

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. HENRY REYES Y BENITEZ, ACCUSED-APPELLANT.

G.R. No. 122453. July 28, 1999

Ponente: ROMERO, J.

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ROMERO, J.:

In an information^[1] filed on April 23, 1993 with the Regional Trial Court, Branch 1, City of Manila,^[2] accused-appellant Henry Reyes y Benitez was accused of having raped complainant Annalee Auque y Ocalinas allegedly committed as follows:

"That on or about April 22, 1993 in the City of Manila, Philippines, the said accused with lewd designs and by means of force or intimidation, to wit: by taking her to his room and laying her on his bed, did then and there willfully, unlawfully and feloniously succeeded in having carnal knowledge of the said ANNALEE AUQUE y OCALINAS against her will and consent.

CONTRARY TO LAW."

Upon arraignment, the prosecution and the defense entered into a stipulation of facts.^[3] After due trial, the court a quo promulgated on August 18, 1995 the appealed decision^[4] declaring accused-appellant guilty as charged and sentencing him to suffer the penalty of reclusion perpetua with all the accessory penalties provided by law, as well as to indemnify the complainant moral damages in the amount of P100,000.00 and nominal damages in the amount of P50,000.00.

Based on the trial court's findings, it appears that both the complainant and accused-appellant lived in the same house which was owned by Dr. Jose Mañalac and Mrs. Amelia Mañalac.^[5] The former was then employed as a housemaid while the latter was treated as a son by the Mañalacs.^[6] Accused-appellant occupied a small room located at the second floor of the kitchen while the complainant, together with two other housemaids, stayed in a room near the kitchen.

Complainant testified^[7] that at around 11:00 o'clock in the evening of April 21, 1993, while she was ironing clothes in the maids' room, she asked Lucia Arquilo (hereinafter referred to as "Eyet") to buy beer. Accused-appellant being in the kitchen at the time, volunteered to buy beer himself. After a while, he came back with two bottles beer grande and proceeded to the maids' room. Eyet took some ice and three glasses from the kitchen and they started to drink, with accused-appellant pouring the beer into complainant's glass who gradually drank the same while ironing.

At about 12:00 o'clock midnight, Mila Arias, the other housemaid, showed up at the maids' room and requested the three to move to the kitchen if they wished to continue their drinking so that she could sleep. Later, when complainant was about to drink another glass of beer, she noticed white particles therein which looked like ashes. This prompted her to ask Eyet about it but the latter merely replied that it might have come from the ice. After complainant decided to change her glass, accused-appellant proceeded to pour the contents of the first glass into the second glass. Complainant then proceeded to the maids' room after she felt some dizziness, leaving Eyet and

accused-appellant behind.

Subsequently, complainant and Eyet proceeded to the comfort room to brush their teeth. When Eyet had left the comfort room, a power interruption occurred. Complainant was on her way out of the comfort room when accused-appellant suddenly appeared, blocked her way, held her left hand and pinned her against the door. She lost consciousness, and when she woke up, she was already in accused-appellant's room. At once she noticed that she was lying on a bed with appellant sitting beside her.

Neither Eyet nor complainant knew what had happened and why she was inside accused-appellant's room. Eyet was in her room all the time when Mila, who was already looking for complainant, called her.[8] Nevertheless, Eyet helped her to get up from accused-appellant's bed and led her to their room downstairs. With her whole body aching, complainant rested for a while, then asked Eyet to accompany her to the comfort room. Upon removing her underwear, however, she was shocked and horrified to see it drenched in blood.

When informed about the incident, Mrs. Mañalac immediately went to the maids' room and tried to pacify the complainant. The latter, however, insisted on going to her sister's house which was located about 40 to 60 meters away from the Mañalac residence. So at 2:00 o'clock in the morning of April 22, 1993, Mrs. Mañalac and Eyet accompanied complainant to the house of her sister, Chona Cordero.

