

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VICENTE VITOR, ALIAS “TINGTING,” ACCUSED-APPELLANT.

G.R. No. 113690. June 27, 1995

Ponente: REGALADO, J.

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REGALADO, J.:

Accused-appellant was indicted for the crime of rape before the Regional Trial Court of Tagbilaran City, Branch 2, in an information filed on December 2, 1986 and docketed as Criminal Case No. 4795. The accusatory portion thereof alleges:

"That, on or about the 9th day of June, 1986, at the Poblacion, municipality of Talibon, province of Bohol, Philippines, and within the jurisdiction of this Honorable Court, while the offended woman, Ma. Cristy V. Galendez, who is still a minor (12 years old), was inside their house, the above-named accused, by means of force and intimidation by pointing a pair of scissors (at) the offended party, forced said offended party to lie down, covered her mouth, removed her panty, and thereafter, forced himself on top of her and did then and there, willfully, unlawfully and feloniously insert his penis into the vagina of the said Ma. Cristy V. Galendez and succeeded in having carnal knowledge with her, against her will and without her consent; to the damage and prejudice of the offended Ma. Cristy V. Galendez."[1]

However, the case was ordered archived on November 21, 1986[2] since appellant was able to evade arrest until March 8, 1993[3] when he was finally apprehended by the police authorities of Inabanga, Bohol.

After trial, following a plea of not guilty upon arraignment on March 15, 1993,[4] appellant was convicted of two counts of rape and thereafter sentenced to serve for each of them the penalty of reclusion perpetua, to indemnify the victim in the amount of P50,000.00, and to pay the costs.

For referential purposes, considering the view that we take of this case, we quote the judgment of conviction pronounced in the decision of the lower court, dated August 23, 1993, which made the following disposition:

"WHEREFORE, the Court finds the accused Vicente Vitor guilty beyond reasonable doubt of the commission of two separate offenses of RAPE defined and penalized under Article 335 of the Revised Penal Code, as amended. There being neither mitigating nor aggravating circumstance, the accused is hereby sentenced for each offense, to suffer the penalty of Reclusion Perpetua, to indemnify the offended party, Maria Christy Galendez, in the sum of Fifty Thousand (P50,000.00) pesos without subsidiary imprisonment in case of insolvency, and to pay the costs."[5] (Italics ours.)

The People's evidence, upon which the trial court based its findings of guilt beyond reasonable doubt, is summarized by it as follows:

"Complainant Maria Christy Galendez was over 12 years old on June 9, 1986, when the incident happened. She was in grade six, studying at the Talibon Elementary School, Poblacion, Talibon, Bohol, where she lives together with her mother Celsa, sister Jocelyn, brother Sandy Liven, four-year old stepbrother (sic) Ray Vincent Vitor and her stepfather, Vicente Vitor, the accused herein, whom she calls Papa Tingting. That all of

them lived together under one roof for more than seven (7) years, with her mother Celsa providing for their support with income from her beauty parlor located separately in the Poblacion about 150 meters away from their house. Complainant further declared that at about 1:30 p.m. of June 9, 1986, while she was at home in the kitchen washing dishes, her mother was out at her beauty shop, her grandfather, brother and sister also out, with only her stepfather (accused), her four-year-old stepbrother (sic) Ray Vincent, and herself remained in the house, the accused called her. When she answered his call and entered the room where the accused was, the latter, holding a pair of scissors, suddenly grabbed her hand; complainant tried to resist but her stepfather was strong and when she tried to pull herself to run away the accused kicked her leg causing her to fall down. Then, she was dragged to the bamboo bed with her hands twist locked (sic), her mouth tied with a big handkerchief, and a pillow pressed on her face to prevent her from shouting. Thereafter, the accused removed her panties and after removing his (accused) clothes, the latter placed himself on top of her, inserted his penis towards her vagina and made push and pull motions, thus forcibly having sexual intercourse with her against her will. Shortly thereafter, the accused released her and before leaving he waved the pair of scissors at her and threatened the complainant that if she will tell her mother or anybody about the incident the accused will kill all of them. That there were other subsequent sexual assaults made by the accused upon her and the last of which occurred on July 31, 1986. Complainant, however, could no longer recall the dates and details of those other incidents. What she could not forget though was that the accused had always warned her never to tell anybody about the incidents otherwise he will kill all of them.

