

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARCIANO SAPURCO ALIAS “CIANO,” ACCUSED-APPELLANT.

G.R. No. 107748. July 03, 1995

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

MARCIANO SAPURCO was sentenced by the trial court to suffer the penalty of reclusion perpetua for the forcible abduction with rape of 11-year old Melinda Malong, and to pay her P50,000.00 for moral damages.[1]

The convict is now before us on appeal.

The evidence shows that on 16 January 1991, at around 2 o'clock in the afternoon, Melinda Malong left their house in Barangay Magsaysay, Capalonga, Camarines Norte, to answer the call of nature at a nearby brook some 100 meters away. Accused Marciano Sapurco, a guest of the Malong household, followed Melinda. When he caught up with her he told her not to leave because he would be getting her clothes. Melinda obeyed and waited for Marciano. When the latter appeared he suddenly grabbed Melinda and instructed her not to shout. He told her to go with him or else he would kill her.[2]

Marciano then brought Melinda to a deserted nipa hut about a kilometer away from her house. As dusk drew near he informed her that they would pass the night there. He then gathered coconut leaves with his bolo and used them to cover the ground as well as to patch up openings on the sides of the hut. Then he undressed Melinda and ordered her to lie down. He placed himself on top of her and had sexual intercourse with her. After having satiated his lust, Marciano stood up and told Melinda to put on her clothes.[3] She was not able to resist the advances of the accused because, according to her, she was terrified and intimidated as he was armed with a bladed weapon.[4]

The following day, at the crack of dawn, Marciano and Melinda left the nipa hut and boarded a passenger jeepney to Daet. They arrived at the poblacion at around 2:30 in the afternoon. They proceeded to a watch repair shop owned by a friend of Marciano. He entrusted her to the shop owner and told her not to leave until he arrived. When Marciano returned he instructed Melinda to dress up as they were leaving for Manila. However, before they could leave, policemen on board a tricycle arrived and placed Marciano immediately under arrest.[5]

On 17 January 1991 Dr. Pauline Kollin examined Melinda at the Camarines Norte Provincial Hospital and reported that her nulliparous outlet had lacerations at the 3 o'clock and 6 o'clock positions confirming that her vagina had been previously penetrated.[6]

Marciano had a different version. He did not forcibly abduct Melinda Malong but only chaperoned her to Daet because she was running away from home and she begged him to accompany her. He insisted that at no occasion did he rape Melinda.

Marciano narrated that the Malongs were tenants of one Abner Sasot, owner of several coconut plantations where he (Marciano) worked as the harvest overseer. As such, his work entailed visits to the plantations for several days

in order to supervise the harvesting. He claimed to have been a constant guest of the Malongs for the past two years during the harvest seasons because Abner Sasot required the Malong family to provide Marciano with food and lodging during his visits.[7]

The accused further disclosed that on 10 January 1991, in one of his visits with the Malongs, he witnessed Melinda being scolded and whipped by her mother allegedly for flirting with a first cousin. Marciano claimed that he knew Melinda's mother to be very strict and that was not the first time that Melinda was disciplined in such a manner by her. After this last whipping incident, according to Marciano, she approached him and told him that she was running away from home. Purportedly, she told him that as he was leaving for Daet in a few days she pleaded that he bring her with him. He claimed that he tried to dissuade her but she was insistent in going with him.[8]

On 16 January 1991 at around 2 o'clock in the afternoon, as he was about to leave for Daet, Melinda told him that she wanted to go with him. So they agreed, according to him, that she would wait for him at the deserted house of Tandang Dansoy about half a kilometer away, and that after their conversation she left and proceeded to their tryst. He followed Melinda. They met at their rendezvous just before dusk and decided to spend the night there as it was already too late to proceed to Daet. The next morning they took a tricycle to Bagong Silang and boarded a passenger jeepney to Daet. When they reached Daet he was arrested by the police and brought to the municipal jail.[9]

On 10 April 1992 the court a quo found Marciano Sapurco guilty as charged.[10]

In this appeal, accused-appellant assails the decision of the trial court contending that the testimony of Melinda should not have been given credence because it conflicts materially with a previously executed affidavit as well as prior statements made during the preliminary examination. He further claims that there could be no forcible abduction and that the prosecution failed to prove beyond reasonable doubt that he raped Melinda.[11]

We disagree. When the issue of credibility of witnesses is being resolved appellate courts will generally not disturb the factual findings of trial courts.[12] The credibility of witnesses is a question better assessed by the trial court having observed their demeanor and deportment during trial.[13] Findings of trial courts regarding the veracity of a testimony are given great weight and accorded high respect by this Court in the absence of a showing that they were reached arbitrarily.[14] We will not disturb these findings unless there is a clear showing that facts or circumstances of weight or substance have been overlooked or misunderstood which could affect the result of the case.[15] These excepting circumstances are absent in the case at bench.

