

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOEL LAMARROZA, ACCUSED-APPELLANT.

*G.R. No. 126121. November 24, 1998*

Ponente: MELO, J.

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### MELO, J.:

Accused-appellant Joel Lamarroza was 21 years old and still in high school when he was charged with the crime of rape by Elena Andaya, an unschooled 18-year old barrio lass. The Information alleged:

That on or about the month of February, 1993, in the municipality of Tagudin, province of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously have carnal knowledge of one Elena Andaya, by means of force and against the latter's will and consent.

Contrary to law.

(p. 1, Record.)

The facts show that both Joel and Elena lived in Tukib, Ambalayay, Tagudin, Ilocos Sur, with their houses approximately 60 meters apart, separated by banana plants and malunggay trees. They had other neighbors who also lived a few meters away from each other. During the day, Elena stayed at home while her brother and sister went to school and her parents worked in the farm.

Sometime in August 1993, Elena's mother noticed that her daughter was growing unusually big. Alarmed, she brought Elena to the doctor who found that Elena was 6 months pregnant. Indignant, Elena's mother complained to the barangay officials and the mayor that her daughter had been raped. She pointed at Joel as the culprit. She then brought Elena to the police station to formally charge Joel with rape.

In her sworn statement of August 10, 1993 and in her testimony in court, Elena claimed that sometime in February 1993, Joel Lamarroza went to their house and had sexual intercourse with her against her will, and that as a result thereof, she got pregnant.

On cross-examination, Elena was asked if she knew a certain "Fortun". She admitted knowing him and made the following revelations:

Q

Is it not a fact, Madam Witness, that you made love with this Fortun?

x x x x x x x x

WITNESS:

It is true, Sir.

ATTY. NABUA:

In fact, you had sexual intercourse with this Fortun. Is it not?

A

Yes, it is true, but he was not able to impregnate me, Sir.

Q

When did you have sexual intercourse with Fortun, Madam Witness?

A

Daytime, Sir.

Q

Do you remember what year and month when this sexual intercourse with Fortun happened, Madam Witness?

A

I cannot remember, Sir.

Q

Isn't it a fact, madam Witness, that that happened before Joel Lamarroza went to your house as you testified a while ago?

A

Yes, Sir.

(tsn, July 29, 1993, p. 23.)

Elena also admitted that she and Fortun had their trysts along the river.

Joel Lamarroza vehemently denied raping Elena. He testified that at the time of the filing of the complaint, he was studying at the Tagudin General Comprehensive High School. As his house was not readily accessible from the school, he stayed in the boarding house of one Leonor Sanchez in Quirino, Tagudin. He went home only on week-ends and returned to his boarding house on Sunday afternoon.

Joel remembered going home thrice in the month of February 1993, when the alleged rape happened. His sister celebrated her birthday on February 17, a Saturday. He admitted seeing Elena once during that month - when she and her brother were chopping wood. He did not, however, talk to her, much less touch her.

Joel knew Fortun and would see him take a bath in the river where Elena did the laundry. He insisted that Fortun is the father of Elena's child.

Seemingly, the trial court found Joel guilty of rape solely on the basis of Elena's testimony, thusly,

It would appear from the records that two persons were to be considered as the perpetrator of the offense, if it may be so called.

It will be recalled however that Joel Lamarroza was the person pointed to by Elena who raped her in February and by whom she had a child. No one could question the fact that she said so in her testimony before the court"

(p. 91, Rollo.)

The evidence on record cannot support affirmance. Guided by the following basic principles applied in rape cases, we reverse:

- (a) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused, though innocent, to disprove the charge;
- (b) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and
- (c) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense.

(People vs. Sta. Ana, G.R. No. 115657-58, June 26, 1998).

Simply pointing at the accused as the perpetrator is not enough to establish the crime of rape. there has to be clear and convincing evidence to prove the allegation that the person charged had carnal knowledge of the complainant against her will. In the case at bar, Elena's testimony, the only basis of conviction by the trial court, fails to convince us that Joel indeed raped Elena. When describing the act of rape, Elena gave the impression that she was a ready and a willing "victim". Thus, when Joel entered their house, "(he) carried me then he lay me down, Sir, in a makeshift bamboo bed, Sir, in our yard" (tsn, July 29, 1994, p. 14). She then injected the element of involuntariness: "I struggled, but he was not able to free me and he said that if I could not satisfy him, he will kill me" (ibid.). no guns, knives or any deadly instrument were employed by Joel in allegedly threatening Elena. Moreover, when asked if she enjoyed what Joel did to her, Elena answered -

A.

Yes, Sir.

Q.

ADDRESSING THE COURT: May I make it of record, your Honor, that the witness was laughing when she answered "yes" to the question.

