

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDWIN TAYAG Y SANTOS, ACCUSED-APPELLANT.

G.R. No. 105803. October 12, 1993

Ponente: NOCON, J.

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NOCON, J.:

Our fundamental law presumes an accused innocent until proven guilty. To overthrow this presumption, the prosecution must establish his guilt by proof beyond reasonable doubt, or that degree of proof which produces conviction in an unprejudiced mind. Thus, the weakness of his defense or even the lack of it would not necessarily bring about his conviction. So must it be on appeal. This Court is duty bound to carefully scrutinize and closely examine the prosecution's evidence that the accused indeed committed the crime notwithstanding the fact that the trial court found no difficulty in this case in giving full faith and credit to the story of Mylene Rueda and in discrediting that of the accused.

The information filed with the Regional Trial Court of San Fernando, Pampanga (Branch 42) charging Edwin Tayag y Santos with the crime of rape, reads as follows:

“That on or about the 13th day of September, 1991, in barangay del Pilar, province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused Edwin Tayag y Santos, without justifiable purposes whatsoever, with lewd designs, by means of force, threats and intimidations, did then and there wilfully, unlawfully and feloniously have sexual intercourse with Mylene V. Rueda, against her will.

Contrary to law.”[1]

Upon arraignment, the accused Edwin Tayag entered a plea of not guilty. Trial on the merits ensued and on May 28, 1992, the trial court rendered a decision, the dispositive portion of which reads as follows:

“WHEREFORE, the Court finds the accused Edwin Tayag y Santos guilty beyond reasonable doubt of the crime of rape and sentences him to serve the penalty of reclusion perpetua and to indemnify the victim in the amount of P100,000.00 as damages.

SO ORDERED.”[2]

Dissatisfied with the above-mentioned decision, the accused interposed this appeal with the following assignment of errors:

I

THE LOWER COURT ERRED IN CONVICTING THE ACCUSED BASED ON THE TESTIMONY OF THE VICTIM WHICH WAS FRAUGHT WITH SERIOUS DOUBT, AND THEREFORE, CLEARLY APPEARS TO BE INCREDIBLE AND UNBELIEVABLE.

II

THE LOWER COURT ERRED IN CONVICTING EDWIN SANTOS TAYAG DESPITE LACK OF PROOF BEYOND REASONABLE DOUBT TO ESTABLISH HIS GUILT.[3]

The facts established by the prosecution reveal that on September 13, 1991, at around 6:30 in the evening, 12-year old private complainant, Mylene Rueda, was with her family in their house located at Del Pilar, Paralaya, San Fernando, Pampanga. She was sent out for an errand to buy sugar from a nearby store. After buying sugar, she went home. When dinner was about to start, Mylene took her place at the table, put her viand on her plate but suddenly asked permission to buy banana.

On her way to the store, Mylene crossed the street and passed by the house of the accused, Edwin Tayag. The accused called for her so Mylene approached him. The accused then grabbed her hand and forced her to enter a closed store. Inside the store, the accused kissed Mylene's face, lips and cheeks. Mylene tried to push the accused and hit him with her hands to thwart his advances but to no avail. She also tried to shout, but everytime, the accused covered her mouth and threatened her that she will be in a pitiful state if she attempts further to shout. He made her lie down on a table where he inserted a finger in her organ. He repeatedly kissed her lips and cheeks and mashed her breasts. Thereafter, the accused tried to insert his sex organ into Mylene's and despite her resistance, he succeeded in doing so causing her to cry in pain. Whereupon, the accused removed his sex organ and Mylene felt something sticky in her organ.

The accused stood up upon hearing the voice of Mylene's father. Mylene continued to cry so accused covered her mouth and repeated his threat not to shout or she will be sorry. They both dressed up but only accused went out of the room leaving Mylene locked inside. She was allowed to leave at around 2:00 o'clock a.m. when the place was already quiet and nobody was looking for her anymore.

