PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VERGILIO REYES Y LORESCA, ACCUSED-APPELLANT.

G.R. No. 113781. September 30, 1999

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On appeal is the judgment of the Regional Trial Court of Santa Cruz, Laguna, Branch 26, in Criminal Case No. SC-4292, promulgated on November 28, 1991, which found appellant Vergilio Reyes guilty of rape and imposed upon him the penalty of reclusion perpetua.

The factual antecedents of this case, as gleaned from the records, are as follows:

On the evening of October 30, 1990, complainant Leticia Papa arrived home in a state of disarray, with her clothes muddy and streaked with blood. Questioning by her concerned parents led to the revelation that she had been abused sexually. She named appellant as the offender. That same evening, complainant, accompanied by her father, proceeded to the police station of Sta. Cruz, Laguna, to complain against appellant. Subsequently, complainant was medically examined at the Laguna Provincial Hospital. Dr. Gladys C. Javan, a physician of the OB-Gynecology Section thereat, conducted the examination. Her findings are as follows:

> "PPE FINDINGS
> HEENT – pink palpebral conjuntiva
> Chest/Lungs – clear breath sounds
> Heart – regular rhythm, no murmur
> Abdomen – flat, soft, non-tender
> Genitalia – pubic hair full
> labia majora and minora – well-coaptated
> hymen – fresh with blood, laceration at 3', 6',
> and 9'o'clock position (s)
> vaginal – admits two fingers with ease.
>
> INTERNAL EXAM:
> cervix – closed, soft
> uterus – small
> adnegae – negative
> discharge – bloody
>
> Presence of sperm at the vagina – NEGATIVE."[1]

On October 31, 1990, the complainant filed a complaint for rape against appellant with the Municipal Trial Court of Santa Cruz, Laguna. A preliminary investigation was conducted, resulting in the filing before the Regional Trial Court there of an information for rape against the appellant. The accusatory portion of said information reads:

> "That on or about the 30th day of October, 1990, in the municipality of Sta. Cruz, province of Laguna, and within the jurisdiction of this Honorable Court, the above-named accused, conveniently armed with a bladed weapon, by means of force and intimidation, did then and there, willfully, unlawfully and feloniously have carnal knowledge of LETICIA E. PAPA, 20 years of age and single, at the coconut plantation owned by Mario Penpengco at Brgy. Gatid, this municipality, against her will.
>
> "CONTRARY TO LAW."[2]

Upon arraignment, appellant entered a plea of "Not Guilty." Trial immediately ensued. After the prosecution had presented its evidence, appellant, with leave of court, filed a demurrer to evidence. The trial court denied the demurrer. Thereafter, the accused presented his defense.

Appellant was lone witness for the defense. In his testimony, appellant admitted having had sexual relations with complainant. However, he vehemently denied raping her. Appellant insisted that what took place between them was with her consent and was the fruit of a long-smoldering mutual desire.

The trial court did not find appellant's defense credible or convincing. Appellant was adjudged guilty of the offense charged. The court's judgment states:

> "WHEREFORE, FINDING the accused VERGILIO REYES y LORESCA guilty beyond reasonable doubt of the crime of Rape against Leticia E. Papa penalized under article 335 of the Revised Penal Code, the Court hereby sentences him to suffer the penalty of reclusion perpetua, to pay the complainant the amount of P20,000.00 as damages, without subsidiary imprisonment in case of insolvency, and to pay the costs.
>
> "SO ORDERED."[3]
>
> The trial court reasoned thus:
>
> "... If it were true that what transpired between them was their mutual desire, it is difficult to imagine why they chose a muddy spot for the purpose. Consenting adults who want to satisfy their mutual lust would have chosen a more comfortable environment conducive to their pursuit of happiness. In this case, the complainant and the accused would have taken care that no mud or blood would soil or smear their clothes.
>
> x x x
> "At the witness stand, the Court was able to observe the demeanor of the complainant and found no reason to doubt her account. Her testimony was narrated with all sincerity and candor expected of a girl truthfully recounting the shocking experience which had befallen her. Her straightforward recollection of events which occurred, before, during, and after the shameful act was unequivocal, displaying no hesitation, but only forthrightness in the narration of her agony and anguish. She readily admitted that earlier that day, she requested the accused to help her fetch water and again saw him later at the billiard hall. This admission, however, is no confession of any consent. Neither can it be inferred from the same."[4]

