

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RONNIE QUINONES, ACCUSED-APPELLANT.

G.R. No. 102719. June 16, 1995

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

In seeking the reversal of his conviction for the rape of Eleanor Arado, a 13-year old barrio lass, appellant Ronnie Quinones challenges the trial court's findings by raising only the question of credibility.

A second look at the evidence on hand clearly reveals the following antecedents, viz:

In the evening of September 15, 1990, Eleanor Arado was fetched by her friends Liza Tumapon and Carlita Oga in the company of accused Ronnie Quinones and Juan de Jesus at her home in Sitio Larayan, Barangay Libay, Sibutad, Zamboanga del Norte, to go to a benefit dance held at the adjoining barangay of Magsaysay which is about half a kilometer away. After securing her mother's consent, Eleanor went with her friends. At the dance, Eleanor remained a spectator, content with watching people dance. At about 12:00 o'clock midnight, Eleanor, together with the same companions, left the dance hall to go to the house of Romeo Oga, a relative. There she was left to sleep while her companions went back to the dance. Moments later, she was awakened by Ronnie Quinones. She was told that he and Juan de Jesus would take her home. She went with them. On the way, Ronnie Quinones placed his arm over her shoulders while Juan de Jesus held both her hands. Thereafter, they brought her to a bushy place where Ronnie Quinones yanked off her shorts and panty. He disrobed himself and then forcibly inserted his penis into her vagina. She felt severe pain. As she started to shout, Juan de Jesus hit her twice on the face with his fist and pushed her to the ground. She lost consciousness. When she regained her senses, she was already lying down in a bamboo grove near the road. There, Ronnie Quinones and Juan de Jesus told her not to report the attack to her mother otherwise, she and her family would be killed. When they left her, she headed for home. Her mother was surprised to see her dishevelled and injured with her two front teeth broken. Eleanor, however, did not tell her mother about the incident.[1]

Eleanor kept quiet and lay in bed with fever for two days, until she finally told her mother what had happened. They lost no time in reporting the attack to the authorities. The following day, Eleanor underwent medical and physical examination conducted by Dr. Virgilio Ramon Molina at the Rizal Memorial Hospital in Dapitan City.[2] The examination revealed the following findings: abrasion below lower lip, infected 2 cm. laceration on chin, complete fracture of upper central and lateral incisors (right) and healed laceration at 9 o'clock and 12:00 o'clock positions of the hymen; vaginal smear was negative.[3]

In due time, the corresponding indictment for rape with serious physical injuries was filed against Ronnie Quinones and Juan de Jesus before the Regional Trial Court of Dipolog City, Branch 8.[4] The indictment reads:

That, at midnight, on or about the 15th day of September, 1990, in the municipality of Sibutad, Zamboanga del Norte, within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, moved by lewd and unchaste design, did then and there wilfully,

unlawfully and feloniously by means of force and intimidation, have carnal knowledge with one ELEANOR ARADO, a maiden 13 years of age, against her will and without her consent; that in pursuance of their evil motive and to better accomplish their evil purpose the above-named accused, did then and their willfully, unlawfully and feloniously attack, assault and employed (sic) violence on the said ELEANOR ARADO, thereby inflicting upon her multiple injuries, one of which is complete fracture of upper central lateral incisors (R) which caused permanent physical deformity.

CONTRARY TO LAW (Viol. of Art. 335, Revised Penal Code, with the aggravating circumstances of nocturnity and superior strength).[5]

The evidence for the prosecution consisted of the testimonies of Eleanor herself, her mother, Rosalina Arado, her uncle, Romeo Oga and the examining physician, Dr. Virgilio Ramon Molina.

