

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
WILSON DREU ALIAS "ADANG" DREU, ACCUSED-APPELLANT.**

G.R. No. 126282. June 20, 2000

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision of the Regional Trial Court, Branch 51, Sorsogon, Sorsogon, finding accused-appellant Wilson "Adang" Dreu guilty of rape and sentencing him to suffer the penalty of reclusion perpetua and to pay the victim Josephine Guevarra the amount of P30,000.00 as moral damages and the costs of suit.

The information^[1] against accused-appellant and his co-accused Minda Dollesin reads:

The undersigned Assistant Provincial Fiscal accuses Adang Dreu as principal by direct participation and Minda Dollesin as principal by indispensable cooperation, both residents of Rangas, Juban, Sorsogon, of the crime of Rape, committed as follows:

That on or about the 11th day of May, 1986, in Barangay Rangas, Municipality of Juban, Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused Adang Dreu, did then and there, wilfully, unlawfully and feloniously, by force and intimidation while Josephine Guevarra was deprived of reason or otherwise unconscious have sexual intercourse with said Josephine Guevarra, against her will and consent, and with the indispensable cooperation of Minda Dollesin, to the damage and prejudice of said Josephine Guevarra.

The facts are as follows:

On the evening of May 10, 1986, Josephine Guevarra and several companions went to a dance in Rangas, Juban, Sorsogon. At around one o'clock in the morning of May 11, 1986, Josephine, with her aunt Leonora Diche and some friends, decided to go home in Mabini, Casiguran, Sorsogon, about two kilometers from Rangas.^[2] On their way, Minda Dollesin, Josephine's close friend of two years, invited her to pass by the former's (Minda's) house.^[3] Josephine did not think twice about it and accepted Minda's invitation. So the two proceeded to Minda's house, while the rest went their separate ways. Instead of going to Minda's house, however, the two went to the house of a certain Victor Guerrero where Minda had a small store. Minda said she wanted to get something from her store. Minda went inside the store and told Josephine to wait outside. Moments later, a man whom Josephine recognized as accused-appellant, came out of the store and immediately covered her head and face with a jacket. Josephine instantly felt nauseated as the jacket smelled of rugby. Accused-appellant went behind her and, with his left hand, held both of Josephine's hands behind her, while his right hand held a bladed weapon at Josephine's right side. She was then dragged a few meters from the store and led to a grassy area where she was made to lie on the ground. Accused-appellant then removed the jacket from Josephine's head and removed her pants.

Josephine wanted to fight back, but she felt weak and afraid. She tried to talk accused-appellant out of his design,

telling him "that it could be done in a good or nice way,"[4] but accused-appellant paid no heed to her pleas, as he took off his pants. At this point, Josephine lost consciousness. When she came to about 30 minutes later, she found her private parts bleeding. She saw accused-appellant put on his pants and then leave. Josephine then put on her own pants and went to the waiting shed by the roadside.[5] She was weeping when her brother, Jessie Guevarra, and the latter's companions found her. It was about 1:30 in the morning. Her brother and his companions were going home. Jessie asked Josephine what happened to her but, as the latter was about to recount her ordeal, Minda Dollesin arrived together with Panny[6] Dreu, accused-appellant's brother. Minda told them that they should not involve her in the incident.[7] Jessie then took Josephine home. Later that morning, Josephine told her brother what had happened to her. Jessie then reported the matter to their father, Pablo Guevarra, who lost no time in reporting the incident to the authorities.[8]

On May 12, 1986, Dr. Erlinda Orense, Municipal Health Officer of Juban, Sorsogon, examined Josephine and found "vaginal laceration at 3 o'clock and 9 o'clock position . . . which admits one finger with ease." [9]

On May 31, 1986, Josephine executed a sworn statement[10] which formed the basis of a criminal complaint[11] against accused-appellant and Minda Dollesin. After preliminary investigation, an information was filed charging both accused with the crime of rape. At the arraignment held on June 9, 1987, only Minda Dollesin was present. She pleaded "not guilty" to the charge[12] and, upon her motion, she was tried separately.

