

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BENJAMIN ESPANOL Y DE LOS SANTOS, ACCUSED-APPELLANT.

G.R. No. 105676. April 10, 1996

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

This is an appeal from the decision of the Regional Trial Court, 9th Judicial Region, Dipolog City, Branch 10, convicting accused-appellant Benjamin Espanol y de los Santos of the crime of Rape and sentencing him to suffer the penalty of reclusion perpetua and to indemnify the victim Teofila de los Santos in the sum of P30,000.00 and to pay costs.

As a result of the filing by Teofila de los Santos of a complaint dated August 24, 1989,[1] the following information was filed against appellant:

That in the afternoon, on or about the 20th day of April, 1989, in Barangay San Francisco, City of Dapitan, within the jurisdiction of this Honorable Court, the above-named accused, armed with a handgun, moved by lewd and unchaste design, by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously hug, kiss, box her right thigh, poke a handgun on her, threatened her, laid her down, removed her panty, then lay on top of her and have sexual intercourse with one TEOFILA DE LOS SANTOS nee Manlupig, against her will and without her consent.[2]

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

The trial court gave full faith and credence to the testimony of the victim Teofila de los Santos, as summarized in the People's Brief, thus:

On April 20, 1989 at about 9:00 o'clock in the morning, complainant Teofila de los Santos and some members of the local farmer's association, including appellant Benjamin Espanol, attended a group work locally known to them as "pahina" or "pintakasi" on the land of Mayor Saturnino Bohol situated in Barangay Silano, Mutina, Zamboanga Del Norte (tsn, March 6, 1991, pp. 3 to 4).

At around 4:00 o'clock in the afternoon, Teofila, before going home, rested a little as she and some of her companions, including appellant, lived in Barangay San Francisco, Mutina, Zamboanga Del Norte. Barangay San Francisco is about four (4) kilometers away from Barangay Silano. After resting for about thirty (30) minutes, Teofila, Picto Maghinay and appellant started to walk home (Ibid., p. 5). Later, Picto Maghinay followed another road leading to his house, hence, Teofila and appellant were left alone (Ibid.).

Along the way, appellant and Teofila passed by a creek and upon crossing the creek, appellant suddenly stopped and held her arm. Teofila resisted and tried to push appellant away but he was able to hold her tight and drag her by the side of the trail. Then, appellant boxed Teofila at her thigh and pointed a handgun at her. Teofila struggled to free herself but he prevailed since he was stronger. He removed Teofila's pants, and his own pants. At this point, Teofila continued to resist appellant but she could not shout because she was intimidated by the handgun pointed at her by appellant. Thereafter, appellant lay on top of her and had sexual intercourse with her (Ibid., pp. 5 to 7).

After appellant had satisfied his lust, he got up and left Teofila (Ibid., p. 8). On her part, Teofila immediately proceeded home and informed her husband about the incident. The following day, Teofila and her husband reported the matter to the police authorities at Dapitan City (Ibid., pp. 9 to 10).[4]

The physical examination of Teofila, conducted by Dr. Filipinas S. Nielo on April 22, 1989, disclosed the following:

- I.E. - Vagina admits 2 fingers with ease
- Multiple old vaginal lacerations around
- Slight vaginal bleeding noted (Regular menses -3rd day)
- Contusion hematoma noted at the right anterior middle thigh

NOTE; VAGINAL SMEAR FOR SPERMATOZOA TAKEN- NEGATIVE[5]

Dr. Nielo testified that the hematoma could have been caused by boxing blow on Teofila's thigh.[6]

The defense gives a different version of the incident.

Appellant admits having sexual intercourse with Teofila but asserts that they were lovers.

Appellant says that after the "pahina," he and Teofila agreed to meet at the copra dryer of a certain Gil Saliot, where they had sexual intercourse.[7] In the course of their love-making, they heard a sound, like a coconut falling to the ground. Startled, and suspecting that the sound came from a peeping tom, Teofila pushed appellant and in her struggle to stand up, his knees hit her thigh, which explains the bruise on it.[8] That sound turned out to come from peeping toms Catalino Dahilog, Jr. and Policarpio Donggon.[9] A few days later when appellant asked Teofila why she filed a case against him, she replied that she had to do it to cover their illicit relationship because she suspected that someone had seen them at the copra dryer.[10]

Appellant presented as his witnesses Gil Saliot and Honorato Altamera, who testified that during the "pahina," appellant and Teofila openly showed affection for each other by "pinching," "whispering," and "caressing." [11]

Also presented for the defense was Catalino Dahilog, Jr., who testified that he saw appellant go to Gil Saliot's copra dryer, followed by Teofila. He, with a certain Policarpio Donggon, approached the copra drier to peep, and saw appellant and Teofila in the act of sexual intercourse. They startled the couple when the foundation they were standing on slipped and they fell to the ground. He then saw Teofila struggle to get up.[12]

In this appeal, appellant raises the following assignment of errors:

THE COURT A QUO GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE TESTIMONY OF THE PRIVATE OFFENDED PARTY DESPITE THAT THE SAME WAS FRAUGHT WITH INCONSISTENCIES AND IMPROBABILITIES.

