

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AUGUSTO CHING, ACCUSED-APPELLANT.*G.R. No. 103800. January 19, 1995*

Ponente: REGALADO, J.

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Rape per se is a loathsome crime; it is specially revolting when committed against a young and innocent barrio lass who had not even reached her pubertal stage. Before she could be initiated into the normal process of growing up, she was already subjected to the bestial desires of a lecher who disregarded the voice of his conscience and hearkened instead to the call of his animal instincts.

Thus it was that on April 6, 1990, an information for rape, [1] based upon a sworn written complaint of the victim, was filed against accused-appellant Augusto Ching for having carnal knowledge of one Maria Theresa Decolongon, with force and violence and against the latter's will, on the evening of December 14, 1989 in Barangay Debangon, Taytay, Palawan. The additionally lamentable and repulsive fact is that the complainant was then only ten years old.

Thereafter, on June 11, 1990, appellant was duly arraigned and entered a plea of not guilty. [2] Trial commenced on July 25, 1990 [3] and ended on October 31 [4] of the same year. On April 2, 1991, judgment [5] was rendered finding appellant guilty beyond reasonable doubt of the crime of rape, sentencing him to serve the penalty of reclusion perpetua, with the accessory penalties of civil interdiction and perpetual absolute disqualification, ordering him to pay the offended party P40,000.00 as moral damages, and to pay the costs.

In a bid to overturn the decision of the lower court, appellant now submits that said court committed grave abuse of discretion (properly, errors of judgment) when it (1) relied on the uncorroborated testimony of the private complainant on the fact of sexual intercourse, when said testimony is incredible and inconsistent; (2) found the evidence for the defense weak on the mistaken assumption that the same relies on alibi when, in truth, it relies on positive evidence of the non-occurrence of the alleged crime; and (3) disregarded the constitutional right of the accused to be presumed innocent until proven guilty beyond reasonable doubt. [6]

The People's version of the antecedents of the case at bar was substantially anchored on the testimony of the alleged rape victim herself, Maria Teresa Decolongon,* (hereinafter referred as Maria for brevity) who claimed that at around midnight of December 14, 1989, she was sleeping inside their house in Barangay Debangon, Taytay, Palawan with her nine-year old brother, Rustom. There were no other persons in the house because her parents had gone to Liminangcong to earn a living, bringing with them her other younger siblings. All of a sudden, she was awakened when somebody, later identified as herein appellant, covered her nose and mouth. She struggled but she was slapped on her left cheek, which made her lose her senses. When she regained consciousness, appellant was already on top of her, his short pants lowered to his knees and his organ inserted in hers. While appellant was satisfying his lust, he was holding her two hands.

After she was deflowered, appellant proceeded to the side of the door and made an opening on the "sawali" wall

for his egress. Just then, her neighbor, Teofisto Labarosa, called her name and inquired as to who the intruder was, to which she replied, "Kuya Dodoy (referring to appellant) did me something wrong, he raped me." Labarosa, though, did nothing and left. [7] Thereafter, she stood up and saw stains of blood on her panty. As she felt her stomach aching, she lay down and, when the bleeding of her organ stopped, she changed her underwear. [8]

An hour later, at about 1:00 o'clock in the morning, her parents arrived at the shore line. However, only her father went inside the house while her mother was left at the banca ashore. Her father informed her that her mother had seriously broken her arm and had to be brought to the hospital immediately. He thereupon entrusted to her care her four other younger brothers and sisters, and then left the house. Her father was so much in a hurry and so agitated that he did not even eat anything, but he just gave her provisions for food and other necessities which would suffice for a month. Hence, she failed to muster enough courage nor did she have the opportunity to tell him about the misfortune that had befallen her. [9]

The next day, she went to her "Auntie Inday," her father's cousin, and told her about the incident. [10] The latter advised her not to inform her father as the latter might do something against the law. [11] A month later, she went to Taytay where her parents were temporarily staying and there, she was eventually able to tell her mother, Emily, in her father's presence, what had happened to her. [12]

Emily, for her part, testified that at 8:00 o'clock in the evening of December 14, 1989, she fractured her right arm while they were crossing the island of Darakutong, and so she and her husband went posthaste to Taytay where her husband left their other children under the care of Maria. They hurriedly proceeded to the Taytay District Hospital for her treatment and stayed there for four days. Thereafter, they went to the house of Mayor Perla Fariñas at Taytay and remained there while waiting for her full recovery.

