

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EFREN CABEBE, ACCUSED-APPELLANT.

G.R. No. 125910. May 21, 1998

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

An assessment by a trial court of the credibility of witnesses and their testimonies deserves the highest respect, absent any showing that it has overlooked, misunderstood or misapplied some fact or circumstance of substance, or that it has committed some error in weighing and assigning values to the evidence presented. Moreover, the credible testimony of a rape victim may suffice to establish the guilt of an accused.

The Case

The Court reiterates these well-settled rules in resolving this appeal from the Decision[1] of the Regional Trial Court (RTC) of Puerto Princesa City, Branch 52, finding Efren Cabebe guilty of rape and sentencing him to reclusion perpetua.

Ednalyn Daboc filed a criminal complaint[2] for rape against appellant before the Municipal Circuit Trial Court (MCTC) of Coron-Busuanga, Palawan. Acting on the recommendation of the MCTC, Prosecutor Reynaldo R. Guayco filed an Information dated November 12, 1993 before the RTC of Palawan, charging Cabebe as follows:

“That sometime in the month of May, 1993, at Brgy. Guadalupe, Municipality of Coron, Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, the said accused with lewd design and by means of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with one EDNALYN DABOC, a girl of [sic] 13 years old, against her will and consent to the damage and prejudice of the said Ednalyn Daboc.”[3]

On December 26, 1995, the RTC rendered its Decision, the dispositive portion of which reads

“WHEREFORE, premises considered, judgment is hereby rendered finding the accused Efren Cabebe guilty beyond reasonable doubt as principal of the crime of rape, and there being no modifying circumstances appreciated and not being entitled to the benefits of the Indeterminate Sentence Law, he is hereby sentenced to reclusion perpetua, with the acces[s]ory penalties of civil interdiction for life, and of perpetual absolute disqualification; to pay the offended party, Ednalyn Daboc, civil indemnity in the amount of P50,000.00, and to pay the costs.”[4]

Hence, this appeal.[5]

Statement of Facts

Version of the Prosecution

The prosecution presented as its witnesses Ednalyn Daboc, the victim; Victoria Daboc, her maternal grandmother; and Dr. Rodulph Baladad, Sr., who testified on the medical certificate issued by Dr. Edgar Flores. The facts as

viewed by the prosecution are as follows:

“Appellant Efren Cabebe is a carpenter, and common law husband of Rosalinda Garrido, with whom he has five children. They reside in Barangay Guadalupe, Coron, Palawan. The victim, Ednalyn Daboc, is the daughter of Rosalinda by another man. At the time of the incident complained of, she was thirteen years old and a third grade elementary student. Ednalyn stays with her grandmother Victoria Villoga Daboc, a midwife (hilot), who took care of Ednalyn since she was four months old. They live in another house within the same barangay.

Sometime in May, 1993, Ednalyn’s grandmother, Victoria, went to Barangay San Nicolas also in Coron, Palawan and stayed there for about a month to assist in several deliveries. While she was away, Ednalyn stayed temporarily with her mother, Rosalinda and her common law family.

Sometime in May, 1993, Ednalyn was left in the house together with appellant. At that time, Rosalinda was in the town proper of Coron, Palawan, to attend to some business while her children were washing clothes in a public faucet situated about forty meters away from their house. In the afternoon of that day, appellant called Ednalyn to the bedroom and asked her to pick lice from his head. He lied [sic] on the floor while Ednalyn sat close to his head. While in this position, appellant began undressing Ednalyn. After taking off her short pants and panty, he held her hands and forcibly pulled her to a lying position beside him. Immediately thereafter, he removed his clothes, laid himself on top of Ednalyn and forced his penis into her vagina. Appellant then moved his buttocks in a push and pull motion. While this was going on, Ednalyn cried in pain. She could not shout for help because she was afraid appellant might kill her. She also felt blood coming out of her organ. After about an hour, appellant let go of Ednalyn. He threatened to kill her if she told anyone about what happened. Intimidated, Ednalyn did not immediately disclose her ordeal to anyone. Later however, she revealed the same to her Aunt Ria. (TSN, February 22, 1994, pp. 2-24, 31) When she learned that her grandmother Victoria was back in Barangay Guadalupe, Ednalyn returned home to her. (TSN, March 8, 1994, p. 10)

A couple of months later, Rogelia, Rosalinda’s sister, related to Victoria what appellant did to Ednalyn. Thereupon, Victoria confronted Ednalyn about it and she related the rape perpetrated by appellant.

