

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. RODRIGO DOMOGOY, ALLAN CUIZON AND ELMER FRAGA, DEFENDANTS. RODRIGO DOMOGOY, DEFENDANT-APPELLANT.

G.R. No. 116738. March 22, 1999

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

This is an appeal from the decision of the Regional Trial Court of Bislig, Surigao del Sur,[1] the dispositive portion of which reads:

WHEREFORE, accused Rodrigo Domogoy is found guilty beyond reasonable doubt of the crime of rape, defined and penalized under Article 335 of the Revised Penal Code, is hereby sentenced to suffer the penalty of reclusion perpetua, to pay the private complaint, Angeles Adorable the amount of P30,000.00 as moral damages, P20,000.00 as exemplary damages, and to pay the cost.

He shall serve sentence in the National Penitentiary of Muntinlupa, Metro Manila.

Accused Allan Cuizon and Elmer Fraga, for lack of evidence, are hereby acquitted.

SO ORDERED.[2]

Rodrigo Domogoy, Allan Cuizon and Elmer Fraga were charged with the rape of Angeles Adorable in an information stating:

That on or about 10:30 o'clock [sic] in the evening, September 25, 1992, in Poblacion Bislig, municipality of Bislig, province of Surigao del Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping each other in their common design, by means of force and intimidation, did then and there willfully, unlawfully and felonously [sic] have carnal knowledge of the offended party, ANGELES ADORABLE, in the following manner: accused Rodrigo Domogoy while having carnal knowledge with the said Angeles Adorable against her will, the accused Allan Cuizon and Elmer Fraga stood and acted as guards, which acts and deeds caused damage and prejudice of the said victim.

CONTRARY TO LAW: In violation of Article 335 of the Revised Penal Code.

Bislig, Surigao del Sur, May 26, 1993.[3]

On July 30, 1993, Atty. Maximo N. Llanto,[4] counsel for the three accused, filed a Motion to quash alleging that the criminal action, or the criminal liability of accused Rodrigo Domogoy, had been extinguished by the pardon extended to him by private complainant. The alleged pardon was contained in a letter[5] supposedly written by private complainant to Domogoy.

The prosecution opposed the motion to quash, claiming that pardon is a matter of defense and therefore an improper ground for such motion. The prosecution likewise argued that while the private complainant admitted

having written said letter, she denied having pardoned or forgiven the accused Rodrigo Domogoy as shown by the Affidavit[6] she executed on 11 August 1993.

After hearing, the trial court issued an Order[7] denying the Motion to Quash.

Upon arraignment, all the three (3) accused entered a plea of "not guilty" to the offense charged. The parties then agreed on the following facts:[8]

- That there was sexual intercourse but not that of rape between the accused and the private complainant;
- That the incident happened on or about 10:30 o'clock in the evening of September 25, 1992, at the Bislig Municipal High School building, Poblacion, Bislig, Surigao del Sur;
- The medical certificate dated February 3, 1993;[9]
- That before the incident happened the private complainant and accused, Rodrigo Domogoy came from the Lily's Pharmacy at Sto. Tomas St., Poblacion, Bislig, Surigao del Sur;
- That from Lily's Pharmacy along Sto. Tomas St., Poblacion, Bislig, Surigao del Sur, the two (2) co-accused, Allan Cuizon and Elmer Fraga were following behind the private complainant and the accused.[10]

Trial proceeded thereafter.

As its sole witness, the prosecution presented the alleged victim, Angeles Adorable, twenty-one (21) years of age and a house helper of the Yu spouses, owners of Lily's Pharmacy.[11]

On the evening of September 25, 1992, at around 10:00, Angeles and Monaliza Llenares, also a house helper in the Yu household, were outside Lily's Pharmacy when the three (3) accused -- Rodrigo Domogoy, Allan Cuizon (Quizon) and Elmer Fraga -- arrived. Monaliza or Monmon, who used to be Rodrigo's classmate, introduced the three to Angeles. The latter acknowledged the introduction by nodding. At around 10:15 p.m., Monmon excused herself and went upstairs to take a shower.