On January 12, 1990, all her children arrived from Barangay Debanagan and she noticed that Maria was pale and acted unnaturally. When she asked her what was wrong, the latter blurted out, "Ma, if you died, nobody would be able to know what happened to me," and then recounted how she was raped. Her mother slapped her, not believing her at first, but when she became more emphatic, her mother was convinced that she was indeed telling the truth. The next day, they went to Judge Palomar of the Municipal Trial Court of Taytay, Palawan for advice and they were told to go to the police. Thinking that it would be better to first be armed with evidence, her mother brought her to the Taytay District Hospital for medico-legal examination. [13]

Dr. Ofelia O. Reyes, a physician at the said hospital, examined Maria on January 13, 1990. Based on her findings, Maria did not have any abrasion nor hematoma, but had sustained a hymenal laceration at 2:00 o'clock and 10:00 o'clock position, probably caused by sexual intercourse, and which laceration was already healed. She likewise observed that it could have been only the tip of the male organ which entered Maria's private part, otherwise there would have been a much bigger laceration. [14]

On the other hand, appellant tendered an expectedly different version. He claimed that on the day in question, he was playing mahjong in his house with his friends Isoy, Marcie Dayson and Nardo Lagaheno from nine in the evening till about a quarter of an hour before midnight. They had an agreement that whoever would win in the game must provide drinks for the group, and he volunteered to take charge of their "pulutan," or snacks taken with hard drinks. It was later agreed that they would go to a dance near the church. The group then proceeded on its way, while he was left behind.

He went to the house of Teofisto Labarosa, intending to steal one of the latter's roosters to serve as their "pulutan." On his way to Labarosa's house, he passed through the gate of Maria's house, since the two have a common fence. His plan to steal a rooster was, however, frustrated when he sensed that Labarosa had awakened. He then hid behind the house and overheard Labarosa asking Maria as to who entered their house and the latter answered that

it was he (appellant), inviting her brother to attend the "misa de gallo," or dawn mass. When Labarosa left, appellant proceeded to the dance and stayed there until 2:30 A.M., after which he and his friends continued drinking until 4:30 A.M. He then went home to sleep and woke up at noon the next day to take his lunch. [15]

He further claimed having met Maria several times after the alleged rape took place and her attitude towards him remained normal. He further submitted that Maria was just forced by her parents to testify against him since, in their barrio, he was rumored to be having an illicit affair with Maria's mother and, to get even with him, her family pressed the instant charges against him. To support his theory, he claimed that once he personally saw Maria being maltreated by her father. [16]

After a thorough assessment of the proven facts and a conscientious evaluation of the recorded evidence, we arrive at the reasoned conclusion that appellant committed the crime with which he is presently charged. We have consistently held that in crimes of rape, conviction or acquittal virtually depends entirely on the credibility of the victim's testimony because of the fact that usually only the participants can testify to its occurrence. [17] The lone testimony of the victim in a prosecution for rape, if credible, is sufficient to sustain a verdict of conviction. [18] Also, it is well-settled that the findings of the trial court on the credibility of witnesses are entitled to great weight on appeal as it is in a better position to decide the question of credibility, having seen and heard the witnesses themselves and observed their behavior and manner of testifying. [19] In the instant case, the trial court justifiably gave more credence to the testimony of Maria than that of appellant [20] for being sufficiently credible, convincing and unrebutted by the defense.

The string of events lucidly and logically conduce to the conclusion that appellant did have carnal knowledge of Maria as she claimed. She was able to clearly establish that she was raped by appellant since she actually saw him lying on top of her, wearing a colored sando and with his shorts lowered to his knees while her dress was pulled up to her abdomen. She felt his penis inserted into her sexual organ, which caused her to feel pain, and after the coitus she saw blood on her underwear. [21] The medico-legal examination further corroborated this account of Maria since it established that the latter sustained a hymenal laceration inflicted about 3 to 4 weeks before the examination, coinciding with the date when the rape took place. [22] This laceration is telling and irrefutable, and constitutes the best physical evidence of her forcible defloration. [23] The absence of bleeding as indicated in the medical certificate, and pointed out by appellant, does not disprove the rape, not only since it obviously is not an element of the offense but because Maria submitted to medico-legal examination almost a month after she was sexually abused. [24]

