

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MAURICIO LOYOLA Y BOTAYA ALIAS “JUNIOR”; ACCUSED-APPELLANT.

G.R. No. 126026. February 06, 2001

Ponente: PARDO, J.

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PARDO, J.:

Accused Mauricio Loyola y Botaya alias "Junior" appeals from the decision of the Regional Trial Court, Bukidnon, Branch 8, Malaybalay finding him guilty beyond reasonable doubt of rape, the decretal portion of which reads as follows:

"In view of the foregoing, the court finds the accused Mauricio Loyola GUILTY beyond reasonable doubt of rape as charged in the information and he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA and to indemnify private complainant the sum of P30,000.00, and to pay the costs.

"SO ORDERED."[1]

On January 25, 1995, Assistant Provincial Prosecutor Guillermo G. Ching of Bukidnon charged MAURICIO LOYOLA Y BOTAYA @ "JUNIOR" with RAPE, committed as follows, to wit:

"That on or about the 11th day of April 1994 at midnight particularly inside the Bachelor's Express Bus with body No. 2654 at New Bus Terminal, Purok 8, Barangay West Poblacion, Municipality of Kalilangan, Province of Bukidnon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused who is still at large, with lewd design and by means of force and intimidation, did then and there willfully, unlawfully and criminally embrace STECY GATILOGO,[2] a sixteen (16) year-old girl while asleep, cover her mouth with his hand, remove her trouser and underwear and place his body on top of her and forcibly insert his penis into her vagina and have sexual intercourse with STECY GATILOGO, against her will, to the damage and prejudice of the victim in such amount as may be allowed by law.

"Contrary to and in violation of Article 335 of the Revised Penal Code.

"Malaybalay, Bukidnon, January 25, 1995."[3]

Upon arraignment on February 28, 1995, accused pleaded not guilty.[4] Trial on the merits ensued.

On April 9, 1994, Stecy Gatilogo, a sixteen (16) year-old girl, took a boat from Cebu City to visit her grandmother in Wao, Lanao del Sur. She used to live with her grandmother until she transferred to Cebu City and stayed with her aunt to continue her high school studies. From Cagayan de Oro City, where the boat docked in the following morning, she took a bus for Wao. She went first to Pangantucan, Bukidnon for a short visit to her mother. At about five o'clock in the afternoon, Stecy boarded at Pangantucan, Bukidnon a Bachelor Express bus bound for Wao, Lanao del Sur. It was in the bus that she saw and became acquainted with accused Mauricio Loyola, the bus conductor, who seemed to take special interest in her. He saw to it that he could sit by her side after issuing bus tickets to the other passengers, and striking a conversation with her.[5]

The bus was not able to reach Wao that day because at a place called Balating, a part of Wao, the road became too slippery for the bus to continue. It was then about six-thirty in the afternoon and although the center of Wao was still farther away, Stecy decided to proceed on foot. As she was about to get down from the bus, Loyola blocked her way and advised her not to go anymore as it was getting dark. Besides, the two other remaining passengers who went off were not able to go as far as Wao. Stecy was prevailed upon to stay in the bus. The bus turned around and traveled back to the nearest town known as Kalilangan, Bukidnon.[6]

At about seven-thirty, the bus parked at the terminal by the market place at Kalilangan. Stecy wanted to urinate and accused accompanied her to the comfort room. Then accused asked Stecy to take dinner with him in the carinderia located in front of the bus terminal. Stecy accepted the invitation to take dinner with him at one of the carinderias.[7]

At about ten o'clock, Stecy and the accused went up the bus to rest. They talked for a while, then Stecy, already tired and wanting to sleep, occupied one seat near the center of the bus. She noticed accused also lying near the bus door. The driver was asleep at the front-most part of the bus.

At about midnight, Stecy was startled when she felt that someone had touched her breast. When the person told her not to shout, Stecy recognized accused by his voice. Stecy began to cry and became frightened when accused threatened to kill her if she would cry for help. She found herself unable to rise because her arm had stuck into a small gap between the seat and seat armrest during her sleep. With her feet touching the floor, accused rode on top of her and begun to open the button and zipper of her pants. Stecy's pleas were unheeded. With one arm trapped by the seat armrest, Stecy's resistance was futile. Accused drew down her pants and panty, spread her legs and succeeded in having sexual intercourse with her. Afterwards, the accused stood up and said "keep quiet, anyway it was already finished". Then he sat by Stecy and tried to comfort and reassure her even as she continued to sob. Because her own shirt had been badly soiled, she agreed to the offer of the accused to put on his shirt.

The next morning, the bus with only Stecy as its passenger, made another trip to Wao. Balating was still impassable. The driver decided to return to Cagayan de Oro City instead. When the bus passed by Pangantucan, Stecy got off at her mother's house.

Stecy did not have the heart to report the incident to her mother. The next day, April 13, 1994, Stecy proceeded to her grandmother's house.

In the morning of April 14, 1994, Stecy's aunt, Maribel Abaniel went to the house of Stecy's grandmother. Maribel noticed that Stecy had been crying and asked what her problem was. Stecy said "nothing". Upon Maribel's continued prodding, Stecy finally told her about the rape committed by accused. Maribel was shocked and reported the incident to her brother Federico, a policeman. Maribel and her grandmother with other relatives brought Stecy to the police station. She was examined by a doctor.

