

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANTONIO BUYOK, ALIAS “DADONG,”
ACCUSED-APPELLANT.**

G.R. No. 109771. August 25, 1994

Ponente: ROMERO, J.

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ROMERO, J.:

At his Press Conference on January 30, 1994, President Fidel V. Ramos stated:

"x x x The so-called crimes against property, meaning, robbery, etcetera and the crimes against persons which is physical injury, homicide (sic), murder have gone down significantly. But the report of Chief Rodriguez is that and I quote his very same words. He said: 'Unfortunately the crimes against chastity have gone up.' But these are being attended to." [1] (Underscoring for emphasis)

Presumably, the incidence of rape in the country has gone up, a suspicion that has been crystallizing in the minds of the public. Certainly, this cannot be ascribed to slanted reporting on the part of media.

We take judicial notice of the fact that this brutish act to which some males, regardless of their socio-economic status or educational attainment, have mindlessly succumbed, has so riveted the public consciousness that media have been preempting the term "heinous" almost exclusively for this particular crime. However, with the enactment of Republic Act No. 7659 imposing the death penalty for specified crimes, other reprehensible anti-social acts have been placed in the same category. They have been denominated "heinous" for being "grievous, odious and hateful offenses and which, by reason of their inherent or manifest wickedness, viciousness, atrocity and perversity are repugnant and outrageous to the common standards and norms of decency and morality in a just, civilized and ordered society." [2]

Once again, we are confronted with another case of a man's bestiality and elemental passion unleashing themselves on an innocent rustic lass. Antonio Buyok y Pal alias "Dadong," a fifty-five year old farmer convicted of the crime of rape of a ten-year old girl who was just a first-grader in the elementary school, has appealed to this Court from the judgment of the Regional Trial Court - Branch 26, San Juan, Southern Leyte.

The Information filed by the Provincial Prosecutor alleges:

"That on or about the 10th day of January, 1991 at around 4:00 o'clock in the afternoon, more or less, in Sitio Tungao, Barangay Mahayahay, St. Bernard, Southern Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lustful intent and lewd design, by means of deceit, force and intimidation, did then and there brought the offended party inside his house, wilfully, unlawfully and feloniously took away the panty of Mercy S. Tia, and made her lie down on the floor, and had sexual intercourse with her against her will, thereby resulting to the loss of her virginity, to the damage and prejudice of the said victim and her family.

CONTRARY TO LAW." [3]

Upon arraignment, the accused entered a plea of not guilty and availed of pre-trial only for the purpose of plea bargaining to a lesser offense of seduction. While the victim's grandmother was amenable to the plea of guilty to the lesser offense due to financial difficulties in coming to court, the victim herself vehemently objected to the "reduction of the imprisonment of the accused." Thus, the Court ordered the trial to proceed.

Mercy Tia narrated in open court that on January 10, 1992 at around 4:00 o'clock in the afternoon, she went to the house of the accused upon orders of a certain Inday to get the buri, rice and a viand of fish intended for her grandmother. Dadong Buyok was a 55-year old farmer who lived alone in a nipa hut near the ricefields in Purok Bantay Bayan, Barangay Mahayahay, St. Bernarda, Southern Leyte, about 300 meters away from where Mercy lived with her grandmother.

At almost 4:30 in the afternoon, the accused arrived and proceeded to the kitchen purportedly to build a fire to cook dinner. As he did so, he approached the girl who was seated near the door. He sat on her lap, which hurt Mercy as she had a boil on her leg. Quickly, he pulled her inside the house and, placing a piece of wood on the girl's neck to prevent her from shouting, he pulled down her short pants, forcing her to a supine position. In the meantime, he got a knife which was hanging from the roof, pressed Mercy's legs with his, threatening her with the knife not to shout. Within minutes, he removed his pants and since he did not have any underwear on, he kept pushing until he succeeded in having sexual congress with the girl.

Although she felt intense pain, Mercy did not attempt to shout for fear of her life. Physically exhausted and emotionally drained, she fell asleep and woke up at almost nine o'clock in the evening. When she did, the accused ordered her to go home, threatening to kill her if she informed anybody about the incident.

On the way home, Mercy passed by the house of Leonila Gorme who was already asleep. She rested there for a while and absent-mindedly left her panty. She decided to move on to Gina Damiago's house some 50 meters away where she requested to be allowed to spend the night, mumbling about being sleepy and not having supper.

Gina Damiago testified in court that, taking pity on the girl, she allowed her to come in and even cooked some porridge for her. Mercy ate very little and immediately fell asleep.

While sleeping, Gina noticed that the girl's shorts, sleeping mat and white blanket which she had laid out for the girl's use, were wet with blood. Confronting the girl about it, Mercy revealed that Antonio Buyok had raped her in the afternoon of that day. Upon being so informed, Gina went straightway to Mercy's house to fetch the latter's grandmother Mana Colet who, after examining her granddaughter, angrily reported the matter to the barangay councilman. They then proceeded to the Anahawan District Hospital for examination.

Dr. Franklin Brodeth issued a Medico-Legal Certificate^[4] which stated that Mercy Tia sustained "hymenal laceration at 12, 9 and 4 o'clock positions and that although no sperm specimen was found, color staining was positive." The authenticity and due execution of the said certificate was admitted by the defense; hence, Dr. Brodeth was no longer presented on the witness stand.