In his defense, Ronnie Quinones pleaded alibi. He testified that he was alone in going to the dance; that after the dance was over at midnight, he left the dance hall alone; that on his way home to Larayan, he overtook Juan de Jesus and, later, three women, Liza Tumapon, Carmelita Oga and Eleanor, who were walking towards Larayan; that at the time, he noticed Eleanor walking abnormally, obviously drunk; and that upon reaching the road fronting the house of Romeo Oga, he alone proceeded to the "kamalig" of one Sgt. Tolentino at Larayan to sleep and remained there until morning. He claimed that he stayed therein during the time of the commission of the rape.[6]

After considering the evidence of the parties, Judge Pacifico M. Garcia rendered judgment on July 8, 1991, the dispositive portion of which reads:

WHEREFORE, for all the foregoing observations, and finding the guilt of accused Ronnie Quinones established beyond reasonable doubt, said accused is hereby convicted of the crime of R A P E charged against him as principal by direct participation, and in the light of Article 335 of the Revised Penal Code, as amended by Rep. Act 2632 and Rep. Act. 4111, and is hereby sentence to suffer the penalty of 'RECLUSION PERPETUA' with the accessory penalties of the law, to pay the offended party Eleanor Arado the amount of P25,000.00 by way of moral damages, and to pay the costs.

With respect to accused Juan de Jesus, on grounds of reasonable doubt, (he) is hereby acquitted of the crime charged against him.

SO ORDERED.[7]

In his brief, appellant seeks the reversal of the judgment and his consequent acquittal from the charge of rape and claims that complainant Eleanor Arado's testimony is incredible and is marred by grave inconsistencies and contradictions.

We find no merit in the contention. The Court is convinced that the act complained of was indeed committed, as testified to by the complainant and confirmed by the trial court. The testimony of the complainant is corroborated by other witnesses and medical findings. There is nothing improbable nor inconsistent in it. Complainant may have contradicted herself at some points, but these contradictions are slight and trivial as they refer only to minor matters which cannot negate her credibility. These flaws, if flaws we consider them to be, would only stress the credibility of complainant's unrehearsed and imperfect testimony, not impair its essential veracity and consistency.

Let us consider the points raised by appellant.

Eleanor allegedly testified at first that it was Romeo Oga who himself opened the door when she and company

arrived at Oga's house, but later on Eleanor corrected herself by saying that Romeo Oga was not at home when Eleanor arrived. Clearly, appellant quibbles on a very insignificant and minor detail that does not affect Eleanor's credibility.

Appellant next alleges the improbability of Juan de Jesus having smashed Eleanor's face with fistic blows while he (appellant) was having sexual intercourse with her.

Eleanor gave the reason why Juan de Jesus struck her. She resisted appellant's advances and started to shout for help. To silence her, Juan de Jesus boxed her twice on the face with such violence that it broke two of her teeth. Yet, appellant still has effrontery to suggest that Juan de Jesus could not have struck her with fistic flows because the only injury she suffered was the one in her lower lip and two fractured teeth.

Again, appellant makes capital of a supposed ambiguity of the testimony of Eleanor as to when she regained consciousness after she was struck by Juan de Jesus, whether at the bamboo grove after she was left by her attackers following the rape, or when she arrived at her house. The truth of the matter is that Eleanor actually regained consciousness when she was at the bamboo grove. However, she was still in a severe state of shock when she arrived home after regaining consciousness that she could not remember how she got there. To say therefore that Eleanor was inconsistent in her testimony betrays a paucity of appellant's argument.

Considering the inbred modesty and antipathy of a young and decent Filipina in airing in public things that affect her honor, it is inconceivable that complainant would assume and admit the ignominy she had undergone if it were not true.[8] Besides, no ill-motive was shown or even intimated why complainant should falsely testify against appellant Ronnie Quinones, other than a desire to tell the truth and seek redress for the dastardly act done to her.

Appellant likewise places premium on the fact that the vaginal smear yielded negative results. The absence of spermatozoa does not negate nor disprove the consummation of rape.[9] Proof of presence of spermatozoa is not a prerequisite for conviction of rape, the important consideration being the penetration of the pudenda by the male organ, no matter how slight, and not the emission of seminal fluid.[10] Moreover, appellant's contention is belied by the medical findings which revealed that complainant's sexual organ bore a healed laceration on the hymen at 9 o'clock and 12 o'clock positions.[11]

Appellant further insists that complainant Eleanor Arado's credibility is suspect because she belatedly told her mother of the rape.

The Court is not persuaded by this contention. Private complainant was just a young girl of thirteen years when the sexual defilement took place and her innocence forcibly taken away. Her failure to tell her mother promptly of the sexual assault upon her did not, by itself, diminish her credibility as it is not uncommon for young girls to conceal for sometime assaults on their virtue not only because of shame but largely because of the rapist's threat on their lives,[12] as appellant had so threatened Eleanor in the case at bench. Besides, the lapse of two days from the time the rape was committed cannot be considered an unreasonable delay as to render the complainant's testimony doubtful and the prosecution's case fatally flawed.

