

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MAGENCIO PADA ALIAS "MENCIONG"; ACCUSED-APPELLANT.

G.R. No. 117641. September 16, 1996

Ponente: PUNO, J.

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PUNO, J.:

In a complaint dated August 28, 1991, accused-appellant Magencio Pada alias "Menciong" was charged by Angeles Mangala, the mother of Siodaleyte Mangala, with the crime of rape committed as follows:

"That on or about the 19th day of August 1991, at about 9:00 in the morning, more or less, at Barangay San Pedro, Municipality of Matalom, Province of Leyte, Philippines, and within the preliminary jurisdiction of this Honorable Court, the above-named accused, with deliberate intent, with the use of force and intimidation, and with deliberate intent to have carnal knowledge, did then and there, wilfully, unlawfully and criminally, have succeeded in having sexual intercourse with Siodaleyte G. Mangala, a minor and of good reputation, against her will.

This case is attended by the following aggravating circumstances: 1. the offended party is a minor; 2. superior strength; and 3. with the use of a deadly weapon.

Contrary to Art. 335 of the Revised Penal Code."[1]

The prosecution established that at 9:00 in the morning of August 19, 1991, at the poblacion, Matalom, Leyte, Siodaleyte Mangala, then twelve (12) years of age and a grade six student was buying some paper at the store of a certain Loloy Dampios. Accused-appellant, whose house was across the store, saw Siodaleyte and called her to buy food for him at the market. Appellant gave the girl P25.00 -- P20.00 for the food and P5.00 for her tip. Siodaleyte returned with the food and gave it to appellant at the doorway of his house. Thereupon, appellant pulled her into the house and brought her to a bed. Brandishing a knife, appellant ordered Siodaleyte to undress and lie down on the bed, and threatened that if she refused, he would kill her parents. Siodaleyte did as she was ordered. Appellant then undressed himself and went on top of her while placing the knife on a table two feet away.

Appellant forcibly penetrated Siodaleyte. She felt pain but fear prevented her outcry. After satisfying his lust, appellant ordered Siodaleyte to dress up and leave. He again threatened her parents with death if she would reveal the incident to anyone. Siodaleyte went home and pursed her lips.[2]

A week later, Siodaleyte's mother heard ugly rumors about her daughter. She confronted Siodaleyte who disclosed that she was sexually abused by appellant. A medical examination was conducted on August 27, 1991 and Siodaleyte was found to sustain lacerations in her hymen and swelling in her labia and clitoris, thus:

"I EXTERNAL EXAMINATION
HEAD TO FOOT - No sign of trauma

II INTERNAL EXAMINATION

A. EXTERNAL GENITALIA

PUBIC HAIR: No pubic hair noted

LABIA MAJORA: Swollen

LABIA MINORA : Swollen

CLITORIS: Swollen

B. INTERNAL GENITALIA

HYMEN: Lacerations noted at 5 o'clock, 1/3 cm long, posterior fourchet with old laceration;

INTROITUS: Admit one examining finger;

ADNEXA: Tenderness on both sides.

GYNECOLOGIC HISTORY: Menarche and LMP not applicable.

REMARKS: Consummated rape is highly entertained."[3]

Accused-appellant denied having raped Siodaleyte. He alleged that on August 19, 1990 at 5:00 A.M., he left his house for the public market where he worked as a laborer. He was at the market the whole day and returned home late in the afternoon. He claimed that his left hand had been paralyzed since 1986 and he could not hold a knife or any other object in his left hand.[4]

The trial court convicted the accused-appellant. In a decision dated July 19, 1994, the court sentenced appellant as follows:

"WHEREFORE, this court pronounced accused MAGENCIO PADA GUILTY of rape beyond reasonable doubt and is hereby sentenced to suffer the penalty of reclusion perpetua and to indemnify the offended party the amount of Thirty Thousand Pesos (P30,000.00) with costs.

