

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTONIO BEA, JR., ACCUSED-APPELLANT.

G.R. No. 109618. May 05, 1999

Ponente: ROMERO, J.

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ROMERO, J.:

Accused-appellant Antonio Bea, Jr. was charged with the crime of rape in Criminal Case No. 177 before the Regional Trial Court[1] of Irosin, Sorsogon, Branch 55, in an information dated July 2, 1984, which reads as follows:

"That on or about the second week of the month of September, 1983, in the Municipality of Bulan, Province of Sorsogon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with lewd design and armed with a deadly weapon and by means of force, violence and intimidation, did then and there, wilfully, unlawfully and feloniously have carnal knowledge of Jocelyn Borral, a 16 year old against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW."[2]

Upon arraignment, appellant, assisted by his counsel de oficio, Atty. Fred Jimena, entered a plea of not guilty.

The evidence for the prosecution establish the sequence of event, thus:

Jocelyn Borral, 17 years old and a resident of Danao, Bulan, Sorsogon, testified that she was employed by the spouses Bea for four months as househelper from February up to the month of June 1983.[3] Sometime in September 1983, with the employment already terminated, appellant's wife, Yolanda, requested through Jocelyn's mother if she could take care of their four children as she was going to Sorsogon on such date for medical treatment.[4] As Yolanda was due to return the following day, she was advised to spend the night at the former's place to which she acceded. While asleep, however, appellant forcibly went on top of her and with a knife poked at her neck, proceeded to consummate his bestial act. In the course of the sexual assault, she lost consciousness. With the accused no longer in the house and before leaving the same the following day, Jocelyn fed the children their noon meal after which she went home. Upon reaching her house, she saw her mother but never told the latter of her ordeal in the hands of the accused. As they were residents of the same barangay, she kept this harrowing experience to herself for fear that the accused might carry out the veiled threats made upon her. Her seeming helplessness dragged on for five months until her mother noticed her enlarging abdomen. Hence, she was accompanied to Drs. Luzurriaga and Villareal both of whom confirmed her pregnancy. Compelled to explain the cause of her condition, she admitted that she was sexually violated by the accused.

The defense, on the other hand, presented Beverly delos Santos, Shiela Bea and the appellant himself.

Beverly delos Santos, 13 years old and a resident of Danao, Bulan, Sorsogon, testified that sometime in September 1983, she frequented the accused's residence to play with the latter's children. In one of those days, at around 1:00 p.m., she allegedly saw Gerry Borris[5] climb over the fence and enter the house to see Jocelyn who

works as a housemaid of the spouses Bea. Thereupon, Gerry invited Jocelyn inside the bedroom where they had carnal knowledge. Beverly declared that, together with her playmates, they witnessed the coitus which lasted until 3:00 p.m. as they peeped through a hole. On the other hand, Shiela Bea, a daughter of the accused, merely corroborated the testimony of Beverly.

In his defense, appellant Bea, 45 years old and a fisherman by occupation, denied the charge against him and declared that such grave imputation was a means employed by Jocelyn to get back at him for ejecting her as househelper. Defending his action for terminating the latter's employment, he explained that he cannot countenance the immoral acts done by Jocelyn and Gerry in his house, allegedly in full view of his minor children, while he was away at sea. When Jocelyn became pregnant by her boyfriend who, upon knowledge thereof, absconded to Manila, the former, accompanied by the barangay captain, purportedly threatened him with a rape charge unless he extend financial support to her.

In a decision dated January 6, 1992, the trial court found the accused guilty beyond reasonable doubt of the crime charged, the dispositive portion of which reads:

"Wherefore, the Court finds the accused guilty beyond reasonable doubt of the crime of rape as defined under Article 335 of the Revised Penal Code and hereby sentences him to suffer the penalty of reclusion perpetua. Accused is further ordered to indemnify the complainant Jocelyn Borral the sum of P50,000.00 and to support her offspring in accordance with law. With costs against the accused.

SO ORDERED."[6]

Appellant filed the instant appeal and raised the following assignment of errors:

I

"THE TRIAL COURT ERRED IN GIVING WEIGHT AND CREDENCE TO THE UNCONVINCING AND IMPROBABLE TESTIMONY OF COMPLAINANT JOCELYN BORRAL.

