

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARISTON PARDILLO, JR. ALIAS “YANYAN”, ACCUSED-APPELLANT.

G.R. No. 119543. November 28, 1997

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

This is a soul-less crime of rape committed by accused-appellant upon the complainant on the eve of the day of souls. The criminal charge reads:

“That on or about the 1st day of November, 1993 at about 8:00 in the evening, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by the use of force and intimidation upon the person of the undersigned, with deliberate intent, did then and there willfully, unlawfully and feloniously have carnal knowledge or sexual intercourse with the undersigned complainant FLOR DE MAY DIADA Y VILLABETO, against the will of the undersigned.

“CONTRARY TO LAW.”[1]

When arraigned, appellant pleaded not guilty. After trial, the lower court convicted him of the crime charged, sentenced him to suffer reclusion perpetua and to indemnify the victim.[2] Hence this appeal whereby appellant denies any criminal liability and assails the trial court’s (a) assessment of the credibility of complainant and (b) his conviction for the crime of rape.

The facts ably supported by the records are as follows:

“The complaining witness Flordemay Diada testified that at about 6:30 o’clock in the early evening of November 1, 1993 she asked permission from her mother to see her cousin at V. Rama Avenue, Cebu City. As she was walking towards V. Rama Avenue via Mabolo District she noticed the accused Ariston Pardillo, Jr. also known as ‘Yanyan’, then her neighbor at the Reclamation Area, this City, following her in his pedicab (or trisikad). The accused offered her a ride in his pedicab (or trisikad), and she accepted his invitation. On reaching the White Gold House at the Reclamation Area she flagged down a jeepney for Colon street. She took the jeepney, the accused took it too. She got off opposite the Rosita’s Department Store at Colon Street, and was about to take another jeep bound for Mabolo when the accused persuaded her not to ride the jeepney yet because he would still show her around. She was persuaded, and they roamed around Colon for some thirty (30) minutes, from 7:00 o’clock to 7:30 o’ clock, that evening of November 1, 1993. They then went to Julie’s Bakeshop near the Gazinin Plaza, still at Colon. Beside Julie’s Bakeshop she bought some candies.

“The accused then bade her follow him, saying that he would buy something nearby. They entered an alley in Sanciango Street, at the Kamagayan District, behind the University of the Visayas (Cebu City red light district and haven for drug addicts), until they reached a house with many rooms. Flordemay narrated what happened after that, thus:

‘ATTY. BERNALDEZ’

Q: Now, upon reaching that particular place, you observed that there were rooms, after a particular moment,

what did you do?

A: I tried to free myself, I tried to run but he took hold of my hair.

Q: Kindly explain to the Court why you tried to free yourself from him?

A: Because he wanted to pull me inside.

Q: What happened next when he was trying to pull you inside?

A: He pulled me inside the room and once inside he locked the room.

Q: And after the accused locked the door of that particular room of the house, what else transpired at that time?

A: He ordered me to remove my pants.

COURT:

xxx xxx xxx

ATTY. BERNALDEZ:

Q: Now, did you remove your pants as ordered by the accused?

A: No.

Q: Now, what happened after you refused to remove your pants?

COURT:

Q: When you say pants are you referring to your panty or to your pair of pants?

A: My pants and my panty.

Q: In other words, you were wearing a pair of pants at that time?

A: Maong.

ATTY. BERNALDEZ:

Q: After you refused to remove your pants and panty, what did the accused do at that time?

A: He boxed me on my stomach.

Q: How many times did the accused box you on your stomach?

A: Twice.

Q: And when the accused boxed you on your stomach how did you feel?

A: My vision was somewhat blurred as a result of the blow. My vision became dim.

Q: After the accused boxed you what else happened at that particular time?

A: I slumped face down on the bed.

Q: What was the kind of bed that were at that time?

A: It was a wooden bed.

Q: An while you slumped your body on the bed face up, what else happened?

A: Then he took off my pants and he removed my panty.

Q: While the accused was removing your pair of pants, what did you do?

A: I tried to free myself from him and I struggled to free myself of him because of the pain I felt on my stomach I cannot do otherwise.

Q: That, of course, included your panty?

A: Yes.

Q: After the accused has succeeded in forcibly removing your pair of pants and panty what else did you do at that time?

ATTY. ENCINAS:

We object to the use of the word 'forcibly', there was no mention by the witness.

COURT:

Lay the basis.

ATTY. BERNALDEZ:

Q: How did the accused remove your pants?

A: He unzipped (bunlot) my pants and pulled it up forcibly.

Q: And while the accused unzipped your pair of pants what you say?

A: I was trying to prevent him from taking off my pants but at that time I was also holding on to my stomach because it was very painful and since my vision dimmed already, and there was nothing I can do anymore.

