

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLAND TACIPIT, ACCUSED-APPELLANT.

G.R. No. 109140. March 08, 1995

Ponente: BIDIN, J.

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BIDIN, J.:

This is an appeal from the decision dated November 24, 1992, of the Regional Trial Court of Sanchez Mira, Cagayan, Branch 12, finding accused-appellant Roland Tacipit guilty beyond reasonable doubt of the crime of rape, the dispositive portion of which reads as follows:

"WHEREFORE, the Court hereby finds the accused guilty beyond reasonable doubt of rape, as defined under paragraph (1) of Article 335 of the Revised Penal Code, as amended, without the use of a deadly weapon, and hereby imposes on him the penalty of reclusion perpetua, with all the accessory penalties provided by law, and further sentences him to pay moral damages to one Onelia Pamittan in the amount of FIFTY THOUSAND PESOS (P50,000.00), Philippine currency, and to pay the costs. x x x" (Rollo , p. 32).

The records of the case disclose that the complainant, Onelia Pamittan, was a 17-year old high school student at the Abulug School of Fisheries in Abulug, Cagayan at the time of the commission of the offense. She had a friend, Eden Molina, who studied at the same school and lived about two (2) kilometers from the school.

In the afternoon of January 3, 1991, Eden invited some of her friends, including the complainant, over to her house. When the group arrived at Eden's house, at about 4:30 p.m., the accused-appellant Roland Tacipit was already there with Eden's brother, Elmer Molina, the latter being a friend and co-worker of the accused. Previous to this meeting, the complainant already knew the accused since he lived only a few meters from her home. She also knew the accused to be a married man.

After partaking of a snack of tinubong (native rice cakes), the group decided to go home. At this point, the version given by the prosecution and the defense differed. According to the complainant, as she was about to leave the Molina house, the accused restrained her, held her left hand and her notebooks and told her friends to go ahead. Despite her cries and pleas for help, the owners of the house did nothing to help her. On the other hand, defense witness Elmer Molina alleged that the complainant and the accused were sweethearts. They left the house together, with their hands over each other's shoulders. At any rate, it is undisputed that the complainant left the Molina household with the accused.

On the way, they passed through a coconut plantation of a certain Guillermo Agustin. By then, it was already getting dark. There, the accused took hold of the wrists of the complainant and wrestled her down to the ground. He tore off the T-shirt and skirt she was wearing and pinned her hands across her stomach. The accused then removed her shorts and panty and ravished her. After the carnal act, the accused accompanied the complainant to a point near her home and before leaving her, threatened to kill her or her family if she reports the matter to anyone. The complainant, however, did not heed the warning and immediately upon arriving at her house, reported the incident to her uncle, Ernesto Marantan, with whom she was residing. Marantan looked for the

accused that same evening, but after failing in his search, he reported the matter instead to the barangay captain.

The following day, the complainant accompanied by her mother, aunt and cousin, reported the incident to the police at the municipal building. She submitted her clothing for examination and after being investigated, submitted herself for medical examination.

On January 5, 1991, the complainant executed a sworn statement narrating the circumstances surrounding the commission of the crime and filed the corresponding complaint for rape. After a thorough investigation which resulted in the finding of probable cause, the municipal trial court issued a warrant of arrest against the accused.

On February 18, 1991, an information was filed by the Provincial Prosecutor against the accused, as follows:

"The undersigned, Provincial Prosecutor, upon complaint filed by the offended party, Onelia T. Pamittan, in the Municipal Trial Court of Abulug, Cagayan, appearing on page 1, of the record of the case, and forming an integral part of this Information, accuses Roland Tacipit y Manglapuz of the crime of Rape, defined and penalized under Article 335, of the Revised Penal Code, committed as follows:

"That on or about January 3, 1991, in the municipality of Abulug, province of Cagayan and within the jurisdiction of this Honorable Court, the said accused Roland Tacipit y Manglapuz, with lewd design, by means of force, violence and intimidation, and with the use of deadly weapon, did then and there willfully, unlawfully and feloniously have sexual intercourse with the offended party, Onelia T. Pamittan, a minor, seventeen (17) years of age, against her will and consent.

"CONTRARY TO LAW." (Rollo , p. 7)

Upon arraignment, the accused pleaded not guilty.

As his defense, the accused claimed that he and the complainant were sweethearts since October 3, 1990 and that the complainant voluntarily yielded herself to him. As proof of their relationship, the accused presented a ring engraved with the name "Onelia" and alleged that it was given to him by the complainant as a token of her love. Defense witness Elmer Molina corroborated the testimony of the accused, stating that he courted the complainant but was spurned by her because she was already the accused's sweetheart.

On the other hand, these contentions were firmly denied by the prosecution. The complainant testified that she knew the accused to be a married man and he never visited her house to court her. She also denied that Elmer Molina courted her or that she told him that she was the accused's girlfriend. As for the ring, the complainant denied ownership thereof. True enough, when the ring was tried on her hand, it was loose and did not fit her finger (Rollo , p. 23).

The trial court, after consideration of the evidence presented, rendered the aforequoted judgment against the accused. Hence, the present appeal wherein the following assigned errors are raised:

"I

THE TRIAL COURT ERRED IN GIVING WEIGHT AND CREDENCE TO THE OTHERWISE DOUBTFUL THEORY OF THE PROSECUTION AND IN DISREGARDING THAT OF THE DEFENSE.

"II

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT."
(Rollo , p. 56)

The defense argues that the weight of the evidence presented by the prosecution is grossly inadequate to

overthrow the presumption of innocence granted by law to the accused. It is the contention of the accused-appellant that the testimony of complainant relied upon by the trial court in convicting him is incredible and not worthy of belief. There are inconsistencies in said testimony. It is also saddled with flaws which show her tendency to exaggerate things (Rollo , p. 61-64).