THE COURT A QUO GRAVELY ERRED IN DISREGARDING THE EVIDENCE OF THE ACCUSED-APPELLANT THAT HE AND TEOFILA DE LOS SANTOS WERE LOVERS, AND THEY BOTH MUTUALLY AGREED TO MAKE LOVE IN THE COPRA DRYER OF GIL SALIOT.

THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE COMPLAINING WITNESS HAD NO REASON TO FABRICATE AND INVENT HER STORY OF RAPE DESPITE THE FACT THAT CONTRARY EVIDENCE SHOW THAT SHE CONCOCTED THE CHARGE TO HIDE HER ILLICIT RELATIONSHIP WITH THE ACCUSED-APPELLANT.

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED GUILTY OF THE CRIME AS CHARGED DESPITE THE UTTER FAILURE OF THE PROSECUTION TO ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT.[13]

Appellant asserts that Teofila's testimony is fraught with inconsistencies, to wit:

- a. On direct examination, she stated that after attending the "pahina," she, with appellant and a certain Perfecto Maghinay, went on their way home together. On cross-examination, she failed to name Maghinay as one of her companions, but remembered Concepcion Altamera, Perla de los Santos, Gil Saliot, Tomas Fuerza and his wife.
- b. On direct examination, she stated that Maghinay, as they were on their way, took another route, leaving her and appellant. On cross-examination, she again forgot to mention Maghinay.
- c. On direct examination, she stated that the last person she was with, other than appellant was Maghinay, yet on cross-examination, she stated that that person was Perla de los Santos.[14]

We find appellant's assertions without merit. As pointed out by the Solicitor General in his Brief, "as to who were complainant's companions prior to the incident is inconsequential, since only appellant is involved in this case." [15]

Indeed, the alleged inconsistencies are more imagined than real. We have carefully studied the transcript of Teofila's testimony, and do not find the inconsistencies pointed out by appellant. While it is true that Teofila mentioned Perfecto Maghinay as a companion on the way home, she did not say that there were no other persons with them at some earlier time. Remember that after the conclusion of the "pahina," the participants left en masse. Teofila enumerated her companions, upon prompting of the defense lawyer on cross-examination.[16]

Even assuming there are inconsistencies, these are on minor or trivial matters, which serve to strengthen rather than weaken the credibility of Teofila because they erase any suspicion of rehearsed testimony.[17]

We have oft repeated that, when the issue raised refers to the credibility of witnesses and the weight to be given to conflicting versions of the prosecution and the defense, as in the instant case, we defer to the trial court, unless there appears to be cogent reasons to disregard its observation. The rationale behind the rule is that the trial court had the opportunity, not available to the appellate court, to see the witnesses on the stand and determine by their demeanor whether or not they are testifying truthfully.[18]

Appellant further contends that the trial court erred when it disregarded his assertion that he and Teofila were lovers, as corroborated by his witnesses. The fiction of their being lovers is exposed by appellant's own affidavit vigorously denying such relationship. We defer to the trial court and quote with approval its conclusions on this point:

[Appellant's] testimony and those of his witnesses were impeached by their own sworn statements.

Accused Benjamin Espanol testified that he and Teofila were lovers long before the incident; that it was their mutual agreement to meet and make love at the copra dryer of Mr. Saliot that afternoon. But on May 26, 1989, a month after the incident, he executed an affidavit denying having sex with Teofila. Part of his affidavit is quoted:

That I vehemently deny the allegations made by the complainant in her complaint, particularly the allegations that I have sexually abused her in the afternoon near the school of our barangay in San Francisco, Dapitan City;

