

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANGELES TEVES Y TAPEL, ACCUSED-APPELLANT.

*G.R. No. 121994. October 18, 2000*

Ponente: PARDO, J.

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### PARDO, J.:

The case is an appeal from the decision of the Regional Trial Court, South Cotabato, Branch 26, Surallah, convicting accused Angeles Teves y Tapel of rape and sentencing him to reclusion perpetua and to indemnify the victim Mary Jane Vargas in the sum of P50,000.00.[1]

On November 4, 1993, 4th Assistant Provincial Prosecutor Jerry A. Garcia of South Cotabato filed with the Regional Trial Court, South Cotabato, Surallah an information[2] charging accused with rape, committed as follows:

"That on or about the 22nd day of August, 1993 at about 8:30 o'clock in the evening thereof, at Sitio Lutayan, Barangay Poblacion, Municipality of Lake Sebu, Province of South Cotabato, Philippines and within the jurisdiction of the Honorable Court, the above-named accused by means of violence, force and intimidation did then and there willfully, unlawfully and feloniously have carnal knowledge with Mary Jane Vargas, against her will and without her consent.

"CONTRARY TO LAW."

At the arraignment on February 2, 1994, accused pleaded not guilty to the crime charged.[3] Trial followed. The facts may be related as follows:

At around 9:00 a. m. of August 22, 1993, Mary Jane Vargas, then 15 years old and a resident of Lutayan, Poblacion, Lake Sebu, left for Marbel, Koronadal, South Cotabato with the accused, her uncle (Mary Jane's mother is a 1st degree cousin of accused), to bring the allowance of her elder sister. They arrived at her sister's boarding house in Marbel at around 12:00 p.m.

Thereafter, Mary Jane, her sister and accused decided to watch a movie. They left the movie house at around 3:30 p.m. and did some shopping. The trio separated at around 4:00 p.m. Mary Jane and accused proceeded to the bus terminal for their ride back to Lake Sebu, while her sister went back to her boarding house.

Mary Jane and accused arrived at the poblacion of Lake Sebu at around 7:00 p.m. As there were no longer any vehicles to take them to her house, which was still two (2) kilometers away from the poblacion, they decided to walk home.

When the two were near a bridge some 400 meters away from the nearest house, the accused told Mary Jane that he loves her. Mary Jane replied that she could not forgive him for professing his love because he is her uncle. Suddenly, accused held Mary Jane's neck, choked her then kicked her feet, causing her to fall down on the grassy roadside. While she was on the ground shouting for help, accused took her towel and gagged her mouth. Armed with a knife pointed at Mary Jane's stomach, the accused mounted her and forcibly removed her pants and

underwear. Accused then removed his pants and tried to insert his penis in the vagina of Mary Jane who, for quite some time, bravely resisted by moving and crossing her legs. Accused eventually overpowered her and was able to insert his penis into her vagina.

About five (5) minutes into the forced coition, Jerry Dolan who was walking nearby heard a woman's voice screaming for help. He proceeded to where the voice came from and saw the accused holding Mary Jane's neck while raping her. Jerry even heard the accused admit to her that a jail term is inevitable for him for his bestiality. Jerry picked up some stones and rushed towards Mary Jane to help her. She pushed the accused who hurriedly wore his pants, but not his shirt, and ran away. Jerry chased the accused but failed to overtake him, while Mary Jane fled bringing along accused's shirt. Jerry went back to the crime scene and recovered a pair of rubber shoes and lady's sandals which he surrendered to Sitio Leader Lagras Buayan.[4]

For his defense, the accused had a "sweetheart story" to tell.[5] He admitted accompanying Mary Jane to Marbel and watching a movie with her and her sister. Inside the movie house, Mary Jane who was seated beside the accused, took his left hand and directed it to her breasts. After the movie, they headed back to Lake Sebu.

