

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOEY BARCELONA Y SADILLE, ACCUSED-APPELLANT.

G.R. No. 125341. February 09, 2000

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision[1] of the Regional Trial Court, Branch 223, Quezon City, finding accused-appellant Joey Barcelona y Sadille guilty of rape and sentencing him to suffer the penalty of reclusion perpetua and to indemnify complainant Dolly Maglinte in the amount of P50,000.00 as moral damages and to pay the costs of suit.

The facts are as follows:

On November 8, 1993, an Information was filed against accused-appellant charging him with the crime of rape, allegedly committed as follows:

That on or about the 1st day of November, 1993, in Quezon City, Philippines, the above-named accused, by means of force and intimidation with the use of a knife, did then and there wilfully, unlawfully and feloniously had carnal knowledge with the undersigned complainant, a minor, 17 years old, all done against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW.[2]

Upon being arraigned on April 19, 1994, accused-appellant, assisted by counsel, pleaded not guilty to the crime charged, whereupon trial ensued.

Dolly Maglinte testified as follows:

From July 6, 1993[3] until November 1, 1993,[4] she worked in a bakery store located at No. 602 Quirino Highway, Bagbag, Novaliches, and was provided sleeping quarters in the store, which could be accessed through a main door and a secret door. The main door can be locked only from the outside by complainant's employer. On the other hand, the secret door is locked only by a hook which could easily be unhooked. Inside the store is a folding bed where complainant would sleep.[5]

On October 31, 1993, complainant tended the bakery until 10:30 in the evening when she decided to close the store and then go to sleep.[6] At around two o'clock in the morning of November 1, 1993, complainant was awakened by someone opening the zipper of her shorts. When she opened her eyes, she felt someone poking a bladed weapon at her.

By the light coming from the bakery, she saw that her assailant was accused-appellant who then proceeded to remove complainant's shorts and throw it on the floor. Thereupon, accused-appellant parted complainant's legs and inserted his penis into her private parts. Her pleas went unheeded by accused-appellant who continued to force himself inside her for around 10 minutes. Although she was crying, complainant could not shout because

she was afraid for her life, the knife being pointed at the left portion of her neck.[7]

On November 5, 1993, complainant went to the police station in Sangandaan. She was then referred to Camp Crame where she filed a complaint for rape against accused-appellant.[8] Complainant was subjected to a medical examination, the results of which are as follows:

SPECIMEN SUBMITTED:

Person of Dolly Maglante, about 17 years old, saleslady and a resident of 602 [Quirino] Hi-way, Bagbag, Novaliches, Quezon City.

PURPOSE OF LABORATORY EXAMINATION:

To determine physical signs of abuse.

FINDINGS:

GENERAL AND EXTRA GENITAL:

Fairly developed, fairly nourished and coherent female subject. Breasts are conical with pale brown areola and nipples from which no secretions could be pressed out. Abdomen is flat and soft.

GENITAL:

There is moderate growth of pubic hair. Labia majora are full, convex and coaptated with the congested and abraded labia minora presenting in between. On separating the same is disclosed an abraded posterior fourchette and an elastic, fleshy type hymen, with deep healing laceration at 6 o'clock. External vaginal orifice offers moderate resistance to the introduction of the examining index finger and the virgin-sized vaginal speculum. Vaginal canal is narrow with prominent rugosities. Cervix is normal in size, color and consistency with moderate amount of blood oozing from the external os.

CONCLUSION: xxx xxx xxx

Findings are compatible with recent loss of virginity.

There are no external signs of recent application of any form of violence.

