

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGER VAYNACO, RONEO TABONES, ALLAN CAJIPE, AND JUNIOR ONIOT DELIS (AT LARGE), ACCUSED. ROGER VAYNACO, RONEO TABONES, AND ALLA...

G.R. No. 126286. March 22, 1999

Ponente: PARDO, J.

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PARDO, J.:

Can we rely on the sole testimony of a mentally disturbed sixteen year-old girl that seventeen young men successively raped her on two instances from 2:00 p.m. up to 4:00 a.m. the following day?

Now before us is an appeal taken by the accused Roger Vaynaco, Roneo Tabones and Allan Cajipe from the decision[1] of the Regional Trial Court, Branch 7, Tacloban City,[2] convicting them of rape committed against May Anne Gabrito and sentencing each of them to three penalties of reclusion perpetua; to pay jointly and severally to May Anne Gabrito the sum of P150,000.00, for moral damages plus costs, without subsidiary imprisonment in case of insolvency.

On complaint[3] subscribed by May Anne Gabrito, on November 29, 1994, the City Prosecutor, Tacloban City, filed four (4) informations with the Regional Trial Court, Branch 7, Tacloban City, against accused Roger Vaynaco, Roneo Tabones, Allan Cajipe, and Junior Oniot Delis for the rape of May Anne. All four indictments commonly allege:

"That on or about the 26[th] day of September, 1994, in the City of Tacloban, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping each other, by means of force and intimidation, did, then and there, willfully, unlawfully and feloniously have carnal knowledge (sexual intercourse) in succession with one MAY ANNE GABRITO, 15 years of age, against her will and consent.

Contrary to law."[4]

On September 29, 1994, all the accused were arrested except Juniour Oniot Delis, who remained at large.

Upon arraignment on February 21, 1995, accused Roger Vaynaco, Roneo Tabones and Allan Cajipe pleaded not guilty to the accusations against them[5]

The Facts

On September 26, 1994, at about 2:00 p.m., May Anne Gabrito, a student of Leyte Colleges, came from the Gaisano Shopping Center and was bound for home at San Jose, Tacloban City, aboard a passenger jeepney. She noticed seven (7) Divine Word University (DWU) college students board the same jeepney. On their way, the students introduced themselves and invited her to join them at Sandy Beach Resort. She accepted the offer and drank Tanduay Rhum with them at the resort. At about 7:00 in the evening, the seven students gang raped her in one of the cottages.

At 8:00 p.m., tired and distraught, May Anne walked home barefooted. Passing by Junvy's store located just a few meters away from Sandy Beach, eleven teenagers[6] suddenly forced her to join them at the adjacent Costa Brava beach resort for some drinks. They brought her to a nearby cottage and at 10:00 p.m., the boys began their lewd designs.[7] They placed her on top of a table where they took off her clothes and, in succession, inserted their penis inside her vagina with the use of their fingers. As one of the accused penetrated her, the others covered her mouth to prevent her from shouting, mashed her breasts, and then kissed, bit and sipped different parts of her body.[8] They left her alone after ravishing her, giving her the chance to escape.

Dr. Teresita Cajano, a psychiatrist at the Eastern Visayas Regional Medical Center, testified that the victim has a mood disorder, and is suffering from major depression. She is considered to have schizo-affective disorder and mental retardation.[9] The victim has been a patient of Dr. Cajano since September 29, 1993. According to her initial findings in 1993, May Anne was mentally disturbed and cannot make rational decisions. Thus, Dr. Cajano prescribed anti-depressants.[10]

Police Superintendent Angel Cordero, Chief Medico Legal Officer, PNP Crime Laboratory, testified that the panty, leggings and pants used by the victim after the alleged rape were positive of human blood and the presence of spermatozoa.[11]

In its decision dated January 26, 1996, the trial court rendered judgment convicting the accused Roger Vaynaco, Roneo Tabones and Allan Cajipe, the dispositive portion of which reads:

"WHEREFORE, this Court finds the 3 accused charged and tried, guilty of rape by direct participation for one act of rape committed by him as well as 2 other acts of rape by conspiracy for the 2 other co-accused. Hence, accused Allan Cajipe is hereby sentenced to 3 sentence of reclusion perpetua;

Accused Roger Vaynaco is hereby sentenced to 3 penalties of reclusion perpetua;

Accused Roneo Tabones is hereby sentenced to 3 penalties of reclusion perpetua.

