

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
INOFERIO VENERABLE, ALIAS PORFERIO VENERABLE,
ACCUSED-APPELLANT.**

G.R. No. 110110. May 13, 1998

Ponente: PURISIMA, J.

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PURISIMA, J.:

From the judgment[1] dated March 31, 1993 of Branch 34 of the Regional Trial Court in Dumaguete City, finding him guilty of the crime of rape in Criminal Case No. 10115, accused Inoferio Venerable alias Porferio Venerable interposed the appeal at bench. Filed on January 21, 1992 by 4th Assistant Provincial Prosecutor Rodrigo V. Icao, upon sworn complaint[2] of Clara Angcon, the Information[3] indicting Inoferio Venerable, alias Porferio Venerable, of the crime of rape, alleges:

“That on August 11, 1991 at more or less 7:00 o’clock in the evening in Barangay Dobdob, Valencia, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did, then and there wilfully, unlawfully and feloniously have sexual knowledge with CLARA ANGCON against her will. Contrary to Article 335 of the Revised Penal Code.”

With the accused, assisted by counsel, pleading Not Guilty upon arraignment[4] under the aforequoted Information, and waiving pre-trial, his trial ensued. The prosecution presented the complainant, Clara Angcon, and the Medico-legal Officer, Dr. Fe L. Besario, who examined her, to prove its case. For the defense, aside from the accused, his sister-in-law, Teresita Alabata Venerable, took the witness stand. The trial court gathered the facts, as follows:“

Complainant Clara Angcon pertinently testified that she is 51 years old, widow, farmer, and a resident of Dobdob, Valencia, Negros Oriental. Complainant declared that she came to know the accused Inoferio Venerable after she and her common-law husband started living in the house owned by Raymunda Buco at Dobdob, sometime in 1981. The accused was residing about one (1) kilometer from their house. She knew at the time that the accused had just been released from jail after having been charged with the hacking of a certain Charing Buko. Complainant further declared that on August 11, 1991 at about 7:00 o’clock in the evening while she was alone weaving a mat in their house at Dobdob, Valencia, accused Inoferio Venerable arrived. The accused called out the name of her common-law husband Felimon and asked for water. But since she was alone, she was the one who gave water to the accused. Thereafter, accused asked for food, so she gave him cooked rice, but the accused told her to set it away as there was no viand. Later, accused asked for a match and after which he left. But about ten minutes later, accused came back and again asked for a match. As she was handing the match to him, the accused immediately held her forearms and steadily pushed the latter backwards until they reached the kitchen situated at the back portion of the house.

Complainant alleged that while they were at the kitchen, the accused wrestled the complainant to the floor, forcing her to lie down face up when her head and back slumped to the floor. She struggled, shouted, and cried, but nobody could hear her as their neighbors were very far. The accused then flung the bolo strapped in his waistline towards his back and placed himself on top of the complainant. The accused then removed her panty

with his left hand and thereafter unzipped his maong pants, exposing his penis. The accused then forced his sexual organ into the victim's vagina while holding the latter's neck with his right hand. At this juncture, the accused performed sexual intercourse with the victim amidst her shouts and cries for help. According to the victim, she was repeatedly sexually assaulted by the accused that evening of August 11, 1991. The first sexual attack lasted for about ten minutes, after which the accused made her stand up and sit on a bench. After about fifteen minutes later, the accused forced her to lie down again and thereupon she was sexually abused again. After about three minutes, the victim was again made to stand up and was guided to a bench near the table where she had earlier been weaving a mat. While on the bench, the accused placed his arms around the victim's shoulder but the latter tried to remove it. This prompted the accused to again hold on to the victim's wrist tightly. After about twenty minutes, the accused again forced the victim into another sexual intercourse. By this time, she was already very exhausted that when she was made to lie down, the motion threw her unto the floor. After this sexual abuse, the accused again lifted her. After about thirty-five minutes, the accused again ravished the victim and this time, feeling very exhausted, the victim pleaded that she be killed instead. The accused replied that he would not kill her as he would marry her.

After the fourth sexual attack, the accused laid down on the table where the victim had previously been weaving a mat. Later, when she sensed that the accused was already asleep, she went up to the second story of the house and proceeded to the balcony as it was the only portion that was enclosed. She then locked the door and lied down silently sobbing till she fell asleep.

At dawn, she noticed that the accused left the house as she heard the barking of dogs. She later fell back to sleep and woke up at around seven o'clock in the morning.

On August 26, 1991 or fifteen days after she was raped, victim Clara Angcon had herself examined by the Rural Health physician of Valencia, Negros Oriental in the person of Dr. Fe L. Besario. Clara claimed that it took quite a while to have herself examined as Dobdob is very far from the town proper of Valencia. According to her, one has to walk several kilometers to the town of Pamplona, then take a ride through Dumaguete City before reaching Valencia. She also claimed that after her ordeal, she suffered a relapse as she is sickly which required her to take a rest for several days.