There can likewise be no doubt as to the identity of the malefactor since at the time of the incident, there was a kerosene lamp which brightly illuminated the locus delicti. [25] It has been held that a kerosene lamp gives off sufficient illumination like a "gasera" or "lampara" and, in previous cases, this Court has held that the illumination thus produced is sufficient for the identification of persons. [26] Moreover, the face of appellant was in full view of Maria and very near her while he was holding her nose and mouth. Undeniably, she had known him for quite a long time already because he was her father's friend. [27]

After the odious attack on her womanhood, Maria immediately informed Labarosa of the rape, but the latter just ignored her. Labarosa later tried to refute this by saying that Maria's answer to him was that appellant was inviting Rustom to the "timbang gabi." [28] The absurdity of Labarosa's subterfuge is patent, considering that "timbang gabi" starts on the 16[th] of December and not on the 15th thereof, the day the rape took place. Further corroding his testimony and, consequently casting a serious pall of doubt on his credibility, was his inconsistent statement on whether he saw Maria and her brother sleeping side by side with each other on that fateful evening, thus:

x x x

"Q

After entering the fence, the yard of the house of Matias Decolongon, what else did you do, if any?

A

I peeped inside.

Q

Peeped into what?

A

I peeped to see whether the children are there.

COURT

(to witness) At what opening did you peep?

A

At the space between the door and the balcony.

ATTY. SOCRATES What did you see, if you saw anything?

A

I saw the two (2) children were lying down, side by side, covered by the same blanket. [29]

x x x

Q

You also mentioned that you peeped to see what is happening inside and that in your direct examination you mentioned that you peeped in the opening between the door and the wall?

A

Yes, sir.

Q

Will you please tell this Honorable Court how big is the hole?

A

It is (as) big as the index finger.

x x x

Q

Are you trying to tell this Honorable Court that by peeping through that door, you see the whole interior of the house?

A

Yes, sir.

Q

From such opening, can you see the kitchen of the house?

A

I was not able to see the kitchen.

Q

How many times did you peep?

A

I peeped only once, sir. [30]

x x x

ATTY. ALISUAG Will you agree with me Mr. Witness that if you peep from where you were you can only see the balcony but you can not see the bedroom?

A

Yes, sir.

Q

So, you are now changing your answer because in your previous answer you stated that by peeping through that opening you can see the whole house?

A

I really know the place where the children were sleeping. Why should I mind the whole of the house?" [31]

Significantly, Maria stated in her sworn statement that Labarosa had told her that he would not testify against appellant if a case is filed against him because he did not want to incur the anger of appellant. [32] This declaration of complainant has not been successfully traversed and provides the explanation of Labarosa's motive in testifying for appellant.

It is interesting to note that although the rape was reported by Maria and her Auntie Carmen immediately to the barangay chairman of their place, a certain Barilea, [33] the latter just sat on the complaint. As it turned out and was later revealed, Barilea is appellant's second cousin, [34] so it was but natural, although morally unfair, for a close relative to give weight to blood ties and close relationship in times of dire need, especially when a criminal case is involved.

Appellant's own testimony tends to confirm that he was capable of criminally violating the honor of Maria on December 15, 1989. He himself confessed that he was at the scene of the crime on that fateful night, although he gave a different, but also an unlawful, reason. While it may be conceded that the court a quo mistook his revelatory testimony regarding his whereabouts as an alibi, the result of his admission upon the matter of his potential capacity for criminal conduct remains unaltered. Contrary to his allegations that he was just outside Maria's house hiding from Labarosa as he intended to steal the latter's rooster, the truth is that he went inside the house of Maria, deflowered her and hid himself when he heard Labarosa call out Maria's name. He was emboldened to commit the crime because he knew all too well that Maria and her small brother were left alone in the house. [35]

In this recourse, appellant would seek legal mileage from the alleged behavior of Maria after the supposed incident such as, first, she kept quiet regarding the incident notwithstanding the fact that an hour thereafter, her

parents, brothers and sisters arrived. On three more occasions, her father arrived, but still she did not avail of any of these opportunities to relate her traumatic experience. [36] Second, after the rape happened that evening, Maria went to school the following afternoon and attended the class Christmas party. Her teacher, Guillerma Barilea, testified that Maria was supposedly her usual self and even joined in the class merriment. [37]

Maria's initial silence can readily be explained. Firstly, when her father arrived an hour later, he was preoccupied with and excited over the accident which had inflicted serious injuries on her mother and was in such a hurry to bring the latter to the hospital that he could not even eat anything, so much so that he just left provisions for a month's sustenance. Thus, Maria obviously did not want to aggravate the situation and accordingly could not summon enough courage to make the revelation. Secondly, she was inclined to suppress the incident at that time as she had been advised by her Auntie Inday not to tell her father for fear that the latter might seek revenge and take the law into his own hands.