Dr. Annalyn Macalindog, examined Stecy Gatilogo. She issued a Medical Certificate.[8] She testified that Stecy had a broken hymen but no laceration on her vaginal wall.[9]

Accused Mauricio Loyola y Botoya claimed that he and Stecy were lovers and that what happened in the midnight of April 11, 1994, was consensual. Mauricio disclosed that they had met four (4) times before April 11, 1994, and during those times, he courted her. When they met again on that day, Stecy accepted his love.[10]

The "sweetheart defense" has often been raised in rape cases. It has been rarely upheld as a defense without convincing proof.

Indeed, accused-appellant bears the burden of proving that he and complainant had an affair that naturally led to a

sexual relationship.

"... No young Filipina of decent repute would publicly admit she had been raped unless that was the truth. Even in these modern times, this principle still holds true." [11]

Accused was not able to present any proof to show that he and the complainant were indeed lovers, that he had courted her and that she had accepted him. Other than his self-serving statement, "no documentary evidence of any sort, like a letter or a photograph or any piece of memento, was presented to confirm a romantic liaison between accused-appellant and the complainant." [12] It is clear that the same is but a mere concoction by appellant in order to exculpate himself from any criminal liability. [13] Besides, even if indeed accused and complainant were 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." [14]

Nor can we sustain accused-appellant's claim that there was no force or intimidation employed by him. In *People v. Fraga*, [15] we held:

"The test is whether the threat or intimidation produces a reasonable fear in the mind of the victim that if she resists or does not yield to the desires of the accused, the threat would be carried out. Where resistance would be futile, offering none at all does not amount to consent to the sexual assault. It is not necessary that the victim should have resisted unto death or sustained physical injuries in the hands of the rapist. It is enough if the intercourse takes place against her will or if she yields because of genuine apprehension of harm to her if she did not do so. Indeed, the law does not impose upon a rape victim the burden of proving resistance."

In this case, accused covered Stecy's mouth and threatened that he would kill her if she cried for help. She was abused in a place where she was unfamiliar. The nausea and fear prevented Stecy from putting up a resistance. However, lack of physical resistance can not be considered consent.

Accused points to the victim's use of his nickname "Jun" in making reference to him during her testimony in court, which is a sign of deep familiarity bolstering his claim that they became sweethearts. "The private offended party if indeed familiar with the accused does not create an inference that the complainant and the accused in a rape case are sweethearts." [16] When there is no evidence to show any improper motive on the part of the complainant to testify against the accused or to falsely implicate him in the commission of a crime, the logical conclusion is that the testimony is worthy of full faith and credence. [17]

Finally, after the incident, accused offered to marry Stecy but the latter spurned the offer, declaring that "I am not willing to marry him because he is not my sweetheart." [18] Stecy tenaciously pursued her case against accused. As a rule in rape cases, an offer of marriage is an admission of guilt.

In sum, we find appellant's defenses of denial and alibi to be unavailing in the face of the positive and credible testimony of the prosecution witnesses. His guilt has been satisfactorily proved beyond reasonable doubt. The trial court ordered accused-appellant to indemnify Stecy in the amount of P30,000.00 only. This award must be increased. Pursuant to current jurisprudence and without need of further proof, we award the victim Stecy Gatilogo an indemnity of P50,000.00, and moral damages of P50,000.00. In *People v. Prades* [19] the Court resolved that moral damages may be additionally awarded to the victim in a criminal prosecution for rape in such amount as the Court may deem just without the need for pleading or proof of the basis therefor.

WHEREFORE, the decision appealed from finding accused-appellant Mauricio Loyola y Botaya guilty beyond reasonable doubt of rape, defined and penalized under Article 335 of the Revised Penal Code and sentencing him to reclusion perpetua is **AFFIRMED** with the **MODIFICATION** that the indemnity is increased to P50,000.00, and in addition, award P50,000.00 as moral damages to complainant Stecy Gatilogo.

Costs against accused-appellant.

SO ORDERED.

Davide, Jr., C.J., Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] In Crim. Case No. 7121-95, decision rendered on June 24, 1996, Judge Vivencio P. Estrada, presiding, Rollo, pp. 18-24.

[2] Also spelled as Stacy in the transcript of stenographic notes.

[3] Information, Rollo, p. 4.

[4] RTC Record, Order, p. 26.

[5] TSN, June 6, 1995, pp. 2-10.

[6] Ibid., pp. 11-14.

[7] Ibid., pp. 14-16.

[8] Exhibit ""B", RTC Record, p. 33-B.

[9] TSN, September 28, 1995, p. 18.

[10] Appellant's Brief, pp. 24-31. Rollo, pp. 65-72.

[11] People vs. Barcelona, G. R. No. 125341, February 9, 2000.

[12] People vs. Abalde, G. R. No. 123113, March 31, 2000.

[13] People vs. Gumahob, 332 Phil. 870 [1996].

[14] People vs. Tayaban, 296 SCRA 497 [1998].

[15] G. R. Nos. 134130-33, April 12, 2000.

[16] People vs. Danilo Excija, 327 Phil. 1072 [1996].

[17] 338 Phil. 177, 190 [1997].

[18] TSN, June 14, 1995, p. 9.

[19] 355 Phil. 150 [1998].

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