

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO PINCA Y TURLA, ACCUSED-APPELLANT.

G.R. No. 110553. August 03, 1994

Ponente: VITUG, J.

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VITUG, J.:

A complaint filed by Rosana M. Turla with the court below charged appellant Romeo Pinca y Turla with the crime of forcible abduction with rape; it read:

"The undersigned complainant accuses ROMEO PINCA Y TURLA the crime of forcible abduction with rape, committed as follows:

"That on or about August 11, 1991, in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and feloniously, with lewd designs and by means of force, violence, and intimidation, to wit: by threatening her with a gun should she resist or refuse to go with him, abduct, take and carry away the undersigned complainant in a taxicab from Del Pan Bridge, Tondo, this City, to a house at Don Bosco, Tondo, this City, and while inside the said house by means of force and violence or intimidation, to wit: by forcing her to lie down, succeeded in having carnal knowledge of the undersigned, 16 years of age, all against her will and consent.

"Contrary to law."[1]

The accused pleaded "not guilty" to the accusation. On 01 October 1991, the prosecution and the defense stipulated thusly:

"1. That the accused and the private complainant are second cousins;

"2. That prior to the incident in question, the accused used to sleep in the house of the private complainant at an average of three to four days a week;

"3. That at around 10:30 o'clock on the evening of August 11, 1991, the accused and the private complainant were in the house of the latter. It was the intention of the accused to sleep in the said house;

"4. That later that evening, the accused and the private complainant proceeded to the house of their aunt, Gloria Pinca. In this regard, the complainant claims that she was forced by the accused to go with him by threatening her with a gun and forcing her to ride in a taxi with him to the house of their aunt, which claim was denied by the accused, who alleges that the complainant voluntarily went with him and that they merely walked to their aunt's house."[2]

At the trial, the complainant declared that on 11 August 1991, at around 10:30 in the evening, the accused arrived at the residence of the complainant. He asked her to accompany him to a nearby bakery. On their way, the accused poked a gun at her, hailed a taxicab and forced her to get on board. He instructed the driver to take them to Don Bosco, Tondo, Manila. He took her to an unoccupied house of their aunt (Gloria Pinca). Inside the house, the accused hit the complainant twice. He then made advances on her and, when she resisted, he threatened her

with a gun. Accused-appellant tore her shirt, forced her to lie down and forcibly undressed her. She fought back, albeit without success, by kicking, scratching and boxing the accused. He ultimately succeeded in raping her three times. He then hid her clothes to prevent her from leaving the house.

The following morning, at around six o'clock, the complainant's father arrived and forcibly opened the door of the house. Entering, her father at once stabbed the accused twice, one found its mark at the right wrist and the other at the back. In spite of the injuries he sustained, the accused was still able to run and escape.

The complainant's family, believing that the accused must have died from his wounds, did not file, forthwith a complaint. Upon learning, however, that the accused survived his injuries, on 16 August 1991, they went to the Western Police District Headquarters at United Nations Avenue, Manila, where they reported the incident.

An examination made by Dr. Marcial Ceñido, Medico-Legal Officer of the Western Police District, disclosed, among other things, the following findings:

- "1. Breasts are fairly developed, conical in shape, firm and with prominent brownish nipples and areole;
- "2. Abdomen is flat, firm and without striae of pregnancy;
- "3. Hymen is thick, stretched and with deep old healed at 3, 6, 7 and 9 o'clock position;
- "4. Introitus vagina admits two (2) examining fingers with relative ease, while vault is almost dry;
- "5. Last menstrual period - Last week of July 1991 for 3 days;
- "6. Purplish fading contusion, left infraorbital region; and
- "7. Four (4) small almost healed abrasions, dorsum of the left hand.

"O P I N I O N:

"The above findings is consistent with a girl who is no longer a virgin."[3]

The accused vehemently denied the accusation. He insisted that the complainant had been his "girlfriend" since 1990. On the night of the alleged rape, he visited her at her house and found her in the act of entertaining a suitor. He confronted her, and an argument ensued between the two. The complainant hastily left and proceeded towards their aunt's house at Don Bosco, Tondo, Manila. He immediately followed her. They did not take a taxicab but merely walked to the place, which was not that distant away. At the house, they finally settled their misunderstanding and decided to spend the night there at the behest of the complainant herself who preferred not to go home. The next morning, the "uncle" (father) of the complainant arrived and, suddenly, he started to stab the accused. He was saved only by the timely intervention of the complainant.

The accused averred that the filing of the case was fabricated in order to cover up the attempt against his life. The accused admitted that he and the complainant had previous carnal relations but denied that they had one on the night of 11 August 1991.

On 28 January 1993, the trial court rendered its decision, finding the accused guilty; hence -

"WHEREFORE, the accused is hereby convicted of the complex crime of forcible abduction with rape with the aggravating circumstances of abuse of confidence, nighttime and uninhabited place and with no mitigating circumstance, and sentenced to suffer reclusion perpetua and to pay the costs.

