

## **PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VICTORIANO PAPA TALABOC ALIAS VICTOR, ACCUSED-APPELLANT.**

*G.R. No. 103290. April 23, 1996*

Ponente: KAPUNAN, J.

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### **KAPUNAN, J.:**

This is an appeal from the decision of the Regional Trial Court, 8th Judicial Region, Branch 26, San Juan, Southern Leyte in Criminal Case No. 969 convicting accused-appellant Victoriano Papa Talaboc alias "Victor" of the crime of Rape and sentencing him to suffer the penalty of reclusion perpetua and to indemnify the offended party Indera Cuares in the sum of P30,000.00.[1]

As the result of the filing of a sworn complaint by Indera Cuares,[2] the following information was filed against appellant:

That on or about the 11th day of December, 1989 at around 3:00 o'clock in the afternoon, at Barangay Gud-an, Liloan, Southern Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by means of deceit, force and intimidation and taking advantage of the confidence afforded by the offended party to him as a therapist, did then and there advise the offended party to get inside the room of the house where he was conducting his therapy healing and while they were inside the room, willfully, unlawfully and feloniously removed the panty of the offended party, Indera Cuares, and had sexual intercourse with her against her will, thereby resulting to the loss of her virginity, to the damage and prejudice of the said victim and her family.[3]

Upon arraignment on May 3, 1990, appellant pleaded not guilty.[4] Trial ensued, resulting in the conviction of appellant.

The trial court gave credence to the testimony of the offended party Indera Cuares, summarized in the decision, thus:

Indera Cuares, the offended party in this case is a 17 year-old high school student of Barangay San Isidro, Liloan, Southern Leyte and the daughter of Amancio Cuares, Sr., in whose house accused Victoriano Papa Talaboc alias "Victor" and the latter's common-law wife and one-year old son were likewise living. It appears that sometime on December 7, 1989, said accused together with his family were allegedly passing by the port town of Liloan, Southern Leyte on a travel from Mati, Davao and Dadiangas, Cotabato. It was the contention of the abovenamed accused that he was merely passing by Liloan to visit the burial ground of his mother at the municipal cemetery of Liloan. How Talaboc came to live with the Cuareses is rather a long story. But as gathered from the sketchy testimony of Talaboc when he arrived at Liloan on December 7, 1989, he searched for Amancio Cuares. It turns out, however, that Victoriano Talaboc is the son of Tranquilino Talaboc who was a friend of Amancio and who belonged to the same denomination known as the Worldwide Church of God similar to the Seventh Day Adventist as they go to church also on Saturdays. At any rate, the accused was able to ingratiate himself into the good graces of Amancio who upon knowing the accused was possessed of some healing powers readily welcomed him into his house. He found in the accused the long sought cure to his arthritis which he and his wife have been suffering through the years without ever finding any relief from

modern medicine. What is more, accused promised Amancio that his sojourn with the Cuares' family at San Isidro, Liloan, Southern Leyte will be short as the accused assured Amancio that their final destination was Manila and that they were only making a stopover at San Isidro to visit the grave of the accused' mother. Because of the representation of the accused that he can cure the ailments of Amancio and his wife, they immediately submitted to the healing ministrations of the accused Talaboc which in the main consist of a so-called water therapy and massaging of the patient's affected body parts.

Notwithstanding the fact that Amancio Cuares and his wife did not feel any relief from the healing powers of the accused they continued to hope that somehow they will [be] rid of the pains attendant to arthritis. Having been taken by the avowal of the healing powers of the accused, Amancio and his wife talked Indera Cuares, their daughter, into learning the arts of the healing powers of the accused by accompanying the accused in the course of his travels to administer his extraordinary healing powers not only in the barrio of San Isidro but also in the neighboring barrio of Gud-an as the words (sic) spread far and wide about the miraculous cure of the accused. Having been "treated" by the accused, Amancio lost no time in requesting the accused to administer his faith healing powers on the relatives of Amancio in Barangay Gud-an. Like a good son, accused dutifully left for Barangay Gud-an at about 3:00 o'clock in the afternoon of December 11, 1989. Happily lending his motorcycle to the accused, the latter left accompanied by the offended party who rode astride the motorcycle at the back of the accused. According to Indera, when the idea of acting as an "assistant" of the accused was first broached to her by her parents upon the promptings of the accused, she did not consent because she had no interest at all or knowledge about physical therapy or water therapy which the accused used in treating people. However, because of the insistence of her parents, she finally gave in. It was under these circumstances, that she left with the accused on that afternoon of December 11, 1989 for Barangay Gud-an where they proceeded to the house of Vilma Abarca who was then the barangay captain. The Abarcas of Gud-an were the relatives of the Cuareses of San Isidro as the mother of Vilma Abarca is the sister of Amancio Cuares. Waiting for the accused at the house of Vilma Abarca were his "patients."

