

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DEMETRIO SULTE Y NULLEN ALIAS “ETENG”; ACCUSED-APPELLANT.

G.R. No. 109881. May 18, 1994

Ponente: MELO, J.

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MELO, J.:

Charged with the commission of rape in an Information reading as follows:

That sometime in July 1989 at Luna Street, Municipality of Liliw, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused with lewd design and by means of force, threat, violence and intimidation, while conveniently armed with a fan knife (balisong), did then and there willfully, unlawfully and feloniously have carnal knowledge with one LAILANIE A. SULTE, a minor, eleven (11) years of age, against her will and consent, to her damage and prejudice.

(p. 2, Rollo.)

accused-appellant, upon arraignment, pleaded not guilty. Such plea notwithstanding, and of course following trial, the court a quo, found accused?appellant guilty of the misdeed, disposing, a bit ungrammatically, in its decision of April 15, 1993:

WHEREFORE, in the light of all the foregoing, the Court finds the accused DEMETRIO SULTE guilty beyond reasonable doubt as principal of the crime of Rape defined and punished under Art. 335 of the Revised Penal Code and hereby imposed upon him to suffer the penalty of RECLUSION PERPETUA and to pay jointly the offended party Lailanie Sulte and complainant-mother Cereniza Sulte the sum of P50,000 as MORAL DAMAGES, P25,000.00 as EXEMPLARY DAMAGES, P3,000.00 as CONSEQUENTIAL DAMAGES and to pay the cost

(p. 34, Rollo.)

Accused-appellant, unwilling to accept such perdition, has interposed the instant appeal urging reversal on the general allegation that the trial court erred in finding him guilty of the charge.

The facts of the case, as established by the evidence and as summarized by the Office of the Solicitor General, are as follows:

Sometime in July, 1989, Lailanie Sulte, an eleven-year old Grade 4 student was inside the comfort room of their house at Luna Street, Liliw, Laguna, when she noticed appellant Demetrio Sulte (the brother of her grandfather) peeping at her through a hole in the door. When she saw the face of appellant, she shouted "Hoy!", and appellant left. (tsn, July 23, 1992, pp. 4-5)

After several weeks, appellant told Lailanie to go down to the basement of their house. When she asked why, appellant just told her to go, to which she acceded. When she reached the basement, appellant pointed a fan knife on her neck and told her not to scream. Appellant then told Lailanie to remove her short pants and panty,

which she did out of fear (tsn, July 23, 1992, pp. 6-7).

When she had removed her short pants and panty, appellant removed his pants, took out his penis and inserted it in Lailanie's vagina while they were both in a standing position. Aside from inserting his penis into her vagina, Lailanie testified that appellant also kissed her neck and breasts and licked her vagina (tsn, July 23, 1992, pp. 8-10).

After a few weeks, appellant again commanded Lailanie to go to the same basement. Lailanie again went to the basement out of fear because appellant had threatened to kill her and her parents if she refused. After arriving at the basement, appellant kissed Lailanie's breasts while masturbating himself. Appellant told Lailanie not to tell anyone about what happened because he would kill her if she did (tsn, July 23, 1992, pp. 12-13).

Again, after a few weeks, appellant commanded Lailanie to go to the same basement. Again, he told Lailanie to remove her short pants and panty, which she did out of fear. Appellant told Lailanie to sit on a chair placed across the basement door. While she was sitting on the chair, appellant sat opposite her and placed his legs on top of her legs. Appellant then moved closer to Lailanie, placed his penis inside her vagina, and moved it (the penis) in and out of her vagina. At the same time, appellant was mashing Lailanie's breast (tsn, July 23, 1992, pp. 13-15).

When appellant was through with his bestial act, appellant gave Lailanie some money and told her not to tell anyone about what happened. During the said incident, Lailanie testified that appellant had a knife in his possession (tsn, July 23, 1992, pp. 15-16).

Lailanie further testified that appellant had been able to perform this hideous act on her repeatedly. She further stated that it could have been more than twenty (20) times (tsn, July 23, 1992, p. 17).

Lailanie finally told her mother and grandmother about the incidents with appellant because she could no longer bear what appellant was doing to her and she was very afraid of him (appellant). Lailanie also testified that the incidents with appellant affected her studies to the extent that she stopped schooling because she felt that everybody in Liliw, Laguna was talking about her (tsn, July 23, 1992, pp. 19-20).

