

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FRANCISCO DELA CRUZ ALIAS “PANKI,” ACCUSED-APPELLANT.*G.R. No. 105720. December 08, 1995*

Ponente: ROMERO, J.

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To an increasing extent, the public is being treated to news reports of crimes of depravity committed by persons who are otherwise normal and in full possession of their faculties. They cannot be charged with being under the influence of intoxicating liquor or illegal drugs, nor of having acted under passion or obfuscation. And yet, in an instant, they are transformed into monsters of abomination.

Particularly abhorrent are those who, chancing upon young, innocent and guileless lasses, are suddenly seized by an uncontrollable desire to inflict their libidinous urges on these hapless maidens. With hardly a moment's reflection, they stalk their intended victims and eventually violate the latters' chastity without any qualms of conscience or guilt feelings.

More detestable is the crime of rape committed upon a girl with a child's mind, for she is utterly defenseless, completely unaware that already, she is being robbed of that most precious gift within a woman's power to offer to whomever and whenever she pleases.

The case at bench is another heart-rending instance of the violent defloration of a mental retardate who could only dimly discern that already, she was being ravished.

To those who exalt the Holy Writ as Law and profess to live, by the Word, this injunction unbidden comes to mind: "Now we exhort you, brethren, warn them that are unruly, comfort the feeble-minded, support the weak, be patient toward all men." [1]

Sa mga nilalang ng Maykapal sa balat ng lupa, walang higit na nakamumuhi na gaya ng pinag-uusig sa kasong ito na hindi man nagpakita ng anumang pagpipitagan sa pagkatao ng kababaihan, lalu't lalo na sa mga may isip-bata. Tila бага nalimutan na sila ay sinilang rin sa isang ina at marahil ay mayroon ding mga kapatid na babai.

Ang pagwasak sa puri ng isang nagdadalaga na walang kamalaymalay sa kamunduhan ay gawa ng isang halimaw na nararapat lamang na patawan ng kaukulang kaparusahan ng mga hukuman ng ating lipunan.

x x x

In an information dated February 7, 1991, Francisco de la Cruz alias "Panki" was charged before the Regional Trial Court of Malolos, Bulacan, Branch 13 with the crime of rape committed as follows:

"The undersigned Asst. Provincial Prosecutor, on complaint of the mother of the offended party, Susana V. Bulaon accuses Francisco dela Cruz alias 'Panki' of the crime of rape, penalized under the provisions of Art. 335 of the Revised Penal Code, committed as follows:

That on or about the 5th day of October, 1990, in the municipality of San Ildefonso, province of Bulacan,

Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, did then and there wilfully, unlawfully and feloniously, by means of force, violence and intimidation, have carnal knowledge of one Miriam Bulaon, a retardate, against her will and without her consent.

Contrary to law.

Malolos, Bulacan, 7 February 1991.

AFABLE E. CAJIGAL

Asst. Provincial Prosecutor"

On October 5, 1990, at the time of the offense, Miriam Bulaon was eleven (11) years old. Evidence for the prosecution shows that she was in the ricefield near the "bayabasan" (guava orchard) when she met de la Cruz. He was able to persuade her to go with him to the "bayabasan" on the pretext that they were to gather guavas but as it turned out, there were no guava fruits at all.[2]

At the guava orchard was another man whom Miriam recognized by face although she did not know his name. Both men took turns in raping her. Appellant was the first to rape her, mashing her breasts and her sex organ. Miriam also testified that she bled.[3] After appellant had satisfied his lust, the other man also raped her.[4]

Miriam reported the incident to her mother Susana Bulaon, upon reaching their home, identifying appellant as the perpetrator. The two went immediately to the Barangay Captain to report the matter. Susana executed a sworn statement pointing to appellant as the man who raped her daughter.[5]

Dr. Reynaldo Buan examined Miriam in the San Miguel District Hospital on October 11, 1991. His findings revealed that Miriam sustained healed hymenal laceration; admitting one finger with difficulty which was stained with blood. He testified that the extent of the "pilas" could have been caused by a hard object forcefully penetrating the victim's sex organ.[6]

Alexander Bulaon, Miriam's father, testified that no amount of money could pay for the sufferings he had experienced due to the fate met by their daughter. As for actual expenses, he testified that he and his wife spent the amount of P4,000.00 in connection with the case.[7]

Miriam's mother testified that on October 5, 1990 between 4:00 and 5:00 in the afternoon, her daughter told her ("nagsumbong") that somebody "kumintod sa kanya." [8] She noticed that the back of her daughter was filled with mud.

After the prosecution rested its case, the defense presented its sole witness, the appellant, who said that he knew the victim, they being residents of Sta. Catalina, San Ildefonso, Bulacan. On the afternoon of October 5, 1990, according to him, he was in the house of Alberto Sulit in Baliwag where he used to stay regularly whenever he could not go home to Sta. Catalina. He alleged ignorance on why he was being charged with the crime of rape.[9] On re-direct examination he stated that he went home to Sta. Catalina on October 11, 1991, having stayed in Carpa during the period October 5-10, 1991.