Victoria immediately sought help from the [b]arangay [c]aptain of Barangay Guadalupe, who advised her to report the incident to the [c]hief of [p]olice of Coron, Palawan. (TSN, March 8, 1994, pp. 4-17) After the police conducted an investigation, a complaint for rape against appellant, signed by Ednalyn Daboc, was filed with the Municipal Circuit Trial Court of Coron-Busuanga. (Exhibit “A”) Ednalyn was examined by Dr. Edgar Flores, who issued a medical certificate dated July 6, 1993, with the following findings, to wit:

- (1) Hymenal tags intact
- (2) Abrasion, confluent, 7:00 o’clock (intero lateral aspect) vaginal orifice.
- (3) No bleeding noted
- (4) Admits smallest finger with pain. (Exhibit “A-2”) x x x.”[6]

Version of the Defense

The trial court summarized the facts culled from the defense evidence, as follows:[7]

“Consistent with his denial of culpability, in his turn to present evidence he took the witness stand and, as his only witness for the defense, sought to prove that it was improbable for him to commit the offense charged. Among others, he declared that on the date and at the time the offense was said to have been committed, he was not home but in his place of work, some distance away.

He purportedly leaves home at about 6:00 o'clock in the morning of every day in May, 1993, and go to his place of work in [S]itio Tulawa, also of [B]arangay Guadalupe, but about 2 1/2 kilometers away. Because of the distance of his place of work from his residence he refrains from going home for lunch at noon time. Lunch is provided by his employer, Gilberto Macmac. He works until 5:00 o'clock in the afternoon and thereafter set[s] out on foot to go home to his residence. He usually gets home in about 30 minutes or shortly before 6:00 o'clock in the evening. Moreover, he does not usually stay home even after getting home from work. After being off from carpentry work, he goes fishing with Gilberto Macmac.

The accused admits that he has not had any quarrel with his supposed mother-in-law, Victoria Villoga Daboc, and he does not know the reason why she should help her granddaughter, Ednalyn, initiate the criminal action against him. He inferentially insinuates, however, that Ednalyn and her grandmother may have been instigated by the latter's other daughter, Rogelia Garrido. That may have come about because at one time, when the accused was giving counsel to his step-daughter, Racquel de Leon about something, Rogelia Garrido took side with Racquel. That incident fueled animosity between the two of them.

The accused props with alibi his denial of [the] commission of the offense and of his culpability. The accused maintains that at the supposed hour of the purported commission of the felonious act he was not in the place where it was committed nor in the immediate vicinity thereof."

The Trial Court's Ruling

In convicting the appellant, the trial court gave credence to the testimony of the victim, holding that "she gave a clear and coherent account of how the accused sexually abused her x x x [and] the Court has not perceived any fact or circumstance from which inference may be drawn that in pursuing the prosecution of the accused she may have been actuated by motives other than for purposes of retribution." [8]

The trial court disbelieved the defense of alibi. Rather, it considered as evidence of the culpability of appellant his letter [9] to Victoria, the victim's mother, in which he asked for forgiveness and promised to render services and financial support to her and her grandchildren.

Assignment of Errors

Appellant ascribes the following errors to the lower court: .

- "1. The lower court erred in not finding that accused-appellant is not guilty of the crime charged.
2. The lower court erred in not acquitting the accused-appellant." [10]

Simply put, the issue raised in this appeal pertains to the credibility of the prosecution witnesses.

This Court's Ruling

The appeal has no merit.

