

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDGARDOQUITORIANO Y BRIONES, ACCUSED-APPELLANT.**

G.R. No. 118852. January 20, 1997

Ponente: PUNO, J.

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PUNO, J.:

Accused-appellant Edgardo Quitoriano y Briones was charged before the Regional Trial Court of xxx with the crime of Rape allegedly committed as follows:

That on or about the 24th day of December 1992 at around 9:00 o'clock in the evening at xxx, Philippines and within the jurisdiction of this Honorable Court, the above named accused, armed with a fan knife, entered the dwelling of complainant, who was then alone, and by means of force, intimidation and threats against her life, wilfully, unlawfully and feloniously did lie and succeed in having carnal knowledge of complainant, against her will, and to her damage and prejudice.

CONTRARY TO LAW. [1]

Accused-appellant pleaded "not guilty". Hence, trial ensued.

Private complainant AAA testified that in the evening of December 24, 1992, she was in the kitchen located at the back of their house in xxx. The kitchen is about three (3) arms length away from the main house. At about 9:00 in the evening, accused-appellant entered the kitchen, poked a knife on her neck, and dragged her to the bamboo bed ("papag") about one-half arms length from the stove. Accused-appellant laid her down and removed her short pants and underwear. He then took off his pants and had sexual intercourse with her. Private complainant trembled because of fear. Thereafter, accused-appellant warned her not to tell anybody about the incident, or else, he would kill her. Private complainant kept the incident to herself. However, in June 1993, her aunt, BBB, discovered that she was pregnant. Thus, private complainant was forced to tell her aunt and her parents about the sexual assault committed against her by accused-appellant on December 24, 1992. On August 2, 1993, private complainant filed a complaint for rape against accused-appellant. [2]Private complainant gave birth on October 31, 1993. [3]

Accused-appellant interposed the defense of alibi. He testified that from 7:00 until 10:00 in the evening on December 24, 1992, he was at the house of Paulino Rioflorido in Barangay Pakaskasan, Torrijos, Marinduque. He was then having a drinking session with Reynaldo Rioflorido, the son of Paulino. At 10:00, they attended a party at the house of Jose Ampiloquio which was about 400 meters from the Rioflorido residence. The party ended at around 1:00 in the morning, after which, they proceeded to accused-appellant's house. [4]

The trial court found accused-appellant guilty and sentenced him to reclusion perpetua, thus:

WHEREFORE, finding the accused guilty beyond reasonable doubt of the crime of Rape defined and punished under Art. 325 of the Revised Penal Code, committed with the use of a deadly weapon, he should be sentenced to suffer the penalty ranging from reclusion perpetua to death.

However, since when the act was committed the death penalty cannot be imposed, he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA (Art. 27, RPC). There being no claim for moral damages, no pronouncement of the same is hereby made.

The accused shall be credited with the full extent of his preventive imprisonment under Article 29 of the Revised Penal Code.

The accused is likewise ordered to suffer the accessory penalty for reclusion perpetua.

The bond posted by the accused for his provisional liberty is hereby cancelled.

The body of the accused is hereby committed to the custody of the Director of the Bureau of Corrections, National Penitentiary, Muntinlupa, Metro Manila, thru the Provincial Warden of xxx.

SO ORDERED. [5]

Accused-appellant filed this appeal with its lone assignment of error:

The trial court erred in convicting the accused of rape beyond reasonable doubt. [6]

We affirm the judgment of conviction.

Private complainant's testimony is clear and detailed. Even in the cross-examination, her answers were consistent and unwavering. It is settled that in rape cases, the lone testimony of the victim, if credible, is enough to sustain a conviction. [7]

Accused-appellant's alibi cannot prevail over private complainant's testimony.

