

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RIZAL SAGUCIO, ACCUSED-APPELLANT.

G.R. No. 121210. August 11, 1997

Ponente: PUNO, J.

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PUNO, J.:

Accused-appellant Rizal Sagucio was charged with the crime of rape,[1] docketed as Criminal Case No. 1051-19 before the Regional Trial Court of Ilocos Norte (Branch 19), allegedly committed against Salvacion Cariaga as follows:

"That on or about June 18, 1993, between the hours of 11:30 and 12:30 in the morning at Brgy. Dilavo, Pasuquin, Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, thru force, violence and intimidation, did then and there wilfully, unlawfully and feloniously had sexual intercourse with the undersigned against her will and consent.

"CONTRARY TO LAW."

The prosecution's evidence came mainly from the testimonies of Salvacion Cariaga, single, 39 years old and a resident of Barangay Nagabungan, Davila, Pasuquin, Ilocos Norte, and her elder sister, Reynalda Tinay.

On June 18, 1993, at about 11:00 p.m., Salvacion was working alone in her kaingin when accused, Rizal Sagucio, 45 years old, single, and also a resident Davila, Pasuquin, Ilocos Norte, suddenly emerged from nowhere. He held Salvacion's waist with one hand and her foot with the other hand, and carried her into the forested part of the mountain. Salvacion was taken aback and dropped the scythe she was using for clearing the kaingin. She shouted and struggled but her efforts were futile. Upon reaching the forest, accused put her down and pushed her hard on the ground. Accused immediately laid on top of her and tried to kiss her but she kept moving her face. He started to remove her panty but she held its garter. It was torn in the process. The struggle sapped her strength and he succeeded in taking her panty off. Thereafter, he lowered his pants and ravished her. She was shouting and crying while accused was on top of her.[2] She was afraid to resist him because accused had a bolo, about one and a one-half feet long, which he placed beside her during the carnal act.[3] She tried to reach for the bolo but accused threatened her with death. After satisfying his lust, accused warned Salvacion not to report the incident to anyone otherwise she would be killed.

Salvacion went home and tearfully told her sister, Reynalda, that accused raped her. Reynalda flared up upon learning Salvacion's misfortune. Salvacion washed herself and noticed blood on her panty, thighs and the sole of her left foot.[4]

The same afternoon, the two sisters reported the incident to the police authorities. Salvacion brought her blood-stained panty wrapped in a cellophane bag. The policemen took Salvacion's complaint lightly and refused to look at her panty. Instead, they asked for her clothings. The police laughed while they were asking her questions. Slighted, Salvacion threw her panty away.[5]

The following day, at about 9:00 a.m., Dr. Rolando Dumlao medically examined Salvacion. His findings[6] are as follows:

- "- Lacerated wound, 1 inch in length, plantar area of left foot.
- Vaginal Examination: Hymenal Laceration, .1 cm. at 5:00 o'clock site.
- Vaginal smear: negative for spermatozoa."

After the case was filed in court, the parents of the accused, the barangay captain and other persons came to Salvacion's house. They tried to convince her to marry accused. She refused.

Another attempt to settle the case was held at the mayor's house. Salvacion was then accompanied by her sister. Accused's cousin offered to give her P500.00 to drop the case. After her sister left, the mayor spoke harshly to her. She was rattled and she agreed to withdraw the case for P5,000.00. She went home and cried.

Thereafter, they tried to pay her off. She refused to take the money and told them that it is up to the court to decide the case.[7]

The version of the defense is different.

At 8:00 a.m. of June 18, 1993, accused saw Salvacion in her uncle's house in Sitio Narbaan. They talked and agreed to meet at her kaingin in Barangay Dilavo at 9:00 a.m.[8]

Accused helped Salvacion clean the kaingin from 9:00 a.m. to 11:00 a.m. Since it was getting warm, they rested, sat side by side under a tree and discussed how they would clean the kaingin.[9] Accused made innuendoes about engaging in sexual intercourse. Salvacion outrightly refused his proposal for they were not married. Accused then caressed her back and embraced her. Salvacion reciprocated by embracing him too. When he reiterated his offer to have sex, she agreed. She stood up and took off her panty. Accused then lowered his pants and they had coitus.

After the sexual act they parted ways because Salvacion was afraid that someone might see them. Salvacion proceeded to her uncle's house in Sitio Narbaan, while accused returned to his house in Dilavo. That afternoon, Salvacion divulged to her uncle that she had carnal knowledge with accused. Her uncle went to accused house where accused promised he would marry Salvacion.[10]

Days later, a conference was held at the house of the mayor of Pasuquin. Accused, Salvacion, their respective relatives, and the mayor attended the conference. Mayor Aguinaldo asked accused if he would marry Salvacion and he said "yes." Salvacion, however, refused to marry him and, instead, wanted to be paid damages. Accused's cousin offered to pay P500.00 but no settlement was reached on that occasion.