Credibility of Witnesses

Basic is the rule that when a woman cries rape, she says all that is needed to signify that the crime has been committed. [11] In this case, Ednalyn Daboc testified that Appellant Efren Cabebe raped her in May 1993. Her testimony was straightforward and candid:

“FISCAL

Did you remember that there was a day when your mother went to Coron, and that you were asked by Efren Cabebe to remove his lice on his hair?

A

Yes, Sir.

Q

And when you were asked to remove lice from his hair, what did you do?

A

I picked lice from his hair.

x x x

x x x

x x x

Q

What was Efren Cabebe doing while you were picking lice on his hair?

A

He undress[ed] me.

Q

Why, what was his position while you were picking lice on his hair?

A

He was lying down. Lying down on the floor[.]

Q

How about you, what was your position while picking lice on his hair?

A I was sitting down near his head.

x x x

x x x

x x x

Q

What clothes were you wearing when he undress[ed] you?

A

Short pants.

Q

What else if any did Efren Cabebe do?

A

He remove[d] my panty, Sir.

Q

When he remove[d] your short pants and panty, what did you do?

A

He made me lay [sic] down.

Q

How did you happen to lay [sic] down?

A

Efren Cabebe made me lay [sic] down.

Q

[In w]hat manner did Efren Cabebe ma[k]e you lay [sic] down?

A

He pulled me to a lying position.

Q

And what did you feel when your short pants and panty were removed by Efren Cabebe and you [we]re pulled to a lying position?

A

I felt pain.

Q

You remember that you cried?

A

Yes, sir.

Q

Now, when you were made to lay [sic] down after removing your short pants and panty, what did Efren Cabebe do?

A

He put himself atop of me.

Q

You remember if Efren Cabebe still ha[d] his clothes on when he put himself atop of you?

A

He was already naked.

COURT:

(to witness) While you were still picking lice on his hair, was he already naked?

A

He had [n]o clothes at that time when I was picking lice on his hair.

Q

Is it not he was still wearing shirt and brief?

A

Yes, Sir.

Q

And he was also wearing his shirt?

A

Yes, Sir.

Q

But he was already without clothes when he put himself atop of you?

A

Yes, Sir.

Q

When did he remove his shirt . . . his clothes?

A

Before he put himself on top of me.

FISCAL:

(continuing) When he put himself on top of you and he was naked, what did he do?

A

He inserted his male organ.

Q

Where did he insert his male organ?

A

He inserted his male organ inside my vagina. (Witness answered the question very timidly.)

Q

When he inserted his pennis [sic] inside your vagina, what did you feel?

A

I felt pain and I saw there was blood oozing from my vagina.

Q

How long did Efren Cabebe place and inserted [sic] his pennis [sic] inside your vagina?

A

Around one hour.

Q

Do you remember if he was doing the push and pull movement on top of you with his pennis [sic] entering and going out of your vagina?

A

Yes, Sir.

Q

And how long did Efren Cabebe do the push and pull motion of his penis entering and going out of your vagina?

A

It is a long time, Sir.

Q

You felt pain inside your vagina?

A

Yes, Sir.

Q

What were you doing when he was doing the push and pull motion on top of you?

A

I cried.

Q

How long were you crying?

A

I cried for a moment.

x x x

x x x

x x x

FISCAL:

(to Witness) Did you remember if Efren Cabebe told you anything after he was through doing the push and pull motion while he was on top of you?

A

None, Sir.

Q

Now, do you know if he told your mother when she arrive[d] about the incident, what Efren Cabebe did to you?

A

I am threatened I am going to be killed.

Q

What did he tell you when he threatened you?

