THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MIGUEL LUCBAN SERVO, ACCUSED-APPELLANT.

G.R. No. 119217. January 19, 2000

Ponente: PARDO, J.

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PARDO, J.:

Rape is a savage and bestial attack that violates a woman's person in the most grievous and revolting way imaginable. Perpetrators of this outrage are slaves of their lust, devoid of human dignity and reduced to lower than beasts in category. They must suffer the severest of penalty provided by law. In the present appeal, the offender repeatedly ravished and violated his stepdaughter of tender years. He deserves no mercy.

Before the Court on appeal is a decision of the Regional Trial Court, Antipolo, Rizal, Branch 74, finding accused-appellant Miguel Lucban y Servo guilty of rape of his fifteen year old stepdaughter, Nenita G. Bentabal.

With the assistance of her mother, Corazon G. Bentabal, on February 14, 1990, Nenita G. Bentabal, filed a complaint for rape against accused with the Regional Trial Court of Antipolo, Rizal, as follows:

> "That on or about the 3rd day of February 3, 1990, in the Municipality of Antipolo, Province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of threats, force, and intimidation, did, then, and there willfully, unlawfully and feloniously have carnal knowledge of the undersigned complainant, Nenita G. Bentabal y Giray, a minor (15) fifteen years of age, against her will and consent."[1]

On arraignment, the accused pleaded not guilty[2] and trial ensued. On December 9, 1990, the trial court rendered decision, the dispositive portion of which states:

> "WHEREFORE, the court finds the accused Miguel Lucban y Servo guilty beyond reasonable doubt of the offense of rape as defined and penalized under Art. 335 of the Revised Penal Code and hereby sentences the accused to RECLUSION PERPETUA."[3]

The trial court believed the testimony of Nenita G. Bentabal, saying that "The court is strongly inclined to believe the version of the prosecution. The rule is that the lone testimony of the victim in the prosecution for rape, if credible, is sufficient to sustain a verdict of conviction, the rationale being that owing to the nature of the offense, the only evidence that can oftentimes be adduced to establish the guilt of the accused is the offended party's testimony."[4]

The facts are as follows:

On the night of February 3, 1990, fifteen (15) year old Nenita G. Bentabal was left at home with her younger sister, Girlie, who was seven (7) years old. Their mother, Corazon Bentabal had gone to Manila to work and would not be coming back until the next day. That evening their stepfather Miguel Lucban y Servo arrived late, it was Nenita who opened the door for her stepfather.

When Nenita opened the door, accused, Miguel Lucban immediately pulled her and took her to bed. She was threatened by a one-foot butcher knife and was forced to lie down and her hands were tied to the bed. After which, accused-appellant started kissing and undressing her. Accused-appellant removed her panty and went on top of her and inserted his penis into her vagina. Girlie, the sister of the victim who was at that time asleep, was awakened. She looked at her sister and stepfather then went back to sleep. After the sexual act, accused threatened Nenita that if she told anyone, she and her mother would be killed.

The next day, Nenita's mother came home and Nenita told her what happened. That same afternoon, Nenita and her mother rushed to the police headquarters and filed a complaint against the accused for rape. In the investigation, Nenita revealed that she was also raped by the accused twice on the same occasion in January of that year when her mother was away in Manila on business.[5]

The accused on the other hand, gave a different version of the events. He testified that on the night in question he arrived at around 6:00 in the evening from Angono, Rizal, selling chicken and found his wife, Corazon at home. Corazon asked him to look for the children who were outside. He only found Girlie near the faucet. When Corazon asked for Nenita, Girlie said that Nenita was walking with a man. After a while, Nenita came home. Corazon set the table for supper. After supper, Corazon told him that the children wanted to see a movie but he told them that they need to save money. Corazon was angry and said that if he would not listen to them, he would be sorry.

That night, they all slept. He and Corazon slept on the floor, while Nenita and her sister Girlie slept on the bed. He woke up at around 3:00 in the morning, and was ready to prepare the chicken he would sell in Angono, but Corazon told him to go back to bed. He woke up again at around 7:00 in the morning and went to the house of his friend but his friend was not around, so he went home.

At around 8:00 in the morning, he was informed by Willie Absena about their meeting at 12:00 noon. Earlier than the designated time, he went to the meeting, but since no one was around he went back home and after a while went back to the place of the meeting. Nenita then arrived with four (4) men who invited him to the police headquarters for questioning. They boarded a jeepney. On the way to the headquarters, he was cursed, slapped, then hit with a gun. He fell unconscious and regained his senses inside a room. Then, he was investigated by a person named Ibanez.[6]

The prosecution presented Dr. Emmanuel Aranas, the medico legal officer who examined Nenita Bentabal. In his testimony, he stated:

> "Public Pros.: Mr. Witness, during that time that you examined the victim, was the rape of the victim possibly happened only very recent? (sic)
>
> "A: With regards to my findings ma'am, I cannot find any basis to determine that the rape occurred only recently.
>
> "Court: Did the court understand that you (sic) cannot able to determine as to when the alleged rape of the victim was committed?
>
> "A: As to the alleged alteration of the anatomy of the victim sir, I could say that several weeks prior to my examination, in other words, the alteration of the laceration of the peri-urethral organ of the victim has been committed several weeks.
>
> "Court: When you say several weeks, is the court to understand 3 or 4 weeks?
>
> "A: Yes, your honor, several days or weeks prior to my examination.