On December 9, 1991, appellant filed a "Motion for New Trial and/or Reconsideration." The trial court granted the same. Appellant then moved for an ocular inspection and presented an additional witness. This added testimony sought to prove the following: (a) that the complainant, whom she had known since childhood had "crushes" on almost all good-looking males in their locality; (b) that the complainant had a "crush" on the accused; (c) that the complainant had been made to stop schooling by her parents for frequently dating males; and (d) that private complainant is not normal and somewhat mentally retarded.[5]

On April 20, 1993, the trial court issued a resolution denying the motion for reconsideration on the ground that the additional evidence adduced by the defense was unconvincing to warrant appellant's acquittal. The court ruled:

> "... In view of her mental deficiency which is apparent to everyone, it could not be said that she gave her

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consent to be deflowered or even if she did, the accused should not have taken advantage of such mental state.

"In any case, assuming her to be not a virtuous woman, such fact would not justify the act complained of. The rule is that 'the fact that an offended party may have been of unchaste character constitutes no defense in a charge of Rape' (citations omitted).

"Of no controlling significance either is the disagreement of the parties as to where the incident took place. The difference is only about 4 to 5 meters. The exact spot is not so material considering that the accused did not deny having relations with her."[6]

On May 21, 1993, appellant filed his appeal, anchored on the following lone assignment of error:

THE LOWER COURT ERRED IN GIVING CREDENCE TO THE TESTIMONY OF THE COMPLAINANT AND IN CONVICTING THE ACCUSED OF THE CRIME OF RAPE.[7]

Simply stated, the issue before us is whether or not the testimony of complainant is sufficiently credible to maintain appellant's conviction for rape beyond reasonable doubt.

In finding appellant guilty of rape, the trial court summarized complainant's testimony as follows:

"On October 30, 1990, at 6:30 in the evening, she was alone walking towards her Ate Ila's house across the basketball court at the Villa Flores Compound in Gatid, Sta. Cruz, Laguna, when she met the accused who pointed a knife on (sic) her neck and brought her to a muddy coconut plantation owned by one Mario Penpengco thirty meters away. That before bringing her to the plantation, he kissed her on her lips and cheeks and then placed his arm over her left shoulder. She did not resist, attempt to run, scold the accused or even shout for help because the accused threatened to kill her. At the plantation, with the knife still poked on (sic) her neck, she was made to lie down by the accused who threatened to kill her and her mother if she would resist or shout. She was terrified and was unable to move. When the accused started removing her shorts, she kicked him. Despite her resistance, the accused was able to remove her panty also. Naked from the waist down, she was penetrated by the accused, felt pain and bled. The accused warned her not to report what had happened to anyone or else she and her mother would be killed. Thereafter, the accused promised her that he would leave his wife and live with her, but she replied that they have no relationship. She went home and upon arrival, her mother noticed her clothes not only muddy but with blood. When asked where she had come from, she replied that the accused Vergilio Reyes had sexually abused her. She was then examined by a lady physician in a hospital known to her father.

"On cross, she mentioned, among others, of having fetched water from the artesian well near the chapel that early evening of October 30, 1990. On the way home, the accused accompanied her. Later, she went to Lolo Apiong's place where the accused was then playing pool. She sat there and was seen by other players there. The accused is not courting her. When sexually abused, she did not cross her legs."[8]

The trial court summed up appellant's version of the incident as follows:

"...Before he got married, Leticia Papa and he had been close friends, being classmates in the elementary grades. He courted her and they became engaged until he saw her being intimate with other males so he did not pursue marrying her.

"On October 30, 1990, in the afternoon, he was playing pool with his Pareng Orland Talabis, uncle Simplicio Floresca, Jr., Pareng Aber (Abelardo Guevara) and Dindo Calasicas in Lolo Apiong's house which serves as a billiard hall. At about 5:20 o'clock, Leticia Papa saw him and requested him to help her bring home two containers full of water. He agreed, and riding a tricycle, they went to her house about 50 meters way arriving at about 5:25 o'clock. He went home arriving at about quarter to six o'clock and rested lying on a bench. While doing so, he heard somebody calling him and, looking out, saw Leticia telling him that she was going to tell him something. They conversed wherein she mentioned about their past relationship which he told her to

forget because he is already married with one child.