That on April 20, 1989, I was with our group who made a "pahina" at Silano, Mutia, Zamboanga del Norte; that we finished our "pahina" at about 4:00 in the afternoon; that after our work, I, together with Perfecto Maghinay and Elbing Palaca started to go home but we stopped at a sari-sari on the way to take and have a drink of tuba; that when we were in the sari-sari store, another group passed along, and Teofila de los Santos parted with the group and joined us in drinking; that later Honorato Altamera and his wife passed along the store and we decided to join them in going home; that after crossing the Dipolog River, Teofila de los Santos

took another way in going home; that Elbing Palaca also took another way in going home; that Honorato and his wife remained to be my companions until I reached home at San Francisco; that after reaching my house, my companions continued their way to Sigayan when they are leaving (sic); that since it was already dark when I arrived home and I was also dead tired, I went to sleep after taking my supper; (pars. 3 and 4, Exh. "B", italics supplied)

In his testimony, he declared he took 2 bottles of beer in the sari-sari store. In his affidavit quoted above they drank tuba.

Defense witness Catalino Dahilog declared that Teofila was wearing "long pants and stripe T-shirt" at the time she followed Benjamin to the copra dryer. But in his affidavit which the defense submitted as Exh. "2", he swore that after Teofila exclaimed: "naay tawo," she struggled to get up and "hurriedly wore her skirt" and started to go down x x x. He also testified that when Teofila left the dryer "she was walking slowly" and "at times turning her head." In his affidavit he swore:

"Q - How did she go down?

A - She was running." (Page Two, Exh. "2-A")

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But what is surprising is why was Dahilog able to see Teofila Struggling to get up and wear her pants after the foundation on which he was stepping slipped? The flooring of the dryer could not be seen, he declared, "if one just steps on the ground." Moreover, the natural course a peeping tom would do after having been detected is to run away.[19]

The general rule is that contradictions and discrepancies between the testimony of a witness and his statements in an affidavit do not necessarily discredit him. This rule is not without exception, as when the omission in the affidavit refers to a very important detail of the incident that one relating the incident as an eyewitness would not be expected to fail to mention, or when the narration in the sworn statement substantially contradicts the testimony in court.[20] In the instant case, the contradictory statements of the defense witnesses erode the credence of their testimonies.

Appellant's claim that Teofila fabricated the charge of rape to hide her illicit relationship from her husband is incredible.

We agree with the trial court that appellant's claim is belied by the fact that Teofila reported the crime committed upon her chastity to her husband immediately upon her arrival home.[21] if Teofila had consented to have sexual intercourse with appellant, her natural reaction would have been to conceal it or keep silent as this would bring disgrace to her honor and reputation as well as to her family.[22]

The bruise found on Teofila's thigh is consistent with her testimony that appellant boxed her at that part of her body when she resisted his bestial advances. On the other hand, her story that she sustained the injury when she got hit by his knees as she struggled to stand up when she heard a sound is preposterous. If according to him she pushed him upon hearing a sound like a falling coconut and stood up, how could his knees have hit her thigh with such force as to produce contusion and hematoma thereon?

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

WHEREFORE, the decision of the Regional Trial Court finding accused-appellant Benjamin Espanol y de los Santos guilty beyond reasonable doubt is AFFIRMED in toto.

SO ORDERED.

Padilla (Chairman), Bellosillo, Vitug, and Hermosisima, Jr., JJ., concur.

[1] Rollo, p. 4.

[2] Record, p. 1.

[3] Id., at 17.

[4] People's Brief, pp. 4-6.

[5] See note 2, *supra*, p. 56.

[6] TSN June 27, 1991, pp. 6-7.

[7] TSN, November 11, 1991, p. 9.

[8] Id., at 10-11.

[9] See note 11, *infra*.

[10] See note 7, *supra*, p. 12

[11] TSN, September 2, 1991, p. 6; TSN, November 11, 1991, pp. 29-30.

[12] TSN, September 2, 1991, pp. 18-19.

[13] Appellant's Brief, p. 1; See note 1, *supra*, p. 37.

[14] See note 1, *supra*, pp. 46-47.

[15] See note 4, *supra*, p. 8.

[16] TSN, March 6, 1991, p. 15.

[17] *People v. Padilla*, G.R. Nos. 111956 and 111958-61, March 23, 1995; *People v. Ducay*, 225 SCRA 1(1993).

[18] *People v. Vallena*, G.R. No. 106283, June 1, 1995; *People v. Aruta*, 222 SCRA 201 (1993).

[19] See note 2, *supra*, pp. 71-73.

[20] *People v. Alvarado*, 242 SCRA 464 (1995); *People v. Calegan*, 233 SCRA 537(1994).

[21] See note 2, *supra*, p. 69.

[22] *People v. Vallena*, *supra*; *People v. De Dios*, 187 SCRA 228 (1990).

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