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The defense submitted that if the victim was raped earlier by the accused, why did the victim wait for a long time to report the incident? However, the trial court did not give any merit to this argument and stated that "It is not uncommon for young girls to conceal for sometime the assaults on their virtue because of the rapist's threat on their lives (People vs. Natan, G.R. No. 86640, January 25, 1991)."[7]

After several hearings, on December 9, 1990, the trial court rendered decision finding the accused guilty beyond reasonable doubt and sentencing him to the penalty of reclusion perpetua.

Hence, this appeal.

The accused-appellant argues that the trial court erred in considering the uncorroborated, incredible and improbable testimony of the victim Nenita Bentabal and in finding that his guilt was proved beyond reasonable doubt.

According to accused-appellant, the delay in reporting the incident to the authorities for several weeks is sufficient to create a reasonable doubt in favor of the accused. Also the fact that the rape took place in several occasions lasting for more or less thirty minutes each without a struggle on the part of the victim implies consent. Also, the victim in her testimony stated that she was "wetting" and "experienced orgasm."

Accused-appellant submits that the prosecution failed miserably in establishing his guilt beyond reasonable doubt. The evidence of the prosecution must stand or fall on its own merit and must not draw its strength from the weakness of the defense.[8]

After careful consideration of the evidence presented by both parties, we accept the version of the victim Nenita Bentabal. It is difficult to believe that mother and daughter will make up a story of the rape to spite accused-appellant for his refusal to let them watch a movie. It is totally incredible that they will put themselves to shame and public dishonor, not to mention the stigma that is almost always attached to victims of rape and other sexual abuse for such slight inconvenience.

Also, a review of the testimony of Nenita reveals that when she was asked by the lawyer for the defense whether she experienced orgasm, the term was not explained to her. Thus, she could not really give an accurate and positive answer.

To further emphasize this point, we quote the testimony of complainant Nenita Bentabal:

> "Q. Did he insert his penis to your vagina?
>
> "A. Yes, sir.
>
> "Q. And while inside your vagina, did you wet on your vagina?
>
> "A. Yes, sir.
>
> "Q. Did you experience lubricant coming out of your vagina?
>
> "A. No, I did not feel.
>
> "Q. From February 1990 how many times did he insert his penis in your vagina?
>
> "A. 3 times sir.
>
> "Q. So it is 3 times he inserted?
>
> "A. Yes, sir.

"Q. And in those three times did you experience orgasm?

"A. Yes, sir.[9]

The questions were not clarified or properly explained to the young girl Nenita Bentabal. Being a girl of fifteen years and having only reached grade six, the Court is not convinced that she understood the meaning of "orgasm" which is not a physical manifestation but an emotional state of enjoying sexual intercourse.

The defense also harped on the issue of lack of any physical sign of abuse on the complainant. There has been a long line of decisions that "It is not necessary to show proof of physical injuries sustained by reason of resistance to the sexual attacker. It is common doctrine that it is enough to show that the accused did succeed in having sexual intercourse with the offended party against her will."[10]

We must consider that the accused-appellant is the stepfather of Nenita, thus, he exercised moral ascendancy over her, coupled with the fact that during the sexual assault, accused-appellant pointed a knife at Nenita and threatened to kill her if she made a sound.

As to the fact that Nenita waited for several weeks before going to her mother to tell her about the ordeal, we are not persuaded that this was a sign that there was really no rape. There is no standard human reaction when one is faced with an experience that is so traumatic as to make a person suffer in silence the onslaught on her honor rather than reveal her story. In the case at bar, the accused-appellant threatened Nenita that if she would tell her mother, she would be killed. For a girl of tender age, a threat like that coming from her own stepfather is enough to silence her cry for justice and mum her to submit to the brute and animal lust of her stepfather.

IN VIEW WHEREOF, we AFFIRM the decision appealed from sentencing accused-appellant Miguel Lucban y Servo to reclusion perpetua, with modification by requiring accused-appellant to pay complainant P50,000.00 as civil indemnity and another P50,000.00 as moral damages. Court

Costs against accused-appellant.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

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[1] Original Record, Complaint, p. 1.

[2] Ibid., Certificate of Arraignment, p. 8.

[3] Ibid., Decision, Regional Trial Court, Antipolo, Rizal, Branch 74, Criminal Case No. 90-5382, penned by Judge Pablito M. Roxas, pp. 151-154, at p. 154.

[4] Original Record, Decision, p.152.

[5] Ibid., TSN, August 8, 1990, pp. 112-117.

[6] Rollo, Brief for Accused-appellant, pp. 30-31.

[7] Decision, Original Record, p. 153.

[8] Ibid., p. 42.

[9] TSN, August 8, 1990, pp. 123-124.

[10] People vs. Ronquillo, 184 SCRA 236, 243 (1990), citing People vs. Pimentel, 147 SCRA 25 (1987), People

vs. Pilapil, 147 SCRA 528 (1987) and People vs. Delavin 148 SCRA 257 (1987).

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