

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. IRENEO PEREZ Y RICAFORT, ACCUSED-APPELLANT.

G.R. No. 118332. March 26, 1997

Ponente: ROMERO, J.

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ROMERO, J.:

There is nothing more abhorrent and shocking to one's sensibilities than the desecration of a woman's chastity by her own father. The abomination is made even worse by the fact that the victim concerned is a mere wisp of a girl, only eleven years old. This Court is once again called upon to decide a case at once odious and revolting — the rape of one's own daughter.

Accused-appellant Ireneo R. Perez appeals to this Court from a judgment[1] of the Regional Trial Court of xxx, Branch xxx[2] in Criminal Case No. 93-1110 (M), convicting him of the rape of his eleven-year old daughter. He was charged with the commission of the offense in an information[3] which reads:

"That on or about the 9th day of December 1991, in the municipality of xxx, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Ireneo Perez y Ricafrente, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with his own daughter AAA, a minor below 12 years of age while she was asleep inside their house against her will and consent.

All Contrary to Law."

The prosecution's evidence shows clearly the following facts:

On the night of December 9, 1991, AAA was sleeping beside her seven-year old sister BBB inside the only bedroom of their family home in xxx. Her deep slumber was interrupted when she felt something heavy on top of her which turned out to be her own father who proceeded to remove her panty and inserted his sex organ into hers. He held her hands and covered her mouth but she struggled and managed to shout for help to attract her brother who was sleeping in the kitchen six meters away from the room. Instead, it was BBB who woke up and tried futilely to leave the room to seek their brother's help, but their father prevented her from doing so by holding on to her feet while threatening to spank her. Hence, the cowed sister just turned her back on them. Accused-appellant then perpetrated the vile act without further disturbance except for the struggles of his own child who was greatly overpowered by his strength. The defilement left her bleeding and in pain.

Accused-appellant threatened to hurt her if she ever reported the incident to anyone. The next morning, she moved to her maternal grandparent's house where she has stayed to date. Her father was constantly in her grandparent's house, however, and interaction was inevitable. She was repeatedly threatened to keep her silence whenever her grandparents' and aunt were not around. On November 13, 1992, or almost one year after the incident, she summoned enough courage to confide the incident to her maternal aunt, CCC who, together with her uncle, brought her to Dr. xxx for internal examination. She was found to have healed hymenal lacerations at 4

o'clock and 7 o'clock positions. The matter was immediately reported to the Barangay Captain, then to the police at the Municipal Hall of xxx, which eventually led to the arrest of accused-appellant.

Upon arraignment, accused-appellant pleaded not guilty to the crime charged. He claimed that he went home to xxx on the evening of December 9, 1991 to find his three children namely DDD, EEE and BBB, already asleep. AAA had allegedly been living with her grandparents at xxx since November 1991 and, therefore, was not home that day. He swore that no unusual incident transpired on that fateful night.

On October 19, 1994, the trial court found accused-appellant guilty and sentenced him to reclusion perpetua. It also ordered him to indemnify AAA P50,000 as moral damages and to pay the costs of the suit.

In this appeal, accused-appellant contends that:

"I

The trial court erred in giving full weight and credence to the contradicting and inconsistent testimonies of the prosecution's witness, AAA.

II

The trial court erred in finding the accused guilty beyond reasonable doubt despite insufficiency of evidence to prove his guilt beyond reasonable doubt."^[4]

The appeal is bereft of merit.

In reviewing rape cases, this Court has always been guided by the following principles: (a) an accusation of rape can be made with facility; it is difficult to prove, but more difficult for the person accused, though innocent, to disprove; (b) in view of the intrinsic nature of the crime where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (c) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.^[5]

This Court is well aware of the fine line it is treading when deciding rape cases where conviction invariably hinges upon the credibility of the offended woman who is almost always the sole witness of the actual occurrence.^[6] It is, therefore, with meticulous care that the testimony of the complainant is scrutinized. This Court once again finds occasion to reiterate the established rule that the findings of fact of a trial court carry great weight and are entitled to respect from the appellate courts absent any strong and cogent reason therefor since the trial court is in a better position to decide the question of credibility.^[7] "This policy is predicated upon the circumstance that the trial court has had an opportunity, denied to the appellate court, to observe the behaviour of the witnesses during the hearing, gauging their bias and veracity."^[8] As observed by the trial court, the complainant testified in a clear, straightforward and convincing manner.