The accused and Mary Jane arrived at the poblacion of Lake Sebu at around 7:00 p.m. and decided to take a walk home because there were no more tricycles plying the route at that time. While they were walking, the accused offered his love to Mary Jane who accepted. The two (2) then went at the back of a lodge building where they merely embraced and kissed each other. They broke their intimate moments when someone passed by. The two hid behind the road and after three (3) minutes, the accused returned to the place where they rested to get his rubber shoes and her sandals. He took his shirt off and gave it to Mary Jane before getting the pair of shoes, to avoid being recognized.

The accused strongly denied the charge of rape against him, and even claimed that Mary Jane's parents ransacked his house of rice, food and personal belongings that very same night.

The trial court discarded accused's defense and found Mary Jane's account of her defloration credible. Thus, on August 3, 1994, the trial court rendered a judgment finding accused guilty of rape, the dispositive portion of which reads:

"WHEREFORE, the court finds the accused Angelo Teves guilty beyond reasonable doubt of rape and hereby sentences him to the penalty of reclusion perpetua and to indemnify the victim Mary Jane Vargas the sum of P50,000.00.

"SO ORDERED."[6]

Hence, this appeal.[7]

In this appeal, accused-appellant faults the trial court for giving weight and credence to Mary Jane's testimony.

The appeal has no merit.

Accused-appellant's plea for acquittal hinges on the issue of credibility. We have thoroughly reviewed Mary Jane's testimony and found nothing that would cast doubt on the account of her rape. She was a plain fifteen-year-old barrio lass at the time of the rape, and it is unthinkable for her to weave a tale of rape especially against a close relative like an uncle, if such did not really happen. A witness' testimony is accorded great weight particularly when her accusation is directed against a close relative, because for one to prosecute a blood relative--especially when no ill or evil motive is shown--goes beyond logic and normal human experience.[8] Thus, when there is no evidence to show any improper motive on the part of the complainant to testify against the accused or to falsely implicate him in the commission of a crime, the logical conclusion is that the testimony is

worthy of full faith and credence.[9]

Moreover, it is hardly persuasive that a young barrio lass like Mary Jane, virtually innocent of mundane ways and means would, for no reason at all, conjure a charge of defilement, undergo a medical examination of her private parts, and willingly bring disgrace to her family unless she is triggered by a righteous desire to seek justice for the wrong committed against her.[10]

Even if we concede to accused-appellant's claim that Mary Jane and he were lovers, this fact alone does not belie a charge of rape. A sweetheart can not be forced to have sex against her will, for love is not a license for lust.[11] Accused-appellant's sweetheart theory can not stand in light of Mary Jane's positive assertion that he raped her.[12]

Neither is the absence of lacerations and spermatozoa in Mary Jane's private part, per the medical reports[13] of Doctors Conrado M. Braña, Jr. and Minda Feliprada, weaken the rape charge.

The fact that there was no deep penetration of the vagina and that her hymen was still intact does not negate the commission of rape.[14]

In like manner, the absence of spermatozoa in the victim's vagina is not fatal to her cause. Her credible testimony alone suffices to establish accused-appellant's guilt. Besides, in rape, the important consideration is not the emission of semen but the penetration of the female genitalia by the male organ and the slightest penetration is equivalent to consummated sexual intercourse. In fact, the mere touching by the male's organ of the labia of the pudendum of the female's private part is sufficient to constitute rape.[15]

Just as insignificant is accused-appellant's focus on the disparity between Mary Jane's testimony that she felt pain when accused-appellant inserted his penis in her vagina, and her declaration in her sworn statement[16] that she did not feel any pain. This is an inconsequential lapse that can be expected of a young girl in view of the harrowing experience she was called upon to recall. Such minor inconsistencies, far from detracting from the veracity of her testimony, in fact tend to bolster it.[17]

Moreover, discrepancies between the statements of an affiant in his affidavit and those made by him on the witness stand do not necessarily discredit him since ex-parte affidavits are generally incomplete. Affidavits are generally subordinate in importance to open court declarations.[18]