Dr. Fe L. Besario corroborated the testimony of the victim that on August 26, 1991, the latter went to her clinic in Valencia for medical examination claiming that she was raped at about seven o'clock in the evening of August 11, 1991. When she asked the victim why it took her a long time to go to her office for medical examination, the victim explained that it was due to the bad weather, the distance and she was afraid that her assailant who is around Dobdob might abduct her.

According to Dr. Besario, the Municipal Health Office of Valencia where she is holding office is very far from Dobdob where the victim claimed to be residing. She said that she could not estimate the distance but whenever she goes to Dobdob, it takes her about twelve (12) hours of travel because some portions of the road had to be negotiated simply by walking.

During her medical examination, Dr. Besario observed the presence of a hematoma on the left arm of Clara Angcon about a half inch in diameter. The doctor said that the hematoma is not so clear anymore. She also conducted an internal examination on the victim and found that the vagina of the latter had no signs of laceration nor did it have any seminal fluids. Her examination and findings were reflected in her medico-legal logbook (Exhibit "A" of plaintiff and Exhibit "1" of the defense). She declared that reflected in the entries thereof are the name of the victim as Clara Angcon, 50 years old, female, widow and a resident of Dobdob, Valencia; that the incident for which the patient is being examined is on August 11, 1991 at 7:00 p.m.; and that she conducted the

examination on August 26, 1991 at about 11:00 a.m. at the Rural Health Office of Valencia.

Dr. Besario also declared that at the time Clara Angcon submitted herself for medical examination, the latter asserted that she was raped on August 11, 1991. The doctor opined that considering the fact that several days had already lapsed from the date of the alleged rape incident, the presence of laceration and seminal fluids in the vagina of the victim could no longer be expected to be found.”[5]

On the basis of the aforesaid findings and conclusion, the trial court handed down the decision in question, adjudging accused guilty of the crime of rape, as charged, and sentencing him, thus:

“WHEREFORE, accused INOFERIO VENERABLE alias “Porferio” Venerable, is hereby found guilty beyond reasonable doubt of the crime of RAPE, and the court, after applying the Indeterminate Sentence Law, as amended, hereby imposes on him the penalty of RECLUSION PERPETUA.

Accused shall also indemnify the victim Clara Angcon the sum of THIRTY THOUSAND PESOS (P30,000.00) as moral damages.

SO ORDERED.

”Dissatisfied therewith, the convicted accused found his way to this court via the present appeal anchored on the Assignment of Errors, that:

I

THE TRIAL COURT ERRED IN GIVING EVIDENTIARY WEIGHT TO THE UNRELIABLE, UNWORTHY AND INCREDIBLE TESTIMONY OF COMPLAINANT ANENT THE INCIDENT IN QUESTION.

II

THE TRIAL COURT ERRED IN NOT GIVING EXCULPATORY WEIGHT TO THE EVIDENCE ADDUCED BY THE DEFENSE

III

THE TRIAL COURT MANIFESTLY ERRED IN CONVICTING APPELLANT OF RAPE DESPITE THE FACT THAT THE PROSECUTION FAILED TO ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT.

Appellant placed reliance on denial and alibi as a defense; vehemently denying having raped the victim.

According to him, on August 11, 1991, at about three o'clock in the afternoon, he arrived in Dobbob from Malaunay and was at home the whole day, since he was very tired after the trip. But later on, he testified that on August 11, 1991, he was in Dobbob working in the family farm. However, on cross-examination he retracted said portion of his testimony and reverted to his original version - that he was in his house in Dobbob, not far from the victim's house, resting after a long trip. During his direct and cross-examinations, he made several inconsistent declarations as to his whereabouts at the time of the incident under inquiry. To bolster his defense of alibi, he placed on the witness stand his sister-in-law, Teresita Alabata Venerable, who testified that on August 11, 1991, he (appellant) was in Malaunay stripping abaca, and he stayed there until August 16, 1991.

Appellant further theorized that he and Clara Angcon were sweethearts, and, they had sexual relations at least twenty times prior to August 11, 1991 but never indulged in lovemaking on that day. According to him, jealousy motivated the complainant to initiate the rape case against him as she suspected that he had another girlfriend.

We are not impressed with appellant's appeal. Well-settled is the rule that for alibi to be given credence and due weight, it must be shown that it was physically impossible for the accused to have been at the scene of the crime at the approximate time of its commission.[6] Alibi must be established by clear and convincing evidence which must satisfy the requirements of time and place.[7]The narrations by appellant as to his whereabouts on that fateful night of August 11, 1991 were too inconsistent to be true. Considering the distance of two kilometers between his house and that of the victim, it was not physically impossible for him to have been at the scene of the crime or within its vicinity when it was committed.The testimony of defense witness Teresita Alabata Venerable deserves scant consideration, she being a sister-in-law of appellant (wife of his younger brother). What is more, appellant was positively identified by the victim as the malefactor.