A

He said, ‘Ednallyn, huwag kang magsusumbong tungkol dito, sapagkat papatayin kita.’ (Ednallyn, don’t tell anybody about this incident or else I will kill you.)

x x x

x x x

x x x”[12]

The trial court accorded full faith and credence to the victim’s guileless recital of the sexual assault committed against her.[13] As a rule, appellate courts will not disturb the findings of trial courts regarding the credibility of witnesses. Such findings are conclusive upon this Court, absent any showing that the trial court has overlooked, misunderstood or misapplied some fact or circumstance of weight and substance that would have affected the result of the case.[14] The defense has failed to present any argument to warrant a departure from this rule.

Indeed, there was no showing of any ill motive on the part of the victim to falsely impute to appellant such a serious crime. Besides, no woman, much less a child of such tender age, would willingly submit herself to the rigors, the humiliation and the stigma attendant upon the prosecution of a rape, if she were not motivated by an earnest desire to put the culprit behind bars.[15] .

Delay in the Disclosure
of the Crime

Appellant assails the veracity of the testimony of the complainant on the ground that she allegedly tarried in disclosing the sexual assault upon her. This argument is not convincing. Complainant’s failure to immediately report her defloration to her grandmother and her other relatives does not taint her credibility. The complainant was a girl only thirteen years old, who was cowered into silence by appellant’s threat on her life. In any event, victims of sexual transgression respond differently to their ordeal.[16] Some victims prefer to bear the pain in silence, rather than risk their lives or expose themselves to ignominy.[17] Some others, for various reasons, put off reporting their story, but such delay does not necessarily affect their credibility.

Right to Cross-Examination
Not Violated

Appellant also contends that he was not afforded the right to cross-examine Racquel de Leon, because this alleged source of the story that he had sexually molested the complainant did not take the witness stand. This argument is utterly bereft of merit. The undue import, which appellant attaches to the putative testimony of Racquel, is debunked by the records. A perusal of the Decision of the trial court reveals that the conviction of Appellant Cabebe was based on the lone but credible testimony of the complainant, not on the testimonies of the other prosecution witnesses, let alone the statement of Racquel. As earlier held, the lone testimony of a credible witness is sufficient to convict the accused.[18]

Furthermore, appellant cannot assail the prosecution for not presenting Racquel on the witness stand, for he himself could have compelled her to appear and testify in court. Thus, this Court held in *People vs. De la Cruz*[19] that “the non-presentation of a certain witness by the prosecution is not a sufficiently plausible defense. If the accused believes that the testimony of said witness is important to his cause, he should avail [himself] thereof, even by compulsory judicial process if necessary. Furthermore, the non-presentation of some prosecution witnesses does not detract from the prosecution’s case, since the number of such witnesses who should be called to testify is addressed to the sound discretion of the prosecuting officers.”

Carnal Knowledge of Complainant Against Her Will Established

Asserting that no rape was committed, appellant argues that there is no conclusive evidence of penetration. We are not persuaded.

Rape is committed when the malefactor has carnal knowledge of a woman under any of the following circumstances: (1) when force or intimidation is used; (2) when the woman is deprived of reason or is otherwise unconscious; or (3) when the woman is under twelve years of age or is demented.[20]

In this case, it is clear that appellant had carnal knowledge of the complainant against her will.[21] For rape to be established, the victim need not actually see the assailant insert his penis into her sexual organ. Neither is it necessary that a man’s genitalia fully penetrate or rupture the victim’s hymen.[22]

Rape is committed with even the slightest penetration of the woman’s sex organ. Thus, even when the man’s penis merely enters the labia or lips of the female organ without rupturing the hymen or lacerating the vagina, the crime of rape is committed.[23] The child suffered pain when the appellant inserted his penis into her sex organ. Verily, she noticed blood coming from her vagina after the assault. It is obvious that there was penetration which thus consummated the crime of rape.

The fact that the medical report states that the hymen of the victim was still intact does not negate rape. As explained in *People vs. Palicte*:[24]

“The fact that there was no deep penetration of the victim’s vagina and that her hymen is still intact does not negate the commission of rape. According to Dr. Jose Ladrado, Jr., who has been in medico-legal cases since 1963 and has examined many rape victims, if the victim is a child, as in the case of Edievien, rape can be done without penetration. Without penetration the male organ is only within the lips of the female organ, and there is interlabia or sexual intercourse with little, none, or full penetration, although he admitted that it was also possible that there was no rape since the hymen was intact.

