

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANIANO ALMENDRAL, ACCUSED-APPELLANT.

G.R. No. 100412. May 25, 1994

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

On 29 December 1983, at around seven o'clock in the evening, Cecilia Andaya, 18, was left alone in their house cooking supper when appellant Aniano Almendral, a neighbor, barged in and dragged her out 55 meters away. Pulling out a gun and poking it at her, Aniano warned Cecilia not to shout nor resist him. He then forced her to lie on the ground, removed her panties and rolled up her skirt. He took off his pants, placed himself on top of her and mounted a relentless assault on her chastity. After satisfying his lecherous urge, he hurriedly left. His unfortunate victim walked home with bloodied underwear and private parts in pain.

On 18 January 1984, after gathering enough courage and despite the threats on her life by Aniano whenever she met him on her way to school, Cecilia finally divulged her shocking experience to her mother.

Cecilia had herself examined by Dr. Emmanuel Sacramento at the Laurel Memorial Hospital, Tanauan, Batangas, accompanied by her mother, and then lodged a complaint against appellant with the 216th PC Company.

Aniano denies the charge. He alleges that from five to ten o'clock in the evening of 29 December 1983, he was with Pablo Andaya, Ponciano Biscocho and Melinda Garillo at the latter's house where he and Pablo were guitarists to Melinda who was then practicing for the amateur singing contest the following day. Aniano says he went home after the practice and that Melinda even won the first prize of P5,000.00 in the contest. Although his alibi was corroborated by Pablo and Ponciano, who happen to be his relatives, Judge Flordelis Ozaeta Navarro of the Regional Trial Court of Tanauan, Batangas, Branch 6, nevertheless convicted Aniano of rape through force, threat and intimidation with use of a gun and sentenced him to reclusion perpetua and to indemnify Cecilia in the amount of P30,000.00 in civil damages. The Judge ruled that "(t)he testimony of the accused and his corroborating witnesses x x x cannot prevail over the clear, direct and positive testimony of Cecilia x x x x (Besides) (t)here is no reason whatsoever for complainant to falsely implicate him of violating her chastity and in the process exposing herself and her family to public shame and humiliation." [1] The trial court jettisoned the testimonies of the defense witnesses noting that "all three of them could not remember any other details of the (singing) contest such as who won the other prizes, how many contestants were there or whether or not there was a male contestant x x x x" [2]

The decision of the court a quo is the subject of this appeal with appellant relying mainly on the alleged error of the court for giving credence to the evidence of the prosecution. [3] The primary contention of appellant is that Cecilia herself admitted on the stand that no crime took place, to wit:

FISCAL (direct examination):

Q What were you doing at the time?

A I was cooking rice, sir.

Q Do you remember any unusual incident that happened while you were alone in your house cooking rice?

A None, Sir.[4]

The absurdity of this argument is readily apparent considering that no prosecutor would indict, much more would a judge convict, an accused of rape which the complaining witness herself would admit did not happen. Cecilia being unfamiliar with judicial procedure seemingly failed to comprehend forthwith the essence and import of the questions propounded to her. But when asked a clearer question regarding her direct testimony she right away affirmed that she was raped. As observed by the Solicitor General, "Cecilia was thus able to clarify and narrate the whole incident after a simpler question was subsequently propounded to her by Fiscal Abacan." [5]

The question as to what unusual incident happened while she was cooking rice, which Cecilia answered in the negative, is in itself vague and refers in fact to incidents in cooking the rice. Hence, when asked what happened to her, she answered: "He (Aniano) suddenly entered our house x x x x He pulled me going out of our house x x x x (and) he told me x x x x huag akong sisigaw at ako'y kanyang papatayin." [6]

On re-cross examination, Cecilia clarified the apparent misreading of her answer -

COURT:

Q What do you mean when you said walang nangyari? Do you remember having said walang nangyari?

A No, Your Honor.

Q Now, if the Court will ask you to explain what that walang nangyari means?

A No, Your Honor.

Q Okay, I will repeat it in Tagalog, wala bang nangyari?

A Mayroon ho.[7]

Appellant also points to Cecilia's testimony on cross-examination when the victim allegedly admitted that no crime took place -

ATTY. MAIQUEZ (cross-examination):

Q Now, since you cooked rice on December 29, 1983, from the time you cooked the rice up to the time it was cooked and after it was eaten you never go (sic) anywhere else?

A No more, sir.

Q In fact you were the one who prepared the table for the afternoon meal of your family.

A Yes, sir.

Q And there was no occasion on that date and time that you . . . I withdraw that. And of course after eating supper, you as well as your brothers and parents went to sleep?

A Yes, sir.

Q And no one bothered you nor your parents in that evening up to the time, from the time you took supper as well as your parents up to the following morning? From 9:00 o'clock to the following morning?