After the prosecution presented its evidence and rested its case, counsel for Minda Dollesin, with leave of court, filed a demurrer to evidence.[13] In an order,[14] dated December 8, 1989, the trial court found that the evidence against Minda Dollesin was insufficient and ordered the case archived pending the arrest of accused-appellant. Accused-appellant was finally arrested on February 2, 1991. He was arraigned and he pleaded "not guilty," whereupon, he was tried.

On September 18, 1995, the trial court rendered its decision[15] finding accused-appellant guilty of rape. The dispositive portion of the decision reads:

ACCORDINGLY, the accused Wilson alias Adang Dreu is convicted of Rape defined and penalized under paragraph 1 Art. 338 as amended by Republic Act No. 4111 and sentenced him to Reclusion Perpetua and to indemnify the offended party the amount of P30,000.00 for moral damages and costs of suit.

Hence, this appeal. Accused-appellant assigns the following errors:

I. THE TRIAL COURT GRAVELY ERRED IN FINDING THAT ACCUSED-APPELLANT USED FORCE AND INTIMIDATION WHEN IN FACT THE SEXUAL INTERCOURSE WAS WITH THE MUTUAL CONSENT OF THE PRIVATE COMPLAINANT AND ACCUSED-APPELLANT.

II. THE TRIAL COURT GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE TESTIMONY OF THE PRIVATE COMPLAINANT DESPITE THE VARIOUS INCONSISTENCIES AND CONTRADICTIONS IN HER TESTIMONY ON SOME MATERIAL AND VITAL POINTS.

III. THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE WEAK EVIDENCE PRESENTED BY THE PROSECUTION AGAINST HIM.

The appeal has no merit.

First. Accused-appellant claims he and Josephine were lovers and that what happened in the early morning of May 11, 1986 was consensual. He claims that there is no evidence that he used force and intimidation in having sexual intercourse with Josephine.[16]

This is without basis. Accused-appellant failed to present any evidence to support his claim that he and Josephine

were sweethearts.[17]It appears that shortly after the incident, accused-appellant offered to marry Josephine but the latter spurned the offer, declaring "[she] did not like him to be [her] husband."[18] Instead, Josephine tenaciously pursued her case against accused-appellant.[19]

The "sweetheart defense" has often been raised in rape cases but has rarely been upheld as the defense failed to come up with convincing proof. Indeed, accused-appellant bears the burden of proving that he and complainant had an affair which naturally led to a sexual relationship.[20] As we held in *People v. Barcelona*: [21]

. . . 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.

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."

Nor can we sustain accused-appellant's claim that there was no force or intimidation employed by him in this case. In *People v. Fraga*, [22] 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-appellant covered Josephine's head with a jacket laced with rugby which made her dizzy, making it easy for him to drag her to a secluded area and abuse her. He poked a knife at her side. The nausea and fear not only prevented Josephine from putting up a resistance, but even caused her to lose consciousness.

It is of no moment either that the medical certificate fails to show that Josephine suffered any contusion or abrasion. Although the results of a medical examination may be considered strong evidence to prove that the victim was raped, such evidence is not indispensable in establishing accused-appellant's guilt or innocence. In *People v. Docena*, we stated: [23]

That there was no medical examination report presented, sign of resistance during the actual copulation, or proof of violence committed against MARGIE does not detract from our conclusion that she was raped. A medical examination is not indispensable in a prosecution for rape. Medical findings or proof of injuries, virginity, or an allegation of the exact time and date of the commission of the crime are not essential in a prosecution for rape. . .

. . . [The defense's contention is not bolstered by the victim's] failure to put up a strong resistance or shout for help, nor by the fact that there was no sign of force and intimidation, which should be viewed in the context of the victim's perception and judgment at the time of the commission of the offense. It is subjective; thus, lack of physical resistance cannot be considered consent.

Second. Accused-appellant claims that Josephine's testimony is full of inconsistencies and contradictions which render the same incredible and negates any moral certainty as to his guilt. In his brief, he points out the following inconsistencies and contradictions in Josephine's testimony:

1. Place of incident as testified to by private complainant.

- 1.01. Beside a grassy road at Rangas, Juban, Sorsogon (Exhibit D) Question and Answer No. 3, p. 2)

1.02 At the back of the house of Victor Guerrero, 30 meters from the road (TSN, Feb. 17, 1992, p. 44).

....