Q: Did the accused exert effort or force in removing your pair of pants?

ATTY. ESCASINAS:

Leading, Your Honor.

COURT:

Refrain from asking leading questions, Compañero, or else I will direct the public prosecutor to take over.

ATTY. BERNALDEZ:

Q: Once your pair of pants were removed and your panty also, what else did the accused do?

A: He also undressed himself.

Q: Now, how far was the accused to you at that time... at that particular time while he was undressing himself?

A: Very near by my side.

Q: Now, what happened next?

A: He placed on top of me.

Q: While the accused was placing himself on top of you, what did he do?

A: The witness demonstrated by placing her hands in her side at the level of her neck--- eagle spread.

Q: What else did the accused do at that time?

ATTY. ENCASINAS:

I request the Court to admonish the witness to refrain from using the word CUAN.

ATTY. BERNALDEZ:

With due respect to the Honorable Court, the private complainant is just 14 years old and she is very naïve considering the gravity of the offense that happened to her.

COURT:

The Court will allow the answer of the complainant, the Court understands what she is answering because of her obvious naivety.

A: He put his own into my own.

ATTY. BERNALDEZ:

Q: What did you do at that particular moment when the accused was placing his own into your own?

A: I cried and pleaded with him.

Q: What did you say to him at that particular time?

A: I told him "Please do not do this to me because we are friends and that my parents knew you."

Q: Now, for how long was the accused on top of you at that time?

A: About five minutes.

COURT:

Q: But while he was on top of you, what were you doing, if any?

A: I struggled to free myself (kisi-kisi or lugnot) but he overpowered me considering that I also felt pain in my stomach.

TRIAL PROS. SOLIMA:

Q: What did the accused do as soon as the accused inserted his private organ to your vagina?

A: He started to push and pull and I screamed because of pain, but he covered my mouth with his hands.

Q: For how long did the accused do that push and pull to you?

A: Five minutes.

Q: What was your reaction while the accused was doing that push and pull?

Q: What were you doing if any?

A: I cried and I struggled to free myself.

Q: Then after that what happened?

A: When his organ entered mine I felt extreme pain.

Q: After his organ was inserted to your private part, what did he do next?

A: He stood up.

Q: Then after he stood up, what did he do next?

A: He sat down in bed.

Q: What about you, what did you do? What did you observe on your private part?

A: It was bleeding.

Q: And what did he tell you, if any?

A: He put on his pants.

Q: While he put on his pants, what did he tell you?

A: He said that if I'm amenable he would marry me but if not, then I should not tell anybody otherwise he will kill me, my parents and my younger brothers and sisters.

Q: While the accused was putting on his pants, what did you do?

A: I started to pull slowly my pants.

COURT:

Q: Why, where were your pants at that time?

A: It was still up to my ankle.

TRIAL PROS. SOLIMA:

Q: Were you able to put on your pants also?

A: Yes.

Q: What about your panty?

A: Yes.

COURT:

Q: By the way, you said your pants were on your ankle, it was not completely removed from you?

A: No, it was not completely removed.

TRIAL PROS. SOLIMA:

Q: Please describe to us how your pants were on your ankle?

ATTY. ENCASINAS:

Does the Fiscal want the witness to demonstrate the taking off of her panty?

TRIAL PROS. SOLIMA:

Just describe to the Court how that pant was removed.

COURT:

Just describe by mentioning.

A: Up to this point (witness pointed to her left ankle)

TRIAL PROS. SOLIMA:

Q: Only at your left ankle?

A: Both ankle.

Q: Then after the accused put on his pants, where did you proceed?

A: To Julie's Bakeshop.

xxx xxx xxx." (TSN of July 7, 1994, pp. 6-13).

"Flordemay asseverated that the accused threatened to kill her and the members of her family should she reveal or report the rape --- and this threat so overwhelmed her that she could not bring herself to disclose to her mother, or to her cousin, Liza Villabeto, her criminal violation by the accused.

"During the cross-examination Flordemay asserted that as the accused opened the door to the house 'I struggled to free myself' because 'I was already frightened in entering the room,' so much so that 'I was about to shout, but he covered my mouth.'" She declared that she had to enter one of the rooms of the house 'Because he pulled my hair and forced me to enter.' In answer to a question why she did not bite his hands, she replied, 'Because he gripped me or squeezed my jaw.' She also maintained that although 'I cried and pleaded with him not to abuse me,' the accused ignored her pleas and her tears. (TSN of July 7, 1994, pp. 26-28).

"Asked to explain on redirect-examination how the accused raped her when according to her her maong pants and panties were pulled down by the accused up to her feet only, Flordemay stated: 'He separated my legs apart and then he wedged in between and that is why he inserted his penis into my vagina.' (TSN of July 14, 1994, p. 4).

