

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMY ANDRES, ACCUSED-APPELLANT.

G.R. No. 114936. February 20, 1996

Ponente: PUNO, J.

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PUNO, J.:

Appellant Romy Andres was charged before the Regional Trial Court of Bangui, Ilocos Norte with the crime of rape in four (4) separate "complaints filed by Ruweroase A. Corpuz. These were docketed as Criminal Cases No. 776-19, 777-19, 778-19 and 779-19. The first offense was allegedly committed sometime in February 1988,[1] the second, also in February 1988,[2] the third, in April 1989,[3] and the last on May 10, 1989.[4] These four cases were consolidated and jointly tried.

Appellant pleaded "not guilty" to all the charges during the arraignment on July 12, 1989.[5]

On September 28, 1993, the trial court rendered its Decision[6] acquitting the appellant in Criminal Cases No. 777-19, 778-19 and 779-19 but convicting him in Criminal Case No. 776-19. The dispositive portion of the Decision states:

"WHEREFORE, the Court hereby ACQUITS the accused of the charges against him in Criminal Cases Nos. 777, 778 and 779 for failure of the prosecution to prove his guilt beyond reasonable doubt.

However, in Criminal Case No. 776-19, the Court finds him GUILTY beyond reasonable doubt of rape as defined under paragraph (3) of Article 335 of the Revised Penal Code, as amended, and hereby imposes on him the penalty of reclusion perpetua, with all the accessory penalties provided by law, and further sentences him to pay moral damages to Ruweroase Corpuz in the amount of FIFTY THOUSAND PESOS (P50,000.00), Philippine currency, and to pay the costs.

He shall be credited in the service of his sentence the full time during which he had undergone preventive imprisonment if he agreed voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners, otherwise, he shall be credited the service thereof with only four-fifths of the time during which he had undergone preventive imprisonment."[7]

In this appeal, we shall only review the trial court's ruling in Criminal Case No. 776-19 where he was convicted. The lone assignment of error made by accused-appellant in his Brief states:

"The trial court erred in finding the accused-appellant Romy Andres guilty beyond a shadow of doubt of the crime of rape despite the implied consent of Roweroase A. Corpuz to the sexual act."[8]

The prosecution's case rests mainly on the testimony of the complainant. She narrated during the trial that sometime in February 1988, at around seven o'clock in the evening, she went to their old house located west of their main house in Brgy. Binsang, Pasuquin, Ilocos Norte to get some vegetables. As she was about to step on the first rung of the ladder, appellant, armed with a five-inch knife, suddenly appeared and pulled her into the house. Complainant struggled to free herself. She tried to shout but appellant covered her mouth to muffle the sound.

Inside the house, appellant removed her short pants and underwear. Appellant then laid on top of her and inserted his penis into her genitalia. After satisfying his lust, appellant told complainant: "Agipulong ka, saan Ia nga sikat matay no diket dakay amin," thus translated: "You tell this to anybody, it is not only you who is going to die but all of you." Thereafter, appellant left. Later that night, complainant confided to her grandmother, Leonila Agliam, what the appellant had done to her. Leonila Agliam, however, kept the information to herself for fear that something untoward might happen.[9]

This was followed by three more incidents of sexual assault, again perpetrated by the appellant against the complainant.[10]

On May 10, 1989, when complainant's mother, Vicenta Corpuz, learned of her daughter's tragic fate, she immediately reported the matter to the police and had her daughter examined by a doctor. On June 22, 1989, complainant filed before the Regional Trial Court of Bangui, Ilocos Norte four (4) separate complaints for rape against the appellant)[11]

Appellant, on the other hand, denied having sexual contact with the complainant in February 1988. He however admitted having sexual intercourse with her on two occasions: the first on March 22, 1989 and the second on May 10, 1989. But he said that he did not force the complainant as she voluntarily surrendered herself to him as an expression of her love. He claimed that he and the complainant were lovers.[12]

The trial court convicted the appellant for statutory rape under the third paragraph of Article 335 of the Revised Penal Code which provides:

"Article 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.

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Under the third paragraph, two elements must be established to hold the accused guilty of rape, namely: (1) that the accused had carnal knowledge of a woman and (2) that the woman is below twelve years of age.[13]

In the case at bar, it is undisputed that the complainant was only eleven years old in February 1988, the date when the offense was allegedly committed)[14] Hence, what remains to be resolved is whether or not appellant had sexual intercourse with the complainant at that time.