2. Where alleged rapist came from:

2.01. A man suddenly appeared from behind. (TSN, Feb. 17, 1988, p. 9)

2.02. A man suddenly went out of the door and she glanced at him. (TSN, February 17, 1992, p. 27).

3. Alleged force and intimidation employed

3.01. Accused was holding a Batangas knife-like instrument with his right hand which the victim felt but was not able to see. (TSN, February 17, 1992, p. 10)

(...later this was changed)

3.02. it was a Batangas knife because it has a handle and it could be folded; that she was looking at this knife while she was being dragged. (TSN, February 17, 1992, p. 38)

4. While being raped:

4.01. Victim's aunt and other companions went ahead to their respective houses. (TSN, February 17, 1992, p. 61)

4.02. Victim's companion including her aunt were at the waiting shed but left when stoned were hurried at the shed; that she heard the sound of stones hurried; that when she was being raped the shed was stoned and she could hear the thuds of the stones on the walls. (TSN, August 18, 1988, pp. 22-23)

However in another part of her testimony

4.03. she stated that after the accused-appellant removed her panty, she did not know anymore what happened because she lost her consciousness already. (TSN, February 17, 1992, p. 14)

....

5. After the alleged rape:

5.01 After she was raped, complainant cried because the accused-appellant left her then she provided to the waiting shed. (TSN, August 18, 1988, p. 5)

5.02. Her brother Jessie came upon her at the side of the road where she sat; (TSN, February 17, 1992, p. 15) she was alone which prompted her brother to ask her what happened (TSN supra, p. 17) she told her brother what happened. He got angry. Later Minda Dollesin came out from her house with cousin Panit Dreu; (TSN, supra, p. 18)

This declaration of the complainant is very much inconsistent with the statement of her brother Jessie Guevarra, to wit:

5.03. When Jessie arrived at the waiting shed, he saw her sister crying; she was sitting at the said waiting shed with two other companion, Adan Dreau and Panit Dreau; he asked her what happened; she did not say anything; the two men left for a while and returned to the shed with Minda Dollesin; Jessie and her sister then proceeded home. (TSN, January 24, 1989, pp. 3-6)

Jessie Guevarra's testimony was likewise contradicted when he again took the witness stand

5.04. On May 11, 1986 around midnight, she was at the waiting shed of Rangos, Juban, Sorsogon. When he was about to leave met his sister Josephine near the road crying; she was squatting along the road, he then

brought her home. (TSN, May 10, 1993, pp. 3-4, emphasis added).[24]

The inconsistencies in Josephine's testimony, however, concern minor matters and, therefore, are inconsequential. They do not in any way render her account less credible. Moreover, there is no showing of any ulterior motive on the part of Josephine to testify falsely against accused-appellant. We note that she was called to the witness stand four (4) times in a span of seven (7) years, viz.: February 17, 1988, August 8, 1988, February 17, 1992 and March 6, 1995. All throughout, she never wavered on the material points of her testimony: that she went to the dance on the night of May 10, 1986; that she was on her way home from the dance when her friend, Minda Dollesin, asked her to go with her to Minda's house; that instead of going to Minda Dollesin's house, they went to the house of a certain Victor Guerrero on the pretext that Minda wanted to get something from her store in that house; that, while waiting for Minda Dollesin by the door, accused-appellant came out of the house, covered her head and face with a jacket that smelled of rugby, held a knife at her side, and pulled her to a grassy area behind the house; that accused-appellant then took the jacket off her head, undressed her by pulling down her pants and underpants; that accused-appellant then took off his own pants and went on top of her; that because of fear and nausea, she lost consciousness; that when she came to, she felt some pain in her private parts and saw that she was bleeding; and that when accused-appellant had left, she gathered strength to put on her clothes and walk to the roadside where she was found by her brother Jessie Guevarra.

Indeed, accused-appellant points to the inconsistency in the testimonies of Josephine and her brother, Jessie, but his counsel never cross-examined Jessie nor required him to explain the supposed inconsistencies. In any event, we cannot consider the same as sufficient to justify disregarding Josephine's testimony altogether and sustain accused-appellant's claims. Well-settled is the rule that "inconsistencies on minor details of the testimony of a witness serve to strengthen his credibility as they are badges of truth rather than an indicia of falsehood." [25] In *People v. Arafiles*, [26] we held:

We have ruled that the protracted examination of a young girl, not accustomed to public trial, could produce contradictions which nevertheless would not destroy her credibility. Paradoxically, they may be badges of spontaneity, indicating that the witness was unrehearsed. . .