After attending to his last patient at the house of Vilma, Vilma Abarca, Annie Adlawan and the other patients left the house. There being no more patients to attend to, accused Talaboc told the victim to go inside the room where a few minutes earlier they had been examining his "patients" as he wanted to lecture on her about faith healing. When the victim was already inside the room, the accused immediately locked the door and embraced the victim by placing his arms around her shoulders and kissing her on the lips. According to Indera Cuares, she struggled in vain to free herself from the grasp of the accused by pushing him with her hands placed against his breast. As she did so, she kept on asking the accused why he was doing it to her to which query, the accused answered that she was only tricked by him. Upon hearing this statement, Indera testified that she slapped the accused four (4) times. This enraged the accused who reacted by pulling out a knife from his waist and pointed the same at the neck of Indera and at the same time telling her not to shout or make any noise. Accused later forced her to lie on the bed. As soon as Indera fell on the bed faced (sic) up, accused immediately unzipped the fly (sic) of his trousers and pushed down his underwear downward (sic). Immediately thereafter, accused placed himself On top of the victim while still holding the knife pointed to the victim's neck. The offended party declared that despite her struggle, the accused was able to place his penis inside the vagina and made some push and pull movement with his penis. According to Indera, she felt severe pain when accused penetrated her. The sexual assault on Indera lasted for five minutes during which time Indera cried. After satisfying his bestial lust on the victim, accused laughed and warned her not to tell anyone, otherwise, he will worsen the ailment of her parents.

At the time she was raped, the victim was wearing a skirt (sayal). The parents of Vilma Abarca were left behind when she (Vilma Abarca) and her companions left the house.

On cross-examination, offended party, Indera Cuares maintains that after accused pointed the knife against her neck, he pulled her towards the bed and pushed her on top of the same and when she fell down faced (Sic) upward, accused pulled forcibly her panty away from her body with his left hand while holding the knife with

his right hand. Elsewhere in her testimony, Indera declared that accused merely pulled her panty up to her knees and that the accused did not completely removed (sic) his trousers and underwear when he raped her. After he had consummated and satisfied his lust upon Indera, the accused instructed the victim to go out of the room ahead of him. While the victim was resting out in the sala of Vilma Abarca's house, the accused went out of the room fifteen minutes after. After resting a while longer, both the accused and the victim went home riding on the motorcycle.

Records show that it took the victim sixteen (16) days when she finally divulged to her parents what happened. The victim's admission of rape committed against her by the accused was prompted by the persistent questions of her brothers who became suspicious because she had been losing so much weight in so short a time. On account of their insistence and on the assurance of her brothers that they can protect her from the accused, she finally confessed the truth to her parents. It appears that the victim was not only the victim of the sexual assault of the accused. Other so-called patients "were likewise sexually violated by the accused in the course of his pseudo faith healing activities and had filed the corresponding charges against him in court." [5]

On December 29, 1989, Indera was examined by Dra. Isabelita B. Mato, who found:

OLD HYMENAL LACERATION SUPERIOR AND  
INFERIOR PORTION  
Discharges: whitish mucoid  
SPERM CELL ANALYSIS: NEGATIVE [6]

In court, Dra. Mato testified that the absence of sperm cells was due to the lapse of eighteen days following the alleged rape on December 11, 1989. She explained that traces of seminal fluid disappear about 72 hours after sexual contact. [7]

Appellant assigns two errors to the trial court:

THE TRIAL COURT ERRED IN NOT ACQUITTING ACCUSED-APPELLANT VICTORIANO PAPA TALABOC WHEN THE EVIDENCE ADDUCED BY THE PROSECUTION FAILED TO OVERCOME THE PRESUMPTION OF INNOCENCE MANDATED BY THE CONSTITUTION BY CLEAR AND CONVINCING EVIDENCE ESTABLISHING HIS GUILT BEYOND REASONABLE DOUBT.