In the case before us, Edievien repeatedly testified that the accused inserted his penis into her vagina for half an hour, as a consequence of which she suffered pain. This, at least, could be nothing but the result of penile penetration sufficient to constitute rape. Being a virgin, as found by the examining physician, her hymenal

resistance could be strong as to prevent full penetration. But just the same, penetration there was, which caused the pain. For, rape is committed even with the slightest penetration of the woman's sex organ. x x x"

Significantly, Dr. Baladad did not rule out the commission of rape, as indicated by this part of her testimony:

Q

Doctor, it says here, the hymenal tags [were] intact. Is it possible that rape maybe commit[t]ed although the hymenal tags remain?

A Rape could be consummated but it is impossible rape could be consummated when there is no laceration, but it depends upon the hymen. If the hymen is elastic there is a probability that there is rape but it is impossible because there could be a laceration.

Q Doctor, you said it depends upon the elasticity of the hymen[;] is it possible that [the] pennis [sic] could enter the vagina if the hymen is elastic without the hymen be [sic] broken?

A Yes, sir.

x x x

x x x

x x x

ATTY. BAGUYO

(to witness)

Q

Doctor, did I get you right when you say there is quite [an] impossibility if there would be no hymenal deploation [sic]?

A

It is impossible but there is [a] possibility[;] this depends upon the hymen.

Q

What I mean [is] hymen of the 13 years old girl?

A

There is no entering and no bleeding[;] it means there is no penetration and there is pain in the examination of the small finger.

Q

So, there is no penetration?

A

Most probable.

Q

If there is an intercourse, there would be no abrasion?

A

It depends upon the pressure of the surrounding tissue if there was sexual intercourse.

Q

Doctor, you also said that the offended party suffered pain when the smallest finger was inserted, a 13-year old girl could endure sexual intercourse?

A

If there is sexual intercourse, there is pain.

Q

But doctor, if there is sexual intercourse, do you think there is no possibility of hymenal laceration?

A

There is, sir.

Q

There is some possibility beyond deploration [sic]?

A

It is possible but it probable. [sic]

Q

What is the degree of the elasticity of the 13 year old girl?

A

It depends upon the elasticity but normally when there is penetration there would be [a] breaking of the hymenal tag, but there was [sic] instances that the hymen sometimes go [sic] with the movement of the body.

x x x

X X X

X X X

Q

Now, doctor, if the examination of the attending physician is after one month, will it still be bleeding?

A No more, even after a week.

PROSECUTOR ESTOLANO:

(to Court)

To make it of record the incident was made [sic] on May and the medical certificate was issued on July 6, 1993.

X X X

X X X

X X X

COURT:

(to witness)

Q Item No.2 is abrasion, this is before the vaginal orifice, outside the hymen?

A Yes, sir.

Q The entry into the labia of the male [sic] organ there is abrasion?

A Yes, sir.

Q The abrasion on the vaginal orifice could be possible without laceration?

A Yes, sir.

Q What could possibly cause the laceration of the vagina?

A Blunt instrument if there is pressure [o]n the skin.”[25]

Alibi is Weak

Raising the defense of alibi, appellant testified that he was at his place of work when the crime was committed at his home, which was just two and a half kilometers away, a distance that could be traversed on foot in thirty minutes. His contention is bereft of merit. To establish alibi, the defense must show that it was physically

impossible for the accused to be at the locus criminis or its immediate vicinity when the crime was perpetrated.[26] In this case, appellant miserably failed to do so. In any event, the defense of alibi cannot prevail over the credible prosecution witness' positive identification of the accused.[27]

The guilt of Appellant Cabebe having been established beyond reasonable doubt, the lower court correctly imposed upon him the penalty of reclusion perpetua[28] and ordered him to pay the victim the amount of P50,000 as indemnity.