Romeo Dizon Rueda, Mylene's father testified that she was born on February 19, 1979 per her birth certificate which he presented in court. She was the fourth of his five children. On September 13, 1991, while eating dinner, Mylene asked permission to buy banana. Noticing that Mylene did not return, he went out to look for her but he did not find her. The other members of the family, including his nieces and nephews, joined in the search for Mylene around the neighborhood and in the houses of her classmates. Not finding her in any of her classmates' houses, he walked towards the market and the plaza and searched for about an hour. He did not find her there so he went home. He saw his wife and children in front of their house still waiting for Mylene so he returned to the plaza. On his way, he saw the accused in front of what used to be a store. The accused asked him who he was looking for. After answering him, the accused told him that Mylene was not there. He proceeded to the plaza but still failed to find her. At home, he was told that Mylene had not returned. For the third time, he went to the plaza. Along the way, he saw accused again in front of the fence of their house. Feeling tired after a futile search, he went home at about 12:00 midnight. Since Mylene was still not there, he decided to rest for a while and go back to the plaza to report his missing daughter. At around 2:00 o'clock a.m., an older sister of Mylene reported to him that Mylene had returned. He saw Mylene looking scared, her lips quivering. She was pale and crying while she was being interrogated by his wife. At first, she refused to answer but after much prodding, she finally revealed that she had been locked inside the defunct store of Apung Kika by the accused. She narrated everything that was done to her by the accused. While his daughter was recounting her experience, he recalled that he felt so bad, he cried. He fumed with anger but his wife prevailed upon him not to be carried away by his anger and to just report the matter to the police.

Dr. Maria Luisa D. del Rosario, Chief Resident Physician of Jose B. Lingad Memorial Hospital, testified that on September 14, 1991, she examined Mylene Rueda. She discovered fresh deep lacerations in the hymen at 4:00

o'clock and 8:00 o'clock positions without mucoid discharge. She also declared that her smallest finger could hardly penetrate into Mylene's vaginal opening which is still tight and elastic but clarified that sexual penetration is possible in such state as long as force is exerted. She found the patient negative for presence of spermatozoa, which stays alive for about twenty-four (24) hours to forty-eight (48) hours.

The defense presented the following story negating rape. Accused claimed that on September 13, 1991, he was with his family inside their house. He proceeded to the store which for sometime had ceased to be operational and since then had become his sleeping quarters. He switched on the light by tightening the bulb and found Mylene standing inside the store. He asked her why she was there and she replied that her two (2) sisters always maltreated her. He told her that maybe, she was not obedient to them and told her to go home. Later, he left her and proceeded to play "pusoy" with his neighbors. At about 7:30 p.m., while playing "pusoy," he saw Mylene's father and approached him to ask him who he was looking for. Upon learning that he was looking for Mylene, he told him that Mylene had gone home.

He also testified that the door of the store has no lock. When he returned to the store at about 10:30 p.m., he again turned on the light and found Mylene still there. He asked her why she had not gone home but she did not answer. Thereupon, he slept on the bench while Mylene remained seated on the table. When he woke up at 1:00 o'clock in the morning, he still saw Mylene in his room. He saw her leave at about 2:00 o'clock a.m.

Accused's mother, Araceli Tayag, took the witness stand to prove that Mylene fell from a bicycle owned by one Abel Liñgat a few hours before the alleged incident on September 13, 1991. She said that while cooking, she chanced upon her son and Mylene talking at around 5:00 o'clock p.m. Later, she heard a thud and when she looked out to see, she saw that Mylene had fallen from a bicycle. She helped and brought her in front of her house. She learned from her that her buttocks were hurt but she was requested not to reveal to anyone what happened to her.

Accused's aunt, Carmelita de la Cruz, was presented to show that Mylene went inside the store even before the arrival of the accused. She testified that between 5:00 to 6:00 o'clock p.m. she saw Mylene conversing with the sister of one Cristine Liñgat. She saw Mylene go home at around 6:30 o'clock and saw her again buying sugar. After bringing home the sugar, Mylene returned and asked for accused's mother. She proceeded to enter the store although the accused was not there. The witness also said that she did not notice Mylene leave the store and that she was used to seeing Mylene go in and out of their place.

On rebuttal, Catherine Rueda and Marlene Rueda, older sisters of Mylene, denied maltreating the latter. For her part, Mylene denied that she ever borrowed a bike from Abel Liñgat as she does not know how to ride a bike. She also denied that she fell from said bike.