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE TESTIMONY OF COMPLAINANT INDERA CUARES WHICH IS HIGHLY INCREDIBLE AND UNNATURAL. [8]

Appellant posits that he and Indera were lovers. [9] His arguments supporting this assertion may be summarized as follows:

- 1) It is incredible that the rape be committed in a room adjacent to the sala where the Abarca clan was present. The commotion from Indera's struggling would have been heard by those persons who were just outside the room. [10]
- 2) There was no resistance to the sexual intercourse. Appellant could not have consummated the act with his right hand holding a knife pointed at Indera's neck and while continuously kissing Indera "lips to lips" unless there was no resistance from her. [11]
- 3) There was no intimidation from appellant. In Indera's testimony, she admitted that she was not afraid of the knife but what she feared was the harm that appellant could supernaturally inflict on her parents. Such fear is belied though by Indera's testimony that she did not believe appellant had supernatural powers. [12]
- 4) Indera's composure after the incident is inconsistent with the rape. She felt no "anger, or panic, or strong emotion," appeared "too casual, too nonchalant," and "did not show any sign of having had a traumatic

experience." Indera even managed to rest at the sala with the appellant after the incident and to ride home on the motorcycle with appellant.[13]

5) Indera's delay of sixteen days in reporting the rape is indicative of the untruthfulness of her accusations.[14]

The rule is that this Court accords the highest respect for the findings of the trial court on the issue of the credibility of witnesses because the trial court is in a better position to decide the question, having heard the witnesses testify and observed their demeanor and deportment while testifying, absent any showing that the trial court overlooked, misunderstood, or misapplied some facts or circumstances of weight and substance which would have affected the result of the case.[15]

In the instant case, we are persuaded to apply the rule considering this observation of the trial court, thus:

This resolution would not be complete without mentioning the demeanor of the accused while he was testifying for himself on the witness stand. Despite the fact that he was practically immersed in a mire of inconsistencies and improbabilities which he was not apparently aware of, the court cannot but observed (sic) that accused was enjoying himself on the witness stand. Mirrored on his face while testifying is that devilish smirk on his face for all the world to see. He never showed any traces of remorse for the evil tragedies he had cast upon Indera Cuares and the other victims from the two small but peaceful barrios of Liloan.[16]

Vis-a-vis appellant's demeanor in court, Indera's mien merited the trial court's faith in her testimony. The trial court even commended Indera on her fortitude, thus:

Upon the other hand, the court must perforce cite herein the tremendous and admirable courage and will power of 17-year old Indera Cuares in exposing herself to the shame and indignity of a public trial in her noble quest for justice; a public examination of the violation of her womanhood. There were times in the course of her public agony when she faltered and cried, but that was more her triumph rather than her tribulations; her glory rather than her defeat.[17]

We shall consider appellant's arguments in seriatim.

We do not find merit in appellant's contention that there could be no rape in the room where just outside people were present. "Lust is no respecter of time and place"[18] and rape can be and has been committed in even the unlikeliest of places. Venues of rape have been inside a house where there were other occupants;[19] in a room adjacent to where the victim's family were sleeping;[20] or even in a room which the victim shared with the accused's sisters.[21] There is no rule that rape can be committed only in seclusion.

It is not at all improbable that no loud and disturbing sound was heard coming from the room where Indera was raped. Indera testified that the room was closed and locked, and that at the time of the rape, the stereo in the other room was playing.[22] While Indera admitted that had she shouted, she would have been heard over the stereo music, she likewise testified that appellant had pointed a knife to her neck and told her not to make a sound or to scream,[23] and so she kept silent.

Appellant next insists that there was no resistance to the sexual intercourse on the part of Indera, indicating voluntariness to the congress.