Q:

Now, what happened after Marciano Sapurco told you that you must not leave because he will (sic) be getting your clothes from your house?

INTERPRETER:

Your Honor, the Interpreter's interpretation of the answer "pigdulang ako" was, "I was snatched away" (pigdulang ako).

FISCAL PANTE:

Q:

How did Marciano Sapurco snatch or take you away?

A:

When he snatched me, sir, he has (sic) instructed me that I should not shout because if I will (sic) shout he will (sic) kill me, sir.

x x x x

Q:

When you arrived at around 6:30 o'clock in the afternoon (sic) in that small hut, what did Marciano Sapurco do to you?

A:

He undressed me, sir.

x x x x

Q:

Now, after that when you were already totally naked what did Marciano Sapurco do?

A:

He laid on top of my body, sir.

x x x x

Q:

While Marciano Sapurco was on top of you, what did Marciano Sapurco further do to you?

A:

He kept on top of me, sir, and had carnal knowledge with me.

Q:

How did Marciano Sapurco have sexual intercourse with you?

A:

I could not make any sound or shout, sir, because he is (sic) holding a bladed weapon at that time.

x x x x

Q:

Kindly tell the court what the accused did with your private parts?

A:

He was trying to insert his penis to my vagina, sir ("Piglalaog po ang saiyang ikinabuhay sa sako").

Q:

Was the penis of Marciano Sapurco able to enter your vagina at the time when he was on top of you?

A:

It penetrated, sir, because I even told him to stop because I have been feeling great pains.

x x x x

Q:

At that time when the accused has (sic) taken you from the place where the accused has (sic) sexually abused you towards Bagong Silang, did it not come to your mind to tell the accused to bring you home at Bagong Silang at Peter's Sawmill?

x x x x

A:

He told me, sir, that he will (sic) not bring me back home.

x x x x

Q:

Now, where did the accused bring you home here in Daet?

A:

Upon reaching Daet, Sir, he entrusted me to the owner of a slipper dealer and a watch repair shop x x x x[16]

Marciano was properly found guilty of the complex crime of forcible abduction with rape because the evidence clearly supports it. Melinda's abduction was a necessary means to commit the rape.[17] In other words, the sexual intercourse with complainant was facilitated and ensured by her abduction.[18]

Clearly, accused-appellant violated Art. 342 of The Revised Penal Code because the complaining witness was under twelve years of age when he took her away with lewd designs.[19] According to par. 2 of Art. 342, if the abducted girl is below twelve years of age it is unnecessary that it be done against her will provided that the taking be attended with lewd intentions.[20] The reason behind the law rests on the assumption that a girl of such tender age is assumed to have no will of her own to consciously consent to the abduction. Thus, the assertion of accused-appellant that Melinda voluntarily went with him to Daet is of no legal consequence because her apparent consent should be regarded under the law as being against her will.[21] The presence of lewd intentions was also apparent from the conduct of the accused when he later defiled the complaining witness. Therefore the court a quo correctly ruled that accused-appellant was guilty of forcible abduction.

Likewise we are convinced that Marciano raped Melinda after he abducted her. When an alleged victim of rape says that she was violated, she says in effect all that is necessary to convict the accused so long as her testimony meets the test of credibility.[22] This Court is inclined to lend credence to the testimony of a young girl who claims to have been sexually assaulted since we find it inconceivable for a girl her age to invent such a sordid tale of defilement unless it be the plain truth.[23] Thus we find Melinda's narration to be direct and straightforward and hold that it is entitled to full faith and credit. It is highly improbable that a barrio girl eleven years of age would fabricate a charge of rape that could put herself and her family in a very compromising situation.[24] Hence Marciano's conviction for rape complexed with forcible abduction is inescapable. The gravamen of statutory rape, as in this case, is the carnal knowledge of a woman under twelve years of age.[25]

The argument of accused-appellant that there exist inconsistencies between Melinda's testimony and her earlier affidavits regarding the place and time of the rape is bereft of merit.[26] These alleged contradictions pointed to by the defense do not affect the credibility of complaining witness. An erroneous reckoning or estimation of the place and time of the rape is insufficient to discredit the testimony of a complainant, especially in this case where the place and time are not essential elements or have no substantial bearing on the fact of commission of the crime.[27] Besides, the contradiction between complainant's testimony and her affidavits may be explained by the

fact that an affidavit being taken ex parte is almost always incomplete and often inaccurate.[28] Affidavits are not complete reproductions of what the declarant has in mind because they are often executed when an affiant's mental faculties are not in such a state as to afford him a fair opportunity to narrate in full what actually transpired and are sometimes prepared with partial suggestions from the administering officer.[29] We must not also lose sight of the fact that Melinda was only eleven years old when she was asked to relate her horrifying experience with accused-appellant. It would indeed be very unrealistic to expect the victim to be coherent and unperturbed in narrating the logical sequence of events of her traumatic ordeal.[30] Therefore, we consider these alleged discrepancies inadequate to overturn the demonstrated truthfulness of complainant's testimony.

