

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NICASIO CASIL Y VILLAS, ACCUSED-APPELLANT.

G.R. No. 110836. February 13, 1995

Ponente: REGALADO, J.

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REGALADO, J.:

From the judgment of conviction for two crimes of rape rendered by the Regional Trial Court of Lipa City, Branch 13, accused-appellant Nicasio Casil has interposed this appeal. He mainly challenges the credibility of complainant Shirley Mandigma and the correctness of the appreciation of the evidence by the trial court, and proffers his own version of the cases against him. We find his attempted impugment clearly insipid and his submissions downright incredible, as we shall explain after a narration of the antecedental facts.

Appellant was charged with two counts of rape in separate criminal complaints both dated May 20, 1992 and docketed in the court below as Criminal Cases Nos. 2028-92 and 2027-92, to wit:

Criminal Case No. 2028-92

"That sometime in the month of October 1991, in Bldg. #3 of the Poultry Farm of Pedro Antig, located at Barangay Banay-banay, Lipa City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused did then and there wilfully, unlawfully and feloniously by means of force, violence and intimidation and with the use of deadly weapon have carnal knowledge of the undersigned complainant, a thirteen (13) year old minor, against her will to her damage and prejudice in such amount as may be awarded to her under the provisions of the Civil Code." [1]

Criminal Case No. 2027-92

"That on or about the 20th day of March, 1992 at about 9:00 o'clock in the evening, at the Building No. 2 in the Poultry Farm of Pedro Antig located at Barangay Banay-banay, Lipa City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously by means of force and intimidation have carnal knowledge of the undersigned complainant, a thirteen (13) year old minor, against her will to her damage and prejudice in such amount as may be awarded to her under the provisions of the Civil Code." [2]

Upon arraignment in both cases, assisted by his counsel, appellant pleaded not guilty [3] to the offenses charged and the two cases were tried jointly. [4] The defense presented appellant as its only witness and he did not deny the sexual encounters but he claimed that it was between lovers. In handing down the verdict of guilt, the court a quo found the allegations of the accused "unbelievable, it being not humanly natural" for an eleven-year old barrio girl to have a lover and engage in sexual intercourse at age thirteen, and rendered judgment as follows:

"WHEREFORE, in view of the foregoing, the court finds accused in Criminal Case No. 2028-92 guilty beyond reasonable doubt of the crime of rape and he is hereby sentenced to suffer the penalty of reclusion perpetua, to indemnify Shirley Mandigma in the amount of P30,000.00 and another sum of P30,000.00 by way of moral damages and also to indemnify her parent (excluding the accused) in the sum of P30,000.00 by way of moral

damages; to acknowledge the offspring; to pay the costs and to suffer all the accessories (sic) of the law."

The court also finds the accused Nicasio Casil guilty beyond reasonable doubt of the crime of rape in Criminal Case No. 2027-92 and he is hereby sentenced to suffer the penalty of reclusion perpetua; to indemnify Shirley Mandigma in the amount of P30,000.00 and another sum of P30,000.00 by way of moral damages; also to indemnify the parents of Shirley Mandigma (with the exception of the accused) in the sum of P30,000.00 by way of moral damages; to pay the costs and to suffer all the accessories (sic) of the law." [5]

The prosecution had presented complainant Shirley Mandigma and Dr. Eden Zunio who conducted the physical examination on complainant and confirmed the fact that she was in the "third trimester of her pregnancy" [6] at the time of the examination.

The facts established by the evidence for the People are succinctly summarized by the Solicitor General, and we quote:

"Complainant Shirley Madigma, (sic, should be Mandigma), who just turned thirteen (13) years old on July 19, 1991 (p. 37, tsn, August 7, 1992), was residing in a poultry farm owned by Pedro Antig in Barangay Banaybanay, Lipa City, where her mother also worked (p. 6-9, tsn, Aug. 27, 1992).

"On October 20, 1991, at around 9:00 a.m., while she was washing her clothes near Building No. 3, which housed chicks, she was forced at knife point by her stepfather, appellant Nicolas (sic, should be Nicasio) Casil, thirty-one (31) years old, who also worked at the poultry farm, to go inside the aforesaid building (id.).

"When they were already inside the building, appellant while still pointing a knife at complainant ordered her to strip off her clothes. When she refused, appellant boxed her on the stomach causing her to fall. Since complainant still refused, she was again boxed by appellant and he himself took off complainant's skirt and then her panty (p. 10, id.) and started kissing and caressing complainant's private parts after which he took off his own clothes and forcibly inserted his penis into the complainant's vagina while both of them were standing and performed the sexual act causing her to bleed (p. 11, id.). Notwithstanding complainant's pleas to let her go, appellant ignored her and continued abusing her (id.).