Indera narrated in court that when appellant tried to embrace her, she tried to push him away, and had slapped him four times. When appellant kissed her, she bit his lip. It was then that appellant drew his knife and pointed it at Indera's neck.[24] The knife at her neck coupled with threat of injury to her parents, rendered through a curse,[25] was enough to subdue Indera and allow appellant to pursue and consummate the rape. At this point, Indera's failure to shout or offer tenacious resistance cannot be construed as voluntary submission to appellant's desires.[26]

Indeed, the law does not impose upon a rape victim the burden of proving resistance.[27] Physical resistance need not be established in rape when intimidation is exercised upon the victim and she submits herself against her will to the rapist's lust because of fear for life and personal safety.[28]

Appellant also contends that there was no intimidation upon Indera, citing the following testimony of the victim:

ATTY. DE LOS REYES:

Q.

Now, let's go straight. Do we understand from you that you were afraid of the knife that was pointed to you or you were afraid of the power that you believed possessed by the accused?

A.

I was not afraid of the knife that time. What made me afraid was that he threatened to inflict harm to my parents.[29]

Appellant states that not only was Indera not afraid of the knife, she also did not believe appellant had supernatural powers, and so could not be intimidated by threats of harm to her parents.

We cannot agree with appellant, and defer to the following ratiocination of the trial court on this point:

Defense, likewise, advanced the theory that there was absence of intimidation because the victim admitted that she was not afraid of the knife pointed at the neck. The Court entertains some misgivings whether the victim meant what she declared. Even hardened criminals wise in the ways of street fighting become immobile and submissive whenever a sharp knife is pointed on (sic) their necks.

The submission that the victim could not have been intimidated when accused threatened Indera that he will make the ailments of her parents worse if she will make a sound to attract the attention of the people outside the room as she was being raped has no leg to stand on. The factual setting of this case clearly demonstrate that the Cuarezes and the Abarcas were completely convinced by the supernatural powers of the accused. Considering the naive and willing predisposition of barrio folks to supernatural phenomenon, it is logical to assume that Indera was no less convinced by the accused's powers. For one thing, she would not have gone around with the accused in his healing mission. For another, the victim only realized the falsity of Talaboc's supernatural pretension after she was raped, for it was not difficult for her to put two and two together, so to speak, and come to the conclusion that Talaboc's so-called power is nothing but a sham.[30]

Intimidation is a relative term, depending on the age, size and strength of the parties, and their relationship with each other.[31] Indera at the time of the rape was a 17 year-old high school student from a barrio, inexperienced in worldly ways, who was conscripted into being appellant's apprentice. Appellant, then 41 years old, professed to possess supernatural powers.

Needless to say, appellant held Indera, in whose household he lived, under his sway. He had made Indera believe that in his omnipotence, he had the power to heal all earthly ills as well as to cast a curse for her and her family's damnation. Indera testified thus:

Q.

During his healing, did you believe that he has (had) the power to heal ailments?

A.

Yes, sir.

Q.

Because he told you that he could cure?

A.

Yes, sir, he even told me that his tongue may get rotten if he could not heal his patients.[32]

xxx

COURT:

xxx

(To the witness)

While he was holding the knife, what did the accused do next?

A.

He told me not to shout, otherwise, he would curse my parents and me.

COURT:

Curse your parents and you believed him?

A.

Yes, sir because he told me so.

COURT:

What will happen to you and your parents if he will curse you?

A.

That we may die especially that we are living in the same house.[33]

Appellant next asserts that Indera's composure after the incident is inconsistent with that of a rape victim.

The Court has oft repeated that "different people react differently to a given situation or type of situation, and there is no standard form of behavioral response when one is confronted with a strange or startling or frightful experience." [34] In the instant case, it could not have been nonchalance that Indera displayed immediately after the incident, but shock at the fate that befell, and shame at the affront on her womanhood.

Nor does Indera's delay in reporting the crime impair her credibility. Delay in reporting rape does not undermine the charge where the delay is grounded on appellant's death threats.[35] During the days after the incident, appellant kept a constant watch over Indera and would warn Indera not to talk to her parents.[36]

Indera explained her hesitation in reporting the incident, thus:

COURT:

Why did you not report the incident to your parents or to the police immediately after the incident?

A.