Rodrigo then approached Angeles and asked her to go with him. Angeles refused, making Rodrigo angry. Rodrigo placed his right hand over Angeles' shoulder and, with his left, pointed a hunting knife approximately eight (8) inches long on the left part of her waist. Behind them were Elmer and Allan.

Rodrigo told Angeles she was hardheaded. "I am not a bad girl to be abused with," she replied. Rodrigo then directed her to the Bislig Municipal High School some 200 meters away. Rodrigo held Angeles' right shoulder strongly as he guided her through the dark portion of the street leading to the school building, the knife still pointed at the left side of her body.

Although she was not able to turn her head to look back, Angeles knew that Rodrigo's co-accused, Elmer Fraga and Allan Cuizon, were following them "because they were [already] around when we reached the school building."

Rodrigo led Angeles to the darkest part of the school and took off her clothes. He then took off his shirt, pulled his trousers to his knees, and made Angeles lean against the wall. He kissed Angeles all over her body, fondled her breasts and inserted his finger in her vagina. Rodrigo then ordered her to kneel and suck his penis. When Angeles refused, he pushed her down. Angeles fell to the ground. Rodrigo placed her in a supine position, put himself on top of her and kissed her all over her body. As Rodrigo started the sexual intercourse, Angeles tried to push him away, to no avail.

While all these were taking place, Elmer and Allan were about a meter away from the couple, looking and

laughing.

Angeles soon felt hot liquid oozing on her lap. Satisfied, Rodrigo stood up, threw Angeles her dress and told her to go home. Angeles however could hardly move from the pain and exhaustion, and did not immediately put on her clothes. Rodrigo became angry and ordered Elmer and Allan to get a sack to put in Angeles. Afraid, Angeles forced herself to stand and dress up. She felt sore and found blood on her thigh.

Angeles then walked home to Lily's Pharmacy as Rodrigo, Elmer and Allan followed her from a distance, watching where she would go.

Angeles finally reached Lily's Pharmacy at around 11:00 p.m. Monmon opened the door for her. Seeing the blood on her legs, Monmon asked her what happened. Angeles thus recounted her ordeal to Monmon but did not report the incident to her employers who were already asleep.

Angeles did not see Rodrigo until a month after the incident. She nevertheless felt frightened so Monmon supposedly suggested that she send him the letter that later became the basis for the accused's motion to quash. The letter reads:

Oct. 25, 1992

Dearest Igoy,

Warmest regards in the magnificent name of our Lord Jesus Christ.

How's your life going on? Still fine? I hope so. . . Well if you ask me naman I'm fine, although it's hard for me to forget, hard to accept and not easy to recover the pain in my heart; But I'm trying myself to forget the past moments when I have been failed. Yes I can't deny myself that I'm broken hearted and I realized at all that its not easy to full in love. Kaya nga bigla nalang ako sumama sa iyo dahil na crush ako sa iyo for the first time when I saw you. But I did not expect na hahantong tayo sa hindi magandang pangyayari. [p]ero tapos na yon, lets forget the past moments that we have; and lets go on to the new world of friendship. In francly speaking inlove ako sa iyo pero ayaw kong sundin ang puso ko dahil alam kong na tripingon mo lang ako. At and sabi pa nga ni Monmon papuntapunta ka lang daw dito dahil natakot ka lang daw sa kanya, ngunit hindi mo naman talagang tipong (ka) makipag usap sa akin. But don't worry because you're already forgiven. The bible said you must do first to forgive your brother/sister before you ask the forgiveness your sin to the heavenly father. If God can forgive the sinners, how much more we are?. . . Romans 2:6 God will give to each person according to what he has done.

Your friend N Christ

Angel

God Bless you! ...

The letter itself was enclosed in a greeting card allegedly bought by Monmon. On the face of the greeting card were printed in script the words:

I wonder if you've noticed

the change?

