

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JULIONITO OBEJAS @ “JULING,” ACCUSED-APPELLANT.*G.R. No. 102336. January 27, 1994*

Ponente: CRUZ, J.

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At the time of the alleged incident, Rosalie Maat was a fourth grader going on thirteen. The appellant was thirty-seven years old. She claims that he raped her on the night of August 2, 1990. He continues to deny this charge.

Rosalie is the daughter of Sonia Maat, the appellant's common-law wife. The child lives with the couple. According to her, she and the appellant went out at about midnight of that date in order to trap birds at a place some 50 meters from their house in Barangay Magsaysay, Dulag, Leyte. (This is a common practice in their province.) Obejas was carrying a flashlight and a bolo and Rosalie was carrying a spear. At the site, after finding no birds to catch, Obejas removed his jacket and laid it on the ground. He took the spear from her. He then pulled off his pants and briefs and ordered her to undress. Pushing her to the ground, he kissed her lips and then mounted and penetrated her. He also boxed her thighs. Obejas was too strong for her and all she could do to resist was bite his mouth. She felt pain in her vagina and there was something sticky in it. When he finally released her, he threatened to kill her and her family if she complained of the attack. Dazed and weakened, she staggered home, where she cleaned herself and replaced her underwear.[1]

Rosalie said nothing about her rape to her mother because she was afraid Obejas would carry out his threat. But eight days later, on August 10, 1990, unable to contain her secret, she revealed everything to her grandmother, Liberata Gualberto.[2] Her grandmother immediately took her to the Tacloban City Medical Center, where she was examined by Dr. Azucena Mirambel. The examination revealed a partly healed hymenal laceration in the girl.[3] The grandmother thereafter reported the matter to the police and assisted Rosalie in filing the complaint against Obejas.[4]

Testifying on his behalf, Obejas denied that he had raped the girl, claiming that he was asleep with Sonia Maat at the time of the alleged rape. He also contended that Rosalie herself could not have been at the supposed scene of the crime because she was then living with her grandmother in San Jose, Tacloban City, several kilometers away.[5]

After assessing the evidence of the parties, Judge Pedro S. Espina of the Regional Trial Court of Tacloban City found Obejas guilty as charged and sentenced him to serve the penalty of reclusion perpetua and to pay the complainant civil indemnity in the amount of P50,000.00.[6]

In his brief, the appellant reiterates his defense of alibi. Alternatively, he contends that, assuming there was sexual intercourse between him and Rosalie, it was a consensual act not vitiated by force or intimidation.

The alibi must fail as it is not only inherently weak but also totally unsubstantiated. If it is true that Obejas was

sleeping with the girl's mother at the time of the rape, Sonia would have testified to this effect in his defense. She did not support him at all. As for the contention that Rosalie herself was living with her grandmother a considerable distance away, this too was not corroborated. The trial court was expected merely to rely on the appellant's word, such as it was.

The appellant's other defense must also be rejected. His claim is that Rosalie willingly took off her clothes when he was already stripped for action and that she made no outcry or resistance as they coupled. That night, by her own admission, she slept soundly. Furthermore, it took her all of eight days before she complained to her grandmother, and only because she was afraid she might get pregnant.

The Court stresses that Rosalie was only 12 years old at the time of the incident and her attacker was her own "step-father," whom she in fact called "Tatay." [7] He exerted a strong moral influence over her that by itself alone she could not withstand. More than this, he was armed with a bolo and had taken the spear she was carrying. She was totally defenseless against her attacker, except only for her teeth, which she used in biting him.

Erratic as her conduct may have been during and after the rape, it is not difficult to understand or rationalize it. The girl was only twelve years old. She was an initiate in sex, and especially brutal sex. Her assailant was her mother's own live-in partner, who was a father figure to her. Her grandmother, in whom she could have confided earlier, was kilometers away. One can understand why she did not react to her ordeal in the well-ordered manner of an adult wise in the ways of the world and possibly also of the law. In plain words, the little girl just did not know what to do.

If in the end she revealed her terrible experience, it was because she was desperate for counsel and assistance. It is clear that the charge was not motivated by any grudge or malice against Obejas, who apparently had treated her well until that night. There is no showing that Rosalie merely concocted her story. And the suggestion that the complaint was induced by the grandmother is also not acceptable. It is not believable that the grandmother would expose the innocent girl to the humiliation and stigma of a rape trial simply to discontinue the relationship between Obejas and her daughter Sonia.

The absence of spermatozoa in Rosalie's vagina is easily explained. Sperm cells have a maximum life of 72 hours [8] and her medical examination was made eight days after her assault; moreover, she wiped herself immediately after she was raped. [9] On the other hand, the laceration in her hymen is telling and irrefutable, the best physical evidence of her forcible defloration.

We are satisfied with the trial court that the appellant raped Rosalie Maat on August 2, 1990, employing not only physical force and intimidation but also his moral ascendancy over the 12-year old girl. Considering her relationship with him and her tender age, we shall agree to the increase of the usual civil indemnity of P30,000.00 to P50,000.00.

Already execrable per se, rape becomes more obnoxious when committed against a child, as in this case. Lechery is compounded by heartlessness, for the victim is a defenseless innocent who will forever be deprived of the pride of virginity when she surrenders herself to the man she loves. Somehow, that moment will be marred by bitter memories of her violation, if not as well by a tinge of suspicion of an earlier romance.

WHEREFORE, the appeal is DISMISSED and the challenged decision is AFFIRMED in toto, with costs against the appellant. It is so ordered.

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

[1] TSN, November 22, 1990, pp. 10-16.

[2] Ibid., pp. 16-17.

[3] Id., p. 4, Exhibit 1," Records, p. 7.

[4] TSN, November 22, 1990, p. 18.

[5] TSN, November 23, 1990, pp. 2-5.

[6] Decision, Rollo, pp. 10-15.

[7] TSN, November 22, 1990, p. 10.

[8] Ibid., pp. 5, 8.

[9] Id., p. 16.

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