A Yes, sir.[8]

Again, the series of questions propounded by the defense could have easily confused Cecilia. The first question did not specify whether Cecilia was cooking rice for breakfast, lunch, or supper. The second question mentioned an afternoon meal which could be a lunch after twelve o'clock noon or an early supper. The third and fourth questions referred to supper served at nine o'clock in the evening. A deceptive line of questioning cannot expect unequivocal answers. Further, as observed by the Solicitor General, it is also plausible that the question as to whether she went down was understood by her to mean the voluntary act of going down which she answered in the negative.[9] After all, she did not testify that she voluntarily went down; she was dragged out.[10]

Three circumstances are cited by appellant in support of his alibi, i.e., that the singing contest was scheduled on the 30th, instead of 31st, of December because people were preoccupied on New Year's Eve; that Melinda Garillo won first prize in the contest; and, that the contest was an annual affair of barangay Janopol Oriental, Tanauan, Batangas.[11] At most, these circumstances if true only show that the amateur singing contest took place in the evening of 30 December 1983, and this is not incompatible with the theory of the prosecution that appellant raped Cecilia the day before. Moreover, the house of Melinda Garillo where appellant supposedly was at the time of the rape was less than half a kilometer away from the house of Cecilia,[12] hence, it was not physically impossible for him to be at the alleged venue of his promiscuity. But more importantly, an alibi, like the one submitted by appellant, bows down to positive identification of the accused by the victim.

The admission by Cecilia that she did not see the gun does not necessarily negate force, threat and intimidation.[13] Since it was dark, a moonless night according to defense witness Ponciano Biscocho,[14] Cecilia only had to feel the muzzle or the contour of the gun to believe that her attacker was indeed armed with a gun. Considering this fact, coupled with the threat of appellant to kill her, Cecilia could not be expected to verify first that what she felt was really a gun and that the same was loaded. It was enough that Cecilia reasonably believed that Aniano was so armed that intimidated her into submission.

On how Cecilia could have caught a glimpse of the gun, she explained on cross-examination -

Q Then you were asked by the Court, 'Did you see the gun?'

A I was asked, sir.

Q And you gave the following answer: 'No, Your Honor, because it was dark.'

A Yes, sir. It was dark and that is the reason why I did not see the gun.

Q When you say you were not able to see the gun because it was dark are (sic) you referring inside your house, outside the house?

A Outside the house, sir.

Q So, do I get you right that inside your house there was a light at the time that Aniano allegedly grabbed you?

A When Aniano entered the house he was not holding yet his gun but while we were already outside the house that was the time he held his gun, sir.

Q Did you not state a while ago that you cannot (sic) determine ... Did you not state a while ago that you admitted and were asked by the Court the following: 'Did you see the gun.' That was the question of the Court in the stenographic notes of April 9, 1985 and you gave your answer: 'No, Your Honor, because it was dark.' Did you not admit that you gave that answer?

A I admit that but while we were already almost outside the door, that was the time when he poked his gun at me.[15]

Appellant considers improbable that the alleged threats uttered by Aniano could not have been heard by Cecilia's neighbors 3 to 8 meters away.[16] However, since appellant did not shout his threats[17] the same could not be expected to be heard by her neighbors considering the testimony of Cecilia that from her house she could not hear her nearest neighbors unless they shouted.[18] Unfortunately, in this regard not one of the neighbors of Cecilia was presented by appellant to support his defense.

With Cecilia's will smothered by the fear of being shot, there need not be proof of injuries, bruises or scratches on the victim to determine whether force or threat was exerted on her.[19] It is not also impossible for rape to be committed at the yard of the victim's house even if it is near the road where people pass and with neighboring houses only 3 meters away.[20] We ruled in *People v. Guibao*[21] -

x x x it is quite possible for an experienced man to consummate rape in just one minute, without attracting the attention of the people inside the apartment (*People vs. Mangalino*, 182 SCRA 329 [1990]). In several cases, the Court has held that rape can be committed even in places where people congregate: in parks, along the roadside, within school premises, and even inside a house where there are occupants (*People v. Viray*, 164 SCRA 135 [1988]). While the defense would feign incredulity that the crime could take place at daytime in the house of appellant which is just in front of the victim's house, it is not impossible that such brutish act of a depraved man was actually committed there. Lust, it has been repeatedly said, is no respecter of time and place.