When we first met,

there were "no strings,"

no promises.

But now, I feel differently ...

The inside of the cover was blank. On the page opposite, Angeles wrote:

Isaiah 55:6

Seeks [sic] the Lord while he may be

found;

call on Him while he is near.

Open rebuke is

better than

secret

Love...

Angeles also wrote these words on the succeeding page:

In Jesus alone

I found the

real

Love

its [sic]

never

fails

Jesus is the melody

of the broken

heart...

Again, upon Monmon's suggestion, Angeles took a photograph[12] from her album and pasted it in the space beside the second and seventh lines.

On the page opposite, the card's message continued:

October 25, 1992

Dear Igoy,

Now I realize

that there's no one else

I need,

there's no one else

I want,

there's no one else for me

...but you

Your friend N-Christ

Angel

Finally, at the lower part of the back cover were printed the words:

I Love You

Angeles attributed most of the words in the letter to Monmon who allegedly dictated the same to Angeles. The Biblical quotes found in both the letter and the greeting card, as well as that part of the letter relating to forgiveness, were however Angeles' own.

Angeles nonetheless denied forgiving Rodrigo. She likewise denied that she had a crush on Rodrigo or that she was in love with him. According to Angeles her purpose in writing Rodrigo the letter was "(s)o that he will believe and he could not defend whatever action I may take." [13]

Upon Angeles' request, Rowema Bagaan, another of the Yu's house helpers, delivered the card and the letter to Rodrigo.

Angeles happened to see the three (3) accused viewing a "beta show" at Lily's Pharmacy after she sent Rodrigo her letter. The three (3) mocked and laughed at her. Rodrigo even approached her and puffed cigarette smoke on her face. Angeles felt afraid and left them.

In his defense, Rodrigo claimed that he and Angeles were sweethearts and the sexual intercourse between them consensual. The twenty-one (21) year old student testified that he first met Angeles on the first week of September 1992 at the Bislig market Site. Monmon, his former classmate, introduced him to Angeles. The second time they met, he courted her and she readily accepted his offered affection.

On the evening of September 25, 1992, he went to Lily's Pharmacy and invited Angeles to take a walk with him. Angeles told him to "go ahead," and she would just follow him. Rodrigo did not agree so they walked together to the Bislig Municipal High School instead. They talked along the way.

Q What was the nature of your conversation?

A I told her that, "because you went with me, that means, you will agree what will happen to us now."

Q Then, what happen [sic]?

A Then, she answered, "I won't be afraid, what will happen to us. What I am afraid of is afterwards you will neglect me."

Q What was your answer too?

A I said, "I cannot do it to you, if you really love me." [14]

Upon reaching the school building, Rodrigo told Angeles that "if you really love me, that means, you will agree what will happen to us." Rodrigo then attempted to take off Angeles' dress but because he had some trouble with the buttons, Angeles volunteered to take it off herself. As Angeles undressed, Rodrigo removed his pants and brief. Rodrigo then proceeded to have sexual intercourse with Angeles.

After consummating the intercourse, Rodrigo handed Angeles her clothes and put on his pants. With his hand over her shoulder, Rodrigo walked her back to Lily's Pharmacy.

Rodrigo and Angeles next met sometime on the first week of October 1992. On said date, he and Angeles again

engaged in sexual congress at the Bislig National High School.

For their part, Rodrigo's co-accused, Elmer Fraga and Allan Cuizon, denied any participation in the alleged rape, claiming they were merely peeping toms.

At around 10:30 p.m. of the date in question, Elmer and Allan were at the "betamax place" near Lily's Pharmacy. Standing on the street about ten (10) meters away was Rodrigo who was talking to Angeles. When the couple left for the school building minutes later, Elmer and Allan followed them. The two believed that Rodrigo and Angeles were going to have "a date."