"Leticia left, but had not gone far when she returned. She huddled so close to him saying she could not forget him which act she found hard to resist so he told her if she really wanted to have sex with him, she should go alongside (sic) his mother's house. His mother was not in, his uncle was in the cockpit, and his wife was in his parents-in-law's house. Upon reaching the place which is a coconut plantation near a lighted poultry house owned by Nitang Flores, he laid his T-shirt where Leticia sat. Leticia removed her blouse and they had intercourse. Nearby are the houses of his relatives. He did not employ force. Neither was he kicked, considering the complainant's size. Before leaving for their respective houses, they agreed to go to the town proper to see a movie which did not materialize because he was already arrested. He did not know who had caused his arrest or why he was detained."[9]

The Revised Penal Code, prior to its amendment by Republic Act Nos. 7659 and 8353, defined and penalized the crime of rape as follows:

"Art. 335. When and how rape is committed. – Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age or is demented.

The crime of rape is punished by reclusion perpetua.

xxx"

Three guiding principles apply in the review of evidence in rape cases: (1) an accusation for rape can be made with facility; it is difficult to prove but even more difficult for the accused, though innocent, to disprove; (2) in view of the intrinsic nature of rape where often, only two persons are involved, the complainant's testimony must be scrutinized with extreme caution; and (3) the prosecution's evidence must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the defense.[10] It is settled that a person accused of rape can be convicted solely on the testimony of the victim if the trial court finds said testimony to be credible, natural, convincing, and consistent with human nature and the course of things.[11]

In his brief, appellant argues that, in the course of the new trial, the ocular inspection showed that facts upon which his conviction was based do not exist. First, he maintains that the place where the victim was allegedly raped is not a muddy place as concluded by the trial court, but is planted to root crops locally known as "uraro." Second, there were several houses between the pathway traversed by the accused and the victim from the basketball court up to the place where the victim was allegedly raped. It would have been impossible for appellant and the victim to travel that 30-meter distance without any person noticing appellant poking a knife at complainant's neck. Third, his additional witness did not discount the possibility of the victim consenting to the act because the latter is not normal. Appellant also points to complainant's testimony under cross-examination that she did not shout for help or make any resistance to his initial embrace or kisses, to wit:

"ATTY. CONSUNTO: Right then and there, when you met the accused, he approached you and kissed you already?

WITNESS: Yes, sir, he kissed me on the lips and on my cheeks.

Q: Thereafter he brought you to the coconut plantation of Mario Pempengko?

A: Yes, sir.

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Q: How far is the coconut plantation of Mario Pempengko from the place where you met the accused?

A: It is in front of a poultry (house), sir.

Q: Can you estimate how many meters more or less was the distance you travelled where you met the accused from the poultry (house)?

A: Maybe the distance is from this place up to the place where the jeep is parked near the gate of the compound of the Court.

INTERPRETER: Calculated to be about 30 meters.

Q: So you and the accused walked about 30 meters from the place where you first met?

A: Yes, sir.

Q: While walking, you did not converse with the accused?

A: No, sir.

Q: You just walked casually from the place where you first met to the place where you were brought?

WITNESS: Yes, sir.

ATTY. CONSUNTO: Is there any special reason why from the point where you first met with the accused, you transferred to another place near the poultry?

A: Yes, sir. Because I was going to my Ate Ila when I met Vergilio Reyes and he placed his arm over my left shoulder.

Q: Let us clarify. Where were you going: to the basketball court or to the place of your Ate Ila?

A: Because my Ate Ila's house is in front of the basketball court, sir.

Q: Am I correct when I heard you said you resisted the accused by your kicking him?

A: Yes, sir.

Q: At what point in time did you kick the accused the first time you met him or at the time when you were lying down?

A: When I was already lying down that was when I kicked him, sir.