“Felicisima Diada, Flordemay’s mother, testified that on the morning of November 2, 1993, when Flordemay came home after a visit to her cousin Liza Villabeto at Calamba Street, opposite V. Rama Avenue, Cebu City, she (Felicisima) noticed that Flordemay ‘seemed to be in a shock, she was staring blankly, she did not talk to me, she cannot do the errand that I wanted her to do.’ (TSN of July 26, 1994, p. 5) and this behavior persisted up to the seventh day; that on the seventh day a neighbor informed her that Flordemay was seen with the accused in the vicinity of Queensland at Ponce Street, in this city; that this prompted her to bring Flordemay the next day to the Southern Islands Hospital in this city, where Flordemay’s private parts were examined by a lady physician there; and that this lady physician tried in vain to extract from Flordemay the name of the man she was seen with, ‘but she could not tell because she was so afraid.’ (TSN of July 26, 1994, p. 7)

“Felicisima Diada further averred that after shuttling with Flordemay from the Southern Islands Hospital, then to the Mabolo Police Station, then to the Cebu City Medical Center, and on to the Ramos Police Station, she finally brought Flordemay to the NBI Central Visayas Regional Office (or CEVRO), in this city, where Flordemay was physically examined by Dr. Tomas Refe, NBI CEVRO Medico-Legal Officer.

“Liza Villabeto, Flordemay’s cousin, testified that on November 1, 1993, at about 9:30 o’clock in the evening, Flordemay went to see her in the Calamba Cemetery, V. Rama Avenue, Cebu City, where she was vending some goodies, and she noticed that Flordemay’s hair was disheveled, she was perspiring profusely, and she was staring blankly, as if scared or frightened of something, and Flordemay would not respond or answer when talked to. She also observed the same unusual behavior in Flordemay (who in some happier times she described as a jolly, cheerful and playful person) the next day, November 2, 1993, when they went home to her (Liza’s) house, which was located opposite the Calamba Cemetery where Flordemay tarried for two days. And she saw Flordemay’s torn and blood-stained panty when she entered their comfort room, and asked Flordemay about it, but Flordemay appeared scared and replied that she had her menstruation.

“Dr. Tomas Refe, Medico-Legal Officer of the NBI, Central Visayas Regional Office, testified that on November 11, 1993 she examined the prosecuting witness Flordemay Diada, who claimed that she had been raped. Dr. Refe embodied his findings in a document (Exhibit C, C-1) denominated Living Case No. 93-MI-13.”[3]

(Note: Sic was not included so as not to clutter the narration.)

The appeal is unmeritorious. We find that the elements of rape have been persuasively established by proof beyond reasonable doubt. Evidence disclosed that appellant boxed complainant in the stomach, and weakened by the blow, she tried to resist and struggle, though in vain, the sexual assault on her person. With her resistance minimized, appellant succeeded in having sexual congress with complainant. In point is the trial court’s perceptive observation, thus:

“x x x. The aforequoted testimony of Flordemay Diada recounting in detail the terrible outrage and defilement of her virginity and chastity by the accused, consisting in the accused’s pulling her by the hair inside a room in a house there, and, once inside, pushing her into a wooden bed, then boxing her at the pit of her stomach when she resisted his lewd and lustful advances, and, after subduing her resistance, forcibly pulling down her maong pants and panties and, despite her pleas and tears, then proceeding to ravish and deflower her, and after gratifying his lust, warning her not to reveal or report her ravishment and defloration, or he would kill her and the members of her family, a threat that so obsessed and overmastered Flordemay, (as the threat was not exactly hollow or unfounded, because the accused has been indicted as a co-accused with a brother in a murder case pending before one of the branches of the Regional Trial Court of Cebu, and Flordemay being then a very young girl, who could be easily intimidated, threatened or coerced), establishes the rape beyond cavil. x x x.”[4]

Appellant, however, seeks refuge from his dastardly act by simply claiming that complainant was his girlfriend. The “sweetheart theory” is a futile excuse. As correctly ruled by the trial court buttressed with decisions of the

High Court,

“even assuming for argument’s sake that the accused was Flordemay’s sweetheart, that fact, by and in itself, would not negate the consummation of the rape, because love is not a license for lust.”[5]

Worse, appellant’s argument that the medical finding of lacerations in the victim’s vulva were caused by the spoon inserted[6] by the latter’s mother into her vagina, is an argument which in the words of the trial court, borders on the “absurd and preposterous.”[7] It is nothing more but a “tasteless and unimaginative recourse” of appellant demonstrating his “utterly indefensible position.”[8] First, no evidence was submitted showing that the victim’s mother inserted a spoon into her daughter’s vagina. Second, no sane mother would indulge in doing such abhorrent act to a daughter. And, third, the medico-legal report confirms and strengthens the truth that the victim was raped and appellant was the perpetrator thereof, to wit:

