

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SIXTO LIMON, MANOLO LIMON, AND ORLY ALVARO, ACCUSED, SIXTO LIMON, ACCUSED-APPELLANT.*G.R. No. 121899. April 29, 1999*

Ponente: BELLOSILLO, J.

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SIXTO LIMON, accused-appellant, was found guilty of robbery with rape, sentenced to reclusion perpetua, and to indemnify victim Amalia Rodrigo the sums of P8,350.00 and P50,000.00 for actual and moral damages, respectively.[1]

On 27 October 1989 at about eight o'clock in the evening Amalia Rodrigo and her husband Benedicto Rodrigo, together with their two (2) children, were asleep in their house at Bgy. Raniag, Burgos, Isabela, when Amalia was suddenly awakened by the barking of their dog. She got up and peered outside. She saw three (3) persons approaching their house. Amalia immediately recognized them to be Sixto Limon, his brother Manolo Limon, and Orly Alvaro. They shouted at her not to be afraid of them as they were not bad people. They asked for water to drink as they were thirsty because, according to them, they came from afar. Amalia turned on the fluorescent light, while Benedicto got up and allowed the three (3) men who were all armed with guns to enter their house. After identifying themselves as members of the New People's Army the night visitors inquired where the house of Barangay Captain Benny Pascua was as they had something to report to him. The Rodrigos not only gave them the address of Pascua but also agreed to accompany them to his house.

On their way to the barangay captain, Sixto Limon suddenly pointed his carbine at Amalia while his brother Manolo poked his gun at Benedicto. Orly Alvaro and Manolo Limon hogtied Benedicto. Sixto led Amalia to a place about twelve (12) meters away from her husband and ordered her to take off her panty while he removed his own pants. Amalia hesitated, but Sixto poked a knife at her nape. With a gun slung at his left shoulder, he took off her panty. She resisted but he pushed her down, forced himself on top of her and raped her. Afterwards, he brought back Amalia to his companions. Manolo Limon also took Amalia to the place where his brother Sixto raped her and likewise forced himself sexually on her.[2]

Then the group returned to the house of the Rodrigos and ransacked their belongings. The intruders took with them some pieces of clothing, three (3) Seiko watches worth P700.00, a set of 12-carat gold ring, earrings, pendant and bracelet valued at P2,800.00, a Sharp cassette recorder worth P3,000.00, and cash in the amount of P1,850.00. The malefactors fired their guns and then fled.

Still shaken, Amalia immediately went to the house of her parents situated just across the road to report the robbery that happened that night.[3] She did not reveal that she was raped by the Limon brothers; neither did she submit herself to a medical examination as she was ashamed. On 29 October 1989 she executed a sworn statement narrating only the robbery. However, five (5) days later or on 3 November 1989, she executed a supplemental sworn statement revealing the sexual outrage committed on her by Sixto and Manolo Limon.

On 7 February 1990 an Information for robbery with multiple rape was filed, docketed as Crim. Case No. 1281.

Of the three (3) accused only accused-appellant Sixto Limon was arrested. He raised alibi as his defense. He insisted that he was in Molino, Baccor, Cavite, from the 25 to 30 of October 1989, and that in the afternoon of 26 October 1989 he was with his relatives who arrived from the United States.[4] He sought to discredit the testimony of Amalia Rodrigo by pointing out that she initially failed to report to the police that she was raped; instead, she only complained of the robbery. Accused-appellant also made much of the fact that Amalia's husband did not corroborate her testimony despite his demonstrated presence during the occasion. The defense further raised the issue of her failure to submit herself to a medical examination.

There is no compelling reason to disturb the findings of fact of the trial court. Well entrenched is the rule that an appellate court will generally not disturb the assessment of the trial court on matters of credibility, considering that the latter was in a better position to appreciate the same, having heard and observed the witnesses themselves and observed their deportment as well as their manner of testifying during the trial. The only exception allowed is when the trial court has plainly overlooked certain facts of substance and value which, if considered, may affect the result of the case, or in instances where the evidence fails to support or substantiate the lower court's findings of fact and conclusions, or where the disputed decision is based on a misapprehension of facts.[5] This case does not fall under any of the exemptions.

As found by the trial court, the testimony of the complainant clearly identified accused-appellant as one those who raped her and then robbed her and her family of their belongings, thus -

Q: After Sixto Limon poked that gun at you and after your husband was tied, what happened next, if any?

A: Sixto Limon pulled me away from the group.

Q:

In reference to you and to where your husband was and to where Sixto Limon is (sic) pulling you away, how far was that?

A: It is (sic) not far, maybe as far up to that door (witness) pointing at the front door which is about 12 meters [away]).

Q: x x x x when Sixto Limon pulled you up to that place, what happened next?

A:

He forced me to take my womanhood, and at that time, I was in a duster so it was just very easily for him to pull down my panty. He poked a gun at me so he was successful or succeeded in raping me, sir.