Because he threatened us that he would kill us, all of us especially the life of my parents are in his hands because he treated them of their ailments. That if ever I would reveal the secret, he would use his power to make the ailments of my parents serious and that they would eventually die.[37]

Imagine the gravity of Indera's fear that she would keep to herself the ordeal she suffered at the hands of appellant. Her emotional turmoil even manifested itself in her physical well-being, such that she grew thin. Only when her brothers were gathered in the house, upon their persistent asking why she was getting thinner and upon their reassurance that they would protect her from harm, did she find the courage to reveal the rape.

Appellant asserts that he and Indera were lovers, and that Indera's family merely fabricated the rape charge because they disapproved of his relationship with Indera. The family, according to appellant, disliked him because he was a member of a satanic organization, a hypnotist, a charmer, a cult practitioner, or because he had long hair.[38]

We find appellant's assertions not credible. Indera has no motive to testify against appellant except to vindicate the rape.[39] Furthermore, it is highly improbable that a rape victim and her family would publicly disclose the incident and thus sully their honor and reputation in the community unless the charge is true.[40]

In sum, we find that appellant's guilt has been proven beyond reasonable doubt.

WHEREFORE, in view of the foregoing, the appealed decision of the Regional Trial Court in Criminal Case No. 969 convicting Victoriano Papa Talaboc is affirmed with the modification that the indemnity to the offended party Indera Cuares is increased to P50,000.00 in line with recent jurisprudence.

SO ORDERED.

Padilla, Vitug, and Hermosisima, Jr., JJ., concur.

Bellosillo, J., took no part.

[1] Original Record, p. 201.

[2] Id., at 2.

[3] Id., at 20.

[4] Id., at 27.

[5] See note 1, supra., pp. 190-193.

[6] Medical Certificate, Bill of Exhibits, p. 1.

[7] TSN, July 12, 1990, pp. 13-14.

[8] Rollo, p. 36; Appellant's Brief, p. 1.

[9] Id., at 48; Id., at 13.

[10] Id., at 45; Id., at 10.

[11] Ibid.

[12] Id., at 46; Id., at 11. Reference is made to TSN, June 22, pp. 14-15 and 33-34.

[13] Id., at 49; Id., at 12.

[14] Id., at 48; Id., at 13.

[15] People v. Padilla, 242 SCRA 629 (1995); People v. Matrimonio, 215 SCRA 631 (1992).

[16] See note 1, supra, pp. 200-201.

[17] Id., at 201.

[18] *People v. Codilla*, 224 SCRA 104 (1993).

[19] *People v. Guibao*, 217 SCRA 64 (1993); *People v. Dabon*, 216 SCRA 656 (1992); *People v. De los Reyes*, 203 SCRA 707 (1991). *People v. Viray*, 164 SCRA 135 (1988).

[20] *People v. Codilla*, *supra*.

[21] *People v. Villorente*, 210 SCRA 647 (1992).

[22] TSN, June 22, 1990, p. 24.

[23] *Id.*, at 23.

[24] *Id.*, at 20-21.

[25] *Id.*, at 25.

[26] See *People v. Diipalo*, 230 SCRA 62 (1994); *People v. Grefiel*, 215 SCRA 596(1992).

[27] *People v. Dusohan*, 227 SCRA 87 (1993).

[28] *People v. Ramos*, 245 SCRA 405 (1995); *People v. Angeles*, 222 SCRA 451 (1993).

[29] See note 21, *supra*, pp. 33-34.

[30] See note 1, *supra*, p. 197.

[31] *People v. Magpayo*, 226 SCRA 13 (1993); *People v. Alvarez*, 213 SCRA 722 (1992); *People v. Natan*, 193 SCRA 355 (1991).

[32] See note 21, *supra*, p. 14.

[33] *Id.*, at 25.

[34] *People v. Quinones*, 245 SCRA 87 (1995); *People v. Ching*, G.R. No. 103800, January 19, 1995; *People v. Raptus*, 198 SCRA 425 (1991).

[35] *People v. Ramos*, *supra*; *People v. Dio*, 226 SCRA 176 (1993).

[36] See note 21, *supra*, p. 35.

[37] *Id.*, at 32.

[38] TSN, July 26, 1990, pp. 43-44.

[39] *People v. Ocampo*, 206 SCRA 223 (1992); *People v. Fernandez*, 206 SCRA 414 (1992); *People v. Borja*, 191 SCRA 120(1990).

[40] *People v. Namayan*, 246 SCRA 646 (1995).

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