"After satisfying his lust, appellant left complainant with a warning that he would kill all the members of her family if she told her mother what happened (pp. 12-13, id.). Feeling helpless, complainant went back to the place where she was washing clothes and cried (id.).

"After the first incident, since the complainant's mother was always out of the house, appellant continued to sexually abuse complainant on several occasions whenever he found her alone (p. 17, tsn, November 5, 1992).

"The last incident was in the morning of March 20, 1992, when appellant ordered complainant to come down while her four (4) younger brother and sisters were sleeping upstairs and despite complainant's pleas not to abuse her anymore, he persisted and again warned her not to tell her mother what happened (p. 17, id.). The rape on March 20, 1992 lasted for about an hour (p. 18, id.).

"Complainant could not muster enough courage to report the rape incidents until May 20, 1992, when her stomach was already big, when she told her elder sister and a certain Ate Minda about the rape incidents (pp. 13-14, tsn, August 27, 1992) which prompted them to consult Dra. Eden Zunio for medical examination. After an X-ray examination of her abdomen, said examination yielded results that complainant was indeed pregnant and was at her third trimester stage of pregnancy (pp. 2-4, tsn, September 10, 1992).

"Immediately on the same day, complainant reported the abuses committed upon her to the police authorities and she executed a sworn statement attesting to the fact of rape by her stepfather Nicasio Casil (pp. 16-20, tsn, August 27, 1992, Exhs. 'C' to 'C-1')." [7]

Appellant did not deny having carnal knowledge of the victim but he contended that said acts were free and

voluntary on their part as they were already sweethearts even when she was only eleven years old. Obviously to lend some semblance of truth and sincerity to his pretensions, he even told the court that he was willing to marry her and he likewise recognized the daughter he begot with her. [8]

We reject appellant's charade. Except for his bare, uncorroborated and self-serving testimony, appellant was never able to present any evidence to show that he and complainant were indeed sweethearts. We agree with the trial court that this "sweetheart story" was a mere concoction of appellant in order to exculpate himself from criminal liability. The contestation of appellant is highly preposterous since, as earlier stated, not only was Shirley merely eleven years old when they allegedly became lovers but appellant is virtually her stepfather and also around twenty years older.

During the trial, complainant's testimony was filled with so much hatred towards her defiler and she answered questions on cross-examination, thus:

"COURT

Q

Miss Witness, you said your private parts was (sic) touched by the accused. Did you enjoy it?

A No, sir.

Q During the intercourse, he inserted his private parts, did you enjoy it?

A No, sir.

Q When the accused was touching your private parts and subsequently, as you said, he had sexual intercourse with you, what did you do, if you did anything?

A Nothing, sir. I just kept crying.

Q And the truth is that you did not fight him?

A

While crying, I also fight (sic) him.

Q Did you sustain any scratch on any part of your body?

A Yes, sir. On my arms because he is holding my hands.

Q Did you submit yourself to any medical examination?

A Not at once.

Q Okay, between the month of October and the month of March, from your testimony, is it correct to say that you had several intercourse(s) with the accused?

A Yes, sir.

Q How many times?

A Many times, I can not count.

Q Five times?

A More, sir.

Q More than five times?

A Yes, sir.

Q And, of course, you already enjoyed those inter-course(s) with the accused?

A No, sir.

Q Even a bit, you did not enjoy?

A No, sir. I did not like it.

Q You do not want it but it happened?

A It happened because he always forced me and threatened me.

COURT:

Q Who forced you and threatened you?

A My stepfather, sir," [9]

She remained consistent and steadfast throughout the narration of her ordeal and, when asked about her daughter sired by appellant, she had this to say:

"ATTY. HERMOSO:

Q

Ms. Witness, you claimed that you have delivered a child. When was this child delivered?

A

Last July 18, sir.

Q

Was this child already baptized now (sic)?

A

Not yet, sir.

Q

And what name do you intend to give this child?

A

Rose Ann, sir.

Q

The surname?

A

Lalamunan.

Q

Why Lalamunan?

A

I want her to use my surname.

Q

You do not want to use the surname of the father of the child?

A

No, sir.

Q

Why?

A

I don't want to use the surname of the father because everything was against my will." [10]

It is thus evident from the testimony of complainant that she never consented to the sexual concupiscence of appellant. During the rebuttal stage, she vehemently reiterated her denial of having had any amorous relationship with appellant. [11] Our review of the evidence on record does not yield any plausible confutation of her categorical and straightforward testimony despite her juvenility and inexperience.