Accused-appellant avers likewise that the reliability of complainant's testimony was again put to serious doubt when the medical findings of Dr. Pauline T. Kollin revealed that the lacerations on Melinda's vagina were already healed and could have possibly been inflicted two weeks before the alleged rape.[31]

We do not agree. The presence of a laceration in the vagina is not an essential prerequisite to prove that a victim has been raped.[32] The slightest penetration of the penis into the labia majora of the female organ suffices to warrant a conviction for rape.[33] Thus it is possible to consummate rape without inflicting any lacerations in the female organ. Consequently, granting arguendo that the lacerations on the victim's vagina were inflicted a few weeks before the alleged rape, this fact does not belie the claim of Melinda that she was on 16 January 1991 defiled by accused-appellant.

WHEREFORE, the judgment of the court a quo finding accused-appellant MARCIANO SAPURCO guilty of the complex crime of forcible abduction with rape and imposing upon him a prison term of reclusion perpetua, ordering him to indemnify the complaining witness MELINDA MALONG in the amount of P50,000.00 and to pay the costs, is AFFIRMED.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Quason, and Kapunan, JJ., concur.

[1] Regional Trial Court of Daet, Camarines Norte, Br. 40, Judge Pablito M. Roxas, presiding.

[2] TSN, 23 September 1991, pp. 4-7.

[3] Id., p. 12.

[4] Id., p. 10.

[5] Id., pp. 13-14.

[6] Records, p. 5.

[7] TSN, 11 December 1991, pp. 10-14.

[8] Id., pp. 14-17.

[9] Id., pp. 18-27.

[10] Rollo, pp. 15-19.

[11] Id., p. 42.

[12] People v. Pamor, G.R. No. 108599, 7 October 1994, 237 SCRA 462; People v. Dulos, G.R. No. 107328, 28 September 1994, 237 SCRA 141; People v. Comia, G.R. No. 109761, 1 September 1994, 236 SCRA 185; People

v. Agravante, G.R. Nos. 105402-04, 5 September 1994, 236 SCRA 300.

[13] People v. Gornes, G.R. No. 104869, 23 February 1994, 230 SCRA 270.

[14] People v. Repollo, G.R. No. 108872, 7 October 1994, 237 SCRA 476; People v. Balisteros, G.R. No. 110289, 7 October 1994, 237 SCRA 499.

[15] People v. Capoquian, G.R. No. 109145, 22 September 1994, 236 SCRA 655.

[16] TSN, 23 September 1991, pp. 7-14.

[17] Art. 48, The Revised Penal Code.

[18] People v. Angeles, G.R. Nos. 104285-86, 21 May 1993, 222 SCRA 451.

[19] Art. 342, The Revised Penal Code.

[20] Art. 342, par. 2, The Revised Penal Code; Ramon C. Aquino, The Revised Penal Code, 1988 Edition, Vol. III. p. 439; Luis B. Reyes, The Revised Penal Code, 1981 Edition, Book Two, p. 876.

[21] Ibid.

[22] People v. Junio, G.R. No. 110990, 28 October 1994, 237 SCRA 826.

[23] See note 14.

[24] People v. Rejano, G.R. Nos. 105669-70, 18 October 1994, 237 SCRA 627, citing People v. Guibao, 217 SCRA 64.

[25] Art. 335, The Revised Penal Code.

[26] Rollo, pp. 51-52.

[27] People v. Empleo, G.R. No. 96009, 15 September 1993, 226 SCRA 454; People v. Quiñones, G.R. No. 92504, 18 May 1993, 222 SCRA 249.

[28] People v. Cruza, G.R. No. 104527, 7 October 1994, 237 SCRA 410; People v. Manuel, G.R. Nos. 107732-33, 19 September 1994, 236 SCRA 545.

[29] Ibid.

[30] People v. Adlawan, G.R. Nos. 100917-18, 25 January 1993, 217 SCRA 489.

[31] Rollo, pp. 52-53.

[32] People v. Castro, G.R. No. 91490, 6 May 1991, 196 SCRA 679.

[33] People v. Bacalzo, G.R. No. 89811, 22 March 1991, 195 SCRA 557.

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