When she heard that somebody was crying and knocking at the door, Chona opened the same. The complainant rushed and embraced her sister, telling her that she had been raped by accused-appellant. The complainant likewise embraced her brother-in-law, Roberto Cordero, and asked him to help her because she had been raped ("Manong, tulungan mo ako. Binaboy ako, binastos ako.")[9] Mrs. Mañalac soon left but not without advising Chona not to immediately report the incident to the police.[10]

Later, complainant started laughing and crying by turns,[11] prompting Chona to bring her to the Philippine General Hospital (PGH). Upon the suggestion of the hospital staff, Chona brought complainant to the National Bureau of Investigation (NBI) where a physical examination was conducted on her by Medico-Legal Officer Annabelle L. Soliman. At this point, Chona reported the incident to the police. Later in the morning of April 22, complainant's brother-in-law accompanied SPO2 Danilo dela Cruz and SPO1 Juan Manabat to accused-appellant's house where the latter was arrested.[12] In the afternoon of the same day, Chona went to accused-appellant's house to get complainant's belongings. Mrs. Mañalac then offered to arrange the marriage of accused-appellant and complainant and to shoulder the expenses but Chona declined the offer.[13] When told about the offer, complainant was furious.[14]

Physical examination[15] of the complainant by Dr. Soliman yielded the following results:

"GENITAL EXAMINATION:

Pubic hair, fully grown, abundant, Labia Majora, gaping. Labia minora, coaptated. Fourchette, moderately lax. Vestibular mucosa, pinkish. Hymen, thick, wide with a fresh complete healing laceration at 9:00 o'clock position which bled on slight manipulation. Contusion purplish at 6:00 o'clock to 8:00 o'clock position. Hymenal orifice admits a tube 2.5 cm. in diameter with moderate resistance. Vaginal walls, tight. Rugosities, prominent.

CONCLUSIONS:

- No evident sign of extragenital physical injury noted on the body of the subject at the time of examination.
- Genital findings compatible with sexual intercourse with man on or about the alleged date of commission.

Dr. Soliman testified[16] further that although the contusion or laceration of the complainant's hymen would be

normally due to sexual intercourse, the same could also have been caused by insertion of an instrument. Semenology yielded a negative result but she pointed out that absence of sperm was not incompatible with sexual intercourse. She also declared that the complainant was emotionally disturbed and had advised her to see a psychiatrist.

On account of the incident, the record likewise discloses that complainant soon exhibited mental instability and inability to control her rational processes. She was reported to have been consistently crying and laughing. When she was brought to PGH, complainant kept shouting and accusing every man she met as her rapist. In fact, when SPO2 dela Cruz and SPO1 Guzman went to Chona's house to interview the complainant, the latter cried and repeatedly pleaded: "Huag po, huag po, maawa po kayo sa akin," perhaps thinking that the two police officers were there to abuse her.

When complainant was taken to the clinic of Dr. Rey Sagge, Medical Officer III of the National Center for Mental Health, the physician discerned that she was in a state of shock and was interminably crying and laughing.[17] After conducting a thorough mental status examination of complainant, he concluded that she was grossly psychotic and mentally ill.[18]

The defense, on the other hand, had a different version.

According to Mila Orias, complainant's fellow housemaid, she was looking for complainant when she happened to go to accused-appellant's room. There she found complainant lying on appellant's bed but everything was normal.

Complainant was not naked while appellant was sitting beside her. She then called Eyet to go upstairs and both of them helped complainant in proceeding to their room. This witness likewise remembered complainant telling her not to tell anything to their employer.[19]

Testifying for accused-appellant, Eyet declared that she likewise saw complainant lying on a bed in accused-appellant's room when Mila called her. Upon reaching accused-appellant's room, she asked complainant what happened to her but she received no reply. She and Mila then assisted complainant to go downstairs but both of them were told by complainant not to tell their employer of her presence in accused-appellant's room.[20]

Taking the witness stand as a witness for himself, accused-appellant admitted that he had a drinking spree with Eyet and complainant on the said night of the incident and that, in the course thereof, they noticed particles which settled at the bottom of complainant's glass. He testified further that he was fast asleep when he felt someone stirring beside him. Realizing that it was complainant, he suddenly got up and asked why she was there. Complainant allegedly replied that she wanted to sleep in his room. Accused-appellant asked her to leave as her companions might be looking for her, but she refused. Later, Mila proceeded to his room and was surprised to see complainant there. As Mila threatened that she would tell their employer about the incident, complainant allegedly pleaded with her not to do so. After Eyet, Mila, and complainant had left his room, accused-appellant went to sleep and did not know any more what happened next.[21]

The trial court, however, did not accept accused-appellant's story. It relied on what it considered are circumstantial evidence pointing to his culpability. Thus:

"The foregoing facts, taken in the (sic) light of the following chain of unbroken circumstances, to wit:

- It was the accused who bought the two bottles of beer grande that he, the complainant and Eyet imbibed (sic) on the evening in question.
- It was the accused who poured the beer into the glass of the complainant.