Q: You did not resist him when the accused kissed you the first time you met him?

A: I resisted but he was threatening me.

Q: When the accused placed his arm (around your shoulder) you did not remove his arm from his embrace (sic)?

A: I removed it and after I have removed it he—

ATTY. CONSUNTO: You did not attempt to run when the accused placed his arms around your shoulders?

WITNESS: No, sir.

Q: You did not scold or curse the accused when he placed his arms on your shoulders?

A: No, sir.

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Q: You did not shout for help when the accused placed his arm on your shoulders?

A: No, because he told me he would kill me if I will shout, so I did not shout.

Q: You did not shout also at the time you were kicking the accused. Is it not?

A: No, sir.

Q: You were not uttering any words during all the time that you were kicking the accused.

A: No, sir."[12]

Appellant submits that the foregoing clearly shows two things: First, he did not employ either force or intimidation in committing the sexual act with the private complainant; and second, that she did not offer any resistance to his sexual advances. Hence, her credibility in charging him with rape is suspect.

In scrutinizing the credibility of witnesses, decided cases have established the following doctrinal guidelines:

First, the appellate court will not disturb the findings of the lower court unless there is a showing that it had overlooked, misunderstood, or misapplied some fact or circumstances of weight and substance that would have affected the result of the case.

Second, the findings of the trial court pertaining to the credibility of witnesses are entitled to great respect and even finality since it had the opportunity to examine their demeanor as they testified on the witness stand; and

Third, a witness who testified in a categorical, straightforward, spontaneous and frank manner and remained consistent on cross-examination is a credible witness.[13]

Applying these guidelines, we find no reason to disturb the findings and conclusions of the trial court respecting the private complainant's credibility. Perusal of the transcript of records shows that, notwithstanding private complainant's perceived mental deficiencies, she nonetheless, was able to recount her ravishment with clarity and candor. The relevant portion of her direct testimony reads:

"Q: Alright, you went home already, your mother saw you you were very soiled. Why were you soiled at that time?

A: Because the coconut plantation was muddy, sir.

Q: How did you get that mud in (sic) your clothes?

A: He made me lie down on the ground, sir.

Q: After you were lain on the ground, what did the accused do, if any?

A: He poked a knife at my neck and told me if I would shout, he would not only kill me but also my mother.

Q: You were lying down at the time?

A: Yes, sir.

Q: When you were lying down and he threatened to kill you, what next did he do to you?

WITNESS: He told me that he would separate from his wife and that we would live together already.

FISCAL: I am not interested in what he told you, please understand what I am asking you. While you were lying down, what did the accused do to you/

A: I became afraid, sir.

Q: Why did you become afraid?

A: Because he was threatening to kill me, sir.

Q: What else did he do to you? Wait. Before you answer, are you ashamed because the public is here. We can exclude them so you (can) relate your story.

A: No, sir.

Q: You were lying down. You were naked downwards. What did the accused do to you?

A: He placed his private part into my private part.

Q: Alright. He placed his private part into your private part. Was he successful?

A: Yes, sir.

Q: Then, what did you feel?

A: It was painful, sir.

Q: Did you bleed?

A: Yes, sir.

Q: Did you have any experience before of sexual intercourse prior to that date with the accused?

WITNESS: No, sir.

xxx

Q: Were you able to shout when he place(d) his private part into your private part?

A: No, because he threatened to kill me if I will shout.

Q: What did you feel when he threatened you?

A: I became afraid and was unable to move then, sir."[14]

Appellant has shown us no reason to doubt her testimony. Her testimony must be given full weight, especially as it is supported by the medical report and the testimony of the physician, Dr. Gladys Javan, who examined her, to wit:

"Q: When you were asked by the fiscal, you answered that these findings of yours could be compatible to (sic) rape, did I hear you right?

WITNESS

A: Yes, sir.

Q: What is your understanding of rape?

A: Even a touch of (a) penis to the labia majora of the patient is considered rape, sir.

Q: So, what you mean to say is that your findings is (sic) compatible to sexual intercourse, not rape?

A: I said there is penetration of any object that could cause laceration of the hymen.

COURT

Q: Like what?