In any case, the ocular inspection report of the clerk of court points to the field beyond the property boundary as the scene of the crime, which could not be seen from the house of Cecilia as the boundary was higher than the ground.[22] In fact, this description tallies with the Salaysay of the victim that she was raped at a looban.[23]

Appellant ridicules the testimony of Cecilia that she saw the naked Aniano run away after the rape without putting his pants on in full view of the neighbors when he could have done so in a matter of 4 to 6 seconds.[24] Appellant could be grossly mistaken, for nowhere was it shown that there were persons at the vicinity of the crime scene. Furthermore, the darkness of the night could have emboldened a naked rapist to flee the scene without being recognized and without feeling embarrassed.

As to Cecilia's admission that she saw the private organ of appellant[25] despite the darkness, she clarified this -

COURT:

Q The Court is now on the portion where you said his male organ entered your private part. Can you describe the male organ that entered your part?

A I did not see it because it was dark, your Honor.

Q So, how can you say that his private organ entered your private part?

A Because when he put himself on top of me I felt that he has (sic) no pants at the time, your Honor.[26]

The object of presenting a witness at the stand is to ascertain the truth and if in the process of questioning inaccuracy is revealed, the witness should be given a chance to clarify. After all, the goal is to draw the clearest narration from the witness. Clarificatory statements of the witness should not be discounted right away but should be subjected to scrutiny to ascertain whether the witness is sure of what he is saying, especially in this case where the witness is recalling an unpleasant ordeal which transpired over sixteen (16) months earlier, when her memory could no longer be expected to retain the minutest details. This handicap notwithstanding, the trial judge correctly accorded the testimony of Cecilia superior credibility and believed her explanation.

Finally, appellant alleges that there is "apparent" lack of interest on the part of Cecilia to prosecute the case

because "(a)fter filing her complaint, the complainant went into hiding, without the knowledge and permission of her parents, and absented herself from Janopol, Tanauan, Batangas, for 4 months,"[27] prompting the fiscal to manifest before the court that "x x x [A]fter several settings of this case the prosecution manifests to the Court that we are really at a loss because we are not able then to produce the complaining witness, victim in this case. Fortunately for the prosecution, the mother was able to locate her daughter. She is present now."[28] Appellant himself uses the word "apparent" because he was witness to Cecilia's fearless account of what had happened, in the process weathering the embarrassing, painful and rugged questioning at the witness stand, not to mention having to submit herself to medical examination. Her absence was thoroughly explained by her - she feared for her life as the accused continued threatening to kill her whenever she would meet him on her way to school.

WHEREFORE, the appealed decision finding accused ANIANO ALMENDRAL guilty of rape and sentencing him to reclusion perpetua and to indemnify CECILIA ANDAYA in the amount of P30,000.00 is AFFIRMED. Costs against accused-appellant.

SO ORDERED.

Davide, Jr. and Quiason, JJ., concur.

Cruz, (Chairman) and Kapunan, JJ., on leave.

[1] Decision, Crim. Case No. 956, pp. 2-3.

[2] Id., p. 3.

[3] The lower court erred in not giving more credence to the evidence for the accused-appellant, and in not acquitting him. (Brief for the Accused-Appellant, pars. I and II, p. 1.)

[4] Brief for the Accused-Appellant, p. 10, citing TSN, 9 April 1985, p. 15.

[5] Brief for the Appellee, p. 17.

[6] TSN, 9 April 1985, pp. 16-18.

[7] TSN, 8 December 1986, pp. 8-9.

[8] Brief for the Accused-Appellant, pp. 18-19, citing TSN, 17 March 1986, pp. 19-21.

[9] Brief for the Appellee, p. 19.

[10] See Note 6.

[11] Brief for the Accused-Appellant, p. 26.

[12] TSN, 1 March 1990, p. 6.

[13] Brief for the Accused-Appellant, p. 27, citing TSN, 9 April 1985, p. 23.

[14] TSN, 5 March 1990, p. 14.

[15] TSN, 3 July 1985, pp. 53-55, underscoring supplied.

[16] Brief for the Accused-Appellant, p. 29, citing TSN 17 March 1986, p. 25.

[17] TSN, 9 April 1985, p. 18.

[18] TSN, 17 March 1986, pp. 29-30.

- [19] Brief for the Accused-Appellant, p. 28.
- [20] Brief for the Accused-Appellant, p. 29.
- [21] G.R. No. 93517, 15 January 1993, 217 SCRA 64, 74.
- [22] RTC Record, Crim. Case No. 956, p. 59.
- [23] RTC Record, Crim. Case No. 956, p. 2.
- [24] Brief for the Accused-Appellant, p. 30.
- [25] Brief for the Accused-Appellant, p. 31, citing TSN, 9 April 1985, pp. 23, 31.
- [26] TSN, 9 April 1985, pp. 33-34.
- [27] Brief for the Accused-Appellant, pp. 31-32, citing TSN, 9 April 1985, p. 47.
- [28] Id., p. 31, citing TSN, 9 April 1985, p. 3.

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