We cannot give evidentiary weight to Barilea's testimony regarding Maria's presence and alleged behavior in the class party since the only evidence thereon are her bare assertions and opinion, which could have easily been but was not afforded corroboration. Besides, her husband is the same barangay chairman who refused to take action on the complaint for rape and is appellant's second cousin. Such relationship could have influenced her testimony, since it is the natural tendency of a person to testify for and not against his relatives [38] or in-laws. Even assuming *arguendo* that Maria indeed went to school that day, this should not be taken against her, since, like any normal child of her age, she was naturally interested in joining her classmates for the Christmas party. In fact, her attendance therein could have been her way of seeking temporary surcease from the shock of her ravishment. As we have heretofore held, there is no standard form of human behavioral response when one has been confronted with a strange, startling or frightful experience. [39]

Appellant likewise faults the prosecution for not presenting Maria's Auntie Inday to prove that Maria related the rape to her the morning after, and her Auntie Carmen to prove that the incident was really reported to the barangay captain. Hence, he contends that Maria's testimony was coached and rehearsed. [40] This argument is quite familiar in its speciousness. If appellant believed he could obtain anything favorable to him from those persons, he could have compelled their appearance. In any event, the prosecution need not present the testimonies of persons other than the offended party herself if the same is accurate and credible. The Court has frequently held that a conviction for rape may issue upon the sole basis of the complainant's testimony. This is so because no decent and sensible woman will publicly admit being a rape victim and thus run the risk of public contempt - the dire consequence of a rape charge - unless she is, in fact, a rape victim. [41]

We have scrupulously gone over the other supposed inconsistencies catalogued by appellant and we are persuaded that these are not vital or significant but are only minor and inconsequential lapses which do not affect Maria's credibility. Clearly, she could not be expected to respond with flawless accuracy to questions regarding the ugly incident, especially so because she was still in her tender years. On the contrary, these minor errors tend to buttress, rather than weaken, her credibility since thereby one could hardly doubt that her testimony was not contrived. [42] In fact, during the hearing of the case, her cross-examination had to be suspended when she gave way to convulsive weeping under emotional stress. [43] Evidently, the crime of statutory rape is not disproved by the young victim's failure to give a detailed account of how she was abused and the events thereafter. Instead, such testimony of the victim actually shows the naivete and sincerity of childhood. [44]

That she went to school the following afternoon does not disprove the fact that she had been raped. Erratic as her conduct may have been, it is not difficult to understand or rationalize it. She was then only ten years old, innocent in matters like sex, especially brutal sex. Her assailant was her father's friend, who was also a father figure to her. Her mother, to whom she could have felt more comfortable in confiding, was kilometers away. One can well

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, she just did not know what to do. [45]

If in the end, she revealed her terrible experience, it was because she was desperate for counsel and assistance. Also, by that time, the emotional effects of her tribulation must have substantially waned. Undoubtedly, therefore, the charge she filed was not motivated by any grudge or malice against appellant, who apparently had treated her well until that fateful night [46] when he succumbed to his diabolic sexual urges.

Appellant further advances the theory that Maria could not have known that he inserted his penis into her vagina because after appellant slapped her she fell unconscious, and when she regained consciousness, she heard Labarosa calling her name. [47] In her direct testimony, she also stated that when she regained consciousness, she saw blood on her underwear. [48] From these, appellant concludes that the element of sexual intercourse had not been proven at all.

As earlier explained, the fact of carnal knowledge was amply established by complainant. She had clearly seen appellant hold her nose and mouth and lie on top of her with his short pants lowered down to his knees while her dress was pulled up to her midriff. Moreover, appellant touched her private parts before she fell unconscious and, later, she saw blood stains on her underwear, [49] thus indicating a recent and just concluded initiation in sex. The alleged irregularity in her testimony regarding the incident is consequently more imaginary than real and could have been caused by a psychological aversion against remembering each and every detail of her ordeal. A rape victim cannot be expected to mechanically keep and then give an accurate account of the traumatic and horrifying experience she had undergone.

