

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALFONSO QUINEVISTA, JR., ACCUSED-APPELLANT.***G.R. No. 110808. May 31, 1995*

Ponente: FRANCISCO, J.

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Accused-appellant Alfonso Quinevista, Jr. was convicted by the Regional Trial Court of Isulan, Sultan Kudarat of the crime of Rape and sentenced to suffer the penalty of reclusion perpetua and to pay the sum of P30,000.00 by way of indemnification, and costs.[1] On appeal, appellant asserts that the trial court erred: (a) in finding accused-appellant Alfonso Quinevista, Jr. guilty beyond reasonable doubt of the crime of rape despite the evidence to the contrary; and (b) in disregarding the testimony of the defense witnesses that the complainant was not raped by him but by her former boy friend.

The record of the case discloses that at about 6:00 o'clock in the evening of December 1, 1991, the complainant Amelia Torres who was then only 15 years old was with her brothers and sister in their house at Poloy-Poloy, Lebak, Sultan Kudarat. The door of the house was left unlocked for the expected arrival of her parents from their farm. While she lay awake beside her already slumbered siblings, she sensed someone push the unlocked door to gain entry. As a kerosene lamp illuminated the interior of the house, she recognized and identified the intruder as appellant, a neighbor and incidentally the older brother of her erstwhile sweetheart Dante Quinevista.

Brandishing a knife while clad merely, in underwear, appellant threatened to kill complainant if she would refuse his obvious purpose. Appellant put off the lighted kerosene lamp and poked his knife at her left side, undressed her, mounted himself on top of her and inserted his male organ in her most private part. With "push and pull" movements lasting for about a minute causing complainant tremendous pain, appellant succeeded in gratifying his lust. Thereafter, appellant left but warned her not to reveal to anyone what had transpired.[2]

When complainant's father, Avelino Torres, arrived with Rolando Corpuz at around 8 o'clock p.m., they noticed her weeping; and despite appellant's parting threat, she narrated the incident. On that same evening, Avelino Torres and Rolando Corpuz brought her to the CAFGU detachment for investigation. A team of CAFGU members including Rolando Corpuz was then dispatched to arrest appellant in his house.[3]

Rolando Corpuz corroborated Avelino Torres' testimony, and further testified that an examination of appellant by the apprehending team of the CAFGU revealed the presence of blood in appellant's underwear and on the tip of his penis. And when appellant was asked why he raped complainant, he answered that he was tempted.[4]

Appellant's defense is denial/alibi. He claimed that he was at his house at around 3:00 o'clock in the afternoon of the same day, and never left as he was preoccupied washing and tying turnips until 10:00 o'clock in the evening. He rose from his sleep at around 11:00 p.m. when Rolando Corpuz, a CAFGU member himself, suddenly barged in their house and with a threatening tone, invited appellant to go with him. Appellant likewise claimed that he was severely mauled by Rolando Corpuz then accompanied by several other CAFGU men on their way to, and at, the SEABORNE quarters at Tibpuan, Lebak.[5]

Essentially corroborating appellant's story is his wife Mary Grace Quinevista.[6]

Appellant's brother Dante Quinevista had his own peculiar story to tell in an attempt to reinforce the alibi. It was he, and not appellant, who went to the Torres' residence at around 7:00 o'clock in the evening of December 1, 1991 to visit complainant, his sweetheart. While her brothers and sister were fast asleep and her parents away, she voluntarily had sexual inter-course with him.[7] Dante Quinevista even boasted having about 10 sexual bouts with her in the past, the last of which was during the night in question,[8] although he did not bother to reveal it to anyone and did so only for the first time at the trial.[9]

While complainant admits that Dante was her sweet-heart, she, however, vehemently denied having sexual intercourse with Dante Quinevista and in fact wrote him a letter dated December 3, 1991 terminating their relationship after his brother, appellant herein, raped her.[10]

The twin errors assigned by appellant obviously and exclusively touch on the issue of credibility, particularly with respect to complainant's testimony narrating the details of her ordeal and pinpointing appellant as the perpetrator.

We have perused the testimony of complainant as against the exculpatory statements of appellant and his witnesses, and found her positive declarations beyond falsehood and fabrication. Complainant's credibility is further bolstered by the physical examination conducted on her by rebuttal witness Dr. Gaudencio Labian, Chief of the Medicare Community Hospital of Lebak, on the same evening of the same day, who found new and fresh lacerations in her hymen at "3 o'clock, 6 o'clock, 9 o'clock and 11 o'clock positions", "secondary to penetration through vaginal canal with hard object" and "blood oozing out of the vaginal opening." [11] In this connection, while the complainant was having her menstrual period during her medical examination which explains the presence of the oozing blood in her genitalia,[12] the fact remains there were new and fresh lacerations in her hymen indicating that they were inflicted with force or violence. Further, the trial court which had the unmatched opportunity to actually see and assess the demeanor of complainant on the witness stand explicitly described her testimony as being "candid and straight-forward".[13] We have consistently upheld, in this regard, the well-established rule that the conclusions and findings of fact of the trial court command great weight and respect as to the trustworthiness of witnesses for it is in a better position to appreciate the same, having seen and heard the witnesses themselves and observed their behavior and manner of testifying during the trial. While there may be exceptions to this rule, we find that the present case does not fall in any of them.[14] In addition, we cannot close our eyes to the fact that rape stigmatizes the victim worse than the perpetrator since our culture puts premium in purity and virginity as virtues.[15] Considering the modesty and timidity of a typical Filipina specially one from the rural areas, it is difficult to accept that complainant would fabricate facts which would seriously cast dishonor on her maidenhood if it were not true.

