

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROBERTO JACA Y DONAIRE, ACCUSED-APPELLANT.

G.R. No. 104628. January 18, 1994

Ponente: PUNO, J.

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PUNO, J.:

This is the story of rape on Christmas day.

Roberto Jaca y Donaire was accused of the crime of Rape in a complaint[1] filed by Estelita Bentulan, before the Regional Trial Court of Hinongos, Leyte (Branch 18). The complaint[2] reads:

"That on or about 3:00 o'clock dawn of December 25, 1989, in Brgy. Tinago, Municipality of Inopacan, Province of Leyte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously, by means of force, intimidation and threats to kill her with a knife lie with and have (sic) carnal knowledge with ESTELITA BENTULAN against her will and consent.

"CONTRARY TO LAW."

Upon arraignment, accused-appellant entered a plea of not guilty. Trial on the merits ensued thereafter.

These are the facts:

Estelita Bentulan is a married woman with two (2) children by her estranged husband. Since her separation (de facto) from her husband in 1985, she was left with the sole responsibility of supporting her children. Her "sari-sari" (variety) store, which is adjoined to her house in Brgy. Tinago, Inopacan, Leyte, is the source of her family's livelihood.

On December 24, 1989, she was in her "sari-sari" store attending to accused-appellant who was having a drink with his companions. Accused-appellant and his companions drank hard liquor from six o'clock in the evening until nine o'clock in the evening. After her customers had left, Estelita closed the store. Late that night, she attended the traditional Christmas midnight mass (simbang gabi). At around 12:00 midnight, Estelita returned to her home. She spent the Christmas eve alone as her children were in her parents' house that night.

At around 3:00 o'clock in the morning of December 25th, Estelita was roused from her sleep as accused-appellant covered her mouth with his hand. He warned her: "Don't move because I will kill you with this knife I am holding." [3] Instinctively, she tried to stand up. He pressed her down and, at the same time, poked the knife on the base of her neck. Estelita then spontaneously asked who the intruder was. He replied: "Never mind asking as to my identity because that can be made after I finish my intent with you." At that instance, Estelita recognized the voice to be that of accused-appellant Roberto Jaca, a former suitor and a regular customer at her store. [4] Accused-appellant was wearing a sleeveless shirt and trousers. After pressing her down, accused-appellant positioned himself on top of Estelita. He kissed her cheeks and touched her private parts. She struggled. Her attempt to shout failed as the accused covered her mouth with his left hand. She did not see him unzip his pants.

All she knew was that he did not have his pants on. The accused forcefully removed her panty and it was torn in the process. Estelita continued resisting the advances of accused-appellant. They struggled for thirty (30) minutes. Thereupon, he pounded on her thighs and squeezed her lower abdomen, thus, enfeebling her. She was in pain. Defenseless, Estelita was finally raped by the accused.[5]

After the accused had satisfied his lust, he identified himself as "Berto," her suitor. He stood up to put on his trousers. At that instance, Roberto Jaca's face was illuminated by an electric lamp from a neighbor's house. While the accused was putting on his trousers, Estelita saw her chance to escape. She frantically pushed the accused and rushed outside her house for help. She proceeded to the "Bantay Bayan" outpost nearby and reported the incident to one Rolando Bayhonan. Rolando accompanied her to the house the barangay captain. Thereafter, the three (3) proceeded to Estelita's house. Unfortunately, accused-appellant had fled.[6]

On December 26, 1989, at around ten o'clock in the morning, Estelita was examined by Dr. Isidro Evangelista, Municipal Health Officer of the Rural Health Unit of Inopacan, Leyte. His medical findings[7] are as follows:

"FINDINGS"

A. External:

- Slight hematoma on the lower portion of the abdomen with pain on palpation.
- Superficial wound on the anterior portion third toe (L).

B. Internal: No laceration and contusion of the vaginal wall.

The injury sustained will require 10 days to attain complete healing.

The defense presented the lone testimony of the accused.

Roberto Jaca admitted that he had carnal knowledge with Estelita in the early morning of December 25, 1989. He claimed, however, that they were lovers.

