

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REYNALDO DE VILLA, ACCUSED-APPELLANT.

G.R. No. 124639. February 01, 2001

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Elevated to this Court by way of automatic review is the decision of the Regional Trial Court of Pasig City, Branch 166,[1] in Criminal Case No. 107520-H, sentencing accused-appellant to death for committing the crime of rape and ordering him to indemnify the victim the sum of P50,000.00 and to support the child whom he sired with the victim.

On January 9, 1995, a criminal information was filed against accused-appellant with the Regional Trial Court of Pasig City alleging as follows:

That on or about the month of April, 1994, in the Municipality of Pasig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force and intimidation did then and there wilfully, unlawfully and feloniously have sexual intercourse with a thirteen (13) year old girl, Aileen Mendoza y Corales, without her consent and against her will.

CONTRARY TO LAW.[2]

On January 26, 1995, accused-appellant entered a plea of not guilty.[3]

During the trial, the prosecution established the following:

Sometime in the third week of April 1994, at about 10:00 o'clock in the morning, Aileen Mendoza, 12 years and ten (10) months old, woke up in their rented room in Sagad, Pasig, Metro Manila, and found the accused on top of her. Aileen was unable to shout for help because accused covered her mouth with a pillow and threatened to kill her. Aileen could not do anything but cry, while accused succeeded in inserting his penis inside her vagina and then ejaculated after making up and down motions with his body, resulting in the pregnancy of Aileen which was noticed by Aileen's mother, Leonila Mendoza, in November, 1994. When confronted by her mother, Aileen revealed that she was raped by the accused. Aileen's parents brought her to the Pasig Police Station, where they lodged their complaint against the accused. At the Police Station, Aileen's and her mother's statements were taken by the police. Dr. Rosaline Cosidon, who examined Aileen, confirmed that Aileen was eight (8) months pregnant and found in her hymen healed lacerations at 5:00 o'clock and 8:00 o'clock positions. On December 19, 1994, Aileen, assisted by Dr. Purisima Barbosa, gave birth to her baby.[4]

Accused-appellant raised the defense that at the time of the alleged rape committed in April 1994, he was 67 years old. Ten years previous to that, he was suffering from stomach ulcer and confined in a hospital. Since that time, he has been incapable of having an erection. He further alleged that from the time that he got married to the sister of Aileen's father, the family of his father-in-law has held a grudge against him.[5]

The trial court rejected the claim of impotency on the ground that there was no convincing evidence to show that at his age of 66 or 67 years old, accused-appellant could no longer engage in sexual intercourse. Thus, finding that

accused-appellant is the uncle of the victim, being married to the sister of her father, the trial court applied Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, and sentenced accused-appellant to suffer the supreme penalty of death, to indemnify the victim the sum of P50,000.00, to pay the cost of the suit and to support the child.[6]

In his Appellant's Brief, accused-appellant raises the following assignment of errors:

- I -

THAT THE TRIAL COURT COMMITTED MANIFEST ERROR AMOUNTING TO GRAVE ABUSE OF DISCRETION IN ADMITTING PARAGRAPH 11 OF THE SWORN STATEMENT OF THE COMPLAINING WITNESS AS HER DIRECT TESTIMONY WITH RESPECT TO THE ALLEGED INCIDENT, AS IF THE CASE IS COVERED BY THE RULES ON SUMMARY PROCEDURE;

- II -

THAT THE TRIAL COURT COMMITTED MANIFEST ERROR IN NOT GIVING CREDENCE TO THE PHYSICAL IMPOSSIBILITY OF ACCUSED TO COMMIT THE ALLEGED OFFENSE OF RAPE; CONSIDERING HIS AGE OF 68 YEARS OLD AND HIS DETERIORATING HEALTH;

- III -

THAT THE TRIAL COURT COMMITTED MANIFEST ERROR AMOUNTING TO GRAVE ABUSE OF DISCRETION IN ATTRIBUTING THE BIRTH OF A CHILD OF THE COMPLAINING WITNESS TO A 68-YEAR OLD ACCUSED, AFTER THE LAPSE OF EIGHT (8) MONTHS FROM THE ALLEGED DATE OF INCIDENT; AND THE ALLEGED BIRTH WAS NOT EVEN REGISTERED/REPORTED WITH THE OFFICE OF THE LOCAL CIVIL REGISTRY OF PASIG CITY;[7]

More specifically, accused-appellant assails the credibility of the victim since she was not asked details on how the rape was committed, but was merely made to identify her sworn statements. However, the Solicitor General pointed out that, contrary to accused-appellant's claim, Aileen in fact testified that she was raped by her uncle.[8]

The claim of the defense is untenable. It is not necessary that the victim narrate all the sordid details of the rape. To do so would require her to relive the horror and anguish she experienced which, in all probability, she is trying very hard to erase from memory. Especially, this kind of testimony would usually be made in plain view of the accused, who would in all likelihood be present in the courtroom. Hence, it should be enough if the victim merely says she was raped. This is why this Court has consistently held that when a woman declares that she has been raped she says in effect all that is necessary to mean that she has been raped, and where her testimony passes the test of credibility, the accused can be convicted on the basis thereof.[9]