- When the complainant noticed white particles in her beer, after she had drank (sic) a portion of the contents of her glass, she took another glass, and the accused solitiously (sic) and on his own initiative poured the remaining beer in the first glass of the complainant to the other one she had taken.
- When the complainant finished drinking her glass of beer, she felt dizzy.
- The brownout occurred (sic) when the complainant was already dizzy.
- The accused prevented the complainant from stepping out of the comfort room during the brownout by blocking her way and holding her left hand. It was at this point that the complainant became unconscious.
- When the complainant regained consciousness, she found herself lying on the bed of the accused in his room and he was seated on the bed beside her.
- The complainant was enfeebled and asked Eyet to help her get up from the bed of the accused. While doing so and on their way to their bed, she held on to Eyet for support.
- When the complainant later removed her panty to urinate in the comfort room, she was surprised and terrified to see her panty full of blood.
- The medical findings of the Medico Legal Officer of the NBI, Dr. Annabelle L. Soliman, who conducted a genital examination of the complainant, showed her hymen `with complete healing laceration at 9:00 o'clock position which bleed on slight manipulation. Contusion purplish at 6:00 to 8:00 position xxxx', Exhibit "F".
- Mrs. Amelia Mañalac, the employer of the complainant and considered the adoptive mother of the accused, tried to settle the matter amicably by offering to arrange the marriage of the accused and the complainant at her expense, but which was angrily rejected by the complainant.
- Before the incident, the complainant was a normal person and of sound mind.
- After the incident, the complainant became insane, due to the terrible ordeal she had gone through.

leave this court convinced beyond cavil of doubt that the accused had drugged the complainant by furtively placing an unknown drug in her beer that caused her to become unconscious, thereby enabling him to have carnal access of her and, that as a result of the shocking and traumatic ordeal she had gone through, she became demented." [22]

Based on the above findings, the trial court decreed the guilt of the accused-appellant sentencing him as follows:

"WHEREFORE, Court finds the accused Henry Reyes, GUILTY beyond reasonable doubt of the crime of rape and, as a consequence thereof, sentences him to suffer the penalty of reclusion perpetua with all the accessory penalties provided by law.

Further, he shall indemnify the private complainant Ann[a]lee Auque moral damages in the amount of P100,000.00 and nominal damages in the amount of P50,000.00, and shall pay the costs."

Hence, this appeal.

Accused-appellant maintains his innocence on the ground that while the information avers that force and intimidation were employed in the commission of the crime charged, what the prosecution proved instead was that complainant was rendered unconscious when an unknown substance was placed by accused-appellant in the beer which she was drinking. According to accused-appellant, force and intimidation as a means of committing rape is covered by article 335 (1) of the Revised Penal Code, as amended, while raping a woman when she is unconscious is covered by article 335 (2). Hence, he argues that there could never be a lawful conviction as the allegation in the information varies with what was proved. [23]

Furthermore, accused-appellant belies any alleged involvement in the offense charged alleging that : (1) there was no evidence pointing to his having placed an unknown substance that sedated the complainant; (2) if indeed complainant saw accused-appellant at the door of the comfort room, then she would not have kept silent but reacted with surprise; (3) the alleged offer of marriage made by Mrs. Mañalac would not have been binding upon accused-appellant because the latter is a married man and not even a true adopted son of the Mañalacs; (4) had it been true that complainant was unconscious, then it was physically impossible for accused-appellant to have brought the former to his room located at the second floor because the stairway was steep and narrow; and (5) it was surprising why complainant did not react with emotional outburst for having found herself lying on accused-appellant's bed.[24]

We dismiss the appeal.

It is true that the hornbook doctrine in this jurisdiction is that an accused cannot be convicted of an offense, unless it is clearly charged in the complaint or information. Constitutional due process demands that the accused in a criminal case should be informed of the nature of the offense with which he is charged[25] before he is put on trial and to be convicted only on such proof that substantiates such charge. The records may be replete with evidence showing that the accused perpetrated a crime beyond reasonable doubt, but if such crime is not one for which he stands indicted, then any court is duty-bound to uphold his innocence.