REMARKS:

Vaginal and peri-urethral smears are negative for gram-negative diplococci and for spermatozoa.[9]

Accused-appellant, for his part, denied that he had raped complainant, and claimed that their sexual relationship was consensual in nature. According to accused-appellant, he met complainant in the bakery store where they both worked. He courted her. They became sweethearts on October 1, 1993. Feeling happy, he kissed her on the lips. On November 1, 1993, he asked complainant to marry him and she agreed. He then began kissing complainant and she embraced him. Afterwards, she removed her shirt. Accused-appellant asked complainant if she was acting of her own free will. When she said that she was, they took off their clothes, lay on the bed and had sexual intercourse. Afterwards, they made plans to talk to their parents about their coming marriage. But before accused-appellant could fetch his parents, he was arrested for raping complainant.[10]

To support his claim that complainant consented to have sex with him because they were sweethearts, accused-appellant presented as evidence a letter dated September 23, 1993,[11] a birthday card[12] and complainant's picture,[13] which she had given him on his birthday. She also gave him a face towel as a birthday gift.[14]

In addition to accused-appellant's testimony, the defense presented Editha dela Peña who claimed that

complainant had confided to her the love and affection she felt for accused-appellant.[15] Dela Peña presented a letter, dated September 19, 1993,[16] allegedly given to her by complainant wherein the latter wrote about accused-appellant.

Based on the parties' evidence, the trial court rendered a decision, dated May 14, 1996, finding accused-appellant guilty of the rape of complainant. The dispositive portion of its decision reads:

WHEREFORE, the Court finds the accused JOEY BARCELONA y SADILLE guilty beyond reasonable doubt of the crime of Rape defined and penalized under Article 335 of the Revised Penal Code in relation to Article 63 of the same code and hereby sentences him to suffer Reclusion Perpetua and to indemnify the offended party in the amount of P50,000.00 as moral damages and to pay the costs.

SO ORDERED.[17]

Hence, this appeal. Accused-appellant contends that -

THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT OF RAPE DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[18]

It is contended that there was no meaningful resistance on the part of complainant which would show that accused-appellant used force or intimidation in order to have sexual intercourse with her.

We find no merit in accused-appellant's contention.

In adjudging rape cases, the Court is guided by the following principles: (a) an accusation of rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (b) in view of the nature of the crime in which only two persons are involved, the testimony of the complainant must be scrutinized with extreme caution; and (c) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[19]

The trial court found complainant's narration of the alleged rape to be clear, convincing and straightforward.[20] Such evaluation of the testimonies of the witnesses is binding upon the appellate court, there being no showing that it was made arbitrarily, or that the trial court overlooked certain facts of substance which, if considered, could affect the result of the case.[21]

According to accused-appellant, complainant did practically nothing to defend herself while she was allegedly being raped. He asserts that there was no real struggle or determined effort on her part to signify resistance such as to be expected of a woman defending her honor.[22]

This is not so. In the first place, complainant testified that accused-appellant pointed a knife at her neck. There was, therefore, the essence of force and intimidation sufficient to engender fear in complainant's mind that she would be killed if she did not yield to accused-appellant's desires. As stated in the case of *People v. Paranzo*: [23]

The Court has repeatedly held that rape is committed when intimidation is used on the victim and the latter submitted against her will because of fear for her life or personal safety. It is not necessary that the force or intimidation employed be so great or of such character as could not be resisted because all that is required is that it be sufficient to consummate the purpose that the accused had in mind. . .

Secondly, the fact that complainant failed to shout or to fight off accused-appellant's sexual advances when her room was just adjacent to her employer's room does not necessarily show consent. Failure of the victim to shout for help does not negate rape.[24] The intimidation of the victim may be so overpowering as to prevent the victim from making an outcry. Nor is there any standard mode of behavior which can be set for people confronted with a

frightening event. As we held in another case:

. . . . The behavior and reaction of every person cannot be predicted with accuracy. It is a time-honored precept that "different people react differently to a given situation or type of situation and there is no standard form of behavioral response when one is confronted with a strange or startling experience." Not every rape victim can be expected to act conformably to the usual expectations of every one. Some may shout; some may faint; and some may be shocked into insensibility, while others may openly welcome the intrusion.[25]

