happened next (sic)?

"A: The accused threatened me using a knife and told me not to shout, or else he will (sic) kill me.

"Q: After the accused pointed a knife at your neck, did you shout or not?

"A: No, because I was afraid he might kill me.

"Q: Now, after Leopoldo Tayco pointed a knife at your neck, what else happened?

"A: He dragged me to the coconut groves.

"Q: Did you not resist when the accused dragged you to the coconut groves?

"A: No, because he was a man, and I cannot overpower him.

"x x x x x x x x.

"Q: Now, after the accused dragged you to the coconut groves about more than fifty meters, what happened?

"A: He box(ed) me at the stomach.

"Q: Now, after the accused box(ed) you at the stomach, what happened to you?

"A: He pushed me.

"Q: After you were pushed, what happened next?

"A: He had intercourse with me."

(TSN, November 20, 1987, pp. 5-7)

In *People vs. Codilla*,^[12] we held: "Intimidation must be viewed in the light of the victim's perception and judgment at the time of the commission of the crime and not by any hard and fast rule; it is, therefore, enough that it produces fear--fear that if the victim does not yield to the lecherous demands of the accused, something would happen to her at that moment or even thereafter, as when she is threatened with death if she reports the incident."

Consistent with this doctrine, Jelly's failure to resist, shout or make an outcry does not necessarily negate the use of force against her. So is it with the absence of any wound on the victim's neck. What matters is that accused-appellant threatened the victim with a knife and, as a result thereof, the latter was petrified by fear. Jelly stifled any protest, fearful that accused-appellant would kill her if she did. Moreover, it is a settled rule fashioned from the anvils of experience that there is no standard form of human behavioral response when one is confronted with a strange, startling, and frightful experience.^[13] The variety of human reaction to anecdotes of sexual crimes

has yet to be fully captured by the calculus.

Be that as it may, the victim's conduct immediately after the rape throws a light in many of the opaque aspects of the crime. In the case at bench, Jelly sought refuge at her grandparents' house after the dastardly act. She did not return home, afraid that her father, who was then ill, would die if he should learn of her misfortune,[14] not to mention that Leopoldo's companions were still in their house when the incident happened.[15] In fine, her conduct is consistent with the horrible experience she had just gone through.

The defense doubts why Jelly's grandparents did not disclose the rape to her aunt whose house was only a few meters away from her grandparents'. The defense further avers that it was unnatural for Sherlita to wait until 4:00 in the morning before looking for her missing daughter. These arguments deserve scant consideration. These incidents occurred after the rape and would not exculpate accused-appellant. Moreover, accused-appellant himself admitted that at around 12:00 midnight of September 13, 1986, the victim's sister, Joela, together with her husband, Joni Inisa, came to his (accused-appellant's) house, looking for Jelly.

Accused-appellant also claims that Jelly committed inconsistencies during the trial. We have reviewed the transcript of stenographic notes of this case to verify whether or not the alleged inconsistent testimonies would materially affect the trial court's conclusion on the guilt of accused-appellant. They will not.

On direct examination, Jelly testified that she was urinating when accused, then armed with a knife, accosted her. He held her right hand and dragged her towards the coconut grove some fifty meters away from their house and, thereafter, boxed her in the stomach. He pushed her to the ground, pulled her pants and panty, and mounted her. She felt pain as he inserted his penis into her vagina. After two minutes, accused dismounted and fled, leaving behind the knife beside her.[16] She recognized the accused through his voice. When asked by her counsel whether there was light in the kitchen, she claimed that the kitchen was lighted by a kerosene lamp.[17]

However, on cross-examination, Jelly claimed she had just finished urinating and was about to put on her pants, or was about to fasten its hook, when accused came near her.[18] Accused boxed her in the stomach and pushed her hard to the ground. She was rendered unconscious upon hitting the ground. Thus, she was not aware as to when accused pulled down her panty and pants. When she regained her consciousness, he had already left. Nonetheless, the victim knew she was raped because she felt pain.[19]

On re-direct examination, she alleged that after she hit the soil, she was not rendered totally unconscious. She was also aware that accused pulled down her pants and inserted his organ into hers.[20]

Defense counsel then asked victim to explain her conflicting testimonies as follows:

"ATTY. BRIONES:

"Q: Miss Witness, when I cross-examined you, you said that you did not know from the time you fell to the ground up to the time you recovered consciousness, you did not know what happened to you. However, in the re-direct examination, you remember the accused putting his penis inside your organ. There is a difference in your testimony, is it because your recollection of the incident is quite hazy now?