Q: How did Sixto Limon remove your panty?

A: like this, sir (witness demonstrating, holding her hips, as if holding something, and pulling it down).

Q: After pulling down your panty, what did you do?

A: I struggled but can (sic) not do anything. I was helpless and then he removed his pants.

Q: You said he raped you, how did he rape you, standing or sitting down?

A: He laid me down.

Q: You said that he raped you, why do you say that he raped you.

A: Yes, because he did what a couple should do. He inserted his penis inside my vagina.

Q: For how many minutes did he insert his penis to your vagina?

A: About ten (10) minutes.

Q: After ten minutes, what happened next?

A: He let me stand up and a gun was still poked at me.

Q: And after that what happened?

A: He brought me to the place where my husband was x x x x

Q: And after getting near where your husband was, what happened next?

A: I was taken by Manolo Limon and brought me to where Sixto Limon brought me x x x x

Q:

So when Manolo Limon took you to where Sixto Limon brought you first, it was easier for Manolo Limon to rape you, because to be clear Mrs. Witness, what did this Manolo Limon do to you?

A: He inserted his penis to my vagina.

Q: And after inserting his private part, what happened next?

A: He brought me again to the place near my husband x x x x

Q: And upon reaching the place where your husband was, what happened next?

A: They brought us to our house.

Q: And what happened next after reaching your house?

A: They entered our house and ordered us to put off the fluorescent light x x x x

Q: And what happened next when they asked you to put off that fluorescent light?

A:

Sixto Limon was with a flashlight which they utilized in ransacking the house and took items x x x x[6]

Accused-appellant harps on the "inconsistency" in the testimony of Amalia concerning the weapon he allegedly used to force her to submit to his carnal craving, thus attempting to create doubt as to whether she put up sufficient resistance to the alleged rape. Amalia however clarified that while initially Sixto Limon pointed a gun he later on slung the firearm on his shoulder and then used a knife to intimidate her, which was why she could not scream for help even if there were houses nearby.[7] Indeed, her explanation demonstrates that Amalia was sufficiently intimidated by accused-appellant who used deadly weapons on her force her to submit to him. This convinces.

Intimidation must be viewed in light of the victim's perception and judgment at the time of the commission of the crime and not by any and fast rule; it is enough that it produces fear - fear that if the victim does not yield to the bestial demands of the accused, something will happen to her at that moment, or even thereafter.[8] In the instant case there were three (3) armed malefactors, two (2) of whom were guarding her husband and one pointing a knife at her neck. There can be no doubt that this kind of intimidation was sufficient to cow the victim into submission and render any resistance futile. It need not be belabored that if resistance is futile because of intimidation, the fact that the victim offered none does not necessarily mean her consent to the assault.[9]

The failure of the prosecution to present a medical certificate is of no considerable consequence. It is a settled rule that a medical examination is not an indispensable procedure for the successful prosecution of rape. Its purpose is merely corroborative.[10] The testimony of the victim alone, if credible, is sufficient to convict the accused of the crime.[11]

Neither does the delay of complainant in reporting the rape mean that she was not raped. It is not an indication of a fabricated charge nor does it cast doubt on the credibility of a complainant.[12] The fact that Amalia did not immediately report the sexual assault to her family and to the authorities is understandable because like any "Filipino woman known to be affectedly shy and coy,"[13] her sociology is such that she is not readily prone to reveal any violation against her private person such as rape due to the concomitant shame and embarrassment. Therefore, she has to have time to ruminate upon the consequences of making public the vile act inflicted on her. Nonetheless, what is important is that in the end Amalia decided to bring the accused before the bar of justice for vindication. This she did by executing a supplemental sworn statement at the police headquarters five (5) days after she was robbed and raped.

Accused-appellant capitalizes on the failure of Amalia's husband to testify and corroborate his wife's account of the beastly deed forced on her. This does not by any means enfeeble the prosecution. The testimony of the hapless victim alone, even without the corroborating testimony of her husband, is sufficient to convict her offenders. No law nor rule requires the corroboration of the testimony of a single witness in a rape case.[14]

It must be stressed that the alibi of accused-appellant that at the date and time of the crime he was in Cavite to meet his relatives who arrived from Hawaii cannot stand by itself. We have ruled often enough that alibi is the weakest defense and may not overcome positive identification by the victim herself.[15] We note that accused-appellant has not even ascribed any ill-motive on Amalia for filing the rape charge against him if only to countervail his positive identification as one of the perpetrators. Where there is no evidence to show any dubious reason or improper motive why prosecution witness would testify against an accused or falsely implicate him in a crime, the testimony is worthy of full faith and credit.[16]