Accused-appellant cites the case of *People v. Velasquez*[26] wherein the Court disbelieved the complaining witness' testimony due to its inherent improbabilities. In said case, the complainant testified that, while she was sleeping inside her employer's house, the accused, her employer, entered her room, embraced her and held a bladed weapon against her. Frightened, the complainant did not shout while the accused consummated the sexual act. The Court held complainant's testimony to be unbelievable for the following reasons: (a) there was no sincere struggle on her part to preserve her virtue; (b) the complainant engaged in sexual intercourse with the accused twice after the alleged rape but no other charge was filed against the accused; (c) the complainant slept afterwards in the same room where she was allegedly raped in spite of the fact that the room had no lock, nor did she take any other precaution to prevent the accused from taking advantage of her; (d) only when her mother noticed signs of pregnancy did the complainant make an outcry against the alleged assault on her virtue; (e) instead of eliciting pity from her family when she told them of the paternity of her child, complainant was even slapped by her brother, a reaction which cannot be expected if a woman had just told her kin that she had been the victim of a bestial attack; (f) the filing of the case appeared to be motivated by the accused's refusal to marry the complainant; (g) the fiscal to whom complainant made her complaint was unsure of whether to charge the accused with seduction or rape; and, (h) complainant's child was born after at least 10 months and 11 days from the time of the last intercourse, casting a reasonable doubt on complainant's credibility.[27]

But in the case at bar, no such circumstances exist so as to create a reasonable doubt in the mind of this Court that accused-appellant actually raped Dolly Maglinte. Complainant never wavered in her assertion that accused-appellant was able to have sexual intercourse with her only at knife point. She never admitted loving accused-appellant nor did she give any indication that she was attracted to him. On the contrary, she categorically denied having special feelings toward accused-appellant.[28] Even under cross-examination, complainant's testimony did not falter on that material fact. "The rule is that when a rape victim's testimony is straightforward and candid, unshaken by rigid cross-examination and unflawed by inconsistencies or contradictions in its material points, the same must be given full faith and credit." [29]

Absent any showing of ill motive on the part of complainant, we uphold the principle that the lone, uncorroborated testimony of the complainant is sufficient to convict the accused, provided that such testimony is clear, positive, convincing, and otherwise consistent with human nature and the normal course of things.[30]

Accused-appellant makes much of the fact that complainant gave him a birthday card, a picture, a letter and a face towel for his birthday, to show that they were sweethearts and that on November 1, 1993 they were trysting.

While the Court has upheld the defense of consensual sex in some cases, this was on the basis of strong evidence, consisting of letters and the testimonies of witnesses, showing that the alleged rape was actually sex by mutual consent.[31] Having been raised as an affirmative defense, the "sweetheart theory" must be established by convincing proof.[32] Accused-appellant bears the burden of proving that he and complainant had an affair which naturally led to a sexual relationship. This accused-appellant failed to do.

The letter presented by accused-appellant is not, in fact, a love letter. It contains no passage in which complainant professes her love to accused-appellant. On the contrary, complainant wrote "Happy Birthday, my friend," leaving

no room for interpretation as to what she felt toward accused-appellant. At best, this letter can be taken as a friendly greeting on accused-appellant's birthday. Surely, the letter was not intended to be a *carte blanche* or an open invitation for sexual indulgence.[33]

As for the other presents given by complainant, e.g., birthday card, picture and face towel, the same cannot be considered evidence to support accused-appellant's claims as it is not unnatural for friends to give each other gifts on special occasions.

Neither is the testimony of Editha dela Peña believable insofar as it corroborates the alleged relationship between accused-appellant and Dolly Maglinte. Dela Peña admitted in open court that she was in love with accused-appellant and would do anything to help him get out of the case.[34] Her credibility is, to say the least, highly questionable. In an analogous case where the mother of the accused testified to corroborate his alibi,[35] the Court held that corroborative testimony is not credible if tainted with bias, especially where the witness is so closely related to the accused as to wish to help him evade liability for the crime.

Furthermore, the letter given by complainant to Dela Peña cannot be interpreted as a confession of love for accused-appellant. The letter only stated that her reason for giving gifts to accused-appellant is to mollify him since he appeared angry at her for no apparent reason. Nowhere is it stated in the letter that complainant was in love with accused-appellant. Complainant wrote that she noticed an improvement in accused-appellant's attitude towards other people and his work. This certainly cannot be taken to mean that complainant was in love with accused-appellant.