The other witness for the defense, Alberto Sulit, failed to appear in court despite the issuance of a subpoena to him.

On June 17, 1992, the trial court rendered judgment convicting appellant of the crime of rape, and sentencing him to suffer the penalty of Reclusion Perpetua and to pay the amount of P30,000.00 as moral damages to the victim plus the costs of the suit.

Appellant now questions the credibility of the victim before us claiming that her testimony is unworthy of belief

because it was rehearsed. He further contends that the prosecution failed to establish the fact that victim was a retardate or that she was below 12 years old when the rape was committed. Lastly, he questions the veracity of the testimony of the victim's mother, alleging that the same was fabricated.

We find appellant's assertions to be unmeritorious.

Miriam was unequivocal in stating that she was raped and that it was appellant, Francisco de la Cruz alias "Panki" who raped her. Her testimony was straightforward:

"Q -

Do you know Francisco dela Cruz alias `Panki?'

A -

I know him, sir.

Q -

Is he inside the courtroom?

A -

Panki is there, sir. (Witness pointing to a man inside the courtroom who when asked answered that his name is Francisco dela Cruz)

Q -

Why do you know this alias `Panki?'

A -

I heard his name before I came to know him, sir.

Q -

Do you know if he did anything to you?

A -

Yes, sir.

Q -

What was that?

A -

Kinintod po ako.

COURT:

Q -

When was that?

A -

I do not know when, Your Honor, but it was near the guava trees (bayabasan).

x x x x x x x x

COURT:

Q -

How many times, if you remember?

A -

Two (2) times, Your Honor, and I can vividly remember the same.

x x x x x x x x

Q -

Why did you say that you can vividly remember that Francisco dela Cruz alias `Panki' sexually abused you?

x x x x x x x x

COURT:

- Na may ginawa sa `yong hindi maganda.

A -

Inuuto po ako na kumuha ng bayabas pero walang bunga ang bayabas.

Q -

Paano ang ginawa sa `yo?

A -

I bled Your Honor.

Q -

How did he do that?

A -

Pinipiga po ang suso ko.

x x x x x x x x

PROSECUTOR SAMONTE:

Q -

Noong pinipiga ka, sino ang pumipiga sa `yo noon?

A -

Si Panki po.

COURT:

Q -

Ano ang pinipiga?

A -

Ang suso ko po.

x x x x x x x x

Q -

Ano yung nagdugo sa `yo? Anong bahagi ng katawan mo? Ang dugo saan nanggaling?

A -

Dugo galing sa katawan ko.

Q -

Ang dugo, saan nanggaling?

A -

Sa tiyan ko.

Q -

Bakit nagdugo yan?

A -

Kasi po kinintod po ako.

Q -

Sino?

A -

Si Panki.

COURT:

Q -

Paano ang ginawa sa `yo?

A -

Hinilat po ako.

Q -

Ano ang ginamit niya sa katawan mo?

A -

Pinahihiga po ako at saka pinadadapa po ako.

x x x x x x x x"[10]

A victim who says that she has been raped almost always says all that has to be said.[11] A court often has marked receptivity to the testimony of a naive girl whose simple answers to questions on the witness stand can well exude candor and sincerity.[12] Miriam's testimony even under cross-examination, was spontaneous,

consistent and unwavering:

Q -

Yung sinasabi mong ginawa sa `yo ni Panki... (interrupted)

A -

Uuwi pa lang ako niyaya na ako ni Panki.

Q -

Yung sinasabi mo na ginawa sa `yo in Panki, meron ding ibang gumagawa sa `yo no'n?

A -

Opo.

Q -

Ilang tao ang gumagawa sa `yo ng ganoon"

A -

Dalawa (2).

Q -

Ano ang pangalan no'n ngayon?

A -

Hindi ko kilala ang isa.

Q -

Pero yung isa, kilala mo?

A -

Kilala ko mukha lang. Nagpunta ako sa bukid noon. Yung hindi naghuhubo sa akin hindi na ako hinihilat no'n. Kinikintod lang ako.

Q -

Ah, hindi ka na hinihilat. Kinikintod ka na lang basta?

A -

Isa lang ang humihilat sa akin. (Witness pointing to the accused)

Q -

Itong dalawa na sabi mo ay gumagawa sa `yo ng hindi maganda kinikintod ka na lang, ganoon?

A -

Opo.

Q -

Pag kinintod ka inaalís ang saplot mo sa ibaba?

A -

Inaalis din ang panty do at saka salawal, at saka baro ko hinuhubad din.

Q -

Sa madaling sabi, noong Oktubre a-singko, 1990, nakita mo rin ang dalawang iyon, o isa lang?

A -

Isa lang. Yung isa si Panki, ang nauna sa aking kumintod.