The above precepts, however, do not find relevance to the instant case. Accused-appellant's perceived variance between the recitals of the indictment and what was eventually proved by the prosecution's evidence is more apparent than real. A careful scrutiny of the records shows that the prosecution duly presented evidence that force or intimidation, as averred in the information, was applied on the person of the complainant for accused-appellant to consummate his lewd intentions. Thus:

"Fiscal

Q: After you went to your room and while Eyet and Boy were consuming the second bottle of Beer Grande, what else happened?

A: Eyet went to our room and asked me to brush our teeth.

Court

Q:

How long after you have returned to your room did Eyet went to your room to tell you to go to the comfort room and brush your teeth?

A: About 25 minutes, your Honor.

Fiscal

Q: When Eyet told you to proceed brushing your teeth, did you go with her?

A: Yes, ma'am. She said she will brush her teeth first and I will follow her.

Q: Were you able to brush your teeth?

A:

Eyet was the first ma'am.

Q: After her, were you able to brush your teeth?

A: I just placed the toothpaste on my toothbrush ma'am.

Q: After placing the toothpaste on your toothbrush, what happened?

A: Then I brushed my teeth, ma'am.

Q: After brushing your teeth, what happened next?

A:

Suddenly, there was a brownout ma'am.

xxx xxx xxx

Fiscal

Q: After that, what happened?

A: While I was still there at the comfort room, there was a brownout, I was carrying water then... (interrupted)

Q: Then what else happened? What did you do?

A: I opened the door to come out ma'am.

Q: After you opened the door in order to go out, what else happened?

A: Kuya Boy was there and he held my left hand and my right arm was pinned at (sic) the door.

Court

Q: Where?

A: At the door, your Honor.

Q: You said "naipit", by what?

A: At the door, your Honor.

Q: Were you already outside the comfort room when Boy held your left hand?

A: I was still at the door, your Honor.

Fiscal

Q:

What happened next?

A:

I don't know, ma'am.

Q: You mean to say you already don't know what transpired next?

A: (Witness is on the verge of crying)

xxx xxx xxx

Fiscal

Q: Please tell us before this court what you remember afterwards?

A: I was in his bedroom and I was taken by Eyet, ma'am.

Q: Whose bedroom?

A: Boy, ma'am.

Q: Where is the bedroom of Boy located?

A: At the second floor, ma'am.

Q: And when Eyet and Mila took you from Boy's bedroom, where was Boy?

A: He was beside me, Ma'am."[26] [Underscoring supplied]

We note that the prosecution belabored the point regarding the unknown substance that was allegedly noticed by complainant in the beer which she was drinking. Accused-appellant was, therefore, of the impression that what the prosecution was proving was the fact that complainant's unconsciousness was taken advantage of by him to commit the rape. This does not detract us, however, from the fact of record that the prosecution showed that force was employed for accused appellant to consummate his carnal design. The unconsciousness was a consequent supervening event that was to be expected from the circumstances because at the time that complainant was brushing her teeth inside the comfort room, she was already feeling dizzy. Thus, with the slightest application of

force, complainant easily fainted and lost consciousness which then facilitated the commission of the rape. Her testimony on cross-examination is enlightening on this matter:

"Atty. Genato

Q:

You stated also in your statement and I quote: "Tapos nakarandam ako ng pagkahilo." When for the first time did you feel dizzy, while you were at the bathroom or while at the kitchen before going to your room to sleep?

A:

While I was in the kitchen I could still manage to walk although feeling dizzy, however when I was at the comfort room, my dizziness became worst (sic)."[27]

Irresistible force is not needed here to enable the rape to be committed with ease and facility. Considering that complainant was already dizzy due to the foreign substance in her glass of beer, it would not have required an overwhelming force to render her unconscious. As we have ruled in *People v. Cañada*,^[28] for rape to exist it is not necessary that the force or intimidation employed be so great or of such character as could not be resisted. It is only necessary that the force or intimidation be sufficient to consummate the purpose which the accused had in mind. In the instant case, the force need not be so great owing to complainant's weakened condition. In fact, under this situation, the law does not even impose a burden on the rape victim to prove resistance. What needs only to be established is the use of such force or intimidation by the accused that would facilitate his having sexual intercourse with the victim.^[29]

In light of the foregoing, accused-appellant's contention that there was variance between the averments of the information and what was actually proved during trial is actually untenable. His bid for acquittal must then be denied.