Elmer and Allan reached the school ahead of the couple and hid themselves. From their hiding place seven (7) meters away, Allan saw Rodrigo take off Angeles' panty. Angeles shed the rest of her clothes as Rodrigo took off his pants. Elmer and Allan masturbated as they watched Rodrigo and Angeles perform the sex act.

As stated at the outset, the trial court acquitted Elmer Fraga and Allan Cuizon, but convicted Rodrigo Domogoy of rape. The latter thus appeals to this Court questioning his conviction.

We acquit appellant on the ground of reasonable doubt.

A perusal of the appealed decision reveals that appellant's conviction by the trial court was grounded largely upon the uncorroborated testimony of private complainant. This is not at all unusual in rape cases, as the participants are usually the only ones who can testify as to the truth or falsehood of the allegations.[15] When the conviction, however, depends at any vital point upon the victim's uncorroborated testimony, it should not be accepted unless her sincerity is free from suspicion.[16] The testimony of the complainant in crimes against chastity should not be received with precipitate credulity,[17] but regarded with utmost caution.[18] While the findings of the trial court regarding the credibility of witnesses are generally accorded the highest respect, appellate courts are not precluded from carefully scrutinizing the evidence to ascertain whether a fact or circumstance has been overlooked or was misinterpreted by the trial court.[19] In the case at bar, several circumstances impair complainant's credibility.

First. The tone and the contents of the letter and the card indicate a greater degree of familiarity than complainant claimed to have existed between her and appellant, belying complainant's claims that she was introduced to appellant on the evening of the alleged rape. (Even this claim is inconsistent. Complainant testified that she was introduced by Monmon to the three (3) accused on the night of September 25, 1992.[20] But in her affidavit executed before SPO4 Cristeta dela Cruz, complainant stated that she "came to knowthier [sic] names only after the incident when she asked thier [sic] identities from [her] house co-occupants." [21]) In her letter, complainant did not attempt to disguise her feelings towards appellant. She candidly admitted having had a crush on appellant the first time she saw him. "Fran[k]ly speaking," she unabashedly declared, "inlove [sic] ako sa iyo." This statement virtually confirms the fact that complainant and appellant were lovers, thereby giving credence to the latter's defense.

We disagree with the trial court when it observed that:

Relative to the letter which contains some love expressions, the Court is of the belief that it has nothing [sic] to show that Angeles Adorable had given herself up voluntarily on her own free will. The letter is dated October 25, 1992, exactly one month after the commission of the crime of rape on September 25, 1992[.] [F]or a woman who has been deflowered, [it] is but natural to pretend to hide her ill feelings. This expression of love in the letter are [sic] the aftermath of that harrowing experience in the hands of the accused. The letter is mixed with some biblical verses or quotations, the purpose of which as explained by Angeles Adorable, is to try to put in the mind of the accused fear of God and to dissuade [sic] him from committing carnal knowledge for the second time. xxx.[22]

On the contrary, it is highly unusual and inconsistent with human experience for a woman who has been ravished to feign love for her persecutor, especially when, according to her, she hardly knew the latter. Moreover, we have serious doubts whether said letter would "put in the mind of the accused fear of God." Complainant's words are not exactly fire-and-brimstone exhortations that would send appellant praying for divine mercy. Nor do we think that her use of saccharine words would the least bit dissuade her purported rapist from molesting her again. Complainant's picture which was pasted on the card would probably produce just the opposite effect.

Complainant's claims that the card was bought, and that the letter was dictated by, Monmon, if true, would not work against appellant's acquittal. Complainant had every opportunity to read the card. She admits that the handwriting thereon is hers. It is highly unlikely that she wrote on it without reading and approving of its contents. If the card was not to her liking, she could have easily discarded it but she did not. Likewise, complainant could have rejected the words supposedly dictated by Monmon if she felt that these did not express her true sentiments. Complainant is not illiterate. She is a high school graduate and was already of legal age at the time the letter was written. It cannot be said that she was unduly influenced by Monmon, a house helper like her and approximately the same age.

