

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIO GALVE, ACCUSED-APPELLANT.

G.R. No. 107912. April 28, 1994

Ponente: PADILLA, J.

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PADILLA, J.:

Accused-appellant Mario Galve was charged with rape in an Information dated 4 June 1990 allegedly committed as follows:

"That on August 26, 1989 at about 10:00 o'clock in the evening, in Barangay Siana, Mainit, Surigao del Norte, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, armed with a stainless knife, by means of violence and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge of the complainant ESTRELLA C. ALESNA, an unmarried 17-year old woman, against her will in her own house, as a result of which said ESTRELLA C. ALESNA got pregnant and she delivered a baby boy nine months later or on May 30, 1990, causing her damage and prejudice in the amount of FIFTY THOUSAND PESOS (P50,000.00) Philippine currency representing actual, moral and exemplary damages.

CONTRARY TO LAW. The crime is aggravated by the circumstance of dwelling of the offended party, the latter not having given provocation for it, and nighttime as another aggravating circumstance."[1]

Mario Galve pleaded not guilty upon arraignment on 13 December 1990 and after trial, the Regional Trial Court, Branch 29 of Surigao City rendered a decision* dated 17 June 1992, in Criminal Case No. 3125, the dispositive part of which reads:

"WHEREFORE, the Court finds the accused, MARIO GALVE, Guilty beyond reasonable doubt of the crime of rape, penalized under Article 335 of the Revised Penal Code and imposes the penalty of reclusion perpetua. To indemnify the complainant the amount of P30,000.00 without subsidiary imprisonment in case of insolvency.

To suffer the accessory provided for (in) Article 41 that of civil interdiction for the reason of the sentence and to pay the costs."[2]

On appeal to this Court, the accused-appellant assigns the following errors allegedly committed by the lower court:

"X X X IN DISREGARDING THE DEFENSE OF ALIBI OF THE ACCUSED DESPITE THE CONVINCING TESTIMONIES OF HIS WITNESSES THAT HE WAS AT A FAR DISTANCE FROM THE PLACE WHERE THE ALLEGED RAPE WAS COMMITTED.

"X X X IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE PENALIZED UNDER ART. 335 OF THE REVISED PENAL CODE."[3]

Briefly, the facts which led to the filing of the information against the accused are as follows:

At around ten o'clock in the evening of 26 August 1989, the complainant, Estrella C. Alesna, was asleep in her

room at their house in Siana, Mainit, Surigao del Norte. The only other persons with her that night were her younger brother and sister. While she was asleep, she was surprised to notice accused-appellant Mario Galve beside her. The accused covered her mouth with a pillow, pointed a five (5)-inch knife to her throat and ordered her to remove her underwear. The victim, at first, was hesitant but fearing for her life, she did as ordered, after which accused-appellant succeeded in raping her. As a result of the rape, the victim became pregnant and she delivered a baby boy nine (9) months later.[4]

Accused-appellant's defense is alibi. He alleges that being then a gold panner working in Maputi, Sta Cruz, Agusan del Sur, he was working until six o'clock in the evening of 26 August 1989. On 27 August 1989, he attended religious services of the Iglesia ni Kristo at Sta Cruz, Agusan del Sur, after which he attended the birthday party of the brother of a co-worker, Rodolfo Gosun.

In *People v. Pascual*,^[5] this Court stated:

"A rule deeply embedded in our jurisprudence is that when a woman testifies that she has been raped, she says in effect all that is to be said to constitute the commission of the crime. No young Filipina of decent repute would publicly admit that she has been ravished and abused unless it is the truth."

In the case at bench, the attempt of accused-appellant to establish his presence at another place at the time the offense was committed, fails to engender belief. The clear, positive and credible testimony of the victim to whom the defense failed to impute any motive except to bring her ravisher to justice, establishes the guilt of the accused beyond reasonable doubt.

The alibi presented by accused-appellant leaves much to be desired. He attempted to establish his presence in Sta Cruz, Agusan del Sur on 27 August 1989 where he allegedly attended religious services of the Iglesia ni Kristo. However, it is undisputed that the distance between the locus criminis and Sta Cruz, Agusan del Sur can be negotiated in five (5) hours.^[6] Accused-appellant presented a certificate of attendance signed by officials of the Iglesia ni Kristo.^[7] Even assuming that accused-appellant indeed attended the church services of the Iglesia ni Kristo on 27 August 1989 in Sta. Cruz, Agusan del Sur, it has not been shown that it was physically impossible for him to have been at the place where the victim was raped at the time the rape was committed. The testimonies of the witnesses for the defense, at best, were able to establish accused-appellant's presence in Agusan del Sur before and after the commission of the offense. Considering that the victim's testimony positively identifying accused-appellant as her assailant was given full credence by the trial court, the defense of alibi carries no weight and should as a consequence fail to exonerate accused-appellant.^[8]

Moreover, the trial court rendered the judgment of conviction based on the finding that the victim's testimony deserved credence over the testimonies of the witnesses for the defense. Absent any showing that the trial court's findings on the credibility of witnesses should be disregarded, this Court will not reject the same since the settled rule in this jurisdiction is that findings on the credibility of witnesses are properly within the province of the trial court which had ample opportunity to observe and evaluate the demeanor of the witnesses while on the stand.

WHEREFORE, the conviction of accused-appellant Mario Galve of the crime of rape is **AFFIRMED**. Costs against accused-appellant.

SO ORDERED.

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

[1] Rollo, p. 4.

* Penned by Judge Teodoro Palma Gil

[2] Rollo, p. 14

[3] Rollo, p. 33

[4] Exhibit "B"

[5] G.R. NO. 95029, 24 March 1993, 220 SCRA 440

[6] TSN, 27 November 1991, p. 12

[7] Exhibit "1"

[8] People v. Villorente, G.R. No. 100198, 1 July 1992, 210 SCRA 642

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