We have thoroughly scrutinized the records of this case and we find complainant's testimony to be credible. She recounted in simple yet detailed manner how she was sexually ravished by the appellant one evening in February 1988. In fact, even the appellant finds her testimony to be "sincere, candid, and lack(s) outside suggestion." [15]

Complainant's testimony is further supported by the medico-legal report[16] submitted by Dr. Marie Antoinette Pasion who examined the complainant on May 12, 1990. It shows:

- Physical Examination:

General Survey: Fairly developed, fairly nourished conscious, coherent.

Extremities -Multiple linear abrasions with scab formation right leg, anterior aspect, medial 1/3.

Breast -fairly developed, conical in shape, firm.

Nipple -small, pinkish in color.

- Pelvic Examination:
Pubic hair - absent.

Labia majora - coaptated at its entire length.

Labia minora - coaptated at its entire length.

Vetibulae mucosa - pinkish.

Fourchet - lax.

Vaginal rugosities - prominent.

Vagina - readily admits 2 fingers.

Hymen - with old laceration between 4 & 5 o'clock involving full thickness of hymen, with recent laceration at 9:00 o'clock involving partial thickness of hymen with erythematous border.

Spermatozoa smear - negative.

The old laceration in the hymen, the laxity of the fourchet and the admission by the vagina of two probing fingers without resistance are all evidence of penetration by the male organ into the complainant's genital tract.[17]

Complainant positively identified the appellant as the culprit. Complainant's testimony, as corroborated by the medico-legal report, must prevail over appellant's plain denial of the charges against him. Complainant was only 13 years old when she took the witness' stand. We have often repeated that it is very unlikely for such young girl, sexually inexperienced as she is, to fabricate a story of defloration, allow the examination of her private parts and permit herself to be the subject of a public trial if it is not true that she has been raped. Certainly, no decent girl would expose herself to humiliation and public scandal unless she is motivated by a strong desire to seek justice.[18]

Appellant avers that the trial court erred in finding him guilty of rape despite the implied consent of the complainant to the sexual act.[19] He argues that complainant's failure to resist his advances shows that she consented to the act, thus precluding rape.

Appellant's argument deserves scant consideration. Appellant was convicted under the third paragraph of Article 335 of the Revised Penal Code which is known in legal parlance as statutory rape. In this specie of rape, consent is immaterial. The mere fact of having sexual relations with a girl below twelve years old makes a man guilty of rape.[20] Voluntariness on the part of the girl is not a defense since the law presumes that a child below twelve years old cannot give an intelligent consent to the sexual act.

IN VIEW WHEREOF, the Decision appealed from is AFFIRMED in toto. Costs against appellant.

SO ORDERED.

Regalado (Chairman), Romero and Mendoza, JJ., concur.

[1] Criminal Case No. 776-19.

[2] Case No. 777-19.

[3] Criminal Case No. 778-19.

[4] Criminal Case No. 779-19.

- [5] Original Records, p. 8.
- [6] Rollo, pp. 34-63
- [7] Decision, Rollo, p. 63
- [8] Appellant's Brief, Rollo, p. 91.
- [9] Testimony of Ruweroose Corpuz, TSN, February 27, 1990, pp. 4-11.
- [10] Testimony of Ruweroose A. Corpuz, TSN, February 7, 1990, pp. 3-5;8-11; 13-15.
- [11] Testimony of Ruweroose A. Corpuz, TSN. February 7, 1990, pp. 16-21.
- [12] Testimony of Romy Andres, TSN, April 3, 1991, pp. 48-59.
- [13] People vs. Ibay, 233 SCRA 15(1994).
- [14] Exhibit I, Birth Certificate of Ruweroose A. Corpuz, Original Records, p. 91.
- [15] Appellant's Brief, Rollo, p. 101.
- [16] Exhibit A, Original Records, p. 3.
- [17] Testimony of Dr. Marie Antoinette Pasion, TSN, May 9, 1990, pp. 19-20.
- [18] People vs. Patilan, 197 SCRA 354(1991).
- [19] Appellant's Brief, Rollo, p. 91
- [20] People vs. Buyok, 235 SCRA 622 (1994); People vs. Palicte, 229 SCRA 543 (1994).

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