PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FROILAN PADILLA Y VALENZUELA, ACCUSED-APPELLANT.

G.R. No. 122736. November 14, 2001

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Accused-appellant Froilan Padilla was indicted for rape before the Regional Trial Court of Lucena City, Branch 55, under the following information:

> That on or about the 13[th] day of June 1993, in the city of Lucena, province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the said accused did then and there wilfully, unlawfully and feloniously commit the crime of rape by means of force, threats, and intimidation upon Leonisa P. Caballero, by then and there forcibly having carnal knowledge against the latter's will.[1]

When arraigned, accused-appellant originally pleaded not guilty. However, at the start of trial, he sought to change his plea into one of guilty but to the lesser offense of acts of lasciviousness. However, the victim was not amenable.[2] Hence trial ensued. After the parties presented their respective evidence, the lower court rendered a judgment of conviction finding accused-appellant guilty of rape and sentenced him to suffer reclusion perpetua and to pay the victim P50,000.00 as moral damages.[3] The facts as found by the trial court:[4]

> At about 2:00 o'clock in the morning of June 13, 1993, complainant Leonisa Caballero was sleeping inside her stall at the fishing port of Barangay Dalahican, Lucena City. She awakened when she felt a person on top of her, who had a knife poked at her neck. She could not see the man's face as it was dark. The man told her not to shout. As he spoke, she recognized his voice as that of appellant. Appellant removed her panty. Appellant pulled down his briefs which was his only clothing. He succeeded in raping her, able to penetrate her private parts with his organ. She was unable to do anything as she was afraid of the knife which was pushed against her neck.
>
> As appellant left her stall and stepped out, a light shone on his face and complainant recognized him clearly. She was familiar with appellant because he was staying at the stall of his cousin, Coring (Puring) Padilla, which was just next to complainant's stall - about one (1) meter away. Appellant was a laborer at the pier and sometimes eats at complainant's store. Complainant then shouted for help.
>
> One of those who came to complainant's help reported the incident at the PNP Port Maritime District. Three (3) officers responded: SPO1 Crispin Virtucio, SPO1 Pablo Marasigan and SPO3 Noel Fabella. As the three officers came to the site of the incident, they saw a scared woman crying in front of her stall. Complainant reported that she was raped and pointed to appellant, who was just in the next stall, as the culprit. The stalls were barely a meter apart and measure about 2 ½ x 2 ½ meters.
>
> Appellant was inside the adjacent store of Coring Padilla when the police officers went there. Appellant at first refused to accompany the police officers as he was apprehensive that he would be hurt. After it was explained to appellant that he will simply be questioned about the rape incident, he went with the respondent police officers to the maritime office. The police officers also took a knife tucked in the wall of the stall near

> appellant. Appellant was later turned over to the Lucena City Police Station.
>
> Complainant was examined by Dr. Bernardita V. De la Peña of the Quezon Memorial Hospital in Lucena City. Complainant, who was forty-two (42) years of age, was described to be fat and round and could not readily stand when seated or lying down. She had fresh laceration on her left forefinger, about 0.5 cm., which she must have sustained when she held the knife by the hand and appellant removed it from her hold. Her vagina bore multiple lacerations. She was found to have delivered four (4) babies already but was not pregnant. When she was examined, it was her second day of menstruation. No sperm cell was found on complainant which the doctor explained as possibly due to continuous urination.

Accused-appellant is now before this Court seeking the reversal of his conviction.

The appeal has no merit.

From the records, there is no doubt that accused-appellant actually had sexual contact with the victim. The sexual congress was consummated while accused-appellant was armed with a long knife which he used in threatening the victim. The fear for her life or injury to her limb made her submit to the lecherous act done to her by accused-appellant.

In an attempt to exculpate himself, accused-appellant asserts that he could not have engaged in sexual contact with complainant because she had her menstruation at that time. Such argument is clearly non-sequitur. The fact that the victim had her monthly menstruation does not mean that accused-appellant could not have had sexual intercourse with her. The presence or absence of menstruation does not negate the crime of rape nor render its execution impossible.[5] Lust, after all, manifests no reverence for occasion, location or the victim's condition,[6] just as it is no respecter of time and place.[7] Accused-appellant also contends that no semen was found in the private parts of the victim, contrary to her claim that she felt accused-appellant ejaculate inside her. However, this was adequately explained during the trial by the examining physician, that the traces of semen could have been washed away due to continuous urination.[8] In any case, applicable herein is the ruling that the absence of sperm samples in the vagina of the victim does not negate rape,[9] because the absence of spermatozoa is not an element thereof.[10]

Accused-appellant denied the accusation and argued that he was never attracted to the victim. Accused-appellant's bare denial cannot stand against his positive identification by no less than the victim herself, who heard his voice threatening her and subsequently saw his face while he was escaping. Thus, during the victim's direct examination, she categorically stated:

> Q How did you recognize him as the one who raped you?
>
> A When he told me not to shout I recognized his voice, sir.
>
> x x x x x x x x x.[11]

And during her cross-examination:

> Q
>
> You did not recognize that somebody when he was raping you because it was dark in your store, is it not?
>
> A I recognized him when he went out of the door and his face was lighted, ma'm.

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Q

What was the position of the accused when you saw him on the lighted part of that kitchen of yours?