Previous to the incident, he was a regular visitor of Estelita. He often stayed in her store as their relationship is quite "displayed" in Barangay Tinago.[8]

It was alleged that he courted Estelita sometime in the month of June 1989. On November 1st (All Soul's Day) that same year, Estelita reciprocated his love for her. They made love at Estelita's store that same day. This act was repeated on December 8, 1989, also at Estelita's place. On December 24, 1989, he again slept with Estelita. They had sexual intercourse after the latter attended the midnight mass. At around 3 o'clock in the morning of December 25, 1989 Estelita asked him to marry her. She allegedly wanted him to talk to her father at Brgy. Doos for the latter's blessings. He refused to do so. Furious, Estelita then ran outside her house and concocted the rape charges to get even with him.[9]

On January 15, 1992, the lower court rendered judgment finding the accused guilty as charged. The dispositive portion of the decision[10] reads:

"WHEREFORE, premises considered, this court finds accused ROBERTO JACA Y DONAIRE guilty beyond reasonable doubt of the crime of RAPE, and hereby sentences him to suffer an imprisonment (sic) of Reclusion Perpetua and to pay to the victim, Estelita Bentulan, the amount of P20,000.00 as indemnity, with costs.

"In the service of his sentence accused is hereby credited with the full time of his preventive imprisonment if he agreed to abide by the same disciplinary rules imposed upon convicted prisoners, otherwise, he will only be entitled to 4/5 of the same.

"xxx xxx xxx.

"SO ORDERED."

Hence, this appeal. Accused-appellant assigned this error:

"THE TRIAL COURT ERRED IN FINDING THE ACCUSED-APPELLANT ROBERTO JACA GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE."

In rape cases, seldom do we find any disinterested witness who could shed light on the incident. More often than not, the court is left with the difficult task of weighing the testimony of the victim vis-a-vis the testimony of the accused. The issue thus boils down to the credibility of the victim.

It is settled that the findings of the trial court pertaining to the credibility of a witness are entitled to great respect since it had the opportunity to examine his/her demeanor as he/she testified on the witness stand, and, therefore, it could discern if such witness was telling the truth or not (People vs. De Guzman, G.R. No. 102409-10, December 21, 1992, 216 SCRA 754, 759-770).

In this case, the trial judge gave credence to the testimony of Estelita. We have examined the records of this case and we believe that the prosecution's evidence far outweighs the accused-appellant's uncorroborated testimony.

Accused-appellant, Roberto Jaca, was positively identified by Estelita as her rapist. She testified as follows:

PROSECUTOR FULACHE:

Q:

Now, after he was able to consummate his sexual desire, what did he do?

ESTELITA BENTULAN:

A:

After that he stood up in front of my window and his face was illuminated by an electric lamp from the house of my neighbor, and he said: 'I am Berto and in the past I was courting you. Now, I am ready to save your honor.'

Q:

After he uttered those words, what did he do?

A:

He tried to put on his trousers, but I pushed him. So, he fell down and at that juncture I ran towards the direction of the Bantay Bayan Outpost.

xxx xxx xxx.

Q:

And what course of action did you take?

A:

I told Rolando Bayhonan about the incident and (we) proceeded to the house of the Barangay Captain.

(TSN, March 6, 1991, p. 14)

The credibility of the victim is further strengthened by the spontaneity of her act immediately after the incident. We note her courage in reporting the rape, unmindful of what the incident could do on her reputation in their barrio. We fully concur with the opinion of the lower court, viz:

"The fact that, the offended party, after the beastly attack, immediately left her house to report the molestation against her honor, is a clear manifestation that she was indeed raped. Accused claim of being a lover is but a devise to extricate himself from the consequence of his dastardly lust. His defense is a concocted one, easily made, to escape criminal liability.

"Her immediate response (reporting the incident) carries the stamp of truth. This is a natural reaction of a virtuous woman who had just undergone sexual molestation against her will. This is not an act of a lover, for the flimsy reason that accused refuse (sic) to meet her father to ask her hand in marriage, as claimed by the accused. xxx."

It was alleged by accused-appellant that the victim falsely accused him of rape when he refused to talk to the victim's father to marry her. We find this story unbelievable.

During the trial, it was established that both the victim and the accused were still very much married to their estranged spouses. Estelita and her estranged husband were married in 1975. Out of this union, two (2) children were born. When Estelita and her husband separated de facto, her children stayed with her. Unfortunately, on that fateful evening, her children were staying with her parents. Thus, the accused achieved his evil desire with facility.

