

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CLODUALDO CABILLAN, ACCUSED-APPELLANT.

G.R. No. 117684. January 30, 1997

Ponente: VITUG, J.

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VITUG, J.:

An information, dated 21 October 1992, filed with the court a quo charged Clodualdo Cabillan with rape, to wit:

“That on or about August 7, 1992, in the xxx, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge of AAA, against her will.

“CONTRARY TO LAW.” [1]

The plight and traumatic experience in the early life of private complainant AAA was recounted in the decision [2] of the trial court.

AAA, born in Manila on 29 April 1977, was an illegitimate child of BBB. Some time in 1980, she and her mother moved to the Davao Penal Colony ("DAPECOL") where the latter met and later married Clodualdo Cabillan, an inmate. The marriage, contracted in 1983 between Clodualdo and BBB, saw the birth of the couple's children, namely, CCC, DDD and EEE. Following Clodualdo's release from prison in 1988, the family started to reside in xxx.

Upon attaining the age of eleven years, AAA began to be subjected to sexual abuse by her stepfather. The attack on her virtue kept on for about two or three times a week. The threat on her life had gagged her for years but the incident on 07 August 1992, the subject matter of the information, was to be the last straw. On that day of 07 August 1992, while BBB, then a laundry woman, was doing her daily washing at the house of a neighbor, Clodualdo returned home from a billiard game. He found AAA, by then already fifteen years of age and a High-School sophomore, going through her school work. He told CCC, DDD, and EEE to leave the house and to play at the creek. Once the children had left, Clodualdo started to make his sexual advances on AAA. AAA resisted but, frightened by the double-bladed knife wielded by her stepfather, she, once again, was unable to fend the bestial act.

This time, however, AAA had enough courage to seek the assistance of FFF, an employee of the Department of Social Welfare and Development ("DSWD"). She also had herself medically examined. The results disclosed these findings:

- "1. Old healed lacerated wounds at the 7:00 o'clock and 10:00 o'clock of the hymen;
- "2. Admits three (3) fingers of the examinee into the vagina with ease." [3]

Clodualdo denied the charges. He cited various reasons, reiterated in this appeal and hereinafter discussed, why he could not have committed the offense charged.

On 12 July 1994, the trial court convicted the accused. The dispositive portion of the decision read:

"WHEREFORE, finding the accused Clodualdo Cabillan guilty beyond reasonable doubt of the crime of RAPE, punishable under Article 335 of the Revised Penal Code, the court hereby sentences said accused to suffer a penalty of RECLUSION PERPETUA, 4 together with the accessory penalties provided by law, to pay the costs, and is hereby further ordered to indemnify the victim by the way of moral damages in the amount of P50,000.00, in accordance with the current case doctrine of the Supreme Court.

"SO ORDERED." [4]

The Court, in this appeal, sees no sound reason to overturn the conviction. Certainly, looking at the records, the trial court cannot be faulted for giving credence to the testimony of private complainant. AAA's account of the incident, delivered straight forwardly, was narrated in a manner that is typical of young victims of rape. Thus -

"Q You said you were in your house at xxx, what were you doing at that time, at 10:00 o'clock in the morning?

"A I was studying my lesson.

"Q You were then in what year?

"A Second year.

"Q And where were you studying at that time?

"A In xxx.

"Q While you were studying, where was your mother?

"A My mother was out. She went to the house of Warny Bolences.

"Q And what was your mother doing at the house of Warny Bolences?

"A She went there to wash clothes.

"Q How far was the house of Warny Bolences from your house?

"A Maybe, one (1) kilometer.

"Q How about your stepfather, the accused, where was he at that time?

"A He was in the Billiard Hall.

"Q Where was that Billiard Hall located?

"A In xxx, near the basketball court.

"Q How far is that basketball court from your house?

"A It's about 25 meters.

"Q What time did your mother leave in your house?

"A At around 9:00 o'clock in the morning.

"Q And while you were studying, who was with you in your house?

"A I was with my stepbrothers and a stepsister.

"Q After your mother left, what time did your stepfather return to your house?

"A At around 10:00 o'clock in the morning.

"Q And upon returning to your house, what did he do?

"A He went to the creek.

"Q Where is this creek located in relation to your house?

"A In the lower part of our house.

"Q Your house stands near a creek?

"A Yes, Sir.

"Q And what was your stepfather doing, standing by the creek?

"A He just stood there.

"Q How long did he stay near the creek?

"A He did not stay long. He went back to the house.

"Q And upon returning to your house, what did he do?

"A When he went back to the house, he looked for my stepbrothers and sister and told them to go to the creek because Danny and Noli were there.

"Q And after the young children left the house, what did your stepfather say and do?

"A He told me, while your brothers and sister are away, let us have sexual intercourse immediately.

"Q And what was your answer?

"A I said, I don't and because I was studying.

"Q And how did your stepfather react to that?

