

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ERNESTO ROSALES Y RIVERA, ACCUSED-APPELLANT.*G.R. No. 124920. September 08, 1999*

Ponente: BELLOSILLO, J.

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Ernesto Rosales was accused of raping Isabel dela Cruz, a minor, eleven years of age, before the Regional Trial Court of Parañaque (now a City). On 26 March 1996 the trial court found him guilty as charged, sentenced him to suffer the penalty of reclusion perpetua with all its accessory penalties, to indemnify complainant with P50,000.00 as moral damages, and to pay costs.[1] He now seeks the review of his case.

Isabel de la Cruz, unschooled at eleven, ran away from home in search of a brother. She moved from one place to another seeking shelter in houses of friends. One day she asked permission from Estrella Rosales, wife of accused Ernesto Rosales, if she could stay with them even for one (1) night. The Rosaleses lived in a nipa hut at the squatters area, Fourth Estate Subdivision, Parañaque. Her stay stretched to one (1) month or until the fateful incident narrated hereunder.[2]

On 20 March 1993, at about 11 o'clock in the morning, while Isabel was playing doll on the sahog of the Rosaleses together with her neighbor and friend Flordeliza, accused Ernesto Rosales called her and told her to wash dishes. Heeding his call, the girls stopped playing and Flordeliza went home.

While Isabel was washing dishes Ernesto suddenly poked a knife at her back and warned her not to shout otherwise he would kill her.[3] Then he started undressing her. He removed her blouse and skirt and mashed her private parts. He then undressed himself and when already naked placed himself on top of her[4] who was now lying on the floor. He removed her panties, forcibly opened her legs, and finally inserted his penis into her vagina. She suffered severe pain. After he was through with her, Isabel felt her vagina bleeding and saw blood dripping on the floor. Ernesto told her that he would take her to the province. Estrella, wife of Ernesto, was unaware of the rape as she was then washing clothes outside the hut.[5]

Isabel bore her humiliation in silence for two (2) to three (3) days until she was able to ran away and seek the help of her friend Flordeliza who then narrated Isabel's story to Eva Galicia with whom she stayed before until she moved to the place of the accused.

On 25 March 1993 Eva brought Isabel to the NBI for medical examination. Dr. Maximo L. Reyes, medico-legal officer of the NBI, reporting on her examination certified: "Pubic hair, fine, short, scanty. Labia majora and labia minora, coaptated. Fourchette, tense. Vestibule, pinkish. Hymen, originally moderately thick, short, contused from 9:00 to 10:00 o'clock positions corresponding to a face of a watch, and with a healing superficial laceration at 8:00 o'clock position corresponding to a face of a watch, edges of which are congested, edematous and bleed on slight manipulation. Hymenal orifice admits a tube 1.5 cm. in diameter. Vaginal walls, tight. Rugosities, prominent."[6] When asked whether the healing superficial hymenal laceration in complainant's vagina was consistent with the insertion of a penis, Dr. Reyes replied that under normal circumstances it could have been

caused by the forcible entry of a fully erect penile.[7]

Thus, on 2 April 1993 an information for rape of a minor, eleven-year old Isabel de la Cruz, was filed against Ernesto Rosales.

Meanwhile, upon stipulation of the parties, the testimony of Estrella Rosales, wife of the accused, was dispensed with the same being then considered corroborative with that of her husband.