With respect to appellant's theory that he and the victim were sweethearts, we find nothing on record apart from his self-serving testimony, to support the same. Appellant's failure to introduce love letters, gifts, and the like, as evidence of their alleged relationship, is too glaring to be ignored. Worse still for appellant, not a single witness came forward to attest to his alleged amorous affair with the victim. Not only that, the latter unequivocally revealed that on August 11, 1991, when she was sexually abused, she had a common-law-husband in the person of Felimon Fontelo.[8] Besides, if appellant was really her boyfriend, she would not have gone to the extent of bringing this criminal action which inevitably exposed her to the humiliation of recounting in public what happened to her chastity. Indeed, unless deeply wronged and aggrieved she (the victim) would not have instituted this case. That the victim was already 51 years of age rendered her exposure to a public trial of rape all the more embarrassing and painful.

In this regard, the trial court did not err when it found the "sweetheart theory" propounded by the appellant to be highly preposterous and unworthy of belief. It is a legal truism that evidence to be believed must not only proceed from the mouth of a credible witness, but must be credible in itself. Human perception can be warped by the impact of events and testimony colored by the unconscious workings of the mind. No better test has yet been found to measure the value of a witness' testimony than its conformity to the knowledge and common experience of mankind.[9] Under the circumstances, it is highly improbable that a woman would come forward and report that she was raped unless, it is, in fact, the truth. Moreover, she would not have implicated a person, who is allegedly her lover, as the perpetrator of an abominable crime and thereby expose him to shame and ridicule only because she suspected him of having another woman.

In rape cases, the evaluation of the credibility of witnesses is addressed to the sound determination by the trial court, whose conclusion thereon deserves much weight and respect.[10] Here, we discern no sufficient cause or basis for disregarding the findings and conclusion arrived at below. The trial court found the testimony of the

victim, Clara Angcon, credible and worthy of belief.

A careful examination of the evidence on record, particularly the testimonies of witnesses, shows that the victim's account of what transpired is straightforward and deserving of faith and credit. Appellant's attempt to discredit the testimony of the victim for her failure or inability to recall the minutest details of the incident complained of must fail. Errorless testimony cannot be expected of a rape victim for she may not be able to remember and recount every ugly detail of the harrowing experience and appalling outrage she went through, especially so since she might in fact be trying not to recall the same, as they are too painful to remember.[11] Furthermore, this court has repeatedly held that when a woman testifies that she has been raped, she says, in effect, all that is necessary to constitute the crime.[12]

While in her medical examination of the victim, Dr. Fe L. Besario noticed the absence of seminal fluids and spermatozoa in the victim's vagina, it was understandable considering that fifteen (15) days had already passed before she was examined at the Municipal Health Office of Valencia, which was far from her residence. Anyway, the absence of spermatozoa does not negate the commission of rape.[13] As a matter of fact, a medical examination is not indispensable in the prosecution of rape. The victim's testimony alone, if credible, suffices to convict.[14]

In the Appellee's Brief,[15] the Solicitor General invites attention to the fact that four (4) separate acts of rape were committed and established by the evidence. However, only one Information was filed charging appellant with a single offense. Consequently, only one conviction for rape is allowable. It is well-settled that if the information charges only one offense, even if the evidence shows three other acts of forcible intercourse, conviction for only one rape is proper.[16]

WHEREFORE, the judgment of conviction appealed from is hereby AFFIRMED, with the modification that the civil indemnity awarded to the complainant is increased to FIFTY THOUSAND (P50,000) PESOS, in line with prevailing jurisprudence.[17]

SO ORDERED.

Narvasa (Chairman), CJ., Romero and Kapunan, JJ., concur.

[1] Per Judge Rosendo B. Bandal, Jr., Rollo, 13-20.[2]] Original Record, p.6.

[3] Original Record,p.2.

[4] Original Record, p.25.[5]] Rollo, pp. 14-16.

[6] People v. Base, 196 SCRA 688 (1991).[7]] People v. Castromero, G.R. No. 11892, October 9, 1997, 11[8] TSN, October 22, 1992, p. 16.[9]] People v. Baquiran, 20 SCRA 451 (1967).[10]] People v. Cura, 240 SCRA 234 (1995).[11]] People v. Cabel citing People v. Cura, G.R. No. 121508, December 4, 1997, 10.

[12] supra, People v. Tabao, 240 SCRA 758 (1995), People v. Segundo, 228 SCRA 691 (1993), People v. Matrimonio, 215 SCRA 613 (1992).[13]] People v. Yambao, 193 SCRA 383 (1991).[14]] People v. Cura, supra.[15]] Rollo, 18.[16]] People v. Joya, 227 SCRA 9 (1993) citing People v. Robles, 170 SCRA 557 (1989). [17] People v. De Guzman, 265 SCRA 228 (1996).

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