As for accused-appellant's own testimony that it was complainant's aunt who caused his arrest and that complainant filed a case for rape only because she was afraid of her aunt,[36] we find the same to be implausible. His protestations that complainant loved him and that her only motive for filing a rape case was her fear of her aunt are so contrary to common experience that they cannot be deemed worthy of belief. Considering the inherent modesty and reticence of a typical Filipina, it is highly unlikely that she would fabricate a tale which would surely cast dishonor on her virtue. No young Filipina of decent repute would publicly admit she had been raped unless that was the truth.[37] Even in these modern times, this principle still holds true.

Besides, even if indeed accused-appellant and complainant are sweethearts, this fact does not necessarily negate rape. "A sweetheart cannot be forced to have sex against her will. Definitely, a man cannot demand sexual gratification from a fiancée and, worse, employ violence upon her on the pretext of love. Love is not a license for lust."[38]

Neither can one say that, because accused-appellant did not flee after the commission of the crime, he must be innocent. This is not necessarily the case, especially since the evidence clearly established accused-appellant's guilt.

The trial court granted only P50,000.00 as moral damages in favor of complainant. Moral damages is separate and distinct from the civil indemnity awarded to rape victims.[39] In accordance with our recent rulings, an award of P50,000.00 should be given to complainant as her civil indemnity, in addition to the P50,000.00 moral damages awarded by the trial court.[40]

WHEREFORE, the decision of the Regional Trial Court, Branch 223, Quezon City, is **AFFIRMED**, with **MODIFICATION** that an additional amount of P50,000.00 as civil indemnity is awarded to complainant Dolly Maglinte.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Buena, and De Leon, Jr., JJ., concur.

- [1] Per Judge Victorino P. Evangelista.
- [2] Records, p. 1.
- [3] TSN, p. 3, Nov. 8, 1994.
- [4] TSN, p. 5, Sept. 7, 1994.
- [5] Id., p. 7.
- [6] TSN, pp. 13-16, Nov. 8, 1994.
- [7] TSN, pp. 5-10, Sept. 7, 1994.
- [8] Exh. B.
- [9] Exh. D.
- [10] TSN, pp. 3-10, Jan. 23, 1995.
- [11] Exh. 4.
- [12] Exh. 2.
- [13] Exh. 3.
- [14] TSN, p. 4, Jan. 23, 1995.
- [15] TSN, p. 1, Jan. 11, 1995.
- [16] Exh. 1.
- [17] RTC Decision, p. 13; Records, p. 226.
- [18] Rollo, p. 59.
- [19] *People v. Panique*, G.R. No. 125763, Oct. 13, 1999.
- [20] RTC Decision, p. 8; Records, p. 221.
- [21] *People v. Panique*, *supra*.
- [22] Rollo, p. 62.
- [23] G.R. No. 107800, Oct. 26, 1999.
- [24] *People v. Luzorata*, 286 SCRA 487 (1998).
- [25] *People v. Silvano*, G.R. No. 127356, June 29, 1999.
- [26] 120 SCRA 847 (1983).**
- [27] Id., at 854-857.
- [28] TSN, p. 13, Nov. 8, 1994.

[29] People v. Caratay, G.R. Nos. 119418, 119436-37, Oct. 5, 1999.

[30] People v. Abuan, 284 SCRA 46 (1998).

[31] See People v. Bayron, G.R. No. 122732, Sept. 7, 1999.

[32] People v. Monfero, G.R. No. 126367, June 17, 1999.

[33] People v. Cervantes, 333 Phil. 704 (1996).

[34] TSN, p. 11, Jan. 11, 1996.

[35] People v. Gailo, G.R. No. 116233, Oct. 13, 1999.

[36] TSN, p. 10, Jan. 23, 1995.

[37] People v. Manahan, G.R. No. 128157, Sept. 29, 1999.

[38] Ibid.

[39] People v. de los Santos, G.R. No. 120235, Sept. 30, 1999.

[40] People v. Bayron, supra.

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