

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANILO DIAZ, DEFENDANT-APPELLANT.

G.R. No. 100752. August 04, 1992

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

Appellant Danilo Diaz was charged with the crime of rape committed against the complainant, Dionisia Binag, in Criminal Case No. 4655 of the Regional Trial Court of Dumaguete City, Branch 33. The amended information reads as follows:

"The undersigned complainant, [Dionisia Binag] accuses DANILO DIAZ, a resident of Barangay Abante, Pamplona, Negros Oriental, of the crime of RAPE, committed as follows:

"That on the 9th day of January, 1981, at about 11:00 o'clock in the evening, inside the nipa hut of the Binag's family, at Sitio Olango, Barangay Dobdob, Valencia, Negros Oriental, and within the preliminary jurisdiction of this Honorable Court, the said accused after having been allowed by the complainant to pass the night at their nipa hut, and by means of force and intimidation with the use of a hunting knife, did then and there, willfully, feloniously, unlawfully, and criminally have carnal knowledge with the undersigned complainant and against her will.

"That with aggravating circumstances that the crime of RAPE has been committed during night time and that with an abuse of confidence whereby it has been committed in the nipa hut of the complainant after the accused has been granted to pass the night thereat.

"ACT CONTRARY TO LAW: Art. 335, Revised Penal Code.

"Valencia, Negros Oriental, March 13, 1981." (Underscoring ours; p. 36, Rollo.)

Assisted by counsel, appellant was arraigned and entered a plea of "Not Guilty" on July 31, 1984.

On March 27, 1991, after trial on the merits, the trial court rendered judgment, the dispositive portion of which reads:

"The element of rape in this case having been fully established by the prosecution to the satisfaction of the Court and finding, therefore, the accused guilty beyond reasonable doubt of the crime as charged in the complaint/information, the accused is hereby sentenced to a single indivisible penalty of reclusion perpetua, to indemnify the offended party the sum of Twenty Thousand (P20,000.00) Pesos, and Ten Thousand (P10,000.00) Pesos as moral and exemplary damages respectively.

"The bond put up by the accused for his temporary liberty is hereby ordered cancelled." (p. 50, Rollo.)

The antecedent facts are summarized in the People's brief as follows:

"Complainant Dionisia Binag knew appellant Danilo Diaz since she was a Grade I student or for more than twenty (20) years (TSN, July 31, 1984, p. 7). Appellant was Dionisia's classmate in Grade I and they were then

neighbors at Barrio Amante, Pamplona, Negros Oriental (Ibid.).

"At around 6:30 in the evening of January 9, 1981, Dionisia was in her house at Sitio Olango, Dabob, Valencia, Negros Oriental, together with her thirteen year old brother, Isaac Binag (Id., p. 9), when appellant arrived and sought permission to stay overnight at Dionisia's house since it was raining and he had a headache at the time (Id., p. 11). Appellant was allegedly on his way to a sitio, known to Dionisia only as Kaidyokan, about eight (8) kilometers away, where his family owns a farm and a house (Id., pp. 12-13). Initially, Dionisia refused to allow appellant to stay since her parents were away and she was alone with her younger brother. But eventually, she acceded to appellant's request to sleep at their house (Ibid.).

"Appellant went to sleep at the upper portion of the house while Dionisia and her brother slept downstairs, on the floor (Ibid.). Dionisia was awakened when she felt appellant touch her breast. She shouted at her brother to light up the lamp. The latter obeyed and lit the lamp above his head, about one fathom away (Id., June 3, 1985, p. 9). Dionisia then clearly saw appellant who hugged her immediately. Thereafter, appellant turned off the light, took his hunting knife and went back to Dionisia (Id., July 31, 1984, p. 16).

"After threatening to kill Dionisia and her brother if they made an outcry, appellant succeeded in having carnal knowledge with Dionisia, against the latter's will (Id., p. 7).

"After satisfying his lustful desires, appellant gave a stern warning to the victim and her brother not to report what happened to their parents or he would kill them all, and left the house (Id., p. 22). The next morning, Dionisia went to her parents at their house in Abante, Pamplona and reported the horrendous fate she suffered in the hands of appellant (Id., pp. 32-33). The matter was brought to the attention of the barangay captain in Abante, Pamplona who, claiming that he could not amicably settle the case, advised Dionisia to see a doctor for physical examination (Id., p. 34).

"On January 27, 1981, the victim was physically examined by Dr. Ernesto de Guia, Municipal Health Officer of Abante (Id., p. 16). Upon securing a medical certificate from Dr. de Guia, the victim lodged a complaint with the Philippine Constabulary at Camp Leon Kilat, Tanjay (Id., p. 37) and thereafter, with the judicial authorities (Id., p. 39)." (pp. 477, Appellee's Brief.)