"On July 31, 1986 at about 1:00 p.m., the complainant was again subjected to sexual molestations by the accused against her will. During such occasion, however, complainant's mother, who at the time had to return to her house from her parlor in order to get something, came upon the accused and her daughter inside the room, naked and having sexual intercourse. Complainant's mother, Celsa, was stunned, speechless in disbelief at what she saw. Shocked as she was, she did not know what to do, she hurriedly left and on her way unconsciously urinated while walking towards her parlor. She decided to confront the accused, her common-law husband, but the latter was not there when she arrived home. Accused returned home only the following morning, drunk, and since then had evaded her. She knew later that the accused left their home without any notice taking along their son, Ray Vincent. The preliminary investigation proceedings against the accused had to be conducted ex-parte because he could not be located. That even after the herein charge was filed in Court, the case had to be archived pending his arrest on February 9, 1993. Celsa Galendez, told the Court that she is not after money, all that she wanted is that justice be done in this case."[6]

The defense presented appellant as its sole witness, and he insisted that he and complainant were lovers. Appellant claimed that on that fateful day, June 9, 1986, he was resting during the warm afternoon, clad only in underwear, when the complainant suddenly entered his room and placed herself on top of him. Complainant allegedly asked for money and suggested that, in return, she will do what her mother does with appellant. Appellant then removed his underwear and the complainant removed her panty and spread her legs. Appellant tried to copulate with her but failed to insert his penis into her vagina. Thereafter, they had numerous sexual encounters but it was only on July 31, 1986 when they were able to consummate it because the complainant applied oil on his penis.[7]

Assailing the decision of the trial court, appellant ventilated this appeal, contending in the brief he filed that there was no rape involved and that the prosecution failed to establish his guilt beyond reasonable doubt.[8]

We agree with the trial court's findings and conclusions, not only because it was in a better position to observe the witnesses' demeanor and manner of testifying so much so that its findings on the credibility of the witnesses are entitled to great weight. Additionally, our concurrence was arrived at after carefully scrutinizing and evaluating the testimony of the complaining witness, as transcribed from the stenographic notes, which we find to be categorical, straightforward and logical, despite incisive interrogations of the defense.

Contraposed against the denial of appellant, the testimony of complainant is decidedly more convincing and rational. In the particular rape charged herein, Ma. Christy unflinchingly declared that appellant, her own stepfather, forcibly removed her panty and thereafter inserted his penis into her private part. In the course of her testimony, she positively established the antecedents and the surrounding circumstances of the sexual assaults committed against her. Thus, on direct examination, she testified in the following manner:

x x x

"Q

In June of 1986 how old were you then?

A

I was 12 years old.

Q

Now, you said that you were a resident of Poblacion, Talibon, Bohol, since what year?

A

Since 1978.

x x x

Q

Who else were you living with?

A

My mother, brothers and sisters and this Vicente Vitor or Tingting.

Q

Please tell the Court, what is the name of your mother?

A

Celsa Galendez.

Q

This Tingting whom you said is also living with you please tell the Court the full name of this Tingting?

A

His real name is Vicente Vitor.

Q

And this Tingting whose real name is Vicente Vitor, how are you related to him?

A

He is my stepfather.

Q

Why, who is actually your father?

A

My true father is already dead.

x x x

Q

What year was that when you said you were living with your mother Celsa Galendez, your grandfather and this Vicente Vitor?

A

In 1976.

Q

And how old were you then at that time?

A

I was five years old.

Q

Since your were five years old you already considered Vicente Vitor as your stepfather?

A

Yes, sir.

Q

Now, on June 9, 1986 in the afternoon at about one o'clock, can you recall where were you?

A

I was in the kitchen by the sink.

Q

In what place (was) your house x x x situated?

A

At Poblacion, Talibon, Bohol.

Q

And at that time, will you please tell the Court who were, aside from you inside the kitchen, at the house?

A

There was Tingting.

x x x

COURT:

What time?

PROSECUTOR ACHAS:

About one thirty in the afternoon.

A

My mother was in her parlor.

x x x

Q

How about your grandfather?

A

My grandfather was in the house of my aunt.

x x x

Q

Now, on June 9, 1986 at about one thirty in the afternoon in your house at Poblacion, Talibon, Bohol you said that you were the only one left in the house together with your step-father Tingting or Vicente Vitor, now can you recall Miss Witness on that day and time if there was any unusual incident that took place in your house?