Accused-appellant, however, points out that the credibility of the offended party was tainted by the following inconsistencies:

- 1) Complainant's statement that when she shouted for help, nobody was awakened; and her later statement that her sister was actually awakened by the incident.
- 2) Her conflicting statements on whether or not her brothers were sleeping outside her room.
- 3) Her conflicting statements as to whether she actually saw her father's penis or not.^[9]

We note that these alleged inconsistencies refer, at best, only to trivial, minor, and insignificant details.[10] They bear no materiality to the commission of the crime of rape of which accused-appellant was convicted.[11] As pointed out by the Solicitor General in the Appellee's Brief,[12] the seeming inconsistencies were brought about by confusion and merely represent minor lapses during the rape victim's direct examination and cannot possibly affect her credibility. Minor lapses are to be expected when a person is recounting details of a traumatic experience too painful to recall. The rape victim was testifying in open court, in the presence of strangers, on an extremely intimate matter, which, more often than not, is talked about in hushed tones. Under such circumstances, it is not surprising that her narration was less than letter-perfect.[13] "Moreover, the inconsistency may be attributed to the well-known fact that a courtroom atmosphere can affect the accuracy of testimony and the manner in which a witness answers questions." [14]

"What is important is the victim's testimony that the accused sexually abused her. When a victim says that she has been raped, she says in effect all that is necessary to show that rape has been committed and if her testimony meets the test of credibility, the accused may be convicted on the basis thereof." [15]

Accused-appellant would have us believe that the alleged rape was merely an illusion concocted by his in-laws, to get rid of another mouth being fed by his wife who works in Saudi Arabia.[16]

Such contention is preposterous. Even in these trying times of poverty and greed, it is difficult to believe that the aunt, uncle and grandparents of an eleven-year old child would allow her to be subjected to the ordeal and embarrassment of a public trial and to expose her private parts to examination just to relieve them of the burden of feeding her father, knowing fully well that such an experience would damage her psyche and mar her for life, unless the charge was true.[17]

Accused-appellant likewise contends that the trial court misappreciated the facts by holding that the delay in reporting the offense was due to threats he made, when prosecution witness CCC stated that she did not notice any animosity between father and daughter.[18] "A little insight into human nature is of utmost value in judging matters of this kind." [19] Fear may manifest itself, not only through insolence or impertinence, but also through timidity or diffidence. The latter behaviour would be expected of an eleven-year old daughter toward her father, especially in the context of traditional Philippine culture where family members are servile towards their elders. Accused-appellant must have acted normally when everyone was present at his in-laws' house. This is the reason why CCC did not notice anything unusual between him and her niece. The victim, however, testified that she was threatened repeatedly whenever her aunt and grandparents were not home.[20] The presence of her father in her grandmother's house almost daily at different hours must have caused her unbounded anxiety and paranoia making it more difficult for her to decide on what action to take. It is immaterial that the delay was due to threats or some other reason, for the failure of the victim to immediately report a rape is not an indication of a fabricated charge.[21] Moreover, an eleven-year old girl such as the herein victim can hardly be expected to act as an adult or as a mature and experienced woman would and have the courage and intelligence to disregard a threat to her life and complain immediately that she had been sexually assaulted.[22]

What we have here is a case of an ingenue — a naive and guileless barrio girl, a mere teenager who was not animated by any mercenary or dishonest motive in imputing rape to her own father.[23] Family relations are not so easily imperilled, with the father at risk of being imprisoned for banal and flimsy reasons, such as that alleged by accused-appellant. We hold that the complainant went to court to bring to justice the satyr whose beastliness was the cause of her loss of virginity at a tender age.[24]

As borne out by the records and transcript of stenographic notes, this Court agrees with the court a quo that the victim testified in a categorical, straightforward, spontaneous and consistent manner. She is, therefore, considered

a credible witness and her testimony is worthy of judicial acceptance.[25] The rule is that "an affirmative testimony is far stronger than a negative testimony, especially so when it comes from the mouth of a credible witness." [26]

Undoubtedly, the trial court acted correctly in upholding the case for the People and rejecting the arguments of accused-appellant which consisted principally of a denial. It correctly awarded moral damages to the victim as mandated by Article 2219[27] in relation to Article 2217[28] of the Civil Code, but it should have appreciated against accused-appellant the alternative circumstance of relationship provided for in Article 15 of the Revised Penal Code considering that the offended party was his descendant. In crimes against chastity, such as rape, relationship is aggravating.[29] However, it would not affect the penalty herein of reclusion perpetua because it is an indivisible penalty which must, under Article 63 of the Revised Penal Code, be applied regardless of any mitigating or aggravating circumstances that may have attended the commission of the crime.[30]

WHEREFORE, the appeal is DISMISSED and the decision of the trial court finding accused-appellant Ireneo Perez y Ricafort guilty beyond reasonable doubt of the crime of rape committed against his own daughter AAA is hereby AFFIRMED. Costs against accused-appellant.