Accused-appellant casts doubt on the veracity of the victim's claim since she reported the incident after the lapse of seven (7) months. However, jurisprudence has established that delay in revealing the commission of rape is not an indication of a fabricated charge.[10]

Accused-appellant also raises the defense of alibi, averring that at the time of the incident, he was in his hometown of San Luis, Batangas attending the feast day of San Isidro Labrador, Patron Saint of the Farmers. It should be emphasized that the victim positively and categorically testified that she was raped by accused-appellant. Alibi is one of the weakest defenses in criminal cases and it should be rejected when the identity of the accused is sufficiently and positively established by the prosecution. Moreover, in order to overcome the evidence of the prosecution, the accused must establish not only that he was somewhere else when the crime was committed but also that it was physically impossible for him to have been at the scene of the crime at the time it was committed.[11] The distance between Pasig City and Batangas can be traversed within a few hours; hence, it was not physically impossible for accused-appellant to be in Pasig City at any time within the

third week of April 1994, during which the rape was committed.

In support of his claim that he was already impotent, accused-appellant's wife, Sionita de Villa, testified that they could no longer have any sexual intercourse because of her husband's inability to obtain an erection. It has been held, however, that the advanced age of the accused does not mean that sexual intercourse is no longer possible, as age is not a criterion taken alone in determining sexual interest and capability of middle-aged and older people.[12] Moreover, impotency as a defense in rape cases must be proven with certainty to overcome the presumption in favor of potency.

Neither can the claim of impotency by accused-appellant be countenanced. In *People v. Palma* (G.R. No. 69152, 23 September 1986, 144 SCRA 236), we ruled that impotency as a defense in rape cases must be proved with certainty to overcome the presumption in favor of potency. We even rejected that defense in *People v. Olmedillo* (No. L-42660, 30 August 1982, 116 SCRA 193) where a doctor had examined the accused by stimulating his organ with a wisp of cotton for three (3) minutes and there was no erection.

With more reason must we reject such defense in the face of the unsubstantiated allegation of Ablog. For at no time did he present himself for the same kind of examination. Even the expert witness he presented, Dr. Arnold Pasia, could not state with unequivocal conviction that his hypertension was of a permanent nature and of such gravity that it rendered him bereft of sexual desires and potency. On the contrary, Dr. Pasia stressed that the hypertension that Ablog suffered was merely symptomatic and could be healed by proper medication. Neither can accused-appellant invoke old age. In *People v. Bahuyan* (G.R. No. 105842, 24 November 1994, 238 SCRA 330), we convicted an octogenarian of rape as we brushed aside his claim of impotency. There we said that assuming *arguendo* that this was the truth, his advanced age did not mean that sexual intercourse for him was no longer possible, as age taken alone could not be a criterion in determining sexual interest and capability of middle-aged and older people.[13]

Accused-appellant denies having sired the victim's child, who was born some eight months from the time of the alleged rape by normal delivery. He cites the case of *People v. Lao*,[14] where this Court acquitted the accused of the crime of rape because the logical date of conception did not coincide with the alleged occasions of rape. Said ruling, however, finds no application in the case at bar, because in said case, the victim gave birth seven months from the dates of the supposed rapes, and she admitted that she had no sexual contact with the accused prior to the seven-month period.

In the case at bar, the discrepancy lies in the fact that between the date of commission of the rape, i.e., in the third week of April, 1994, to the date of birth of the victim's child, on December 19, 1994, only eight months elapsed. As correctly argued by the Solicitor General, the date of birth of Aileen's child is medically consistent with the time of the rape since the child was born within the nine-month gestation period. Moreover, when the victim's mother testified that Aileen "delivered her baby in a normal way,"[15] she did not state that Aileen gave birth to a full-term nine-month old baby. Thus, the prosecution maintained that Aileen prematurely gave birth to an eight-month old baby by normal delivery.[16]

This Court, therefore, finds credible the victim's testimony that she was raped by accused-appellant. Time-honored is the doctrine that no young and decent woman would publicly admit that she was ravished and her virtue defiled, unless such was true, for it would be instinctive for her to protect her honor. No woman would concoct a story of defloration, allow an examination of her private parts and submit herself to public humiliation and scrutiny via an open trial, if her sordid tale was not true and her sole motivation was not to have the culprit apprehended and punished.[17]

It bears emphasis that the victim was barely thirteen when she was raped. It is settled jurisprudence that testimonies of child-victims are given full weight and credit, since when a woman, more so if she is a minor, says

that she has been raped, she says in effect all that is necessary to show that rape was committed. Youth and immaturity are generally badges of truth and sincerity.[18]

Furthermore, as a rule appellate courts will not disturb the findings by the trial court on the credibility of witnesses, for the trial court is in a better position to pass upon the same. As succinctly explained in the case of *People vs. Atop*,[19] the trial court has the valuable edge of observing the witness' deportment and manner of testifying, her "furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath" --- all of which are useful aids for an accurate determination of a witness' honesty and sincerity.[20]

While the Court affirms the finding of guilt of accused-appellant of the crime of rape, we cannot sustain the death sentence imposed by the trial court. Accused-appellant was convicted under Section 11 of R.A. 7659, which reads in pertinent part:

The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

- When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common law spouse of the parent of the victim. x x x.