Moreover, this Court has time and again stated that "different people react differently to a given situation or type of situation, and there is no standard form of behavioral response where one is confronted with a strange or startling or frightful experience." [13] The silence of Eleanor and her failure to disclose the rape to her mother until two days later do not necessarily mean that she was not sexually assaulted and that the charges against the appellant are baseless, untrue and fabricated. As held in *People v. Ibay*, [14] later reiterated in *People v. Soan*, [15] the reaction of a young girl in a case of rape cannot be equated with that of mature woman, thus:

xxx. Behavioral psychology teaches us that different people react to similar situations dissimilarly. Most women would resist a sexual assault with a wild struggle. Others become virtually catatonic because of the mental shock they experience. Yet, it can never be successfully argued that the latter are any less sexual victims than the former. As we held in an earlier case:

xxx. The fact that there was no struggle or outcry from the offended party is immaterial in the rape of a child below twelve years of age. There could still be a conviction despite the absence of force and intimidation because the law presumes that the victim, on account of her tender age, does not and cannot have a will of her own.

xxx. It is not unlikely that a girl of such tender age would be intimidated into silence by the mildest threat against her life. A young girl, unlike a mature woman, cannot be expected to have the courage and intelligence to immediately report a sexual assault committed against her especially when a death threat hangs over her head. To her simple, unsophisticated mind, appellant's threat was not an idle one xxx.[16] (Underscoring ours)

The appellant's defense of alibi cannot prevail over his positive identification not only by the victim herself but by prosecution witness Romeo Oga who categorically testified that after Eleanor had rested in his house, appellant and Juan de Jesus came back and asked to bring Eleanor home to Larayan. Oga said he did not object because he knew appellant and de Jesus, apart from the fact that the two hailed from the same barrio Larayan as Eleanor. It was at the uninhabited and desolate road towards Larayan where Eleanor was violated. Now, appellant's insinuation that Eleanor was then drunk finds no corroboration, aside from being irrelevant. If the purpose is to create the idea that she voluntarily submitted herself to his animal desires because of her condition, he is wrong. Her being inebriated, if true, can also mean that he took advantage of her situation, thinking that in her condition she would not be able to make a strong resistance to his advances.

Finally, we find no reason to depart from the established rule that findings of fact of trial courts, particularly with respect to the credibility of witnesses who personally appeared and testified before them, must be respected on appeal. However, in view of the crime committed against the innocent 13-year old lass, the damages awarded are hereby increased to P40,000.00.

WHEREFORE, premises considered, the decision appealed from is hereby **AFFIRMED** save only with respect to the award of damages which is increased from P25,000.00 to P40,000.00.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., and Bellosillo, JJ., concur.
Quiason, J., on leave.

[1] TSN, March 17, 1991, pp. 5-13.

[2] Ibid.

[3] Exhibit "C"; Original Records, p. 141.

[4] Original Records, pp. 1-2.

[5] Ibid.

[6] TSN, May 15, 1991, pp. 9, 11.

[7] Decision, p. 18; Original Records, p. 227.

[8] *People v. Codilla*, 224 SCRA 104 [1993].

[9] *People v. Empleo*, 226 SCRA 454 [1993]; *People v. Fortez*, 223 SCRA 619 [1993]; *People v. Abiera*, 222 SCRA 378 [1993].

[10] *People v. Soan*; G.R. No. 112087, April 21, 1995; *People v. Bondoy*, 222 SCRA 216 [1993]; *People v. Tabago* 167 SCRA 65 [1988].

[11] See Note 3, *supra*.

[12] *People v. Montefalcon*, G.R. No. 111944-47, April 21, 1995; *People v. Abordo*, 224 SCRA 725 [1993].

[13] *People v. Raptus*, 198 SCRA 425 [1991]; *People v. Ronquillo*, 184 SCRA 236 [1990].

[14] 233 SCRA 15 [1994].

[15] See Note 10, *People v. Soan*, *supra*.

[16] *Id.*, at 25.

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