The accused, testifying on his behalf, alleged that on the day of the incident, he plowed his field as early as 9 o'clock in the morning and went home at around 11:30 to take his meal; that he discovered to his dismay that Mercy had entered his hut by removing the "door shutter" consisting of coconut leaves and had ransacked ("lungcab") his kitchen; that, finding all his cooked rice gone, he accosted the girl about it but she only stared at him without a word; that he was constrained to get some bread on credit from Taling Pal's store; that he went back to work until past 4 o'clock in the afternoon; that he drank four (4) bottles of "kulafo" (local wine) before going home; and that upon reaching home, he found Mercy still there sitting by the door.

On cross-examination, Buyok admitted that he knew Mercy Tia who lived with her grandmother some 1 1/2

kilometers away from his hut because the girl frequently uses the trail near his house on errands; that she used to gather guavas from his yard, after which she would silently sit under a mango tree and eat them; that he caught her twice in the past taking rice and eggs from his house; that Mercy would sometimes tell him: "Yo, there is a movie for adults only" showing in the moviehouse; that he begrudged Mercy that day for eating rice; and that he had intended to have sex with her, knowing fully that the girl had no malice and that they had no relationship.

Buyok, however, denied having used a piece of wood on the child's neck or having penetrated her, alleging that he was drunk at the time and failed to attain an erection. He claimed that he only used his fingers on the girl's private parts.

On December 29, 1992, Branch 26 of the Regional Trial Court of San Juan, Southern Leyte rendered a decision, finding the accused guilty beyond reasonable doubt of the crime charged and sentenced him to suffer the penalty of reclusion perpetua with all the accessory penalties thereto.[5]

Dissatisfied, the accused interposed the present appeal, alleging that the court a quo erred:

1. in giving credence to the complainant whose testimony is tainted with doubts and improbabilities;
2. in finding that he admitted having a slight penetration of the complainant; and
3. in finding that the prosecution was able to prove his guilt beyond reasonable doubt.

We find no merit in the appeal.

From the evidence presented, there is no doubt that the appellant had sexual intercourse with the complainant. In fact, during cross-examination, the accused admitted that there was slight penetration, as follows:

"Q - Despite her being a child, on January 10, 1992, you had an idea to have sex with her?

A - Yes, sir, I had that idea.

Q - You really did that plan that afternoon?

A - Yes, sir, but my penis did not erect.

Q - You tried to place your penis inside the vagina of Mercy only you did not have an erection?

A - Yes, sir.

Q - You tried to insert your penis but unluckily you did not have erection?

A - Yes, sir.

Q - Your penis was placed upon the opening of the vagina of Mercy?

A - Yes sir.

Q - It just slightly entered the vagina because you don't have erection?

A - Yes sir.

Q - Had at that time you have full erection you did have fully entered your penis inside the vagina of Mercy?

A - Yes, sir."[6]

The penetration is confirmed by the undisputed medical finding that there was a laceration of the hymen at 12, 9 and 4 o'clock positions, which examination was conducted the day following the rape.

Having observed and heard the witnesses themselves, we respect the trial court's assessment that the victim's testimony meets the test of credibility. It is unthinkable for a ten-year old virgin such as the rape victim to publicly disclose that she had been sexually abused, then undergo the trouble and humiliation of a public trial if her motive were other than to protect her honor and bring to justice the person who unleashed his lust on her. As a matter of fact, when the accused took the stand and related the details of her experience, the Court, noticing the offended party sobbing, ordered that she be brought outside, away from hearing distance of the proceedings.

It is undisputed that Mercy Tia who was only ten years old when she was ravished and a first-grader in the elementary school had to stop schooling just to evade the tauntings of classmates about having been raped. Although of tender age, she could not remain indifferent to their cruel gibes that were causing her psychological trauma.

The mere act of having sexual intercourse with a minor under twelve years of age constitutes statutory rape,[7] whether or not force or intimidation was used; whether or not she was deprived of reason or otherwise unconscious; and whether or not she consented to the act, because a girl under twelve may not be deemed to have a will of her own and is, therefore, incapable of giving rational consent to the carnal intercourse.

Finally, we do not subscribe to appellant's contention that Mercy's act of dropping by the houses of two neighbors before going home subsequent to the rape would create a reasonable doubt about the appellant's pronounced guilt. This Court, in several cases, has ruled that "a young woman who has just been sexually assaulted is not expected to immediately regain composure as she is, at that point, confused and dazed by the experience. Moreover, these houses were located along the trail on her way home. Considering her tender age, her reaction was quite understandable. She was alone and afraid." [8] "Psychologically speaking, people differ in their emotional reactions to a given situation and there is no standard behaviour when one is confronted by a shocking incident, as the workings of a mind under stress are unpredictable." [9]

Inasmuch as banishment to Hades has yet to find its way in the list of penalties in our Penal Code, we are constrained to issue the orthodox pronouncement.

WHEREFORE, finding the appealed judgment to be in accordance with the law and evidence, the same is hereby AFFIRMED.

SO ORDERED.

Feliciano, (Chairman), Bidin, Melo, and Vitug, JJ., concur.

[1] T.S.N., Press Conference by President Fidel V. Ramos, Heroes' Hall, Malacañang.

[2] Republic Act No. 7659 entitled "An Act to Impose the Death Penalty on Certain Heinous Crimes," which took effect on December 31, 1993.

[3] Rollo, p. 8.

[4] Exh. "A."

[5] Rollo, pp. 8-14.

[6] TSN of July 24, 1992, pp. 18-19.

[7] Art. 335 (3), Revised Penal Code.

[8] People v. Abayan, G.R. No. 95254-55, July 21, 1992, 211 SCRA 662.

[9] People v. Paciente, G.R. No. 94309, June 18, 1992, 210 SCRA 86.

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