(tsn, July 29, 1994, p. 29)

In the crime of rape alleged to have been committed by force, it is imperative for the prosecution to establish that the element of voluntariness on the part of the victim be absolutely lacking. (People vs. Subido, 253 SCRA 196 [1996]). One cannot be forced to have sex and at the same time enjoy it. This is simply unnatural and not in accord with ordinary human experience.

Complainant confuses impregnation with rape. Thus,

Q

Madam Witness, why did you not file a rape against Fortun?

x x x x x x x x

A.

Because Fortun has no son to me, Sir.

x x x x x x x x

Q.

(But) when your parents found out that you were pregnant you pointed to Joel Lamarroza.

A.

Yes, Sir.

Q.

And why did you not point to Fortun as the father of your child you are carrying?

A.

No, Sir, because it is not his son, and besides he did not have similar face with it.

Q.

So the reason why you pointed to Joel Lamarroza as the father of your child is because he has physical similarities with Joel Lamarroza. Is it not?

A.

Yes, Sir.

(tsn, July 29, 1994, pp. 24, 28)

Rape is defined under Article 335 of the Revised Penal Code as having carnal knowledge with a woman by using force or intimidation, or when she is deprived of reason. Or otherwise unconscious, or when the woman is under 12 years old. Pregnancy is certainly not an element of the crime (People vs. Malapo, G.R. No. 121115, August 25, 1998; People vs. Sta Ana, Supra). However, obviously scandalized and embarrassed by Elena's "unexplained" pregnancy, her family cried "rape".

Thus,

Q

How did your mother come to know that you were raped, Madam Witness?

A

Because my breasts were becoming larger, Sir.

(tsn, July 29, 1994, p. 19).

Elena's conduct after the alleged rape appears contrary to the natural reaction of a woman outraged and robbed of her honor. She never felt anger, shame, or hurt as would a woman whose virtue has been violated. In fact, she remained friendly with Joel and would go out to the fields with him after alleged rape in February 1993 (tsn, July 29, 1994, p. 22). The conduct of the victim, immediately following the alleged assault is of outmost importance so as to establish the truth or falsity of the charge of rape (People vs. Bawar, 262 SCRA 325 [1996]). In the case at bar, Elena's deportment seemed unnatural for someone who allegedly went through a harrowing experience.

The prosecution tried to establish that Elena was a mental retardate. The trial court believed that she, indeed, was of low mental capacity. While it may be observed from Elena's testimony that she was slow in understanding some of the questions posed to her, and would sometimes give unresponsive answers, we are not convinced that she is a mental retardate. At most she is intellectually weak and gullible. The medical certificate which Elena's mother presented to the court stating that:

Psychological tests revealed patient has low level of mental ability. She was found to be psychologically filthy,

appears to be severely disturbed and has emotional conflicts.

(Exh. "A", "A-2", Record, pp. 150-151.).

was never testified to by the psychiatrist, Dr. Roderico V. Ramos, who allegedly examined Elena. Said certificate is nothing, therefore, but a mere scrap of paper, the contents thereof being hearsay.

In *People vs. Cartuano, Jr.* (255 SCRA 403 [1996]), we held that in making a diagnosis of mental retardation, a thorough evaluation based on history, physical, and laboratory examination made by a clinician is necessary. The reason for this requirement is well-explained in both medical, and psychology literature: mental retardation is a recognized clinical syndrome usually traceable to an organic cause, which determinants are complex and multifactorial. As the boundaries between normality and retardation are difficult to delineate, proper identification requires competent clinical evaluation of psychomatic parameters in conjunction with medical and laboratory tests. In the case at hand, the record is bereft of any evidence that a comprehensive medical evaluation was had to properly determine Elena's alleged mental retardation. Be that as it may, her alleged mental state has no bearing on the rape charge against Joel whose culpability has not been proved by the prosecution beyond the shadow of a doubt.

A rape charge is a serious matter with pernicious consequences both for the accused and the complainant (*People vs. Godog*, 250 SCRA 676 [1995]). Because of this case, Joel had to stop his studies, and he may forever live with the stigma of being a "rapist." While we may not be able to give him back his lost youth, we can, however, extend to him the justice that was denied him when he was wrongfully accused and convicted below of the revolting crime of rape.

WHEREFORE, the decision appealed from is hereby REVERSED and SET ASIDE and accused-appellant JOEL LAMARROZA is hereby ACQUITTED of the charge against him. His immediate release is hereby ORDERED unless he is otherwise detained for any other lawful or valid cause.

**SO ORDERED.**

Puno, and Mendoza, JJ., concur.

Martinez, J., No part. On official leave.

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