WITNESS

A: A finger, an object like a pencil, ball pen or penis, Your Honor."[15]

The trial court observed that private complainant suffered from some form of mental deficiency or abnormality ("isip bata"). The trial court also noted that this deficiency or retardation was apparent and easily discernible. Since appellant admitted that he had known private complainant from the days they were classmates in the elementary grades, it is highly improbable that he was unaware of her mental deficiency. In view of this finding of mental retardation, appellant's insistence that private complainant consented to the sexual congress must fail. The term "deprived of reason" as used in Article 335 of the Revised Penal Code has been construed to encompass those suffering from mental abnormality, deficiency or retardation.[16] Private complainant's mental condition, as observed and evaluated by the trial court, clearly rendered her incapable of intelligently assenting to acts of intercourse with appellant. Noteworthy in rape cases, the gravamen of the offense is sexual intercourse with a woman against her will or without her consent.[17]

However, it must be pointed out that her ordeal was not brought about solely by aforesaid condition, but through force and intimidation employed by appellant in poking a knife at her and threatening to kill her if she would not give in to his lustful desires. We have held that the act of holding a knife by itself is strongly suggestive of force or at least intimidation, and threatening the victim with a knife is sufficient to bring a woman to submission.[18] We have likewise held that since the mental faculties of a retardate are different from those of a fully functioning adult, the degree of force needed to overwhelm her is less.[19] Appellant has not successfully rebutted private complainant's testimony that he was able to ravish her at knifepoint and with threats to kill her. Hence, his appeal to reverse his conviction deserves to fail for utter lack of merit.

However, we must now modify the monetary awards granted by the trial court. Pursuant to prevailing jurisprudence indemnity ex delicto should be P50,000.00 without need of further proof, while moral damages for the pain and injury suffered by the victim should always be paid in the amount of P50,000.00.[20]

WHEREFORE, the appeal is hereby DISMISSED and the decision of the trial court finding appellant Vergilio Reyes y Loresca guilty beyond reasonable doubt and sentencing him to reclusion perpetua is AFFIRMED, with the MODIFICATION that he is ordered to pay complainant the amount of P50,000.00 as civil indemnity, together with moral damages also in the amount of P50,000.00. Costs against appellant.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, and Buena, JJ., concur.

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[1] Records, p. 3.

[2] Id. at 19.

[3] Rollo, p. 18.

[4] Id. at 16, 18.

[5] TSN, March 10, 1992, pp. 3-13.

[6] Rollo, p. 42.

[7] Id. at 29.

[8] Supra note 1, at 54-55.

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[9] Id. at 57-58.

[10] People v. Antonio Bea, Jr., G.R. No. 109618, May 5, 1999, p. 5; People v. Sta. Ana, 291 SCRA 188 (1998); People v. Barrientos, 285 SCRA 221 (1998); People v. Travero, 276 SCRA 301 (1997).

[11] People v. Ignacio, 294 SCRA 542, 546 (1998). People v. Mendoza, 292 SCRA 168 (1998); People v. Fundano, 291 SCRA 356 (1998).

[12] TSN, April 23, 1991, pp. 10-12.

[13] People v. Bañago, G.R. No. 128384, June 29, 1999, p. 5 citing People v. Galimba, 253 SCRA 722 (1996).

[14] TSN, April 23, 1991, pp. 6-8.

[15] TSN, May 16, 1991, pp. 6-7.

[16] People v. Andaya, G.R. No. 126545, April 21, 1999, p. 11, citing People v. Guerrero, 242 SCRA 606 (1995). See also People v. Nguyen Dinh Nhan, 200 SCRA 292 (1991); People v. Atento, 196 SCRA 357 (1991); People v. De Jesus, 129 SCRA 4 (1984); People v. Manlapaz, 88 SCRA 704 (1979).

[17] People v. Igat, 291 SCRA 100, 107-108 (1998), stress supplied.

[18] People v. Reynaldo, 291 SCRA 701, 713-714 (1998).

[19] People v. Moreno, 294 SCRA 728, 739 (1998).

[20] People v. Rebose, G.R. No. 131104, June 17, 1999; People v. Manggasin, G.R. Nos. 130599-600, April 21, 1999.

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