"A He went down and came back and got angry.

"Q You said, came back, got angry, what did he do to you?

"A He pulled me to the division.

"Q What kind of division was that?

"A A division which he put a stick and a blanket.

"Q And while inside that division, what did he do to you?

"A He covered my mouth and told me don't shout or else I will kill you.

"Q And what happened next?

"A He removed my panty.

"Q What were you wearing at that time?

"A A skirt.

"Q Did he remove all your dress?

"A No, only my panty.`

"Q And after getting your panty, what did he do to you?

"A He undressed himself.

"Q And then what did he do?

"A He placed on top of me.

"Q And after that, what did he do to you?

"A He fucked me. He made me lie down and try to pull my legs apart.

"Q Pulling your legs apart, what did he do to you?

"A He continued fucking me.

"Q When you said he fucked you, using the word 'kayat,' what did he do?

"A He inserted his penis into my vagina and pushed and pulled it.

"Q How long?

"A Less than three (3) minutes.

"Q After three minutes, what happened?

"A After he fucked me, I told him 'watch out I will tell my Mom' and he told me, 'are you not ashamed,' and I told him, 'Why? What I be ashamed? She is my mother.'

Q You said you were forced by your stepfather in having sexual intercourse, does he have weapon?

"A Yes, Sir, a double bladed knife.

"Court Interpreter:

"Witness demonstrating how long, which is 6 inches in length.

"Pros. Tirol:

"Q And while he was having intercourse with you, where did he place this knife?

"A On my side.

"Q You said a while ago that when your younger brothers and sister left the house, your stepfather said let us make a quick fuck, was there a time that you were fucked by your stepfather?

"A Yes, Sir.

"Q At what age or in what year that your stepfather first had intercourse with you?

"A When I was 11 years old.

"Court:

"Q You describe it.

"A When I was 11 years old, he did it to me standing and afterwards, he ordered me to lie down. That was the first time he raped me.

"Pros. Tirol:

"Q How often when you were still 11 years old that your stepfather have intercourse with you?

"A Two or three times a week.

"Q And you are saying this was the frequency between 1988 up to August of 1992?

"A Yes, Sir.

"Court:

"Q Did you not get pregnant?

"A No.

"Q Why?

"A I do not know.

"Pros. Tirol:

"Q Now, this matter, did you not report this to your mother?

"A I revealed it once to my mother, but my mother forgive him.

"Q You said you were forcibly fucked on August 7, 1992, what made you to report this incident to the authorities after four years of frequent intercourse?

"A I can not swallow it anymore and if I will not give him, he will maltreat me." [5]

A young girl's revelation that she has been raped, coupled with her voluntary submission to medical examination and her willingness to undergo public trial where she could be compelled to give out the details of an assault on her dignity, cannot be so easily dismissed as mere concoction. [6] Here, particularly, the person she has accused is her own stepfather. [7] It would be highly improbable for a girl of her age to fabricate a charge so humiliating to herself and her family as well had she not been truly subjected to the pain and the harrowing experience of sexual abuse. [8]

The Court rejects the argument of accused-appellant that the rape could not have been committed without thereby courting the curiosity of neighbors who live nearby. Lust is no respecter of time and precinct; [9] it can be committed in most unlikely places [10] such as in a park, along a roadside, within school premises, or even in an occupied room. [11]

Neither can the Court accept the averment that at an age of 62 years, accused-appellant would be unable to indulge in the sexual act. Except for his self-serving testimony, there is utterly no proof to support the claim. Accused-appellant has admitted that he suffers from no ailment, [12] and that, in fact, he still does heavy work. [13]

Appellant would, regrettably, even sullen the reputation of AAA by pointing to her supposed sexual experience in the past not only with him but also with others. This attempt will not detract the Court from the established fact that in the particular instance complained of, the sexual congress has taken place against the will of the victim. [14]

WHEREFORE, the decision appealed from is AFFIRMED in toto. Costs against accused-appellant.

SO ORDERED.

Padilla, (chairman), Bellosillo, Kapunan and Hermosisima, Jr., JJ., concur.

- [1] Rollo, p. 2.
- [2] Penned by FFF of the Regional Trial Court, Branch xxx, of xxx.
- [3] Signed by GGG, Municipal Health Officer of xxx (Record, p. 10).
- [4] Rollo, p. 103.
- [5] TSN, AAA, 11 May 1993, pp. 8-13.
- [6] People vs. Dado, 244 SCRA 655.
- [7] See People vs. Vitor, 245 SCRA 392.
- [8] People vs. Vitor, supra.
- [9] People vs. Cura, 240 SCRA 234.
- [10] People vs. Umali, 242 SCRA 17.
- [11] People vs. Cura, Ibid.
- [12] TSN, Clodualdo Cabillan, 02 March 1994, pp. 4-5.
- [13] Ibid., p. 4.
- [14] See People vs. Sarellana. 233 SCRA 31.

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