Appellant attempts to belittle the credibility of the complainant, contending that her testimony is not in accord "with the common knowledge and experience of mankind." On this point appellant's counsel offers the following argument:

"x x x x x x x x

Amelia Torres testified that appellant entered their house by pushing the unlocked door. She saw him only in brief who poked a knife at her before undressing her. She struggled against the appellant swinging both her arms in sidewise movement and close to her side is her younger brother Charlie sleeping.

From the foregoing, the offended party offered a resistance against her attacker. In fact she struggled with her two arms by executing sidewise movements and close to her side is her younger brother. But despite her allegation that she put up resistance, her brother Charlie at her side was never aroused from his sleep were not (sic) awakened despite of her resistance to the culprit. Clearly, the testimony of Amelia is not in accord with the

common knowledge and experience of mankind. x x x x x." [16]

We are not persuaded. Jurisprudence abounds dis-proving appellant's posture of improbability. In *People vs. Villoriente*, [17] appellant's claim that it was impossible for him to have raped complainant inside the room where his two sisters were also sleeping was discarded. The Court adhered to the rule that rape can be committed even in a house where there are other occupants.

In *People vs. Rafanan*, [18] this Court rejected accused-appellant's defense of improbability despite the fact that the victim was sleeping beside his eight-year-old daughter in the same mat and under the same mosquito net and the child not having awakened despite the struggle put up by the victim, and further suggesting that it would be highly improbable for a man to seek and force himself upon a woman in his own house, with his wife sleeping on the floor above him. The Court emphasized that rape has been committed in many different places including places which to many would appear to be unlikely and high-risk venues for sexual advances.

Moreover, in *People vs. Codilla*, [19] it has also been held that "it is of no moment that the rape occurred with the complainant's parents, brothers and sisters just sleeping in the nearby room. It is not impossible nor incredible for her family members to be in deep slumber and not to be awakened while the sexual assault was being committed. Lust is not respecter of time and place."

We sustain, therefore, the findings of the trial court on the credibility of complainant and give the defense of alibi scant consideration. Elemental is the rule that the alibi of the accused that he was not at the rape scene cannot stand against the positive identification made by the complainant. [20] In this case, the lighted kerosene lamp inside the Torres' residence at the time of the incident conveniently facilitated complainant's identification of appellant as the lecher. The illumination produced by a kerosene lamp, like a "gasera" or "lampara", is sufficient for the identification of persons. [21] Furthermore, a distance of 500 meters separating the house of appellant from complainant's residence can easily be negotiated in a matter of minutes by walking such that appellant could have been present at the crime scene at the time the complainant was raped. Having miserably failed to prove that it was physically impossible for him to be at the crime scene, appellant's alibi shatters all the more. [22]

Consequently, defense witness Dante Quinevista's testimony that it was he who went to the Torres' residence where he and complainant consensually had sexual intercourse cannot inspire belief. His story, at the most, is pure fiction and a mere subterfuge to save a beleaguered brother. It is quite understandable for Dante Quinevista and Mary Grace Quinevista (appellant's brother and wife respectively) to give testimonies tending to support the purported alibi for their sympathy goes invariably with appellant. Blood is thicker than water. But alibi is admittedly and consistently considered the weakest defense an accused can concoct, [23] and becomes less plausible as a defense when it is mainly established by the accused himself and his immediate relatives. [24]

In fine, it has been clearly established with moral certainty from the testimony of the complainant that she unwittingly succumbed to the lecherous assault perpetrated by appellant through force or intimidation, thus squarely falling within the definition of rape under Article 335 of the Revised Penal Code, as amended.

WHEREFORE, premises considered, the assailed decision is hereby **AFFIRMED** in toto.

SO ORDERED.

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

[1] Dispositive portion, RTC Decision dated April 23, 1993, p. 26.

[2] Decision, pp. 2-4, pp. 14-17.

[3] Decision, p. 5.

[4] Decision, p. 4.

[5] Decision, pp. 6-7

[6] Decision, pp. 7-9

[7] Decision, p. 9.

[8] Decision, p. 10.

[9] Decision, pp. 10-11.

[10] Decision, pp. 11-12.

[11] TSN, pp. 8-9, September 18, 1992.

[12] TSN, p. 15, September 18, 1992.

[13] Decision, p. 12.

[14] The exceptions are: when patent inconsistencies in the statements of witnesses are ignored by the lower court, and (2) when the conclusions arrived at are clearly unsupported by the evidence. *People vs. Gumahin*, 21 SCRA 729.

[15] *People vs. Ibay*, 233 SCRA 15.

[16] Brief, p. 11, Rollo, p. 75.

[17] 210 SCRA 647.

[18] 182 SCRA 811, 819.

[19] 224 SCRA 104.

[20] *People vs. Dinola*, 183 SCRA 493.

[21] *People vs. Ching*, G.R. No. L-103800, January 19, 1995.

[22] See *People vs. Arroyo*, 201 SCRA 616; *People vs. Apawan*, 235 SCRA 355.

[23] *People vs. Santito*, 201 SCRA 87.

[24] *People vs. Paglinawan*, 233 SCRA 494; *People vs. Torres*, 232 SCRA 32.

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