II

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGE(D) DESPITE THE ABSENCE OF FORCE AND INTIMIDATION."[7]

As the two assigned errors are interrelated, the same shall be discussed jointly.

Appellant maintains that Jocelyn Borral's version of the events is replete, not only with improbabilities, but is likewise contrary to human nature and experience. He claims that her failure to report the incident to her mother or to the police authorities for a period of five (5) months is fatal to the rape charge, as the record is devoid of any showing that threats to her life could be effectively carried out, notwithstanding that they are residents of the same barangay. On the contrary, no evidence was allegedly established that during such period, complainant was prevented from disclosing her misfortune to anyone. Further, he contended that, assuming without admitting, appellant had sexual intercourse with Jocelyn, the same was consummated without force or intimidation, implying therefor that it was consensual. To further bolster his point, he asserted that "the resistance put up by the latter was not tenaciously made as expected or natural behavior of a woman being sexually abused."[8]

The issues raised by the appellant do not persuade us.

The three guiding principles in the review of evidence in rape cases are: (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; (2) in view of the intrinsic nature of the crime of rape where two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (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.[9] Thus, the testimony of a single witness, if found convincing and credible by the trial court is sufficient to support a finding of guilt beyond reasonable doubt.[10]

In the instant case, the trial court found Jocelyn's testimony to be clear, convincing and straightforward. It must be noted that in several stages[11] of the trial where Jocelyn took the witness stand, the trial court observed that she became hysterical, causing the court, upon agreement of both counsel, to defer the proceedings to a later date. Thus, in *People v. Gecomio*,[12] it was correctly observed that "the crying of the victim during her testimony is evidence of the credibility of the rape charge with the verity born out of human nature."

The contention that Jocelyn's failure to report the sexual assault until after five (5) months is fatal to the crime imputed is likewise unfounded. In a similar rape case[13] involving a 16-year old victim, the Court held that it is not uncommon for a young girl at the tender age of 16 years to be intimidated into silence and conceal for some time the violation of her honor, even by the mildest threat against her life. Contrary to appellant's assertion, there is nothing in the record which indicates her testimony to be improbable or incredible. As specifically pointed out by the appellant in his brief:

"Complainant failed to shout for help when accused was on top of her. Complainant testified on cross-examination that she was not able to resist the alleged sexual assault on her because the accused was holding a pointed instrument.

ATTY. GABRENTINA:

Q :

You saw all of these things, is that correct?

A :

Yes sir, because I was awake at that time.

Q :

What hand was he holding the knife?

A :

I do not know whether it was left or right that was holding the pointed instrument.

Q :

Whether it is left or right hand, one of your hands was already free, am I correct?

A :

I was trying to resist but because he was holding that pointed instrument in his hand, I was not able to resist."[14]

Appellant argued that if one of his hands were holding that of the victim and the other holding the pointed knife, how could he possibly touch most parts of her body? This ratiocination is unfounded. In the first place, Jocelyn

indicated in the abovesited transcript of stenographic notes that one of her hands was free, a clear showing therefore that, at this stage, she has already been partially released from his grip. It does not necessarily follow, however, that this would suffice for her to put up a tenacious resistance to the assault, knowing that a knife was pointed at her. As held in *People v. Miranda*,^[15] failure to shout or offer tenacious resistance did not make voluntary complainant's submission to the criminal acts of the accused. On the contrary, what is clear on record is the failure of the appellant and his witnesses to admit or deny the charge against him. As the trial court observed:

"He merely claims that the complainant filed this case because he refused to give her support and in retaliation of (sic) driving her away as housekeeper. Likewise, the witnesses presented by the defense failed to prove that the accused has not committed the offense charged. They only testified that complainant had sexual activity with one Jerry Bobis.^[16]

Further, a careful scrutiny of the records reveals the plausible reason for the failure of the defense to directly oppose and rebut the issue on hand. The glaring inconsistencies of the defense witnesses, Beverly de los Santos and Shiela Bea, were deplorably, yet expectedly, perpetuated by no less than the appellant himself. Beverly de los Santos, in her examination in chief, declared:

"Q :

So you wish to impress the Honorable Court that only the children of Antonio Bea and Jocelyn Borral were in the house of the accused at that time?