We do not agree however with the contention of the Solicitor General that accused-appellant should be convicted of two (2) separate crimes of rape and robbery. Article 294, par. (2), of the Revised Penal Code is explicit that robbery with rape to be committed the robbery shall have been accompanied by rape. This means that the offender must have the intent to take the personal property belonging to another with intent to gain, and such intent must precede the rape.[17] The law does not distinguish whether the rape was committed before, during or after the robbery. It is enough that the robbery was accompanied by rape.[18] Thus, if the original design was to commit robbery because the opportunity presented itself, the robbery and the rape should be viewed as two (2) distinct offenses.[19]

But the records are bereft of evidence that points to the robbery as a mere afterthought following the commission of the rape by accused-appellant. On the other hand, it is naivete of the first order to believe that accused-appellant together with his brother and another companion would visit the Rodrigos in the dead of night only to ask for a drink of water and inquire about the residence of the barangay captain. If indeed the night visitors were NPA members as they presented themselves to be, considering the stature of a barangay captain no less in a small community, they would know where this person could be located, most especially since they were even familiar with the local official's full name and they themselves were even known to the Rodrigos. What appears to be more plausible is that accused-appellant and his cohorts intended to commit robbery, as they armed themselves with guns and brought along rope obviously to hogtie the inhabitant of the house and quell whatever resistance would be put up, and a flashlight to provide them with light rummaging for valuables in the house. They could not risk turning on the light in the house as this could expose their criminal activity. It was obvious then that their main objective was to rob the Rodrigos and the rape of Amalia was merely incidental thereto.

Further, their desire to see the barangay captain appears to be a mere ruse, for it is obvious that they employed this strategy to convince the spouses to accompany them to his residence, this despite the fact that the spouses even gave them the directions they needed to reach the place. Quite apparently, the accused never intended to see the

barangay captain because as they walked with the Rodrigos to the road leading to the barangay captain's house, Sixto Limon suddenly poked his gun at Amalia and pulled her to a secluded place not far away and there forced himself on her. The testimony of Amalia is undisputed that after Sixto Limon and Manolo Limon raped her, they all went back to their house where the three (3) felons ransacked their belongings after turning off the fluorescent light and with the aid of the flashlight searched for and robbed them of their personal properties. Clearly, the taking by the accused of the valuables at the victim's house after raping Amalia was not a mere afterthought but a planned action, their principal purpose in fact.

Accordingly, this Court finds accused-appellant Sixto Limon guilty as charged. Considering that the crime was committed prior to the reimposition of the death penalty for heinous offenses under R.A. No. 7659, that applicable law is Art. 294, par. (2), of the Revised Penal Code, as amended by P.D. No. 767, which provides, among others, that when the robbery accompanied with rape is committed x x x by two or more persons, the penalty shall be *reclusion perpetua*.

WHEREFORE, the decision of the court a quo finding accused-appellant SIXTO LIMON guilty of Robbery with Rape and to suffer the penalty of *reclusion perpetua*, and to indemnify private offended party Amalia Rodrigo the amounts of P8,350.00 and P50,000.00 representing the value of the personal properties taken and as moral damages, respectively, is **AFFIRMED**. Costs against accused-appellant.

SO ORDERED.

Puno, Mendoza, Quisumbing, and Buena, JJ., concur.

[1] Decision penned by Judge Senen O. Casibang, RTC-Br. 17, Ilagan, Isabela.

[2] TSN, 23 June 1992, pp. 1-7.

[3] *Id.*, pp. 12-16.

[4] TSN, 14 July 1994, pp. 4-14.

[5] *People v. Bawar*, G.R. No. 119957, 23 September 1996, 262 SCRA 325, 330; *People v. Godoy*, G.R. Nos. 115908-09, 6 December 1995, 250 SCRA 676.

[6] TSN, 23 June 1992, pp. 8-13.

[7] *Id.*, p. 25.

[8] *People v. de Guzman*, G.R. No. 117217, 2 December 1996, 265 SCRA 228.

[9] *People v. Igat*, G.R. No. 122097 22 June 1998.

[10] *People v. Catotol*, G.R. No. 122359, 28 November 1996, 265 SCRA 109.

[11] *People v. Abordo*, G.R. No. 101187, 23 July 1993, 224 SCRA 725.

[12] *People v. Faigano*, G.R. No. 113483, 22 February 1996, 254 SCRA 10.

[13] *Ibid.*

[14] *People v. Nimo*, G.R. No. 92533, 5 October 1993, 227 SCRA 69.

[15] *People v. Santos*, G.R. Nos. 100225-26, 11 May 1993, 221 SCRA 715.

[16] People v. Ferrer, G.R. Nos. 116516-20, 7 September 1998.

[17] People v. Villagrancia, G.R. No. 94311, 14 September 1993, 226 SCRA 374.

[18] People v. Caisip, 105 Phil. 1180 (1959).

[19] People v. Dinola, G.R. No. 54567, 22 March 1990, 183 SCRA 493.

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