The defense is alibi. According to accused Ernesto Rosales, between 12:00 o'clock and 1:00 o'clock in the afternoon of 20 March 1993 he was with his wife Estrella. It was only on 22 March 1993 that he first saw Isabel, the latter having been allowed by his wife to sleep in their house for one (1) night. The next morning, on 23 March 1993, Isabel left for the nearby house of her friend Flordeliza. Isabel never returned. It was only on 25 March 1993, when he was arrested without warrant, that he next saw Isabel.[8]

On cross-examination, the accused claimed that he did not know a neighbor by the name of Dionisia Policarpio. His wife was a laundry woman but worked on the side as a hilot, a practicing midwife without a license. He recalled that on 20 March 1993 his wife was in their house between 6:00 o'clock and 8 o'clock in the evening attending to someone. The accused stressed that he never saw Isabel prior to 22 March 1993.[9]

Dionisia Policarpio, witness for the defense, testified that at 7:00 o'clock in the morning of 20 March 1993 she went to the house of the accused to give birth to her first child. She was supposedly assisted by Estrella whom she referred to as Nanay Miling. According to Dionisia, there were only three (3) of them present when she delivered: herself, Nanay Miling, and a neighbor, an old woman. She did not see Isabel although she stayed in Ernesto's house that evening and left only the following morning.[10] However, Dionisia could not produce any birth certificate for her first-born issued in Parañaque. According to her, she registered her child in Pampanga three (3) weeks later but could not produce any birth certificate issued by the local civil registrar of any municipality of Pampanga. The records also fail to disclose the name of that child as well as its exact date of birth.

The court a quo did not sustain the defense and, consequently, declared Ernesto Rosales guilty as charged.

Accused-appellant maintains in this appeal that the prosecution failed to prove his guilt beyond reasonable doubt and that the trial court erred in giving credence to the testimony of Isabel. He argues that since Isabel was a "stowaway" by her own admission, it could be possible that the sexual assault was committed by some other person while she was transferring from one place to another, making much of the fact that she failed to mention her real address or where she came from. The defense concludes that being a "stowaway" casts doubt on her credibility.[11]

We are not persuaded. His imputation that Isabel was a "stowaway" and thus of loose morals is self-serving, unsubstantiated and wanting of credible evidence, unworthy of consideration from this Court; for, even a prostitute may be a victim of rape.[12]

In prosecuting the crime of rape, conviction or acquittal virtually depends on the credibility of the complainant's testimony because usually the participants are the only witnesses to its occurrences.[13] As the court a quo had found, Isabel's testimony was firm and categorical and left no room for doubt as to the commission of the dastardly act by Ernesto. Isabel recounted the events that led to the loss of her innocence with complete honesty and without guile. The fact that she was a "stowaway" did not destroy the core of her testimony that accused-appellant sexually violated her as she never wavered in her declaration under the grueling examination by defense counsel. As only a girl her age and experience could testify, Isabel narrated the events in a straightforward and candid manner, giving us no reason to doubt her credibility.

Moreover, the proximity of the time when the rape was committed to the time Isabel reported it to her friends, until she was medically examined, disproves the possibility that any person other than Ernesto Rosales could have committed the crime. By Isabel's narration, she was raped on 20 March 1993. Two (2) or three (3) days later, she left the Rosales' hut and confided her problem to Flordeliza who disclosed the same to Eva Galicia. On 25 March 1993 she was physically examined at the NBI. Within that time frame, Isabel was with her friend Flordeliza and apparently had no contact with any other person. Thus, it can be deduced that no man other than Ernesto Rosales could have defiled her.

This observation is consistent with the medico-legal officer's finding that the superficial hymenal laceration in complainant's vagina was just about "healing" and was found to be consistent with the insertion of a penis.[14] It is an accepted principle that when the victim's testimony is corroborated by the physician's findings of penetration, there is sufficient foundation to conclude the existence of the essential requisite of carnal knowledge.[15] The basic element in the prosecution of rape is to prove carnal knowledge of the girl by the offender and such fact was sufficiently established by medical evidence.

Isabel's declaration contained an intimate detail of her defilement and placed against accused-appellant's bare denial, the latter does not deserve any credit. In asserting his innocence, Ernesto merely alleged that on 20 March 1993 he was at home with his wife, thereby negating the possibility that Isabel could have been with him at the same place and date. He also alleged that he met Isabel for the first time on 22 March 1993 and not on 20 March 1993 as declared by Isabel. But even assuming that to be so, any discrepancy on the date given is at most a minor inconsistency that cannot detract from the veracity of Isabel's claim that she was abused by accused-appellant. The fact remains that Ernesto failed to sufficiently explain his whereabouts on 20 and 22 March 1993. He failed to disclaim the possibility that he could have been present at the locus criminis at the time of the rape. The testimony of defense witness Dionisia Policarpio could probably have helped establish his innocence but Ernesto himself testified that he did not know her at all.