First, private complainant positively identified accused-appellant as the rapist. The kitchen was sufficiently illuminated by a gas lamp when accused-appellant entered. Then, he stood in front of private complainant and stared at her for a moment before dragging her to the bamboo bed, thus allowing her to see his face.[8]

Second, accused-appellant failed to prove that it was physically impossible for him to be at the crime scene at the time of its commission. The felony was committed on December 24, 1992, around 9:00 in the evening, in private complainant's house in xxx. Accused-appellant testified that on that date, from 7:00 to 10:00 in the evening, he was having a drinking session with Reynaldo Rioflorido in the latter's house. At 10:00, they proceeded to Jose Ampiloquio's residence to attend a party. The house of Rioflorido and that of Ampiloquio are both located in xxx. Rioflorido's house is only 200 meters away from private complainant's house.[9] Accused-appellant and Reynaldo even passed by private complainant's house in going to Ampiloquio's house.[10] Accused-appellant also admitted that he could walk a distance of 200 meters in five minutes. [11] Thus, it was not impossible for accused-appellant to slip from Rioflorido's house to go to private complainant's house to carry out his evil deed.

Third, accused-appellant failed to show any motive on the part of private complainant to indict him for rape, unless the charges were true. He testified:

Q: Do you know of any reason why AAA would accuse you falsely of such serious crime as Rape?

A: None, sir.

Q: You have not courted her at any time prior to December 24, 1992?

A: No, sir.

Q: In all those occasions you associated once in a while as you said with AAA, you did not find any indication that she loves you?

A: No, sir.

xxx

Court — to the witness:

Q: Is there any grudge existing between you and AAA's family?

A: None, Your Honor.

xxx[12]

Private complainant's delay in reporting the sexual assault should not be taken against her because accused-appellant threatened to kill her if she tells anybody about it. Private complainant heeded accused-appellant's threat and kept mum about the incident. Her pregnancy, however, forced her to disclose to her aunt and later to her parents, the sexual attack committed against her by accused-appellant. Delay in the filing of a criminal complaint does not necessarily impair the credibility of the witness if such delay is satisfactorily explained.[13]

The fact that private complainant gave birth more than ten months after the alleged rape does not discredit her testimony. Dr. xxx, a physician from the xxx, explained that the normal gestation period is 40 weeks or 280 days, but it can also extend beyond 40 weeks if the woman is having her first pregnancy. [14] It is undisputed that the child delivered by private complainant on October 31, 1993 was her first. Hence, it is not impossible that the child was conceived in December, 1992, the date of the alleged rape.

The trial court, therefore, did not err in finding accused-appellant guilty beyond reasonable doubt of the crime of rape. It, however, erred in not awarding moral damages to private complainant. Under our existing jurisprudence, victims of rape are entitled to moral damages of P50,000.00.[15]

IN VIEW WHEREOF, the appealed decision is AFFIRMED with the MODIFICATION ordering accused-appellant to pay P50,000.00 to private complainant as moral damages. Costs against accused-appellant.

SO ORDERED.

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

[1] Original Records, p. 21.

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

[3] TSN, May 19, 1994, pp. 5-9.

[4] TSN, July 26, 1994, pp. 9-13.

[5] RTC Decision, Rollo, pp. 27-28.

[6] Appellant's Brief, Rollo, p. 52.

[7] People vs. Bulaybulay, 248 SCRA 601 (1995).

[8] TSN, May 19, 1994, p. 14

[9] TSN, July 26, 1994, p. 5.

[10] TSN, July 26, 1994, p. 22; Exhibits "C", "C-2", "C-3 "C-4"

[11] TSN, July 26, 1994, p. 17.

[12] TSN, July 26, 1994, p. 16.

[13] People vs. Errojo, 229 SCRA 49 (1994).

[14] TSN, June 30, 1994, p. 5.

[15] People vs. Laray, G.R. No. 101809, February 20, 1996; People vs. Sanchez, 250 SCRA 14 (1995); People vs. Malunes, 247 SCRA 317 (1995); People vs. Espinoza, 247 SCRA (1995).

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