After a careful review of the records, we find no scintilla of doubt that indeed accused-appellant had raped complainant with the use of force and intimidation at the time and place and in the manner described by the latter. The prosecution's version of the incident rings true all throughout. Every detail in the complainant's testimony is credible. We adopt as our own the trial court's evaluation of said testimony, to wit:

"Going over the testimony of the victim, the Court believes that as a witness she is very credible. Mylene Rueda, a sixth grade who is only twelve years old, innocent looking and inexperienced in earthly pleasures, could not have contrived a tale of her ravishment without rhyme or reason. It is difficult to believe one so young and innocent 'would tell a story of defloration, allow the examination of (her) private parts, and thereafter permit (herself) to be (the) subject of a public trial, if (she was) not motivated by an honest desire to have the culprit apprehended and punished' (People vs. Selfaisson, 1 SCRA 235). How can she spin a tale of rape on her person, tell it to the public and suffer the consequences of its stigma from adolescence till death? There is no logic to such a proposition especially in view of the fact that the defense has not offered any

plausible reason for the victim to blatantly lie. Her story bears the earmark of credibility. Despite her youth, she did not contradict herself in the material points of her story. She testified in a straightforward manner. The Court was impressed by her courage as she narrated the violation of her honor with tears streaming down her cheeks. Yet, she did not stop, hesitate, stutter or stammer. She went on with her narration with total focus on revealing to the Court the manner of how she was raped. How could she do so if it had not happen. For it is only when it really does happen that the manner of its execution is indelibly etched in the memory of the poor victim, creating a lasting impression that will haunt her for the rest of her life. 'No woman in her right senses would concoct such a tale repugnant to her virtue and undergo the rigors of a public trial concerning her honor. But these self-inflicted indignities are for the sake of the truth.....' (People vs. Flores, L-17077, April 29, 1968)."[4]

We find accused-appellant's desperate attempts to cast doubt on the credibility of the prosecution evidence not convincing at all. He argues that the testimony of complainant that she was shouting for help while being abused is incredible or unbelievable. If indeed the complainant was shouting, he argued, she should have been heard by the neighbors or at least by anyone of the accused--appellant's family considering that the houses in the neighborhood are very close to each other and the store where the incident happened is a portion of the house where the family of the accused-appellant is living.

We reviewed complainant's testimony on the matter and found that her shouts and cries were mere attempts since the accused-appellant succeeded in covering her mouth with his hands. Considering that the store where the accused-appellant locked and raped the complainant is small and enclosed with no windows open at that time except for the opening of about three (3) inches between the wall and the roof, the muffled shouts and cries of the complainant would have been impossible for anyone to hear.

Accused-appellant also contends that the testimony of the complainant that she heard him talking to his father after the sexual assault and yet, she remained inside the store and did nothing is unnatural. She should have accordingly opened the door of the store and ran out to seek his father's help.

Again, accused-appellant must have overlooked the fact that complainant explained in her testimony that she was not able to seek her father's help because the door of the store was locked and she had been threatened by the accused-appellant not to shout. The pertinent portion of said testimony is as follows:

"Q. Will you please tell us when Edwin went out and talked to your father, will you please tell us why you did not go out while your father was there talking with Edwin Tayag?

"A. I wanted to go out but I could not since the door was locked, sir.

"Q. Did you try to push that locked door in order to go out?

"A. Yes, sir.

"Q. And you did not even shout and called your father because the door was locked?

"A. I wanted to shout but I remember of (sic) what he told me and I got frightened, sir."[5]

As a twelve-year old girl, she cannot be expected to think and act as a mature person who would know what to do under extraordinary circumstances. Finding the door locked, it was not unnatural for her to feel helpless. Coupled with the threats of accused-appellant, it was understandable when she simply obeyed his order to remain silent. Any girl of her age would easily be subdued and cowed to obey in fear.

