

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUSTUM LUZORATA, ACCUSED-APPELLANT.

G.R. No. 122478. February 24, 1998

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

RUSTUM LUZORATA was charged with rape in the Regional Trial Court of Lapu-Lapu City. He was convicted and sentenced to reclusion perpetua. He was also ordered to indemnify his victim P30,000.00.

We now review his conviction.

Maritess Cutamora and Rustum Luzorata were neighbors in Pusok, Lapu-Lapu City, their houses being only about 30 to 40 meters apart. Maritess was a helper in the household of Ceferina Ibio.

The nightmare of Maritess began at dawn of 10 December 1990. At around 3:00 o'clock in the morning, Maritess who was sleeping with her face downwards suddenly felt a heavy weight on her back. When she turned around she saw a man naked holding a pair of scissors. It was the accused Rustum Luzorata. She recognized him immediately as she had known him for quite sometime before then and his face was illuminated by the night light on the left side of her bed.[1] Ceferina, Maritess' employer, was out of town.

Maritess' familiarity with Rustum did not deter him from pursuing his evil design. He lost no time in lifting her t-shirt, raised her skirt and took off her panties. She tried to resist him by crossing her legs but to no avail. She told him, "kalain gud nimo Noy Rustum,"[2] but the accused warned her instead to keep quiet or he would kill her. He then placed himself on top of her, parted her legs and the inevitable had to come. He forcibly inserted his penis into her vagina with a "push-and-pull" movement while alternately nibbling and sucking her nipples. After having satisfied his lust he hurriedly put on his shorts and exited through the same window he destroyed when he entered the house early that morning.

Her vagina bled, ached. She wept incessantly through the night, heavy perhaps with the thought of her experience with the accused. She was so disturbed that it took her a long while to open the door when her employer arrived that morning from Bohol. Obviously, Maritess appeared weak, weary and exhausted, and her employer later noticed her condition. After narrating to Ceferina what happen to her, her employer accompanied her to the Lapu-Lapu District Hospital where she underwent physical examination. The result showed that she suffered fresh lacerations with bleeding and congested edges at 5:00 o'clock position. She had abrasions on her fourchette with white vaginal discharge indicating the presence of spermatozoa in her organ.[3]

On 14 December 1990 Maritess Cutamora lodged her complaint agaisnt the accused Rustum Luzorata for rape in the court a quo which on 29 October 1991 found him guilty as charged.[4]

The accused now comes to us on appeal contending that -

First. There is no any physical evidence showing the use of force. Dr. Araceli P. Yap, the medico-legal officer of

Lapu-Lapu District Hospital, Lapu-Lapu City, admitted that she found no injuries on the victim's person when she was examined and that, furthermore, the victim had old lacerations which she could have obtained through previous sexual encounters.[5]

But in rape, force need not always produce physical injuries.[6] The absence of external signs of physical injuries and the failure of the victim to shout for help do not negate rape.[7] It is not necessary that force be employed. Intimidation is sufficient, and this includes threatening the victim with a knife.[8] In this case, the accused used a pair of scissors to compel his victim to submit to his evil scheme. In *People v. Oarga* we held that intimidation was addressed to the mind of the victim and therefore subjective, and its presence could not be tested by any hard-and-fast rule but must be viewed in the light of the victim's perception and judgment at the time of the crime.[9]

Second. The behavior of the complainant, particularly her conduct immediately after the incident, negated her claim that she was raped.

This Court indeed has not laid down any rule on how a rape victim should behave immediately after she has been abused. This experience is relative and may be dealt with in any way by the victim depending on the circumstances, but her credibility should not be tainted with any modicum of doubt. Different people act differently to a given stimulus or type of situation, and there is no standard form of behavioral response when one is confronted with a strange or startling or frightful experience.[10] In one case[11] the Court held that in a prosecution for rape the complainant's credibility becomes the single most important issue. If her testimony meets the test of credibility, the accused may be convicted on the basis thereof. Moreover, the testimony of a rape victim is credible where she has no motive to testify falsely. Considering the inbred modesty and the consequent revulsion of a Filipina against airing in public matters that affect her honor, it is hard to conceive that complainant would reveal and admit the ignominy she had undergone if it were not true.[12]

Third. The complainant's delay in reporting the alleged rape to the authorities created serious doubts.

We do not agree. In *People v. Faigano* this Court held that it was understandable for the victim not to immediately report the rape as Filipino women are known to be affectedly shy and coy, and rape stigmatizes the victim, not the perpetrator.[13]

Fourth. The complainant did not know the identity of the man who allegedly raped her.