Second. This Court has found in some cases that some supposed victims (or their relatives) resort to filing unfounded complaints for rape in an attempt to redeem the lost honor of complainant, the latter having been caught in flagrante in pre-marital,[23] if not extra-marital,[24] intercourse with their alleged rapists.

Here, private complainant was seen having sexual intercourse with appellant by the latter's co-accused, Elmer Fraga and Allan Cuizon. It is thus not farfetched for complainant to have instituted the complaint for rape against the three to avoid being bruited around as a woman of loose morals.

In *People vs. Subido*,[25] we declared that this Court will not hesitate to reverse a judgment of conviction and acquit the accused where there are strong indications pointing to the possibility that the rape charge was motivated by some factors other than the truth as to its commission.

Third. Considering the above circumstances, the fact that it took complainant almost (5) months to report the alleged rape should be weighed in appellant's favor. Where the evidence gives rise to two possibilities, one consistent with the accused's innocence and the other indicative of his guilt, that which favors the accused would be properly considered. Thus, in *People vs. Relorcasa*,[26] the long delay of complainant in reporting the incident created doubts in the Court's mind that she was raped by appellant therein.

The Solicitor General nevertheless argues that:

x x x it is hard to believe that an unmarried woman, like complainant, would tell a story of defloration, allow the examination of her private parts, and thereafter permit herself to be the subject of public trial, unless she was not motivated by an honest desire to have the culprit apprehended and punished (*People vs. Francisquiste*, 56 SCRA 764).

Complainant belonged to the poor, was a mere household helper but still possessed the traditional and proverbial modesty of the Filipina, especially the provinciana. Complainant would not have filed a complaint for rape and suffered the torment, if not the ignominy of having to testify in a court of justice about the wrong done to her if in truth she was not really raped (*People vs. Sacabin*, 57 SCRA 707).[27]

We are not persuaded. The presumption invoked by the Solicitor General cannot prevail over the constitutional presumption of innocence.

Thus, in *People vs. Godoy*,[28] this Court, stated:

The trial court, in holding for conviction, relied on the *presumptio hominis* that a young Filipina will not

charge a person with rape if it is not true. In the process, however, it totally disregarded the more paramount constitutional presumption that an accused is deemed innocent until proven otherwise.

It frequently happens that in a particular case two or more presumptions are involved. Sometimes the presumptions conflict, one tending to demonstrate the guilt of the accused and the other his innocence. In such case, it is necessary to examine the basis for each presumption and determine what logical or social basis exists for each presumption, and then determine which should be regarded as the more important and entitled to prevail over the other. It must, however, be remembered that the existence of a presumption indicating guilt does not itself destroy the presumption against innocence unless the inculcating presumption, together with all of the evidence, or the lack of any evidence or explanation, is sufficient to overcome the presumption of innocence by proving the defendant's guilt beyond a reasonable doubt until the defendant is shown in this manner, the presumption of innocence continues.

The rationale for the presumption of guilt in rape cases has been explained in this wise:

"In rape cases especially, much credence is accorded the testimony of the complaining witness, on the theory that she will not choose to accuse her attacker at all and subject herself to the stigma and indignities her accusation will entail unless she is telling the truth. The rape victim who decides to speak up exposes herself as a woman whose virtue has been not only violated but also irreparably sullied. In the eyes of a narrow-minded society, she becomes a cheapened woman, never mind that she did not submit to her humiliation and has in fact denounced her assailant. At the trial, she will be the object of lascivious curiosity. People will want to be titillated by the intimate details of her violation. She will squirm through her testimony as she described how her honor was defiled, elating every embarrassing movement of the intrusion upon the most private parts of her body. Most frequently, the defense will argue that she was not forced to submit but freely conjoined in the sexual act. Her motives will be impugned. Her chastity will be challenged and maligned. Whatever the outcome of the case, she will remain a tainted woman, a pariah because her purity has been lost, albeit through no fault of hers. This is why many a rape victim chooses instead to keep quiet, suppressing her helpless indignation rather than denouncing her attacker. This is also the reason why, if a woman decides instead to come out openly and point to her assailant, courts are prone to believe that she is telling the truth regardless of its consequences. x x x."