The trial court, therefore, did not err in believing Mary Jane's account of the sexual ordeal she suffered at the hands of accused-appellant. Well settled is the rule that credibility of witnesses is the domain of the trial court which has observed the deportment of the witnesses as they testified. The findings of fact of a trial court, arrived at only after a hearing and evaluation of what can be usually expected to be conflicting testimonies of witnesses, certainly deserve respect by an appellate court.[19]

While the trial court correctly imposed the penalty of reclusion perpetua and indemnity of P50,000.00, it failed to award moral damages which, under prevailing jurisprudence are awarded in the amount of P50,000.00, even if there is neither allegation nor evidence of the trauma constituting the basis of such award as the same is necessarily included in a charge of rape.[20]

WHEREFORE, with the MODIFICATION that we award the victim Mary Jane Vargas an additional amount of P50,000.00 as moral damages, the decision of the Regional Trial Court, South Cotabato, Branch 26, Surallah convicting accused-appellant Angeles Teves y Tapel of rape and sentencing him to reclusion perpetua and to pay Mary Jane Vargas civil indemnity of P50,000.00 is hereby AFFIRMED in all other respects.

Costs against accused-appellant.

**SO ORDERED.**

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

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[1] In Crim. Case No. 1449, Decision, Regional Trial Court, Judge Cristeto D. Dinopol, presiding, Original Record, pp. 96-103.

[2] Original Record, pp. 1-2.

[3] Original Record, p. 28.

[4] TSNs, March 2, 1994, pp. 3-28; April 13, 1994, pp. 16-24.

[5] TSN, May 4, 1994, pp. 4-12.

[6] Original Record, p. 103.

[7] Notice of Appeal, Rollo, p. 28.

[8] *People v. Garchitorena*, G. R. No. 131357, April 12, 2000; *People v. Tidula*, 292 SCRA 596 (1998).

[9] *People v. Arafles*, G. R. No. 128814, February 9, 2000; *People v. Gutierrez*, G. R. No. 132772, August 31, 2000.

[10] *People v. Toquero*, G. R. No. 127650, August 25, 2000; *People v. Lustre*, G. R. No. 134562, April 6, 2000; *People v. Tipay*, G. R. No. 131472, March 28, 2000.

[11] *People v. Baltar*, G. R. No. 130341, February 10, 2000, citing *People v. Timbang*, 189 SCRA 279 (1990) and *People v. Tismo*, 204 SCRA 35 (1991).

[12] *People v. Baltar*, *supra*, Note 11.

[13] Exhibits B and 3.

[14] *People v. Santos*, G. R. Nos. 131103 & 143472, June 20, 2000, citing *People v. Palicte*, 257 SCRA 543 (1994).

[15] *People v. Castillo*, G. R. No. 130205, July 5, 2000, citing *People v. Galleno*, 291 SCRA 761 (1998); *People v. Lazaro*, 249 SCRA 234 (1995); *People v. Mahinay*, 302 SCRA 455 (1999).

[16] Exhibit 1.

[17] *People v. Fraga*, G. R. Nos. 134130-33, April 12, 2000; *People v. Padilla*, 301 SCRA 265 (1999); *People v. Dreu*, G. R. No. 126282, June 20, 2000.

[18] *People v. Sirad*, G. R. No. 130594, July 5, 2000; *People v. Yanson*, G. R. Nos. 133527-28, December 13, 1999, citing *People v. Padoa*, 267 SCRA 64 (1997).

[19] *People v. Restoles*, G. R. No. 112692, August 25, 2000; *People v. Alvero*, G. R. Nos. 134536-38, April 5, 2000; *People v. Antolin*, G. R. No. 133880, April 12, 2000.

[20] *People v. Fraga*, G. R. Nos. 134130-33, April 12, 2000; *People v. Rojas*, G. R. No. 125292, April 12, 2000; *People v. Guiwan*, G. R. No. 117324, April 27, 2000.

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