On his part, accused-appellant admitted that he is a married man. He has five children with his estranged wife. In addition, he did not refute that he has a live-in girlfriend. Still not content, he courted Estelita. The latter, however, rejected him. Indeed, it is not logical for a married woman, such as Estelita, who was 32 years of age at the time of the incident, to expect accused-appellant to marry her even if it were true that they were lovers. Moreover, as per the testimony of the accused, his relationship with Estelita was "displayed" in Barangay Tinago. We take judicial notice that people in the barrio are normally familiar with each other. Yet, despite this, he did not present any witness to corroborate his testimony that they were lovers.

In contrast, Estelita has shown that she was only interested in obtaining justice. She testified thus:

PROSECUTOR FULACHE:

Q.

You said that you had been sexually violated by the accused, what do you feel as a consequence of that?

ESTELITA BENTULAN:

A.

I am angered, and I am not happy with what he have done.

Q.

What else did you feel?

A.

I want him to be imprisoned.

Q.

Aside from sending him to jail, do you want to have monetary award for sexual violation he did to you?

A.

I want him to be imprisoned.

(TSN, March 6, 1991, p. 18).

Moreover, Estelita's testimony, that she struggled against the savage act of accused-appellant, was corroborated by the medical findings of Dr. Isidro Evangelista. Dr. Evangelista explained during the trial that a forceful blow could have caused the hematoma sustained by the victim. He testified thus:

ATTY. FULACHE:

Q.

Would you know the cause of hematoma?

DR. ISIDRO EVANGELISTA:

A.

It is caused by the blow and/or pressure.

Q.

Do you mean to say that there was a degree of force that was applied on the lower portion of the abdomen?

A.

Yes sir.

Q.

It could be caused by a blow.

A.

Yes sir.

xxx xxx xxx.

Q.

Would you agree with me doctor that the injuries suffered by the victim would be caused by a struggle?

A.

It is possible.

(TSN, April 4, 1991, p. 5.)

There is no doubt in our mind that accused-appellant employed force and intimidation to attain his bestial acts. He pointed a knife at his poor defenseless victim as he ravished her.

The penalty for the crime of rape with the use of a deadly weapon, as in the case at bar, is reclusion perpetua to death.[11] Pursuant to the constitutional provision against the imposition of death penalty, accused-appellant was properly meted the penalty of reclusion perpetua.

Anent the amount of indemnity, we note that this Court has consistently awarded thirty thousand pesos (P30,000.00) to the victim as indemnity.[12] In *People vs. Casinillo*, G.R. No. 97441, September 11, 1992, 213

SCRA 777, 792, this Court[13] awarded moral damages in the sum of forty thousand pesos (P40,000.00) "taking into account the bestiality with which the rape was committed-leaving a scar in the memory of the victim which would affect her future and causing untold outrage to the moral sense of the community."

Citing the case of *People vs. Casinillo*, supra, in the recent case of *People vs. Pascual*, G.R. No. 95029, March 24, 1993, the indemnity given was forty thousand pesos (P40,000.00). In line with these cases, we hold that the P20,000.00 indemnity imposed by the lower court should be increased to forty thousand pesos (P40,000.00).

WHEREFORE, premises considered, the decision appealed from is **AFFIRMED**, with the modification that accused-appellant Roberto Jaca is ordered to indemnify the victim forty thousand pesos (P40,000.00). With costs against accused-appellant.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.
Nocon, J., on leave.

[1] Rollo, p. 5.

[2] Docketed as Criminal Case No. H-333.

[3] TSN, March 6, 1991, pp. 4, 7.

[4] TSN, March 6, 1991, pp. 7-8.

[5] Ibid, pp. 7-14.

[6] Ibid, pp. 14-15.

[7] Exhibit "A"; Rollo, p. 6.

[8] TSN, July 16, 1991, p. 14.

[9] TSN, July 16, 1991, pp. 3-7.

[10] Penned by Presiding Judge Vicente M. Aujero; Rollo, p. 11.

[11] Article 335, Revised Penal Code.

[12] *People vs. Botabara*, G.R. 106493, September 8, 1993; *People vs. Casao*, G.R. No. 100913, March 23, 1993; *People vs. Dabon*, G.R. No. 102004, December 16, 1992, 216 SCRA 656, 673; *People vs. Pomentel*, G.R. 87781, December 11, 1992, 216 SCRA 375, 384.

[13] Third Division

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