"SO ORDERED."[4]

Accused-appellant has interposed this appeal.

On 14 March 1994, the Solicitor-General, representing the People, submitted a manifestation and motion, in lieu of an appellee's brief, asking for the reversal of the trial court's decision, thus -

"WHEREFORE, it is respectfully prayed that Decision dated January 28, 1993 in Crim. Case No. 91-97472 be REVERSED and the appellant be ACQUITTED on reasonable doubt."[5]

We have carefully reviewed the records of the case, and we, ourselves, similarly find for acquittal.

Quite damaging to the cause of the complainant was the testimony of prosecution witness Dr. Marcial Ceñido, who conducted the physical examination on the person of the supposed victim. He himself testified:

"Q: Now, Doctor, in No. 3 of your findings states 'Hymen is thick, stretched and with deep old healed at 3, 6, 7 and 9 o'clock position,' how old are the lacerated wounds which you found?

"A: It could have been months or even years.

"Q: Could these lacerations be one week old at the time you examined the victim?

"A: No, Ma'am."[6]

The physician's examination was made five (5) days after the alleged rape.

Also doubtful was accused-appellant's alleged use of a gun to intimidate the complainant. Accused-appellant was supposedly wearing only a pair of shorts when he went to the house of the complainant.[7] If, indeed, he had anything on his person she, quite strangely, did not see or notice,[8] although the gun was said to be about seven (7) inches long.[9] Unexplainably, accused-appellant did not attempt to use the gun to defend himself, nor did it deter the complainant's father from attacking and twice stabbing accused-appellant. Yet, during all this time, accused-appellant was supposedly holding the gun.[10]

The complainant's testimony itself suffered from material inconsistencies. In the hearing of the case on 07 November 1991, she was asked by the Court to bring the clothes she wore on the night she was allegedly raped. On 14 November 1991, she told the Court that she did not bring the bra because it was not torn,[11] but when asked how the accused undressed her, she said "he pulled (her) shirt and he tore (her) bra." [12] She declared that at the time they were riding the taxicab, accused-appellant was poking his gun at the taxicab driver; [13] later, recounting the incident on board the taxicab, she, however, declared that accused-appellant all the while was poking his gun at her. [14] (It would seem unnatural, in fact, for a taxicab driver to pick up a half-naked passenger who is poking a gun at a frightened woman in front of him.)

It is well known that appellate courts are often constrained to rely on the assessment by trial courts of testimonial evidence, for it is the trial judges who personally are able to observe the demeanor of witnesses and how their testimonies are given. [15] It is assumed that in the process extreme care has been exercised by such judges in weighing conflicting declarations of witnesses and in discerning between fact and fiction. In rape cases, particularly, it would be well to consider that an accusation for rape can be made with some degree of facility, and it is here, more than at anytime perhaps, when a trial court understandably must have a concentrated attention on, and should exercise great caution in the evaluation of, the testimony of the complainant. It would be most unfortunate if such testimony were indeed to be received with precipitate credulity. [16] Upon the other hand, the defense is generally hard put to disprove the fact of rape; thus, it is easy to appreciate the reason why the cause for the prosecution must not be allowed to draw strength from the weakness of the evidence for the defense. [17]

All told, like the Solicitor General, we are not convinced in this case at bench that the prosecution has been able to establish appellant's guilt beyond a reasonable doubt.

WHEREFORE, the decision of the Regional Trial Court is REVERSED and SET ASIDE. Accused-appellant is ACQUITTED of the offense charged, and this Court orders his immediate release from detention unless there are lawful other reasons for his continued confinement.

SO ORDERED.

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

[1] Rollo, p. 4.

[2] Rollo, p. 63.

[3] Rollo, p. 46.

[4] Rollo, p. 14.

[5] Rollo, p. 87.

[6] TSN, Dr. Marcial Ceñido, 10 December 1991, p. 2.

[7] TSN, Rosana Turla, 07 November 1991, p. 8.

[8] TSN, Rosana Turla, 14 November 1991, p. 3.

[9] TSN, Rosana Turla, 07 November 1991, p. 6.

[10] TSN, Rosana Turla, 07 November 1994, p. 11. There is an unexplained inconsistency in the testimonies of accused-appellant and the complainant as to the identity of the person who fetched the latter from the house and stabbed the former. The accused-appellant kept on referring to the complainant's uncle as the person who stabbed him. The complainant continued to say that it was her father who committed the act.

[11] TSN, Rosana Turla, 14 November 1991, p. 2.

[12] Ibid., p. 8.

[13] Ibid., p. 5.

[14] Ibid., p. 6.

[15] People vs. Abuyan, Jr., 211 SCRA 662.

[16] People vs. Casim, 213 SCRA 390.

[17] People vs. Dela Cruz, 207 SCRA 449; People vs. Pizarro, 211 SCRA 325; People vs. Casinillo, 213 SCRA 777; People vs. Matrimonio, 215 SCRA 613; People vs. Batis, 216 SCRA 673.

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