They again met at the mayor's house where Salvacion asked for P5,000.00 as damages. Since accused did not have the money, the mayor instructed him to pay on another day. However, when he was ready to give the money, Salvacion's sister, Reynalda Tinay, refused to receive it. They decided to file the case in court.[11]

The court a quo found accused guilty as charged and sentenced him to reclusion perpetua. It also ordered accused to pay Salvacion the amount of P50,000.00 as damages.[12]

Hence, this appeal. Appellant contends that the trial court erred in: (1) giving weight and credence to the testimony of the complainant; and (2) convicting him of rape despite the absence of force and intimidation on his part.

We affirm the judgment of conviction.

Appellant alleges that Salvacion Cariaga is not a credible witness. He avers that, at one instance, she was smiling

while narrating in open court about the rape. He also avers that her testimony was not straightforward and, at times, evasive. Allegedly, she could not comprehend the questions and a court personnel had to shake her before she would answer. It is also contended that Salvacion got mad when asked questions repeatedly. Appellant likewise charges that her testimony suffers from contradictions, i.e., she could not remember how accused carried her and which was taken off first, her panty or his pants.

On the first issue. The assessment of the credibility of the complainant in a rape case falls primarily with the trial judge. He is in a better position to determine if the victim is telling the truth or merely narrating a concocted tale, and to weigh conflicting testimonies because he heard the witnesses themselves, observed their deportment and manner of testifying, and had full access to vital aids: e.g., the furtive glance, the blush of conscious shame, the hesitation, the sincere or flippant or sneering tone, the heat, the calmness, the yawn, the sigh, the candor or lack of it, the scant full realization of the solemnity of the oath, the carriage and mien.[13] In this case, we respect the trial judge's assessment on the complainant's credibility and will not disturb it unless he overlooked certain facts of substance and value which, if considered, might affect the result of the case.

In finding the complainant credible, the trial court said:

"The Court painstakingly and thoroughly examined, evaluated and weighed the evidence. The complainant testified in plain, unadorned, forthright and straightforward manner. The Court entertains no doubt of her credibility and the reliability of her recollection of the incident in question. Her demeanor while testifying evinced sincerity and candor. Her testimony was clear and free from serious contradiction; her story is impeccable and rings true throughout and bears the stamp of truth and candor. The Court finds no ill-motive for her to fabricate her story imputing so serious an offense against the accused, except to bring him to the bar of justice so that he could be made to account for his felony. The Court finds that the People's evidence satisfies the standard of moral certainty required to sustain the conclusion that the accused committed the felony charged."

Salvacion's testimony is consistent on all material aspects of the commission of rape against her by the appellant. She was steadfast that appellant manifested from behind her, carried her towards the forested part of the mountain, pushed her hard and immediately went on top of her. Appellant removed her underwear. Thereafter, he lowered his trousers and warned her that if she refused to surrender her virtue to him, he would use the bolo he placed beside her. He then raped her.

Appellant cannot capitalize on the minor inconsistencies in the testimony of the complainant. They are insufficient for his exculpation. Such minor inconsistencies tend to bolster, rather than weaken, her credibility since one could hardly doubt that her testimony was not contrived.[14] Besides, errorless testimonies cannot be expected especially when a witness is recounting details of a harrowing experience.[15] A court cannot expect a rape victim to remember every ugly detail of the appalling outrage.[16]

It must also be stressed that complainant immediately reported the assault on her virtue to her sister, and then to the police. She also allowed herself to be physically examined. The medical findings of Dr. Dumlao corroborated her story. She had a hymenal laceration at 5:00 o'clock position and a wound on the sole of her left foot. There were also attempts on the part of the accused and his relatives and the mayor to settle the case but she refused to give in to the pressure they exerted on her.

The foregoing circumstances are clear indicia that complainant's claim of rape was not contrived. To be sure, she was motivated by an honest desire to obtain justice for her misfortune. In the absence of any evidence that complainant was actuated by improper motive, the presumption is that she was not so motivated, and her testimony is entitled to full faith and credit.[17]

Appellant maintains that since complainant did not resist during the sexual intercourse there could be no rape. We are not persuaded.

We have held that the failure of the victim to resist does not negate rape. Physical resistance need not be established in rape when intimidation is exercised upon the victim and the latter submits herself, against her will, to the rapist's embrace because of fear for life and personal safety.[18] Besides, the workings of a human mind when placed under emotional stress are unpredictable and people react differently -- some may shout, as in this case, some may faint, and some may be shocked into insensibility, while others may welcome the intrusion.[19]

In the case at bar, complainant clearly narrated how appellant employed force and intimidation during the sexual assault, thus:[20]

(PROSECUTOR MOLINA, JR.)