We have stressed in the case of *People vs. Matrimonio*, [12] that in rape committed by a father against his own daughter, the father's moral ascendancy and influence over the latter substitutes for violence and intimidation. The foregoing principle applies in the case of a sexual assault of a stepdaughter by her stepfather and of a goddaughter by a godfather in the sacrament of confirmation.

In the present recourse, appellant being in fact, if not in law, the stepfather of the victim, who was at the tender age of thirteen years when the first defilement was perpetrated, definitely enjoyed moral and physical ascendancy over complainant. The latter could thus be expected to yield to the threats and intimidation of appellant with less resistance by reason of his dominance over her.

Appellant asseverates that the failure of complainant to promptly report the crimes committed against her casts grave doubts on her credibility. [13] We have ruled that the failure of the victim to immediately report the rape is not an indication of a fabricated charge. [14] Young girls usually conceal for some time the fact of their having been raped. [15] The failure of the rape victim to report the offense until after she becomes pregnant does not necessarily render her an incredible witness, [16] especially where, as this case, she has not only the innate modesty of a moral woman but also the inevitable inexperience of youth.

Shirley did not report the repeated sexual attacks on her person by appellant until she could no longer hide her pregnancy but, as already explained, this does not detract from the fact that rape was committed. The threats of appellant to kill her and all members of her family should she report the incidents to anyone were etched in her gullible mind and sufficed to intimidate her into silence. Add to this the fact that she was living with appellant during the entire period of her tribulation, with her mother often away working for a living, and one can readily visualize the helplessness of her plight.

Moreover, no improper motive can be ascribed to this complainant other than a desire to tell the truth and obtain redress for the despicable wrongs inflicted on her. We have time and again ruled that the testimony of a rape victim is credible where she has no motive to falsely testify against the accused. [17] Courts usually lend credence to testimonies of young girls, especially where the facts point to their having been victims of sexual assault. [18] Youth and immaturity are generally badges of truth and sincerity.

Finally, the consistent and familiar principle that conclusions as to the credibility of witnesses are primarily the function of the trial court can be reiterated in this case. [19] This is well-settled and we see no reason to depart therefrom. It bears mention that while this doctrine can be subverted by a trial judge through an improvident negative statement in his supposed observations of the demeanor of the witnesses, in the case at bar the judge *quo conscientiously* explained the bases for his giving credence to the facts narrated by complainant, in consideration of both the substance thereof and her manner of testifying thereto.

WHEREFORE, the appealed judgment of the trial court in Criminal Cases Nos. 2027-92 and 2028-92 against accused-appellant Nicasio Casil y Villas is hereby AFFIRMED.

SO ORDERED.

Narvasa, C.J., (Chairman), Bidin, Puno, and Mendoza, JJ., concur.

- [1] Original Record, Criminal Case No. 2028-92, 1.
- [2] Ibid., Criminal Case No. 2027-92, 1.
- [3] Ibid., 10.
- [4] Ibid., 30.
- [5] Ibid., 33; per Judge Irineo V. Mendoza.
- [6] TSN, September 10, 1992, 4.
- [7] Brief for the Appellee, 4-7; Rollo , 63-66.
- [8] Ibid., November 5, 1992, 10-12.
- [9] Ibid., August 27, 1992, 32-34.
- [10] Ibid., id., 21-22.
- [11] Ibid., November 5, 1992, 15.
- [12] G.R. Nos. 82223-24, November 13, 1992, 215 SCRA 613.
- [13] Appellant's Brief, 5-6; Rollo , 32-33.
- [14] People vs. Ulili, G.R. No. 103403, August 24, 1993, 225 SCRA 594.
- [15] People vs. Alib, G.R. No. 100232, May 24, 1993, 222 SCRA 517.
- [16] People vs. Casao, G.R. No. 100913, March 23, 1993, 220 SCRA 362.
- [17] People vs. Cabilao, G.R. No. 62999, June 25, 1992, 210 SCRA 326.
- [18] People vs. Abuyan, Jr., G.R. Nos. 95254-55, July 21, 1992, 211 SCRA 662.
- [19] People vs. Danquilan, G.R. No. 88821, January 29, 1993, 218 SCRA 98. See also People vs. Guibao, G.R. No. 93517, January 15, 1993; 217 SCRA 64; People vs. Chatto, et al., G.R. No. 102704, March 10, 1993; 219 SCRA 785.

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