Accused-appellant next questions the lack of any finding in the medical certificate issued that force was used on the victim. He points to the fact that no bruise was found on her body. We find this argument bereft of merit. The doctor who conducted the medical examination testified that "lacerations are compatible with force and

vigorousness of attack" since the complainant in this case suffered fresh deep lacerations on the hymen at 4:00 o'clock and 8:00 o'clock positions. Besides, it is a well-settled rule that in rape cases, it is not necessary that there must be marks of physical violence on the victim's body[6] because the exertion of irresistible force by the accused is not an element of the offense. The force or violence required in rape cases is relative, it need not be overpowering or irresistible.[7] Also it is not required that the victim should have resisted to death.[8]

Considering the mature physical built of the accused-appellant who is 23 years of age, stands 5'11" and weighs 120 lbs.,[9] as opposed to the small frame of the complainant who was a mere 12-year old girl, it could readily be seen that the age, size and strength of the accused-appellant outmatched the complainant. The threats he made, therefore, may be regarded as an intimidation of such a moral kind which induced fear in the mind of the complainant. These threats in some measure take the place of violence and offer of resistance required in rape cases.

Neither does the absence of spermatozoa in complainant's vagina negate the commission of rape. Proof of presence of spermatozoa is not a prerequisite for conviction of rape.[10] In fact, even a medical examination is not an indispensable element in rape cases.[11] Any penetration whether reaching to the hymen or not is sufficient to constitute the crime of rape.[12]

In recapitulation, there is nothing in the prosecution's evidence that could cast doubt on the commission of the offense of rape by the accused-appellant on the complainant. The prosecution successfully discharged the burden of proving his guilt beyond reasonable doubt.

By contrast, the evidence of the defense appeared contrived and implausible. To begin with, accused-appellant attempted to convey the idea that he was complainant's confidant to whom she confided her problems but aside from failing to establish beforehand that they were close to each other, he further betrayed himself when he allegedly left her alone in his room to play "pusoy" with his friends and later, to uncaringly sleep notwithstanding the presence of complainant. Revealingly, the aforesaid acts do not show even at the very least, cordial relationship between them. Secondly, accused-appellant's claim that he discovered complainant in his room when he turned on the light is incredible. Even more unbelievable is his claim that when he returned at 10:30 p.m. after playing "pusoy" he still found Mylene inside his room without the light on despite the fact that he did not turn it off when he left. He himself admitted that the light, which was seven feet high, had no switch and can be turned on by tightening the bulb and switched off by loosening it. It is therefore improbable that Mylene turned the light off herself. The improbabilities in the tale of accused-appellant exposed its nature as a mere concoction or fabrication and rendered it highly doubtful.

The affirmance of accused-appellant's conviction in this case is inevitable. He should, however, be sentenced to pay P50,000.00 indemnity to the complainant instead of P100,000.00. This Court awards indemnity in rape cases ranging from P30,000.00 to P50,000.00 depending on the circumstances of the case. The appalling degree of sexual aberration committed or the tender age of the victim are considered special circumstances in the determination of the amount awarded as damages. In *People v. Felipe*, [13] where the victim was a twelve-year old girl, this Court awarded P50,000.00 as damages. In the case at bar, the victim is likewise a twelve-year old girl.

WHEREFORE, premises considered, the decision finding accused-appellant Edwin Tayag guilty beyond reasonable doubt of the crime of rape is **AFFIRMED** with the modification that the civil indemnity be reduced to P50,000.00.

SO ORDERED.

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

- [1] Records, p. 2.
- [2] Rollo, p. 23.
- [3] Ibid., pp. 38-39.
- [4] Rollo, pp. 21-22.
- [5] TSN, February 11, 1992, p. 41.
- [6] People v. Soronio, G.R. No. 94362, 204 SCRA 742 (1991).
- [7] People v. Ramos, G.R. No. 92626-29, 197 SCRA 523 (1991).
- [8] People v. Aquino, G.R. No. 83214, 197 SCRA 578 (1992).
- [9] TSN, February 11, 1992, p. 9.
- [10] People v. Aquino, *supra*.
- [11] People v. Hangdaan, G.R. No. 90035, 201 SCRA 568 (1991).
- [12] People v. Mayoral, G.R. Nos. 96094-95, 203 SCRA 528 (1991).
- [13] G.R. No. 90390, 191 SCRA 176 (1991).

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