The Court has consistently declared that the circumstances under the amendatory provisions of R.A. 7659, Section 11, the attendance of which would mandate the imposition of the single indivisible penalty of death, are in the nature of qualifying circumstances which should be alleged in the information and proved at the trial. Indeed, the Revised Rules of Criminal Procedure, which took effect on December 1, 2000, now specifically require both qualifying and aggravating circumstances to be alleged in the information,[21] viz:

SEC. 8. Designation of the offense. - The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

SEC. 9. Cause of the accusation. - The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment.

Both circumstances of minority of the victim and her relationship with the accused must be alleged in the information. In the case at bar, the prosecution only alleged the minority of the victim; it failed to allege that accused-appellant is her relative by consanguinity or affinity within the third civil degree of relationship. Consequently, accused-appellant cannot be convicted of qualified rape. It must be borne in mind that the requirement for complete allegations on the particulars of the indictment is based on the right of the accused to be fully informed of the nature of the charges against him so that he may adequately prepare for his defense pursuant to the due process clause of the Constitution.[22] Hence, the crime committed is only simple rape, punishable by reclusion perpetua.

On the matter of damages, this Court holds that in addition to the award of P50,000.00 as civil indemnity, the victim, Aileen Mendoza, is also entitled to moral damages of P50,000.00 without need of proof other than the fact of rape.[23]

The Court has also resolved that in crimes of rape, such as that under consideration, moral damages may

additionally be awarded to the victim in the criminal proceeding, in such amount as the Court deems just, without the need for pleading or proof of the basis thereof as has heretofore been the practice. Indeed, the conventional requirement of *allegata et probata* in civil procedure and for essentially civil cases should be dispensed with in criminal prosecution for rape with the civil aspect included therein, since no appropriate pleadings are filed wherein such allegations can be made.

Corollarily, the fact that complainant has suffered the trauma of mental, physical and psychological sufferings which constitute the bases for moral damages are too obvious to still require the recital thereof at the trial by the victim, since the Court itself even assumes and acknowledges such agony on her part as a gauge of her credibility. What exists by necessary implication as being ineludibly present in the case need not go through the superfluity of still being proved through a testimonial charade.[24]

WHEREFORE, the judgment of the Regional Trial Court, finding accused-appellant guilty beyond reasonable doubt of the crime of rape, is **AFFIRMED** with the **MODIFICATIONS** that he is sentenced to suffer the penalty of reclusion perpetua and ordered to pay the offended party P50,000.00 as civil indemnity; P50,000.00 as moral damages; costs of the suit and to provide support for the child Lealhyn Corales Mendoza.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, De Leon, Jr., and Sandoval-Gutierrez, JJ., concur.
Puno, J., on official leave.

[1] Judge Jesus G. Bersamira presiding.

[2] Rollo, p. 4.

[3] Record, p. 15.

[4] Rollo, p. 14.

[5] *Ibid.*, p. 15.

[6] *Id.*, p. 16.

[7] *Id.*, p. 41.

[8] TSN, February 22, 1995, pp. 4-5.

[9] *People v. Aloro*, G.R. No. 129208, September 14, 2000.

[10] *People v. Melendres*, G.R. No. 133999-4001, August 31, 2000.

[11] *People v. Dando*, G.R. No. 120646, February 14, 2000; *People v. Paraiso*, 319 SCRA 422, 433-34 (1999).

[12] *People v. Bahuyan*, 238 SCRA 330, 345 (1994).

[13] *People v. Ablog*, 309 SCRA 222, (1999).

[14] 137 SCRA 523 (1985).

[15] TSN, March 2, 1995, p. 7.

[16] Rollo, p. 56.

[17] People v. Taño, G.R. No. 133872, May 5, 2000; People v. Amigable, G.R. No. 133857, March 31, 2000; People v. Sampior, G.R. No. 117691, March 1, 2000.

[18] People v. Lusa, 288 SCRA 296, 303 (1998).

[19] 286 SCRA 157, 174 (1998).

[20] People v. Diasanta, G.R. No. 128108, July 6, 2000.

[21] Revised Rules of Criminal Procedure, Rule 110.

[22] People v. Villanueva, G.R. No. 135330, 31 August 2000.

[23] People v. Mendiola, G.R. No. 134846, August 8, 2000; People v. Castillo, G.R. No. 130205, July 5, 2000.

[24] People vs. Prades 293 SCRA 411, 430-431 (1998).

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