A : Yes, sir.

Q : And after that, where did Gerry Bobis go?

A : He went home already.

Q : How about Jocelyn Borral, where did she go also?

A : She went down and swept the yard.

Q : Did he notice you while you were peeping?

A : No

Q :

By the way, what prompted you and the other children to peep to the hole (sic) where Jocelyn Borral and Gerry Bobis were having their sexual intercourse?

A : None.^[17]

In her cross-examination, however, she proffered an entirely implausible response to the same question, thus:

"Court:

Q : You said a while ago, you and your playmates peeped thru the hole, what prompted you to peeped (sic)

thru the hole?

A :

We were looking for Jocelyn because earlier she invited us to look for camote."^[18]

In another instance, Beverly, on cross-examination, contradicted her previous testimony that she saw Gerry climb over the fence and afterwards lead Jocelyn inside the room, thus, rendering her story unworthy of belief.

"Q :

Will you please tell us why you did not call on Jocelyn Borral when you saw her because she was the one who asked you to get some `camote'?

A : We noticed that there was a person inside the room.

Q : That was the first time that you noticed that somebody was inside the room when you peeped thru the hole?

A : When we were looking for Jocelyn, we noticed two feet already.

Q : You saw the two feet inside the room when you were looking for Jocelyn?

A : Yes, sir.

Q : And that was the first time that you knew that she has a companion inside the room?

A : Yes, sir.^[19]

When asked why despite his poverty, he was the one singled out for the rape charge, appellant could only refute the same by imputing Jocelyn's pregnancy to her alleged boyfriend and that he was merely used to becloud the shame brought upon her honor. Needless to say, no young and decent Filipina would publicly admit that she was ravished and her honor tainted unless such were true, for it would be instinctive for her to protect her honor.^[20] A public accusation by a Filipina, whose virtue has heretofore been unblemished, that she has been raped, carries a lot of credence.^[21]

In view of the affirmance of appellant's conviction and in light of the present jurisprudence^[22] on the matter, the victim shall be indemnified in the amount of P50,000.00 as moral damages notwithstanding the absence of proof for its award.

WHEREFORE, in view of the foregoing, the appeal is DISMISSED and the decision of the trial court finding accused-appellant Antonio Bea, Jr. guilty beyond reasonable doubt of the crime charged is hereby AFFIRMED with the MODIFICATION that appellant shall indemnify Jocelyn Borral an additional amount of P50,000.00 as moral damages. Costs against appellant.

SO ORDERED.

Vitug, Panganiban, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] Penned by Judge Senecio O. Ortile.

[2] Records, p. 23.

[3] Appellant, however, claims that she was hired from September 1982 up to March 1983.

[4] The records fail to disclose the particular date of the medical treatment.

[5] Sometimes referred to as Jerry Bobis.

[6] Rollo, p. 17.

[7] Rollo, p. 109.

[8] Appellant's Brief, p. 10.

[9] *People v. Traverro*, 276 SCRA 301 (1997); *People v. Barrientos*, 285 SCRA 221 (1998).

[10] *People v. Lascota*, 275 SCRA 591 (1997); *People v. Salcedo*, 273 SCRA 473 (1997).

[11] TSN, June 6, 1985, pp. 15 and 33.

[12] 254 SCRA 82 (1996).

[13] *People v. Tan, Jr.*, 264 SCRA 425 (1996).

[14] Rollo, p. 112.

[15] 262 SCRA 351 (1996).

[16] Decision, p. 3.

[17] TSN, June 8, 1988, pp. 8-9.

[18] *Ibid*, p. 11.

[19] TSN, June 8, 1988, p. 12.

[20] *People v. Gagto*, 253 SCRA 455 (1996).

[21] *People v. Pasayan*, 261 SCRA 558 (1996).

[22] *People v. Prades*, G.R. No. 127569, July 30, 1998.²²

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