1. evidence of extra-genital physical injury noted on the body of the subject at the time of examination, age of which may correspond to the allege date of infliction.
2. she could have had vulvar coitus with a man on or about the alleged date of commission.[9]

Moreover, it is highly absurd that the victim, a young lass, “susceptible to cajolery and flattery,” unexposed to the ways of the world would concoct a reprehensible story of rape - which is “always an intrinsically evil act”[10] - and undergo the scandal of a public trial, recount every ugly detail of her harrowing experience and be subjected to harassment, embarrassment and humiliation during cross-examination unless she was in fact raped and plainly motivated by a sincere desire to obtain justice for the wicked acts committed upon her.[11] The victim’s initial act of silence, as well as of concocting an excuse of menstruation when her friend discovered her blood-stained panty, is not difficult to comprehend. Her silence is due to her fear that appellant would do good his treat that he will kill her and her family as she was aware that appellant was an accused in a murder case. We note that the victim is a girl of such tender age who could easily be intimidated and cowed into silence even by the mildest threat against her life,[12] for silence is not an odd behavior of a rape victim.[13]

Finally, the issue boils down to credibility of witnesses. Applicable herein is the doctrine that the trial court’s assessment of credibility of witnesses is accorded great weight and respect on appeal because of its unique opportunity of having observed that elusive and incommunicable evidence of the witness’ demeanor and deportment on the stand while testifying.[14] The victim’s tender age further lends to her credibility for as the Court ruled in *People v. Tan, Jr.*[15]

“Apparent from the Court’s decisions in rape cases with the offended parties being young and immature girls from the ages of twelve and sixteen, x x x is (the) considerable receptivity on the part of this Tribunal to lend credence to their version of what transpired, considering not only their relative vulnerability but also the shame and embarrassment to which such a grueling experience as a court trial, where they are called upon to lay the bare what perhaps should be shrouded in secrecy, did expose them to. This is not to say that an uncritical acceptance should be the rule. It is only to emphasize that skepticism should be kept under control.”

The trial court’s findings and assessment of credibility is all the more affirmed in the absence of anything showing bias, partiality or grave abuse of discretion.[16] Besides, no significant facts or circumstances were shown to have been disregarded or overlooked by the trial court which if considered might affect the outcome of this case.[17]

WHEREFORE, premises considered, the trial court’s decision convicting appellant of the crime of rape and sentencing him to suffer reclusion perpetua and to pay the victim an indemnity of P50,000.00 is AFFIRMED in toto.

SO ORDERED.

Narvasa, C.J., (Chairman), Romero, Melo, and Panganiban, JJ., concur.

[1] Rollo, p. 16.

[2] Decision dated December 7, 1994 penned by Regional Trial Court (RTC) Judge Renato C. Dacudao.

[3] Ibid., pp. 1-10.

[4] RTC Decision, p. 12, Rollo, p. 27.

[5] RTC Decision, p. 13 citing *People v. Veloso*, 148 SCRA 60; *People v. Pena, Jr.*, 151 SCRA 638; *People v. Mercado*, 161 SCRA 601; *People v. Tismo*, 204 SCRA 535; Rollo, p. 28.

[6] The insertion of an instrument into the genitals of another person under certain circumstances constitutes rape under the R.A. No. 8353.

[7] RTC Decision, *supra.*, p. 13; Rollo, p. 28.

[8] Ibid.

[9] Exh. "C", RTC Records, p. 35; Rollo, p. 25.

[10] Catechism of the Catholic Church, 2356 (1992) cited in *People v. Cristobal*, 322 Phil. 551.

[11] *People v. Tan, Jr.*, G.R. No. 103134-40, November 20, 1996.

[12] Ibid., citing *People v. Errojo*, 229 SCRA 49; *People v. Quiñones*, 315 Phil. 48.

[13] *People v. Rejano*, 237 SCRA 627 cited in *People v. Tan, Jr.*, *supra.*

[14] *People v. Tan, Jr.*, *supra.*

[15] *People v. Tan, Jr.*, *supra.* citing *People v. Digno, Jr.*, 250 SCRA 237; *People v. Molina*, 53 SCRA 495; *People v. Egot*, 130 SCRA 134; and *People v. Quidilla*, 166 SCRA 778.

[16] *People v. Rapanut*, 263 SCRA 515 (1996).

[17] *People v. Baniel*, G.R. No. 108492, July 15, 1997; *People v. Padilla*, 312 Phil. 721; *People v. Codilla*, 224 SCRA 104; *People v. Florida*, 214 SCRA 227.

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