Q

On that particular date, do you recall if something unusual happened to you?

(SALVACION CARIAGA)

A

There was, sir.

Q

What was that unusual incident?

A

I was cleaning the kaingin when all of a sudden, Rizal Sagucio came near me and held me, sir.

Q

What was your reaction if any?

A

I was taken aback sir.

Q

What part of the body did Rizal Sagucio hold?

A

One of his hands held my waist and the other held my foot.

Q

What did you do when Rizal Sagucio held you by your waist and by your foot?

A

I shouted and I struggled sir.

Q

When Rizal Sagucio approached you and held you by the waist and your foot, where did he came from?

A

I don't know sir.

Q

When Rizal Sagucio held you, what did he do next?

A

He carried me sir.

Q

How did he carry you?

A

One of his hands held my waist and the other held my foot sir.

Q

Where did he carry you?

A

He brought me to a forested part of the mountain of Dilavo sir.

Q

If you can recall, how far did he carry you?

A

From here up to the stage if I am not mistaken sir. (witness indicating a distance of 70 meters more or less)

Q

What was your reaction when Rizal Sagucio carried you?

A

I was shouting and struggling sir.

Q

Upon reaching the place where he carried you, what did Rizal Sagucio do next?

A

He pushed me, sir, but I resisted with my feet by planting my foot on the ground sir.

Q

When he pushed you, what did he do next?

WITNESS:

A

I fell on the ground, sir. He pulled me then he removed my panty then he held my thigh, then he lowered his trousers and brought out his penis, big penis, then inserted it to my vagina sir.

PROSECUTOR MOLINA, JR.:

Q

Did the accused have anything with him during the incident?

A

There was sir.

Q

What was that?

A

A bolo sir.

Q

What did he do with the bolo?

A

He placed it beside us and told me, "If you resist the bolo is here."

COURT:

Q

So you did not resist?

A

I did (not) sir, because I was in fear.

PROSECUTOR MOLINA, JR.:

Q

At what moment during the incident did Rizal Sagucio put the bolo beside you?

A

When he was doing it on me sir.

Q

What do you mean by that?

A

It was then he placed then a bolo beside us sir.

PROSECUTOR MOLINA, JR.:

Q

Could you describe how big is the bolo?

A

This long, Ma'am (witness motioning a length of about 1 ½ feet).

COURT:

Q

But of course he has to remove the bolo before he removed his trousers?

A

Yes, Your Honor.

PROSECUTOR MOLINA, JR.:

Q

What was your reaction when he laid the bolo beside you?

A

I was in fear sir.

Q

Why were you in fear?

A

Yes, sir, because he might kill me."

The trial court found as a fact the use of force and intimidation by appellant in sexually assaulting the complainant. The finding is supported by the evidence on record. It has to be sustained.

IN VIEW WHEREOF, the decision appealed from is AFFIRMED. Cost against appellant.

SO ORDERED

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

Torres, Jr., J., on official leave.

[1] Complaint, dated October 4, 1993, Original Records, p.1.

[2] TSN, February 8, 1994, pp. 1-4; TSN, February 10, 1994, pp. 16-17.

[3] TSN February 8, 1994, pp. 7-8; TSN, March 15, 1994, pp.22-25.

[4] TSN, May 19, 1994, pp. 2-3.

[5] TSN, March 15, 1994, pp. 25-26.

[6] Original Records, p.9.

[7] TSN, July 13, 1994, pp. 3-5.

[8] TSN, June 22, 1994, pp. 1-2; TSN, June 30, 1994, p. 2.

[9] Ibid., pp. 3-4.

[10] TSN, June 23, 1994, pp. 43-46.

[11] Ibid., pp. 47-50.

- [12] Decision, dated May 23, 1995, penned by Judge Rodolfo U. Manzano; Rollo, pp. 74-94.
- [13] *People vs. Excija*, G.R. No. 119069, July 5, 1996, 258 SCRA 424.
- [14] *People vs. Ching*, G.R. No. 103800, January 19, 1995, 240 SCRA 267.
- [15] *People vs. Cura*, G.R. No. 112529, January 18, 1995 240 SCRA 234.
- [16] *People vs. Jimenez*, G.R. No. 97222, November 28, 1995, 250 SCRA 349, citing *People vs. Adlawan*, 83 Phil. 194 (1949).
- [17] *People vs. Malunes*, G.R. No. 114696, August 14, 1995, 247 SCRA 317.
- [18] *People vs. Dones*, G.R. No. 108743, March 13, 1996, 254 SCRA 696.
- [19] *People vs. Malunes*, *supra*.
- [20] See TSN, February 8, 1994, pp. 1-8.

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