In the service of his sentence, accused is hereby credited with the full time of his preventive imprisonment if he agreed to abide by the same disciplinary rules imposed upon convicted prisoners, otherwise, he will only be entitled to 4/5 of the same.

SO ORDERED."[5]

In this appeal, appellant contends that:

"THE LOWER COURT MANIFESTLY ERRED IN CONVICTING APPELLANT OF THE CRIME CHARGED DESPITE THE FACT THAT THE PROSECUTION FAILED TO ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT."[6]

The crime of rape is committed:

"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, even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present. x x x."[7]

Appellant claims that the prosecution has failed to establish the crime of rape. He admits he had carnal knowledge of Siodaleyte but contends that he did not force himself on her. Allegedly, the victim did not struggle nor shout

for help at the time the offense was committed.[8]

We do not agree. The fact that Siodaleyte did not resist appellant by struggling or shouting for help does not rule out force and intimidation. Neither does the fact that she failed to report the incident to her parents or the authorities make her a willing victim. Siodaleyte testified that appellant was armed with a knife and that he threatened to kill her parents if she did not accede to his lustful desires. Appellant may have released the knife during the carnal act but he placed it on a table easily within his reach and beside the victim's head.[9] After satisfying himself, appellant again threatened the girl not to report the incident or he would kill her parents.

The use of a knife and the threat of death against her parents constitute sufficient intimidation to cow the victim into obedience.[10] Siodaleyte was then merely twelve years old while accused-appellant was a man sixty-three years of age[11] and armed with a knife. Siodaleyte's silence during and after the rape is evidence of the real fear instilled in her heart and mind by the accused-appellant.

We find that the prosecution has established appellant's guilt beyond reasonable doubt. The victim's testimony is simple and straightforward, unshaken by a rigid cross-examination and unflawed by any material inconsistency or contradiction. Moreover, the claim of carnal knowledge has been supported by the medical finding of lacerations in the victim's hymen and swelling in her labia and clitoris. As to any probability of improper motive, we rule that it is unthinkable for a twelve-year old girl, especially one from the rural areas, to publicly and falsely accuse an old man of a serious offense as rape and then undergo the trauma and humiliation of a public trial if her accusations were merely concoctions of a scheming and malicious mind.[12]

We note that the use of a knife, a deadly weapon, increases the penalty from reclusion perpetua to death.[13] This case however took place before the enactment of Republic Act No. 7659, hence, the death penalty cannot be imposed on appellant.[14] Nonetheless, the civil liability for the crime should be increased from P30,000.00 to P50,000.00 as the victim was twelve years old at the time of its commission.[15]

IN VIEW WHEREOF, the decision of the Regional Trial Court, Branch 18, Hilongos, Leyte in Criminal Case No. H-428 is affirmed with the modification that the civil indemnity is increased from P30,000.00 to P50,000.00.

SO ORDERED.

Regalado, (Chairman), Romero, and Torres, Jr., JJ., concur.
Mendoza, J., on official leave.

[1] Records, p. 1.

[2] TSN of August 6, 1992, pp. 3-8.

[3] Exhibit "A," Records, p. 2.

[4] TSN of September 10, 1992, pp. 4-5.

[5] Decision, p. 3, Rollo, p. 139.

[6] Appellant's Brief, p. 1, Rollo, p. 28.

[7] Revised Penal Code, Article 335.

[8] Appellant's Brief, pp. 4-6, Rollo, pp. 31-33.

[9] TSN of August 6, 1992, pp. 18-19.

[10] *People v. Adlawan, Jr.*, 217 SCRA 489, 498 [1993]; *People v. Tayag*, 227 SCRA 169, 177 [1993]; *People v.*

Olivar, 215 SCRA 759, 764 [1992].

[11] TSN of September 10, 1992, p. 2.

[12] People v. Bautista, 236 SCRA 102, 107 [1994]; People v. Buyok, 235 SCRA 622, 628 [1994].

[13] Revised Penal Code, Article 335.

[14] Republic Act No. 7659, sec. 11.

[15] People v. Joya, *supra*, at 27-28.

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