Neither can we sustain accused-appellant's claim that rape was impossible. It has been a rule of long standing that when a woman says that she has been raped, she says in effect all that is necessary to show that she has been raped.^[30] We have gone through the records of the instant case and we find that complainant's testimony is clear, straightforward and consistent in all material points,^[31] thus, leading us to believe that her account of the harrowing experience she had gone through has all the earmarks of credibility.

That the alleged white substance which complainant noticed in her glass was not subjected to laboratory test to determine if it is really a drug is of no moment. As we ruled in *People v. del Rosario*,^[32] a test to determine the presence of any sedative or drug in the drinks given to a victim is not an indispensable element in the prosecution for rape, particularly in this case where the information alleges the employment of force and intimidation.

With respect to accused-appellant's claim that complainant made no reaction when she was blocked at the bathroom's door, it must be noted that such reaction could hardly be expected of her considering the fact that she was already dizzy. Moreover, "the workings of a human mind placed under emotional stress are unpredictable and people react differently --- some may shout, some may faint, and some may be shocked into insensibility while others may openly welcome the intrusion."^[33]

It is apt to restate that "rape is essentially an offense of secrecy, not generally attempted except in dark or deserted and secluded places away from prying eyes, and the crime usually commences solely upon the word of the offended woman herself and conviction invariably turns upon her credibility, as the People's single witness of the actual occurrence."^[34] In this regard, we have no cogent basis far disbelieving complainant's story.

Consistent with prevailing jurisprudence, however, we find that the trial court's award in the decretal portion of its

decision must be modified by awarding to complainant the amount of P50,000.00 as civil indemnity ex delicto and another amount of P50,000.00 as moral damages and striking out nominal damages.

WHEREFORE, the instant appeal is hereby DENIED. The decision of the Regional Trial Court of Manila, Branch I, in Criminal Case No. 93-119772 dated August 1, 1995, is AFFIRMED with the MODIFICATION that accused-appellant shall indemnify complainant Annalee Auque y Ocalinas in the amount of P50,000.00 as civil indemnity ex delicto and P50,000.00 as moral damages.

Costs against accused-appellant.

SO ORDERED.

Vitug, Panganiban, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] Rollo, p. 7. Charges were filed under Article 335 of the Revised Penal Code, prior to subsequent amendments thereto, the incident complained of having taken place on April 22, 1993.

[2] Docketed as Criminal Case No. 93-119772.

[3] Records, pp. 32-33.

[4] Per Judge Rebecca G. Salvador., Rollo, pp. 68-74.

[5] TSN, December 2, 1993, p. 3.

[6] TSN, August 5, 1993, p. 5.

[7] Ibid., pp. 13-27; TSN, August 12, 1993, pp. 2-25; TSN, September 13, 1993, pp. 2-5.

[8] TSN, March 11, 1994, pp. 9-10.

[9] TSN, September 13, 1993, p. 8.

[10] TSN, November 12, 1993, p. 6.

[11] Ibid., p. 10.

[12] Ibid., pp. 12-14.

[13] TSN, November 12, 1993, p. 11.

[14] Ibid.

[15] Exhibit "F".

[16] TSN, November 12, 1993, pp. 12-19.

[17] TSN, September 29, 1993, pp. 2-20.

[18] Exhibit "G".

[19] TSN, December 2, 1993, pp. 2-20.

[20] TSN, January 14, 1994, pp. 2-7; TSN, March 11, 1994, pp. 2-20; TSN, March 18, 1994, pp. 2-24.

[21] TSN, April 11, 1994, pp. 2-21; TSN, April 13, 1994, pp. 2-20.

[22] Rollo, pp. 147-148.

[23] Ibid., pp. 59-60.

[24] Ibid., pp. 61-64.

[25] Paragraph 2, Section 14, 1987 Constitution.

[26] TSN, August 5, 1993, pp. 19-23.

[27] TSN, August 12, 1993, p. 13.

[28] 253 SCRA 277; People v. Miranda, 262 SCRA 351; People v. de Guzman, 265 SCRA 228.

[29] People v. Gecom, 254 SCRA 82

[30] People v. Cristobal, 252 SCRA 507; People v. Ramirez, 266 SCRA 355; People v. Borja, 267 SCRA 370.

[31] People v. Excija, 258 SCRA 424.

[32] 282 SCRA 178.

[33] People v. Peñero, 276 SCRA 564.

[34] People v. de Guzman, 265 SCRA 228.34

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