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.

Third. Finally, accused-appellant's guilt is established by the fact that he offered to marry Josephine after the incident was reported to the authorities. This was testified to by Josephine, [27] her father, Pablo Guevarra, [28] her mother, Wennie Guevarra, [29] and by accused-appellant himself. [30] As a rule in rape cases, an offer of marriage is an admission of guilt. [31]

Nor is accused-appellant's position aided by the fact that, after his offer of marriage was rejected, he left their town and only came back after his co-accused, Minda Dollesin, had been acquitted. His offer of marriage was apparently only an attempt to evade prosecution and clearly makes his leaving town an incident of flight. This is evidence of guilt. [32]

The trial court ordered accused-appellant to pay Josephine moral damages in the amount of P30,000.00 only. This award must be increased. Currently, moral damages for rape is fixed at P50,000.00. [33] In addition, accused-appellant must be ordered to pay civil indemnity in the amount of P50,000.00, consistent with the recent rulings of this court. [34]

WHEREFORE, the decision appealed from is AFFIRMED with the MODIFICATION that accused-appellant is ordered to pay P50,000.00 as moral damages and P50,000.00 as civil indemnity to Josephine Guevarra.

SO ORDERED.

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

- [1] Records, p. 33.
- [2] TSN (Josephine Guevarra), p. 19, Aug. 8, 1988; TSN (Wilson Dreu), p. 6, Nov. 14, 1994.
- [3] TSN (Josephine Guevarra), p. 5, Feb. 17, 1992.
- [4] Id., p. 13.
- [5] Id., pp. 14-18.
- [6] Also referred to as "Panit" Dreu in certain parts of the records.
- [7] TSN (Jessie Guevarra), pp. 3-5, Jan. 24, 1989.
- [8] TSN (Pablo Guevarra), pp. 6-9, June 9, 1987.
- [9] Exh. B; Records, p. 7.
- [10] Exh. D; Id., p. 2.
- [11] Exh. A; Id., p. 1.
- [12] Records, p. 45.
- [13] Id., pp. 344-347.
- [14] Id., pp. 348-351.
- [15] Rollo, pp. 26-30.
- [16] Brief for the Accused-Appellant, pp. 8-10; Id., pp. 75-77.
- [17] TSN (Wilson Dreu), pp. 14-16, Nov. 15, 1994.
- [18] TSN (Josephine Guevarra), p. 10, Aug. 8, 1988.
- [19] Id., pp. 5-6, March 6, 1995.
- [20] People v. Barcelona, G.R. No. 125341, February 9, 2000, citing People v. Manahan, G.R. No. 128157, Sept. 29, 1999.
- [21] Supra.
- [22] G.R. Nos. 134130-33, April 12, 2000.
- [23] G.R. Nos. 131894-98, Jan. 20, 2000.
- [24] Brief for the Accused-Appellant, pp. 15-19; Rollo, pp. 82-86. (Emphasis in the original.)
- [25] People v. Perez, G.R. No. 129213, December 2, 1999.
- [26] G.R. No. 128814, February 9, 2000.
- [27] TSN, p. 10, Aug. 8, 1988.

[28] TSN, pp. 9-11, June 9, 1987.

[29] Also referred to as "Weny Guevarra" in the records. TSN, pp-4-7, Aug. 2, 1989.

[30] TSN, p. 19, Nov. 15, 1994.

[31] *People v. Casao*, 220 SCRA 362 (1993); *People v. Gerones*, 193 SCRA 263 (1991)

[32] See *People v. Naag*, G.R. No. 123860, January 20, 2000; *People v. Orillo*, G.R. No. 125896, May 11, 2000.

[33] *People v. Padilla*, 301 SCRA 265 (1999)

[34] *Supra*. See *People v. Rojas*, G.R. No. 125292, April 12, 2000; *People v. Taño*, G.R. No. 133872, May 5, 2000.

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