Q -

Pagkaraan ni Panki?

A -

Yung kilala ko ang mukha. Hindi ko kilala ang pangalan.

Q -

Pagkaraan ni Panki, yung isa may ginawa rin sa `yo na ganoon?

A -

Opo.

Q -

Kaya nagdugo ang tiyan mo `kamo ano?

A -

Opo. "[13]

Considering that the victim was of tender years and not exposed to the ways of the world, it is most improbable that she would impute a crime as serious as rape to any man if it were not true.

Furthermore, contrary to appellant's assertion that the prosecution failed to establish that the victim was a retardate, evidence was presented which showed that Miriam had the mental capacity of a 5-year old child, as stated by Dr. Reynaldo Buan in his medical certificate:

"Medical Status: answer questions alertly in childish behavior (age 5 years old) (Exh. `A-1')"

Regarding the rape of a mental retardate, in *People v. Trimor*,^[14] we said:

"Considering the mental state of the victim, proof of force, violence, or intimidation is superfluous, as the crime is deemed to be akin to statutory rape. Precisely because the victim in this case is not possessed of the intelligence of a woman her age, we cannot apply to the peculiar circumstances of this case the principles previously adopted by this Court in ordinary rape cases, such as (a) that inconsistencies between the sworn statement of an alleged rape victim before a municipal judge and her testimony in court impair her credibility; (b) that delay in reporting a rape case may be justified where such is due to strong reasons; and (c) that her conduct during and after the incident renders her testimony worthless and unbelievable."

In any case, the record also discloses a certified true xerox copy of the birth certificate of the victim showing that she was born on August 18, 1979. The victim, being only eleven (11) years old at the time of the commission of the crime, appellant was guilty of statutory rape under Art. 335 of the Revised Penal Code.

Finally, it is hard to believe that a mother of an eleven-year old girl, with the mentality of a five-year old, would permit her daughter to undergo physical examination and let her suffer the consequent trauma of a public trial, only to punish someone against whom she has no grudge whatsoever. No mother in her right mind would possibly wish to stamp her child falsely with the stigma that follows a rape.[15]

Appellant points to alleged inconsistencies in the testimony of Susana Bulaon regarding the time when her daughter informed her of the rape and the time she reported the matter to the barangay captain.

The alleged inconsistencies are insignificant and do not affect her credibility. The fact that Miriam immediately reported her rape to her mother is undisputed.

We have said:

"It has been ruled that alleged contradictory statements are not fatal where they refer to relatively minor details as these can be expected from uncoached witnesses. They do not affect nor can they prevail over the positive identification of appellant as the rapist. As repeatedly held by this Honorable Court, discrepancies and inconsistencies in the testimonies of prosecution witnesses which refer to minor details do not impair the probative value their testimony.[16]

We agree with the trial court which held:

"x x x the offense committed on the 11 year old child, with the mentality of a 5 year old, is a bestial act for which the offender does not deserve to exist in a civilized society. Being a mental retardate, she is in the state where she is incapable of offering any resistance to the offender's sexual molestation. The victim is in such a condition that she is not in full possession of her faculties. She was a willing victim to the carnal desires of the accused." (pp. 6-7, Decision)[17]

WHEREFORE, the decision of the trial court finding appellant guilty is hereby **AFFIRMED**, and he is further ordered to indemnify the victim in the amount of P50,000.00 by way of moral damages. Costs against appellant.

SO ORDERED.

Feliciano, (Chairman), Melo, Vitug, and Panganiban, JJ., concur.

[1] 1 Thessalonians 5:14.

[2] TSN, September 25, 1991, pp. 5, 9, 12, 14 and 16.

[3] TSN, September 25, 1991, pp. 6 and 7.

[4] Ibid., pp. 4-8, 12-18.

[5] TSN, November 30, 1991, pp. 3-7.

[6] TSN, October 23, 1991, pp. 3-8.

[7] TSN, November 8, 1991, pp. 2-5.

[8] TSN, November 20, 1991, p. 3.

[9] TSN, March 20, 1992, pp. 2-6.

[10] TSN, September 25, 1991, pp. 4-7, 17-18.

[11] *People v. Rabaves*, 208 SCRA 768 (1992); *People v. Matrimonio*, 215 SCRA 613 (1992); *People v. Bundo*,

216 SCRA 626 (1992); *People v. Pamor*, 237 SCRA 462 (1994); *People v. de Joya*, 227 SCRA 9 (1993); *People v. Laroa*, G.R. No. 98428, September 10, 1995.

[12] *People v. Guibao*, 217 SCRA 64 (1992); *People v. Laroa*, *Ibid.*

[13] TSN, September 25, 1991, pp. 10-13.

[14] 243 SCRA 129 (1995).

[15] *People v. Rio*, 201 SCRA 701 (1991).

[16] *People v. Barcelona*, G.R. No. 82589, October 31, 1990, 191 SCRA 100.

[17] *Rollo*, p. 83.

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