

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SALVADOR ERNI Y ROGACION, ACCUSED-APPELLANT.

G.R. No. 114186. July 12, 1995

Ponente: VITUG, J.

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VITUG, J.:

On appeal is the decision, dated 03 November 1993, of Judge Enrique M. Almario[1] convicting accused-appellant Salvador Erni y Rogacion of rape allegedly committed against his own five-year old, deaf-mute, daughter Manilyn Erni.

The information,[2] dated 25 July 1991, read:

"That on or about the 26th day of May 1991, at Barangay Calumpang Corca, Municipality of Indang, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then the father of Manilyn Erni, a girl five (5) years of age, and with lewd design, did, then and there, willfully, unlawfully and feloniously, have carnal knowledge of said Manilyn Erni, against her will and consent, to her damage and prejudice.

"CONTRARY TO LAW."[3]

Teresita T. Pegollo testified that she had been the common-law wife of accused-appellant. The latter took custody of Manilyn when the couple parted ways in 1991. Later,[4] Teresita learned that her daughter had been hospitalized and operated on.[5] Actually, Dr. Danilo Rodriguez[6] treated Manilyn for the repair of a laceration of the posterior and vaginal wall due to a hymenal tear and laceration on the posterior aspect and a laceration, measuring about 3 to 4 centimeters, on the left lateral wall of the vagina.[7] The multiple hymenal lacerations sustained by Manilyn were confirmed by Dra. Merlinda Samuel.[8]

A few days after the operation, Manilyn made signs, first pointing to her private parts and then to her father. Teresita took these signs to mean that accused-appellant had been responsible for the vaginal wounds suffered by the child.[9]

Salvador Erni explained that Manilyn had been with him until the afternoon of 25 May 1991. He first noticed Manilyn's absence in the evening of 26 May 1991. His search finally brought him to the police station in Indang, Cavite, where he learned of Manilyn's hospitalization in Trece Martires City. Arriving at the hospital, he was told that Manilyn had been raped.[10]

Giving more credence to Teresita's claim than to Salvador's account the trial court rendered judgment convicting accused-appellant thusly:

"WHEREFORE, finding the accused Salvador Erni guilty beyond reasonable doubt of the charges against him this Court imposed upon him of penalty of Reclusion Perpetua. And to indemnify Manilyn Erni of P50,000.00.

"SO ORDERED."[11]

We share the opinion of the Solicitor General that, given the scanty evidence presented by the prosecution, accused-appellant cannot be adjudged guilty of the offense charged beyond reasonable doubt.

The verdict handed down by the trial court was based, by and large on what it perceived to be sufficient circumstantial evidence for conviction i.e., that accused-appellant had not shown any interest in finding out who might have raped his daughter; that he had failed to report the incident to the police; and that he had an unexplained passive reaction to the charges leveled against him.

Circumstantial evidence could, and has not infrequently been held to be adequate to, support a conviction. Since, however, this kind of evidence can in no way come close to direct evidence in its integrity value, additional safeguards are provided by the rules^[12] to help ensure the probity of such circumstantial evidence. Hence, proof is required to show the presence of multiple circumstances, at least two, which would be incompatible with any rational hypothesis except that of guilt of the accused.^[13] We do not find the circumstances cited by the court, a quo enough to warrant a conviction for so serious a crime as that charged. We also think that the trial court has hastily ignored the testimony of accused-appellant. The latter has, in fact, vehemently denied having shown no interest whatsoever about his daughter's condition; on the contrary, his having searched for his daughter soon after noticing her absence, his having watched over her in the hospital, and his having attended to her needs during all that time just do not fit to the idea of an uncaring and delinquent father. His seeming passive reaction to the charges against him has been interpreted by the trial court to infer guilt. The reaction of a person to different situations, or that of different persons to the same situation, is not invariable nor predictable.

The trial court opined that Manilyn could communicate to her mother through signs which the latter understood. This conclusion would appear to contradict the very observation the trial court itself stated in its order of 09 January 1992; thus:

"When this case was called for hearing, Fiscal Solomon Villanueva manifested that he is presenting the victim, Manilyn Erni, as his next witness.

"Considering that the child is dumb, the mother of the victim, Teresita Pegollo, was called to the witness stand for qualification purposes to act as the interpreter for the child. Thereafter, Manilyn was presented.

"The Court observed that after so many tries of the mother to ask question like if you are hungry, Manilyn could not make any reply or response, notwithstanding that being so near each other and that the child is looking at her, the child could not understand the mother. For this, the Court conclude that Manilyn will not be able to help the Court to understand her and therefore, is disqualified to be a witness for the prosecution."^[14]

In rape cases, the defense is generally faced with great difficulty in disproving an accusation.^[15] Trial courts are thus often advised to exercise great caution in evaluating the evidence before it - perhaps with particularity when only circumstantial evidence can be relied upon by them. The finger of responsibility on the basis of what stands on record in the case before us now, in our considered view, cannot with any moral certainty be pointed to accused-appellant.

WHEREFORE, the decision of the trial court is REVERSED and SET ASIDE, and accused-appellant is ACQUITTED of the offense charged. His immediate release from confinement is hereby ordered unless he is held for some other legal cause or reason to warrant his continued incarceration. Costs de oficio.

SO ORDERED.

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

[1] Regional Trial Court, Fourth Judicial Region, Branch XV, Naic, Cavite.

- [2] Based on the criminal complaint filed by the victim's mother, Teresita T. Pegollo.
- [3] Rollo, pp. 11-12.
- [4] On 28 May 1991.
- [5] Teresita Pegollo, TSN, 13 November 1991, pp. 5-7.
- [6] Department Head, OB Gynecology Section, Cavite Provincial Hospital.
- [7] Dr. Danilo Rodriguez, TSN, 19 December 1991, p. 5.
- [8] Dra. Merlinda Samuel, TSN, 20 November 1991, pp. 18-22.
- [9] Ibid., p. 8.
- [10] Salvador Erni, TSN, 20 February 1992, pp. 5-8
- [11] Rollo, p. 19.
- [12] Section 4, Rule 133, of the Rules of Court provides:
- "Sec. 4. Circumstantial evidence, when sufficient. - Circumstantial evidence is sufficient for conviction if:
- "(a) There is more than one circumstance;
- "(b) The facts from which the inferences are derived are proven; and
- "(c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt."
- [13] People vs. Cabuang, 217 SCRA 675; People vs. Oracoy, 224 SCRA 759; People vs. Peligro, 225 SCRA 65.
- [14] Records, p. 46.
- [15] People vs. Pinca, 234 SCRA 710.

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