WHEREFORE, the Decision of the RTC convicting Appellant Efren Cabebe, imposing upon him the penalty of reclusion perpetua and ordering him to indemnify Ednilyn Daboc in the amount of P50,000, is hereby AFFIRMED. Costs against the appellant.

SO ORDERED.

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

[1] Penned by Judge Filomeno A. Vergara.

[2] Records, p. 4.

[3] Rollo, p. 6.

[4] Decision, p. 11; Rollo, p. 37.

[5] The case was deemed submitted for resolution on March 10, 1998, when the Court received a copy of the Appellee's Brief. The filing of a reply brief was deemed waived upon failure of the appellant to submit one within the reglementary period.

[6] Appellee's Brief, pp. 3-6; Rollo, pp. 90-93. The Brief was signed by Solicitor General Romeo C. de la Cruz, Assistant Solicitor General Pio C. Guerrero, Assistant Solicitor General Antonio L. Villamor, and Associate Solicitor Asuncion A. De Leon-Omila.

[7] Decision, pp. 7-8; Rollo, pp. 33-34. The seven-page Appellant's Brief, prepared by Atty. Edgar O. Palay, contained no statement of facts.

[8] Decision, pp. 9-10; Rollo, pp. 35-36.

[9] Exhibits "B" and "B-1."

[10] Appellant's Brief, p. 2; rollo, p. 48. (Capitalized in the original.)

[11] *People vs. Catoltol, Sr.*, 265 SCRA 109, 117, November 28, 1996.

[12] TSN, February 22, 1994, pp. 13-19.

[13] See *People vs. Casil*, 241 SCRA 285, 293, February 13, 1995; *People vs. Umali*, 242 SCRA 17, 22, March 1, 1995; *People vs. Plaza*, 242 SCRA 724, 728, March 27, 1995.

[14] *People vs. Adora*, GR No. 116528-31, July 24, 1997.

[15] *People vs. Roncal*, GR No. 94705, May 6, 1997.

[16] *People vs. Alimon*, 257 SCRA 658, 673, June 28, 1996 and *People vs. Roncal*, GR No. 94705, May 6, 1997.

[17] *People vs. Julian*, 270 SCRA 733, 750, April 4, 1997.

[18] *People vs. Gabris*, 258 SCRA 663, 671, July 11, 1996; *People vs. Alimon*, 257 SCRA 658, 669, June 28, 1996; *People vs. Julian*, 270 SCRA 733, 746, April 4, 1997; *People vs. Ramirez*, 266 SCRA 335, 348, January 20, 1997.

[19] 184 SCRA 416, 425, April 18, 1990, per Narvasa, C.J. See also *People vs. Cerelegia*, 147 SCRA 538, January 30, 1987 and *People vs. Castillo*, 171 SCRA 30, March 8, 1989.

[20] See Article 335 of the Revised Penal Code.

[21] *People vs. Orita*, 184 SCRA 105, 113, April 1990.

[22] *People vs. Butron*, GR No. 112986, May 7, 1997 and *People vs. Devilleres*, 269 SCRA 716, 726, March 14, 1997.

[23] *People vs. Alimon*, 257 SCRA 658, 671-672, June 28, 1996; *People vs. Gabris*, 258 SCRA 663, 674, July 11, 1996.

[24] 229 SCRA 543, 547-548, January 27, 1994, per Bellosillo, J.

[25] TSN, August 30, 1995, pp. 4-6.

[26] *People vs. Umali*, 242 SCRA 17, 23, March 1, 1995.

[27] *People vs. Fuensalida*, GR No. 119963, November 6, 1997; *People vs. Quinevista, Jr.*, 244 SCRA 593-594, May 31, 1995; *People vs. Remoto*, 244 SCRA 506, 520, May 29, 1995; and, *People vs. Guamos*, 241 SCRA 528, 533-534, February 21, 1995. [

[28]] Paragraph 2 of Art. 335 of the Revised Penal Code.

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