A

Yes, sir, there was.

Q

What was that incident?

A

He raped me.

PROSECUTOR ACHAS:

Again, Your Honor, I would like to place on record that the witness is again for the second time shedding tears.

COURT:

All right, proceed.

PROSECUTOR ACHAS:

Q

Now, how did he ravis(h) you?

A

First, he called me because my youngest brother arrived.

Q

Just how old is your youngest brother?

A

Four years old.

x x x

Q

And when he said that you have to get your younger brother, what did you do next?

A

I went near my brother to get him.

Q

And were able to get your brother?

A

No, sir.

Q

Why were you not able to get your younger brother?

A

Because he held my left hand.

Q

When you said he held (your) left hand, x x x whom are you referring to?

A

I am referring to Vicente Vitor.

Q

What did you feel when he held your left hand?

A

I felt pain.

Q

In other words, the holding of your hand was strong?

A

Yes, sir.

Q

And after holding tightly your left hand wh(ere) you felt pain, what transpired next?

A

I struggled to be free (from) his hold because I wanted to run away.

Q

Were you able to get free from his clutches?

A

I was able to release myself and was about to run but he blocked my way.

Q

How did this Vicente Vitor alias Tingting bloc(k) your way when you were able to free yourself?

A

When I was in the act of running he kicked my right leg.

x x x

Q

And what did you feel when your right leg was hit upon the kicking of Vicente Vitor alias Tingting?

A

I felt pain.

Q

And what happened to you after you felt so much pain?

A

I fell down.

x x x

Q

And then after you fell down what happened next?

A

He then hurriedly tied my mouth.

Q

With what?

A

With a handkerchief.

x x x

Q

After your mouth was tied with that handker-chief, what happened next?

A

He carried me towards the bamboo bench (lantay).

Q

How did he carry you to that bamboo bench?

A

He held my two hands and pulled me towards the bamboo bench.

x x x

Q

And finally, you were on the bamboo bench, right?

A

Yes, sir.

Q

And while you were on the bamboo bench or lantay, what happened next?

A

He removed my underwear.

x x x

FISCAL ACHAS:

Q

At that time when you were dragged (to) that bamboo bench or lantay, what were you wearing?

A

I was wearing a skirt, our school uniform.

Q

And going back to the manner of removing your panty, how did he remove it?

A

He removed my panties with his left hand pulling it down to my feet.

Q

And can you recall if that panty was tattered or destroyed after he removed it?

A

It was torn.

Q

How about your skirt?

A

It was not.

x x x

Q

And after removing your panty what happened next?

A

After removing my panties I felt his penis touc(h) my vagina.[9] (Corrections in parenthe-ses supplied.)

Complainant further testified that appellant failed to fully insert his penis during that first sexual assault and, that on a number of occasions thereafter, appellant repeatedly tried to satisfy his bestial lust until the day her mother caught her stepfather raping her.[10]

As in most criminal cases, the issue here revolves on the trial court's appreciation of the testimonies proffered to it by the contending parties or witnesses. In the case at bar, the court below gave more weight and credence to the declarations of the witnesses for the prosecution. Said determination must be respected as it is axiomatic that the findings of trial courts on the credibility of witnesses are given great weight and accorded high respect by appellate courts, given the natural advantage that a trial judge has in the appreciation of such evidence.[11] The records do not yield any basis or reason for us to depart from this well--entrenched doctrine.

Definitely, Ma. Christy would not make public the offense committed on her, undergo the agony and humiliation of a public trial and endure the ordeal of testifying on all the sordid details of the crime if she had not in fact been raped. As a rule, a victim of rape will not come out in the open if her motive was not to obtain justice and her testimony as to who abused her is not the truth. Thus, when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed, and if her testimony meets the test of credibility, the accused may be convicted solely on the basis thereof.[12]

We can not accept the incredible theory presented by appellant that the sexual congress in this case was upon the initiation of his stepdaughter, who even went home from school during recess time just to have sex with him. There is no showing whatsoever that complainant is a sexual deviant or a mental aberrant. Advocates who would present such a fatuous defense in a court of justice commit a disservice to the profession.