Prosecution witness Cereniza Sulte, mother of Lailanie, testified that appellant Demetrio Sulte is her uncle. She found out that appellant had raped Lailanie when she (Mrs. Sulte) went to the house of her mother-in-law, Nene Mistica to tell her (Mistica) that Lailanie was being peeped at by appellant. When Mistica asked Lailanie why she was still going upstairs to the comfort room when she knew that appellant was peeping at her, Lailanie did not answer but instead cried. Lailanie then informed Cereniza and Mistica that she had already been raped by appellant since she (Lailanie) was ten (10) years old. Lailanie also reported that she did not reveal the truth at once because appellant threatened to kill her (tsn, July 13, 1992, pp. 4-7).

After such revelation, Cereniza returned home and informed her husband Edgardo Sulte. Thereafter, the spouses Sulte had Lailanie examined by a doctor and filed a complaint for rape against appellant (tsn, July 13, 1992, pp. 10-14).

Prosecution witness, Dr. Amy Virina, testified that on November 25, 1991, she examined a patient by the name of Lailanie Sulte. After conducting the physical examination of Lailanie, Dr. Virina noted that her (Lailanie's) vagina was lax and easily admits two fingers; that the labia mejora and menora were gaping; and that there was a healed laceration noted at the 9 o'clock position (tsn, July 14, 1992, pp. 6-7). According to Dr. Virina, the cause of the above findings was frequent sexual intercourse and the insertion into the vagina of a foreign body like the male sexual organ (tsn, July 14, 1992, p. 9).

(pp. 3-8, Appellee's Brief.)

Accused-appellant contends that it is highly unlikely for a man to consummate rape on an 11-year old virgin while in a standing position or in a sitting position as allegedly performed during the second assault. May be so. But the

evidence on record clearly runs counter to the contention of accused-appellant. Prosecution witness Dr. Amy Virina, who conducted a physical examination of complainant Lailanie Sulte, positively testified that Lailanie's vagina was lax and easily admitted two fingers, that the labia mejora and menora were gaping, and that there was a healed laceration at the 9 o'clock position. Dr. Virina concluded that said physical findings were caused by frequent sexual intercourse. There is, therefore, no room for doubt that Lailanie had been subjected to sexual intercourse. And Lailanie unequivocally identified accused-appellant as the malefactor who ravished her. We have painstakingly scrutinized the testimony of Lailanie and we find the same to be candid, positive, and categorical, unsullied by any inconsistencies, contradictions, tergiversations, or mendacities; and, therefore, Lailanie's testimony deserves utmost weight and credit. She was less than 12 years old when she was first sexually assaulted and this Court usually lends credence to the testimony of young girls especially where the facts point to their having been victims of sexual assault (People vs. Abuyan, Jr. 211 SCRA 662 [1992]). It is difficult to believe that Lailanie fabricated the sexual assault committed against her. The testimony of a rape victim is credible where she has no motive to testify against the accused (People vs. Cabilao, 210 SCRA 326 [1992]).

Further, accused-appellant argues that the fact that it took Lailanie more than 2 years to reveal the rape to her mother, grandmother, and sister renders her testimony incredible. Under the circumstances of the case, we are not persuaded by accused-appellant's argument. It is to be recalled that Lailanie and accused-appellant lived in the same house and accused-appellant had threatened Lailanie every time he abused her that he would kill her and her family if she reports the rape. Such threats sufficiently cowed the girl then barely past her first decade to silence. Delay in filing the case is justified where such is due to death threats against the victim or her family (People vs. Lim, 206 SCRA 176 [1992]). Lailanie being then of very tender age and utterly innocent of the ways of the world, her temporary and initial silence is understandable (People vs. Alvarez, 213 SCRA 722 [1992]).

In the final analysis, the issue raised by accused-appellant may be reduced to one of credibility. This Court has time and again cleaved to the precept that the findings of fact of a trial court are not to be disturbed on appeal unless the trial court has overlooked, ignored, or disregarded some fact or circumstance of weight or significance which if considered would have altered the case (People vs. Martinez, 205 SCRA 666 [1992]), for verily, the trial court is in a better position to observe the demeanor of the witnesses while testifying (Collado vs. Intermediate Appellate Court, 206 SCRA 206 [1992]). We have closely scrutinized the record and we find no such fact or circumstances warranting the reversal of the findings of the trial court.

WHEREFORE, the appealed decision is hereby **AFFIRMED**, with cost against accused-appellant.

SO ORDERED.

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

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