Secondly, the accused argues that the physical evidence as well as the actuations of the parties concerned are not consistent with the allegation of rape but with carnal knowledge done with the consent of both the accused and the complainant. As proof, the accused pointed out the lack of external injuries on the body of the complainant. This fact negates the employment of force by the accused on the complainant and rules out struggle or any other form of resistance on the part of the complainant.

The accused likewise points to the absence of an outcry on the part of the complainant which bolsters the position of the accused that the sexual intercourse was consensual. The rationale given by the complainant that she had a sore throat which prevented her from shouting was characterized by the defense as incredible.

Finally, the accused argues that if rape had indeed been committed by him, he would not have accompanied the complainant to a place near her house, thereby exposing himself to the risk of being seen, but would have instead fled for safety, which is more consistent with the commission of an offense.

In reviewing the evidence of this case, this Court was guided by the three (3) settled principles in reviewing rape cases, namely, (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove it; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; (3) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense (People vs. Lim, 206 SCRA 176 [1992]). On these bases, the decision of the trial court must be affirmed.

There is present in this case clear, convincing and competent physical and testimonial evidence to support a finding of guilt beyond reasonable doubt against the accused. The testimony of complainant Onelia Pamittan, was found by the trial court to be replete with details, negating the probability of fabrication. Although the trial court did not accord credence to that part of her testimony relating to how she ended up leaving the Molina household with the accused, the same did not militate against the credibility of the complainant as a prosecution witness.

As far as alleged inconsistencies in her testimony are concerned, this Court has ruled time and again that a few discrepancies and inconsistencies in the testimonies of witnesses referring to minor details, and not in actuality touching upon the basic aspects of the whys and wherefores of the crime, do not impair their credibility (People vs. Custodio, 197 SCRA 538 [1991] citing People vs. Muñoz, 163 SCRA 780). This is especially true in the crime of rape where the victim cannot be expected to remember with accuracy the details of her humiliating experience. At best, this Court relies upon the fact that the trial court found the complainant to be a credible witness. As often repeated by this Court:

"x x x the matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge, who, unlike appellate magistrates, can weigh such testimony in the light of the declarant's demeanor, conduct and attitude at the trial and is thereby placed in a more competent position to discriminate between the true and the false. Appellate courts will not disturb the credence, or lack of it, accorded by the trial court to the testimony of witnesses unless it be clearly shown that the latter court had overlooked or disregarded arbitrarily the facts and circumstances of significance in the case" (People vs. Simbulan, 214 SCRA 537 [1992]).

The appeal at hand presents no compelling reason to deviate from this general rule.

Moreover, considering that the accused and the complainant are at most acquaintances, there appears to be no motive on the part of the complainant to testify against the accused which could render suspect her testimony in court. It is clear that her only intent was to seek redress for the injustice committed against her by appellant - a married man. As held in *People v. Guibao*, (217 SCRA 64 [1993]):

"No woman would concoct a story of defloration, allow an examination of herself by being subjected to a public trial, if she was not motivated solely by the desire to have the culprit apprehended and punished."

Anent the contention of the accused that the sexual act was committed with the mutual consent of the parties, the evidence presented by the prosecution sufficiently rebutted this point.

For one, although there was an absence of external injuries on the body of the complainant, the clothes worn by her at the time of the offense speak well of the use of force and the presence of a struggle. As the trial court noted:

"Her T-shirt was torn which corroborates her testimony that it was forcibly removed. It also proves that she offered resistance to the criminal advances of the accused. Her shorts, like her panty, had blood stains. Her panty was detached from her shorts. Her bra was torn, also denoting that it was forcibly removed. These physical evidence x x x are consistent only with the force and compulsion applied on her; they prove she offered resistance and her defloration was against her will." (Rollo , p. 27)

The actuations of the complainant subsequent to the commission of the crime are likewise consistent with her allegations of rape. Her immediate revelation of the incident to her uncle upon arrival as well as her swift recourse to the barangay Captain and the police authorities are not acts of a woman savoring an illicit tryst but that of a maiden seeking retribution for the outrage committed against her.

Thus, the accused's reliance on the defense that he and the complainant were lovers is unfounded. But even if it were true, such relationship would not give the accused the license to deflower the complainant against her will, and will not exonerate him from the criminal charge for rape. Furthermore, there is nothing in the testimonies of either the complainant or even the accused himself which could indicate any sort of special relationship between the two. The alleged proof of such relationship, the ring with complainant's name engraved on it, does not even fit the fingers of the complainant. Their actuations with respect to each other before, during and even after the commission of the crime were consistent with the contention of the complainant that they are nothing more than acquaintances. The evidence of the prosecution, therefore, completely negates the existence of any relationship between the accused and the complainant.

Finally, the accused's act of accompanying the complainant up to a point near her house does not appear to be a gesture of love. If the accused was not obsessed with a sense of guilt, he could have accompanied the complainant to her home since it was already dark at night. Rather than a demonstration of his freedom from guilt, the actuation of the accused in the premises appears to be no less than a calculated move to ensure that the complainant will keep her silence about the sordid incident perpetrated against her will.

WHEREFORE, the decision of the Regional Trial Court of Sanchez Mira, Cagayan, Branch 12, dated November 24, 1992 in Criminal Case No. 2190-S finding the accused-appellant Roland Tacipit guilty beyond reasonable doubt of the crime of rape, and sentencing him to suffer the penalty of reclusion perpetua, with all the accessory penalties, to pay the complainant Onelia Pamittan moral damages in the amount of fifty thousand pesos (P50,000.00) and to pay the costs, is hereby **AFFIRMED IN TOTO**.

SO ORDERED.

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

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