On the other hand, appellant testified that the charge was trumped up; "that he and the complainant were sweethearts; that they had had sexual relations for more than twenty (20) times in the past, upon their mutual agreement and on their own free will, sometimes in the house of the complainant, sometimes in the house of the accused, and sometimes in the dancing place." He further alleged:

"that his relation with her lasted only two (2) years when his attitude towards her changed when he learned that the complainant had another sweetheart in the person of Toto Omangay so that he stopped seeing the complainant and did not have sexual intercourse with her anymore; after which she filed a complaint with the Barangay Captain of Abante, Pamplona, Negros Oriental, in the person of Miguel Manso, because she was already pregnant because of the abuse of a man (p. 32, TSN of Sept. 2, 1985); that when she went to the Barangay Captain, she did not actually report that she was raped by the accused (p. 35, TSN of Sept. 2, 1985) but was only abused (among) (p. 55, TSN of Sept. 2, 1985); that the complainant filed the complaint against the accused because the former wants the accused to marry her when she was already three (3) months pregnant (pp. 21-23, TSN of June 23, 1986); that while the complainant and the accused were still single, they were sweethearts (pp. 22-23, TSN of July 18, 1990) and used to go together during dances and the harvesting of corn." (pp. 66-67, Rollo.)

In this appeal, he contends that the trial court erred in finding him guilty of having raped the complainant, and asks the Court to acquit him.

The appeal has no merit.

A careful review of the record convinces us that the complainant had indeed been raped at the time and place and in the manner she described. As observed by the trial court, Dionisia recounted her ordeal in a straightforward and spontaneous manner. On direct examination, she testified:

"Q - What did he do to you?

"A - He raped me.

"Q - How did he place himself in relation to you when he raped you?

"A - He hugged me and pointed his hunting knife to me so that he was able to have sexual intercourse with me.

"xxx xxx xxx

"Q - If you have that pantie (sic) on, how did the accused was able to rape you?

"A - He pulled out the pantie (sic).

"Q - How many times did he pull out the pantie (sic)?

"A - Three times.

"Q - When he succeeded in taking out your pantie (sic), what happened to your pantie (sic)?

"A - It was torn.

"Q - When your pantie (sic) was torn, what did the accused do to you after he was able to take off your pantie (sic)?

"A - He rode on me.

"Q - What did he do to you?

"A - He had sexual intercourse with me.

"Q - Did he succeed in having sexual intercourse with you?

"A - Yes.

"Q - What do you mean by succeeded in having a sexual intercourse with you?

"A - He succeeded on his desire to me because he pointed his hunting knife to me.

"Q - He succeeded in having sexual intercourse with you?

"A - He was on top of me.

"Q - Did you feel anything while he was having a sexual intercourse with you?

"A - Yes.

"Q - What did you feel?

"A - Pain.

"Q - What part of your body did you feel the pain?

"A - My front.

"Q - What front?

"A - My vagina.

"Q - Why?

"A - Because he was having a sexual intercourse with me.

"Q - Can you tell the court if his penis penetrated your private part?

"A - Yes, it penetrated." (TSN, July 31, 1984, pp. 16-18.)

The medical findings of Dr. Ernesto de Guia, the municipal physician who conducted the physical examination of Dionisia, support the conclusion of the trial court that the appellant is guilty as charged. It is a cardinal rule of appellate procedure that the factual findings of the trial court which had all the opportunity to observe the demeanor of the witnesses and to weigh all the evidence presented, should be accorded great respect in the absence of a clear showing of arbitrariness and misapprehension of facts. (*People vs. Demecillo*, 186 SCRA 161.)

Appellant's allegation that he and Dionisia were lovers was denied by Dionisia and belied by her complaint. In any case, we held in *People vs. Timbang*, 189 SCRA 279 that: "x x x even if they were sweethearts, that fact would not exempt the man from criminal liability if the sexual intercourse with the woman was against the latter's will."

Defendant's other allegation that Dionisia falsely accused him of having raped her in order to compel him to marry her for she was already three months pregnant, was refuted by Dr. De Guia who testified that at the time he examined Dionisia, she was menstruating, hence, she could not have been pregnant, as alleged by the accused.

Appellant pointed out several inconsistencies in the testimonies of the prosecution witnesses, but as aptly stated by the Solicitor General:

"It has been ruled that alleged contradictory statements are not fatal where they refer to relatively minor details as these can be expected from uncoached witnesses. They do not affect nor can they prevail over the positive identification of appellant as the rapist. As repeatedly held by this Honorable Court, discrepancies and inconsistencies in the testimonies of prosecution witnesses which refer to minor details do not impair the probative value of their testimony (*People vs. Barcelona*, G.R. No. 82589, October 31, 1990, 191 SCRA 100)." (pp. 10-11, Appellee's Brief.)

Neither is it true that there was undue delay in filing the rape charge against the appellant for the records show that Dionisia lost no time in reporting the incident to her parents and later, to the barangay captain. What was delayed was the medical examination of the victim by a doctor. However, this Court has ruled that "it is not even necessary that there should be a medical examination of the victim in rape cases" because the same "is not an indispensable requisite of rape" (*People vs. Garcia*, 187 SCRA 518).

All told, the trial court did not err in finding the appellant guilty beyond reasonable doubt of the crime of rape.

WHEREFORE, the appealed judgment is hereby AFFIRMED in toto. Costs de oficio.

SO ORDERED.

Cruz, (Chairman), Medialdea, and Bellosillo, JJ., concur.

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