"ATTY. BRIONES:

I would like to make of records (sic) that the witness could not answer the question.

"FISCAL PERALTA:

We would like to manifest that the witness is nervous.

"ATTY. BRIONES:

We cannot agree to that. In fact, she is smiling.

"COURT:

Both manifestations are noted.

(TSN, February 17, 1988, p. 19)

It ought not to be overlooked that the victim was a minor and, as observed by Assistant Prosecutor Peralta, not intelligent.[21] Thus, despite some inconsistencies, the trial court gave credence to her testimony. We, too, hold that her inconsistent statements did not crack her credibility. We fully concur with the trial court's ruling, viz:

"xxx. We are not disposed to treat this particular lapse in her testimony as an indication of a tendency to prevaricate. It is probable that the event may have placed her mind in a confused state. While she may have fainted at some point of (sic) time, she was certain, however, that the man entered her. Defense counsel asked her:

'So you did not know how the accused committed or if the accused ... committed sexual intercourse with you?'

She answered:

'I know because I felt pain' (tsn, February 17, 1988, at 9).

There is nothing in her testimony to indicate that she was totally unaware of the sex act itself. It is possible that, as she passed into unconsciousness, she retained some experience or sensation of the penetration. What is positive is that the accused intimidated her, brought her to a secluded place, and threw her to the ground. Even if we were to assume that she lost all recollection of (the) succeeding events until the accused had abandoned her in that secluded place, the basic facts shown, i.e., that it was the accused who led her there by force, and semen was later found on her private parts, (would) suffice to establish the existence of the rape, and the responsibility of the accused therefor."

(Decision, dated February 28, 1991, p. 26)

Indeed, a public denunciation by a Filipina, whose virtue has heretofore been unblemished, that she has been raped carries a lot of credence.[22] Absent any proof that she had ill-motive to falsely accuse a man of raping her, she deserves full faith and credit.[23]

Accused-appellant alleges that the victim's family filed the instant case because he refused to marry her. Even if this fact is conceded, accused-appellant cannot escape conviction. The prosecution had proved beyond reasonable doubt that he forced his bestial desire on the victim. The later attempts of the victim's family to compel him to marry the victim constitute nothing more than a demand for him to restore the shattered honor of Jelly. They should be viewed in light of Filipino customs and traditions still strong, especially in the province, which put premium to family name, honor and reputation and eschew public scandal.

We reject the defense of denial and alibi of accused-appellant. Alibi is a weak defense and, unless supported by clear and convincing evidence, the same cannot prevail over the positive declaration of the victim pointing to the accused-appellant as the culprit.

WHEREFORE, premises considered, the decision appealed from is **AFFIRMED** in toto. Costs against accused-appellant.

SO ORDERED.

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

- [1] Original Records, p. 23.
- [2] Order, dated July 6, 1987; Original Records, p. 81.
- [3] Ibid, pp. 14-15.
- [4] TSN, September 23, 1987, pp. 17, 23.
- [5] Marked as Exhibits "E to F."
- [6] Marked as Exhibit "G."
- [7] Luciano Reyes and Conrado Tayco.
- [8] TSN, March 21, 1990, pp. 4-7.
- [9] TSN, March 21, 1990, p. 12.
- [10] People vs. De Guzman, G.R. No. 102409-10, December 21, 1992, 216 SCRA 754, 759-760.
- [11] See Decision, dated February 28, 1991, pp. 22-23.
- [12] G.R. Nos. 100720-23, June 30, 1993, 224 SCRA 104, 119.
- [13] People vs. Arnan, G.R. No. 72608, June 30, 1993, 224 SCRA 37, 43.
- [14] TSN, February 17, 1988, p. 11.
- [15] TSN, August 4, 1987, p. 23.
- [16] TSN, November 20, 1987, pp. 5-8, 14; TSN, February 17, 1988, p. 8.
- [17] TSN, November 20, 1987, p. 8.
- [18] TSN, December 21, 1987, pp. 21-22.
- [19] TSN, February 17, 1988, pp. 8-10.
- [20] Ibid, pp. 18-19.
- [21] TSN, December 21, 1987, p. 22.
- [22] People vs. Caballes, G.R. No. 93437-45, July 12, 1991, 199 SCRA 152; People vs. Vinas, G.R. No. 91363-73, October 15, 1991, 202 SCRA 720; People vs. Pido, G.R. No. 92427, August 2, 1991, 200 SCRA 45.
- [23] People vs. Villamayor, G.R. No. 97475-76, July 18, 1991, 199 SCRA 472.

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