Appellant further questions the behavior of the victim after the alleged rape, arguing that complainant did not immediately tell her mother or the police about the sexual offense committed against her. In *People vs. Manuel*,[13] we held that one should not expect a fourteen-year old girl to act like an adult or a mature and experienced woman who would know what to do under such difficult circumstances and who would have the courage and intelligence to disregard a threat on her life and complain immediately that she had been forcibly deflowered. It is not uncommon for young girls to conceal for some time the assaults on their virtue because of the rapist's threat on their lives, more so when the rapist is living with her. Complainant's delay in reporting the sexual violations is thus understandable and does not affect her credibility.

Of compelling measure is the fact that complainant had absolutely no motive to incriminate appellant and testify against him. As we have heretofore ruled, it would be highly improbable for a barrio girl of tender age and definitely inexperienced in sexual matters to fabricate charges, for no reason at all, that will put herself and her family in a very compromising situation which could even invite reprisal.[14]

We reject appellant's implausible protestation that the victim's mother filed this case to get rid of him because of his bad character and, particularly, his maltreatment of her children.[15] We are in fact discombobulated by this appalling and audacious submission of appellant that a mother would willingly subject her daughter, one of very tender age at that, to the rigors and ignominy attendant to a rape trial just so she could satisfy her desire to end her relationship with him.

Actually, the records show that appellant left their abode before the filing of the complaint. Therefore, the theorized motive of complainant's mother no longer existed at the time appellant was arrested and tried. And, we repeat, a mother would not sacrifice her own daughter if she was not motivated by the honest desire to have the culprit punished.[16]

It should also be noted that appellant is the victim's stepfather who had assumed parental authority over her during her formative years. Undeniably, there was moral ascendancy on the part of appellant over the victim. Thus, in a similar case, we stressed that since the victim was only twelve years old at the time of the incident and her attacker was her own stepfather, whom she in fact called "Tatay," he exerted a strong moral influence over her.[17]

Finally, it took almost seven years before appellant could be arraigned and tried because he was able to elude the authorities. Appellant's flight after his common-law wife discovered his criminal offenses and his continued acts of evading arrest thereafter are strong indications of his guilt which readily bely his claim of innocence.[18]

We agree, however, with the position of both the defense and the prosecution that the court a quo erred in convicting appellant of two counts of rape because the information charges him with only one act of rape. Indeed, the information, which we have purposely quoted at the beginning of this opinion, charges only one felony of rape, hence appellant cannot be held liable for more than what he was charged with. There can only be one conviction for rape if the information charges only one offense, even if the evidence shows five separate acts of forcible sexual intercourse.[19] Corollarily, the award for civil liability ex delicto should also be for and correspond to only one criminal offense.

WHEREFORE, the appealed judgment is hereby MODIFIED, and accused-appellant Vicente Vitor is hereby declared guilty of one crime of rape as charged and sentenced to serve a single penalty of reclusion perpetua, to indemnify the complainant in the sum of P50,000.00, and to pay the costs. In all other respects, the judgment of the court a quo is AFFIRMED.

SO ORDERED.

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

[1] Original Record, 18.

[2] Ibid., 31.

[3] Ibid., 36 and 45.

[4] Ibid., 50.

[5] Ibid., 80; per Judge Baudilio K. Dosdos.

[6] Ibid., 75-76.

[7] TSN, May 19, 1993, 5-54.

[8] Brief for Accused-Appellant, 1-2; Rollo, 43-44.

[9] TSN, May 11, 1993, 3-13.

[10] Ibid., id., 14 and 18.

- [11] People vs. Repollo, G.R. No. 108872, October 7, 1994, 237 SCRA 476.
- [12] People vs. Biendo, G.R. No. 84731, December 16, 1992, 216 SCRA 626.
- [13] G.R. Nos. 107732-33, September 19, 1994, 236 SCRA 545.
- [14] People vs. Guibao, G.R. No. 93517, January 15, 1993, 217 SCRA 64.
- [15] Ibid., 15; Rollo 57.
- [16] People vs. Rosell, G.R. No. 86383, January 30, 1990, 181 SCRA 679.
- [17] People vs. Obejas, G.R. No. 102336, January 27, 1994, 229 SCRA 549.
- [18] People vs. Sarino, et al., G.R. No. 94992-93, April 7, 1993, 221 SCRA 234.
- [19] See People vs. Joya, G.R. No. 79090, October 1, 1993, 227 SCRA 9.

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