SO ORDERED.

Regalado, (Chairman), Puno, Mendoza, and Torres, Jr., JJ., concur.

[1] Rollo, pp. 15-20.

[2] Judge xxx, presiding.

[3] Original Records, p. 2.

[4] Rollo, p.34

[5] People v. Ramirez, G.R. No. 97920, January 20, 1997; People v. Guamos, 241 SCRA 528 (1995), citing People v. Casinillo, 213 SCRA 777 (1992); People v. Pizarro, 211, SCRA 325 (1992); People v. Dela Cruz, 207 SCRA 449 (1992); People v. Matrimonio, 215 SCRA 613 (1992).

[6] People v. Domingo, 226 SCRA 156 (1993).

[7] People v. Catoltol, Sr., G.R. No. 122359, November 28, 1996; People v. Balisnomo, G.R. No. 118990, November 28, 1996; People v. Vallena, 244 SCRA 685 (1995); People v. Gerones, 193 SCRA 263 (1991).

[8] Delos Santos v. Republic, 96 Phil. 577 (1955)

[9] Rollo, p. 67.

[10] People v. Olivar, 215 SCRA 765 (1992).

[11] People v. Sagaral, G.R. No. 112714-15, February 7, 1997.

[12] Rollo, p.68.

[13] People v. Magaluna, 205 SCRA 266 (1992); cited in People v. Abuyan, 211 SCRA 662 (1992).

[14] People v. Como, 202 SCRA 200 (1991); People v. Serdan, 213 SCRA 329 (1992).

[15] People v. Mabunga, 215 SCRA 694 (1992); People v. Catoltol, G. R. No. 122359, November 28, 1996; citing People v. Soterol, 140 SCRA 400 (1985); People v. Rosare, G.R. No. 118823, November 19, 1996; People v.

Repollo, 237 SCRA 476 (1994); *People v. Sanchez*, 250 SCRA 14 (1995), citing *U.S. v. Ramos*, 1 Phil. 81 (1901).

[16] Rollo, p. 41.

[17] *People v. Mabunga*, *supra*.

[18] TSN, August 11, 1993, pp. 17-18.

[19] *People v. Fausto*, 51 Phil. 852.

[20] TSN, April 29, 1993, p.17.

[21] *People v. Catoltol*, *supra*; *People v. Casil*, 241 SCRA 285 (1995); *People v. Pamor*, 237 SCRA 462 (1994).

[22] *People v. Tampus*, 88 SCRA 217 (1979); cited in *People v. Olivar*, 215 SCRA 765 (1992).

[23] *Ibid*.

[24] *Id*.

[25] *People v. Rosare*, *supra*.

[26] *People v. Ramirez*, *supra*, citing *People v. Digno*, 250 SCRA 237 (1995).

[27] Art. 2219. Moral Damages may be recovered in the following analogous cases:

- (1) A criminal offense resulting in physical injuries;
- (2) Quasi-delicts causing physical injuries;
- (3) Seduction, abduction, rape, or other lascivious acts;
- (4) Adultery or concubinage;
- (5) Illegal or arbitrary detention or arrest;
- (6) Illegal search;
- (7) Libel, slander or any other form of defamation;
- (8) Malicious prosecution;
- (9) Acts mentioned in Article 309;
- (10) Acts and actions referred to in articles 21, 26, 27, 28, 29, 30, 34, and 35.

The parents of the female seduced, abducted, raped or abused, referred to in No. 3 of this article, may also recover moral damages.

The spouse, descendants, ascendants, and brother and sisters may bring the action mentioned in Article No. 9 of this article, in the order named.

[28] Art. 2217. Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act for omission.

[29] *People v. Porres*, 58 Phil. 578 (1993); *People v. Lucas*, 181 SCRA 316 (1990).

[30] *People v. Matrimonio*, *supra*, citing *People v. Porres*, *supra*; *People v. Lucas*, *supra*.

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