The defense of alibi is inherently weak and accused-appellant's bare denial cannot prevail over the positive identification by the victim that he committed the crime against her person.

Moreover, there is no persuasive evidence of any ill motive imputable to Isabel to narrate anything other than the truth, nor of any other purpose than to obtain redress for the wrong inflicted. It defies reason why an eleven-year old girl would concoct a story of defloration, allow the examination of her private parts, publicly disclose that she has been sexually abused if her motive were other than to fight for her honor and bring to justice the person who defiled her.[16] Hence, Isabel's positive and categorical declaration on the witness stand under solemn oath deserves full faith and credence.[17]

However, as the trial court observed, while the offended party averred that she was just eleven-years old, there was no birth certificate presented to substantiate her allegation.[18] The failure of the prosecution to sufficiently prove Isabel's minority however does not alter the fact that rape was committed as it has been sufficiently established that coition took place against Isabel's will and that she yielded because of genuine fear for her life in the hands of the accused who was wielding a bladed instrument.[19] As correctly observed by the court a quo, Ernesto therefore can only be convicted of simple rape under Art. 335 of the Revised Penal Code, instead of statutory rape.

WHEREFORE, the 26 March 1996 Decision of the Regional Trial Court, Br. 257, Paranaque City, convicting accused-appellant ERNESTO ROSALES Y RIVERA of the crime of rape, ordering him to suffer the penalty of reclusion perpetua and to pay his victim Isabel de la Cruz P50,000.00 as moral damages is AFFIRMED with the modification that he pays an additional amount of P50,000.00 as civil indemnity and P20,000.00 as exemplary

damages to his victim conformably with recent jurisprudence.

SO ORDERED.

Mendoza, Quisumbing, and Buena, JJ., concur.

[1] Decision penned by Judge Agnes Reyes-Carpio, RTC-Br. 257, Parañaque City.

[2] Rollo, p. 15.

[3] TSN, 9 February 1994, p. 137.

[4] "Pinatungan niya ako," *id.*, p. 138.

[5] TSN, 13 April 1994, p. 170.

[6] TSN, 14 June 1994, p. 182.

[7] *Ibid.*

[8] TSN, 20 July 1994, pp. 191-196.

[9] *Id.*, pp. 200-201.

[10] TSN, 12 October 1994, pp. 216-218.

[11] Rollo, p. 53.

[12] *People v. Rivera*, G.R. Nos. 88298-99, 1 March 1995, 242 SCRA 26, citing *People v. Coloma*, G.R. No. 95755, 222 SCRA 255.

[13] *Ibid.*; see also *People v. Castillon*, G.R. No. 100586, 15 January 1993, 217 SCRA 76.

[14] See Note 6.

[15] *People v. Castillo*, G.R. No. 84310, 29 May 1991, 197 SCRA 657.

[16] *People v. Buyok*, G.R. No. 109771, 25 August 1994, 235 SCRA 622; *People v. San Juan*, G.R. No. 105556, 4 April 1997, 270 SCRA 693; *People v. Escobar*, G.R. Nos. 122980-81, 6 November 1997, 281 SCRA 438.

[17] *People v. Benito*, G.R. No. 128072, 19 February 1999, citing *People v. Ebrada*, G.R. No. 122774, 25 September 1998; *People v. Paynor*, G.R. No. 116222, 9 September 1996, 261 SCRA 615.

[18] CA Rollo, p. 118.

[19] *People v. Savellano*, No. L-31227, 31 May 1974, 57 SCRA 320.

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