The presumption of innocence, on the other hand, is founded upon the first principles of justice, and is not a mere form but a substantial part of the law. It is not overcome by mere suspicion or conjecture; a probability that the defendant committed the crime; nor by the fact that he had the opportunity to do so. Its purpose is to balance the scales in what would otherwise be an uneven contest between the lone individual pitted against the People and all the resources at their command. Its inexorable mandate is that, for all the authority and influence of the prosecution. The accused must be acquitted and set free if his guilt cannot be proved beyond the whisper of a doubt. This is in consonance with the rule that conflicts in evidence must be resolved upon the theory of innocence rather than upon a theory of guilt when it is possible to do so.

On the basis of the forgoing doctrinal tenets and principles, and in conjunction with the overwhelming evidence in favor of herein appellant, we do not encounter any difficulty in concluding that the constitutional presumption on the innocence of an accused must prevail in this particular indictment.

Likewise, in *People vs. Sandagon*,^[29] this Court held that:

It is not enough to say that a girl would not expose herself to the humiliation of a rape complaint unless the charge is true. That is putting things too simply. For the prosecution to succeed, it is also necessary to find that the complainant's story is by itself believable independently of the presumption. Otherwise, if all that mattered was that presumption, every accusation of rape would inevitably result, without need of further evidence, in the conviction of the accused. This would militate against the rule that in every criminal prosecution, including rape cases, the accused shall be presumed innocent until the contrary is proved.

WHEREFORE, the Decision appealed from is hereby reversed and set aside. Appellant Rodrigo Domogoy is hereby ACQUITTED of the crime of rape in Criminal Case No. 1266-B of the Regional Trial Court of Surigao del Sur, Branch 29. The Director of Prisons is hereby directed to forthwith cause the release of accused-appellant unless the latter is being lawfully held for another cause and to inform the Court accordingly within ten (10) days from notice.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Melo, and Pardo, JJ., concur.

[1] Branch 29, presided by Judge Francisco C. Joven.

[2] Rollo, pp. 26-27.

[3] Records, p. 28.

[4] In a Letter dated 20 September 1996, Vicente Domogoy, father of herein appellant, informed this Court of Atty. Llanto's demise. In a Resolution dated November 13, 1996, this Court appointed Atty. Andres B. Sta. Maria, Jr. as appellant's counsel de officio.

[5] Exhibit "1."

[6] Exhibit "A."

[7] Records, pp. 78-79.

[8] Rollo, p. 16.

[9] Records, p. 12.

[10] Counsel for the accused however declared that Cuizon and Fraga followed private complainant and Domogoy without the consent or knowledge of the latter. (TSN, 13 October 1993, p.7).

[11] Complainant's version is taken from her testimony during the hearing on the motion to quash and the trial itself.

[12] Exhibit "4."

[13] TSN, 12 August 1993, p. 19.

[14] TSN, 22 November 1993, pp. 6-7.

[15] *People vs. Castillon*, 217 SCRA 76 (1993).

[16] *People vs. Casim*, 213 SCRA 390 (1992).

[17] *People vs. Cartuano, Jr.*, 255 SCRA 403 (1997).

[18] *People vs. Sujetado*, 221 SCRA 382 (1993).

[19] *People vs. Castillon*, *supra*, note 15.

[20] TSN, October 13, 1993, p.13.

[21] Exhibit "B."

[22] Rollo, pp. 24-25.

[23] People vs. Castillon, supra, note 15.

[24] People vs. Bawar, 262 SCRA 325 (1996); People vs. Godoy, 250 SCRA 676 (1996).

[25] 253 SCRA 196 (1997).

[26] People vs. Relorcasa, 225 SCRA 59 (1993).

[27] Rollo, p. 108.

[28] Supra, Note 24.

[29] 233 SCRA 108 (1994).

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