A

He happened to face me, ma'm.

Q

Is it not Mrs. witness that there were many persons where your store is situated?

A There were no persons because it was early morning, ma'm.[12]

Equally, accused-appellant's defense of alibi, aside from being inherently weak,[13] cannot prosper, in the light of the evidence that the store where the victim was raped, on the one hand, and the store of accused-appellant's relative where he also stays, on the other hand, is just a meter apart. It was not, therefore, physically impossible for accused-appellant to be at the scene of the crime at the time of its commission. Moreover, alibi cannot prevail over accused-appellant's positive identification as the rapist.[14] The argument of the defense that the reason why accused-appellant was charged was because he was considered a "bad person" is too shallow an excuse. No ill motive can be attributed to the person who reported the rape to the police, just as no wrongful motive can be imputed on the victim in charging accused-appellant with a serious accusation.

Ultimately, the issue boils down to credibility of witnesses. Assignment of credibility is a matter best left to the domain of the trial court because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying - an opportunity denied to appellate courts which simply relies on the silent pages of the cold evidence on record. No adequate and convincing reason was shown in order to justify setting aside the findings and conclusions arrived at by the court below, which if considered would affect the result of the judgment.[15] The trial court observed the victim's demeanor when she testified in court as "clear, straightforward and credible" though "brief".[16]

However, the trial court erred in appreciating the three generic aggravating circumstances of armed with a deadly weapon, insult and dwelling. Although all the three aggravating circumstances were proven, none of them was specified, much less alleged, in the information either as a modifying or an aggravating circumstance. Under the 2000 Rules of Criminal Procedure, it is now required that the aggravating or modifying circumstances must be specified in the information. This new provision, being beneficial to accused-appellant, shall be given retroactive effect as it applies to actions pending and undetermined at the time of their passage.[17] In view of the constitutional proscription on the imposition of the death penalty at the time and since the retroactive application of the restored death penalty is unfavorable to accused-appellant, only reclusion perpetua shall be imposed on him.

We, likewise, modify the monetary awards. Though a rape victim is automatically granted moral damages without need of proof, as it is assumed that the victim has suffered moral injuries entitling her to such award,[18] jurisprudence has settled that she is also automatically entitled to a civil indemnity separate and distinct from the award of moral damages.[19] Thus, accused-appellant is sentenced to pay moral damages of P50,000.00 and civil indemnity of P50,000.00.[20]

WHEREFORE, the decision of the Regional Trial Court of Lucena City, Branch 55 in Criminal Case No. 93-451, finding accused-appellant guilty beyond reasonable doubt of rape, is AFFIRMED with MODIFICATION that accused-appellant is ORDERED to pay the victim P50,000.00 as civil indemnity, in addition to the P50,000.00 as

moral damages.

SO ORDERED.

Davide, Jr., CJ., (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

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[1] Criminal Case No. 93-451, Records, p. 2.

[2] Transcript of Stenographic Notes (TSN), September 9, 1993, p. 4.

[3] The dispositive portion of the Decision dated January 13, 1995 penned by Judge Florentino Tierra, reads:

"Wherefore, in view of the foregoing, this court finds the accused Froilan Padilla y Valenzuela, guilty beyond reasonable doubt of the crime of rape, and hereby sentences him to suffer reclusion perpetua, and to indemnify the complainant, Leonisa Caballero, P50,000.00 as moral damages. He shall be immediately committed to the Bureau of Corrections, Muntinlupa, Metro Manila without unnecessary delay."

[4] Rollo, pp. 84-88.

[5] People v. Acabo, 259 SCRA 75 (1996).

[6] People v. Austria, G.R. No. 123539, June 27, 1999.

[7] People v. Torio, 318 SCRA 345 (1999); People v. Batoon, 317 SCRA 545 (1999).

[8] TSN, December 7, 1993, pp. 10-11.

[9] People v. Suba, 319 SCRA 374 (1999); People v. Lacaba, 318 SCRA 301 (1999).

[10] People v. Brandares, 311 SCRA 159 (1999).

[11] TSN, September 9, 1993, p. 10.

[12] TSN, September 9, 1993, p. 20.

[13] People v. Lopez, G.R. No. 131151, August 25, 1999 citing People v. Andal, 344 Phil. 889; People v. Garcia, 281 SCRA 463 (1997); People v. Abellanosa, 264 SCRA 722 (1996); People v. Alcantara, 240 SCRA 122 (1995).

[14] People v. San Agustin, G.R. Nos. 135560-61, January 24, 2001.

[15] See People v. Rapisora, G.R. No. 138086, January 25, 2001.

[16] RTC Decision, p. 9.

[17] People v. Arrojado, G.R. No. 130492, January 31, 2001.

[18] People v. Alba, 305 SCRA 811 (1999); People v. Bolatete, 303 SCRA 709 (1999) cited in People v. Ulgasan, G.R. Nos. 131824-26, July 11, 2000.

[19] People v. Garigadi, G.R. No. 110111, October 26, 1999 cited in People v. Mendez, G.R. No. 132546, July 5, 2000.

[20] People v. Docena, G.R. Nos. 131894-98, January 20, 2000; People v. Batoon, G.R. No. 134194, October 26, 1999.

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