This is puerile. While it is true that the complainant was lying down in a prone position and could not have seen the face of the accused at the first instance, Maritess was able to positively identify the accused when she turned her head to find out what it was or who he was. Besides, in consummating the act, they had to assume a missionary position which enabled the accused to consummate the rape. The contention of the defense that it was improbable, if not highly impossible, for the victim to recognize a man in darkness when both her eyes were covered with tears, cannot be given credence. The crime scene was not exactly in pitch darkness since there was a tiny bulb which illuminated the room sufficient enough for Maritess to see and recognize the accused.

Fifth. The defense would also fault the complaining witness for not confronting the accused about the incident when they saw each other after the incident.

We must consider that the victim was a 15-year old barrio lass who only finished grade six and worked only as a househelp, obviously too naive in the ways of the world. One cannot expect a girl with her status in life to cry out in public her personal anguish, humiliation and pain. Surely, she should be looked upon with pity for the bestiality she went through. Her courage failed her when she came face to face with the accused who was threatening to snuff off her life should she resist.

As the trial court observed, Maritess' innocent, straightforward and unflinching narration of how she was molested was not at all tainted by any semblance of untruthfulness that may open a possible avenue for suspicion that what she was telling the court may have been coached or fabricated.[14]

We have oftentimes taken judicial notice of the fact that it is highly inconceivable for a young barrio girl to fabricate a charge of defloration, undergo a medical examination of her private parts, subject herself to public trial and tarnish her own and her family's honor and reputation unless she was motivated by a potent desire to seek justice for the wrong done to her.[15]

As regards the testimony of Azucena Luzorata wife of the accused, suffice it to say that her effort at an alibi for her husband merits no credence at all. She testified that her husband Rustum was with her when the rape was committed. She tried to bolster this allegation with the fact that they had sex around 1:00 a.m. and again at 3:00 a.m. For someone who has been so physically busy the whole day, it is most unlikely that she could still muster the strength to indulge in sexual interlude, twice at that in a span of two hours, when she had to report for work early the following morning. Alibi as a means of defense is weak when not substantiated by the testimony of a credible witness. Courts have always looked upon the defense of alibi with suspicion and have always received it with caution not only because it is inherently weak and unreliable but also because it is easily fabricated. Alibi as basis for acquittal must be established with clear and convincing evidence. The accused must convincingly demonstrate that it was physically impossible for him to have been at the scene of the crime at the time of its commission. And, where accused was positively identified by the victim herself who harbored no ill motive against the rapist, as in this case, the defense of alibi must fail.[16]

Finally, the feigned revenge plot against the accused said to be at the machinations of the complainant's employer is preposterous being irrelevant and immaterial. We should accord great weight and respect to the findings of fact of the trial court as it is in a better position to determine questions involving credibility having heard the witnesses and observed their deportment at the witness stand. We do not see in this case any reason to overturn the findings of the trial court.[17]

WHEREFORE, the decision of the court a quo finding accused-appellant RUSTUM LUZORATA guilty of rape and imposing upon him a prison term of reclusion perpetua is AFFIRMED, subject to the modification that the indemnity of P30,000.00 awarded by the trial court is increased to P50,000.00 consistent with prevailing jurisprudence. Costs against accused-appellant.

SO ORDERED.

Davide, Jr., (Chairman), Vitug, Panganiban, and Quisumbing, JJ., concur.

[1] TSN, 3 April 1991, p. 23.

[2] Translated into English means, "You are really bad, Noy Rustum." Records, 13 December 1990, p. 3.

[3] Id., 14 December 1990, p. 30.

[4] Rollo, 29 October 1991, p. 75.

[5] TSN., 5 March 1991.

[6] People v. Bacalzo, G.R. No. 89811, 22 May 1991, 195 SCRA 557.

[7] People v. Alegado G.R. Nos. 93030-31, 21 August 1991, 201 SCRA 37.

- [8] People v. Salarza, G.R. Nos. 98121-22, 5 July 1996, 258 SCRA 55.
- [9] G.R. Nos. 109396-97, 17 July 1991, 259 SCRA 90.
- [10] People v. Talaboc, G.R. No. 103290, 23 April 1996, 256 SCRA 441.
- [11] People v. Cagto, G.R. No. 113345, 9 February 1996, 253 SCRA 455.
- [12] People v. Gecom, G.R. Nos. 115035-36, 23 February 1996, 254 SCRA 82.
- [13] G.R. No. 113483, 22 February 1996, 10 SCRA 254.
- [14] Decision penned by Judge Teodoro K. Risos, RTC - Br. 27, Lapu-Lapu City, 29 October 1991.
- [15] People v. Esguerra, G.R. No. 117482, 8 May 1996, 256 SCRA 657.
- [16] People v. Canada, G.R. No. 112176, 6 February 1996, 253 SCRA 277.
- [17] People v. Salazar, G.R. Nos. 98121-22, 5 July 1996, 258 SCRA 55.

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