Appellant claims that there was lack of evidence that Maria's vagina had been penetrated by a male organ as her hymenal laceration could have been caused by several factors other than sexual intercourse. Moreover, she could not have resumed her normal activities the day following the rape, if indeed there had been penetration. [50] Appellant loses sight of the fact that while the prosecution had proved that the laceration was caused by sexual intercourse, contrarily he had failed to establish that the laceration was caused by other factors. It is elementary in our rules on evidence that a party must prove his own affirmative allegations. [51]

In a last-ditch attempt to discredit complainant, appellant advances the theory that the present case was provoked by no other than complainant's mother who was rumored to be having a clandestine affair with him. [52] This postulation is preposterous and does not merit any discussion. Appellant is obviously unaware of our ruling that it is unnatural for a parent to use her offspring as an engine of malice, especially if it will subject a daughter to embarrassment and even stigma, as in this case. [53] There is no evidence whatsoever that Maria's mother was a woman of loose morals. All told, therefore, the prosecution has succeeded in rebutting the presumption of innocence vouchsafed to appellant who, on his part, has dismally failed to substantiate his pretense of innocence.

ACCORDINGLY, for all the foregoing considerations, the appealed judgment of the court a quo is hereby AFFIRMED in toto.

SO ORDERED.

Narvasa, C.J., (Chairman), Puno, and Mendoza, JJ., concur.

[1] Original Record, 1; Criminal Case No. 8578, Regional Trial Court of Palawan and Puerto Princesa City, Branch 51; Judge Filomeno A. Vergara, presiding.

[2] Ibid., 15.

[3] Ibid., 18.

[4] Ibid., 63.

[5] Ibid., 80.

[6] Appellant's Brief, 1-2; Rollo, 53-54.

* In the transcripts of the notes taken at the trial, her name is spelled Teresa, and not Theresa.

[7] TSN, July 27, 1990, 3-23, 39; September 10, 1990, 11-12.

[8] Ibid., id., 27, 44-45.

[9] Ibid., id., 48; id., 15-18, 29.

[10] Ibid., id., 25.

[11] Ibid., id., 27.

[12] Ibid., September 10, 1990, 33-38.

[13] Ibid., id., 46-58.

[14] Ibid., July 26, 1990, 12-43.

[15] Ibid., October 26, 1990, 2-7.

[16] Ibid., id., 10-12.

[17] People vs. Castillon, et al., G.R. No. 100586, January 15, 1993, 217 SCRA 76.

[18] People vs. Magallanes, G.R. No. 89036, January 29, 1993, 218 SCRA 109.

[19] People vs. Lakibul, G.R. No. 94337, January 27, 1993, 217 SCRA 575.

[20] Original Record, 77.

[21] Ibid., 5.

[22] TSN, July 26, 1990, 32.

[23] People vs. Obejas, G.R. No. 102336, January 27, 1994, 229 SCRA 549.

[24] See Original Record, 77.

[25] TSN, October 24, 1990, 5.

[26] People vs. Cabactulan, et al., G. R. No. 84398, December 2, 1992, 216 SCRA 178.

[27] TSN, July 27, 1990, 12.

[28] Ibid., October 24, 1990, 6.

[29] Ibid., id., 4-5.

[30] Ibid., October 25, 1990, 2-3.

[31] Ibid., id., 11.

[32] Original Record, 6.

- [33] TSN, September 10, 1990, 23.
- [34] Ibid., October 17, 1990, 14.
- [35] Ibid., October 26, 1990, 17.
- [36] Appellant's Brief, 6-7; Rollo, 58-59.
- [37] Ibid., 9; id., 61.
- [38] See *People vs. Aguarino*, G.R. No. 93199, May 17, 1993, 222 SCRA 102.
- [39] *People vs. Flores, et al.*, G.R. No. 98069, January 27, 1993, 217 SCRA 613.
- [40] Appellant's Brief, 8-9; Rollo, 60-61.
- [41] *People vs. Ulili*, G.R. No. 103403, August 24, 1993, 225 SCRA 594.
- [42] *People vs. Querido*, G.R. No. 95319, February 7, 1994, 229 SCRA 745.
- [43] Original Record, 26.
- [44] See *People vs. David*, G.R. Nos. 72355-59, September 15, 1989, 177 SCRA 551.
- [45] See *People vs. Obejas*, *supra*.
- [46] Ibid.
- [47] Original Record, 106.
- [48] TSN, July 27, 1990, 15.
- [49] Original Record, 5.
- [50] Appellant's Brief, 14-15; Rollo, 66-67.
- [51] Section 1, Rule 131, Rules of Court.
- [52] TSN, October 26, 1990, 11.
- [53] *People vs. Salomon, et al.*, G.R. No. 96848, January 21, 1994, 229 SCRA 403.

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