All named accused are further ordered to jointly and solidarily pay to the victim May Anne Gabrito the sum of P150,000.00 for moral damages plus costs, without subsidiary imprisonment in case of insolvency.

SO ORDERED.

Given this 26[th] day of January, 1996."[12]

Hence, this appeal.

Errors Assigned

The defense imputes to the trial court the following errors:

"I. THAT THE TRIAL COURT ERRED IN CONVICTING THE THREE (3) ACCUSED BASED ON FLIMSY EVIDENCE, NOT SUFFICIENT TO CONVICT BEYOND REASONABLE DOUBT.

"II. THAT THE TRIAL COURT VIOLATED ONE OF THE CARDINAL RIGHTS OF THE ACCUSED WHICH IS THAT OF DUE PROCESS - TO BE CONVICTED ONLY BY A JUDGE WHO IS UNPREJUDICED AND DOES NOT APPEAR TO BE BIAS.

"III. THAT THE TESTIMONY OF THE ALLEGED VICTIM DOES NOT APPEAR TO BE CREDIBLE ASIDE FROM THE FACT THAT SUCH TESTIMONY WERE ELICITED THROUGH LEADING QUESTIONS PROPOUNDED BY THE PRESIDING JUDGE."[13]

First Assigned Error

Appellants argue that the answers of the complaining witness are generalities and that there are no specific acts

attributed to the three accused as to how the multiple rape was committed.

We have ruled that when a victim says she was raped, she says in effect all that is necessary to show that rape was committed on her.[14] So long as the testimony of the offended party meets the test of credibility, the accused may be convicted on the basis thereof. It will not matter very much if there are certain perceived contradictions in her testimony if these appear,[15] as they could be caused by the reluctance of the victim to narrate all the gory details of her harrowing experience. The court cannot expect a sixteen year old girl, who is mentally disturbed, to give an itemized account of an experience which she wants to bury in oblivion. Considering that the experience must have aggravated her mental condition, her testimony proved that despite such state, she could recall the material details. True, she required some assistance, but that fact alone would not destroy her credibility as a witness.

She may have committed mistakes in identifying the accused on cross-examination. This will not destroy her credibility. The complaining witness need not have to know the names of the accused as long as she recognizes their faces[16]. In *People vs. Barredo*,[17], we ruled that "knowing the identity of an accused is different from knowing his name. Hence, the positive identification of the malefactors should not be disregarded just because the names of some of them were supplied to the eyewitness. For the weight of the eyewitness' account is premised on the fact that the said witness saw the accused commit the crime, and not because he or she knew their names." May Anne know who her assailants were, even if she could not match their names to their faces on cross-examination. She positively identified them during the police line up and during her direct testimony, enough to establish their identities.[18]

Appellants contend that the evidence is not sufficient to establish guilt beyond reasonable doubt.[19]. We do not agree.

In *People vs. Gallo*[20], we ruled that if credible, the lone declaration given by the offended party would be sufficient to sustain a conviction. The testimony of May Anne was not only credible, it was further corroborated by the medico-legal certificate which indicated that she had completely healed lacerations at 2,3,6,9 and 11 o'clock. By the very nature of the crime of rape, conviction or acquittal depends almost entirely on the credibility of the complainant's testimony because of the fact that usually only the participants can testify as to its occurrence.[21]

We generally accord the highest respect to the evaluation of the trial court. An assessment made by a trial court on the testimony of witnesses deserves respect absent any valid justification that can warrant its outright rejection by an appellate court.[22] The trial court's evaluation of the testimony of the complaining witness is accorded the highest respect, except when such evaluation is tainted with arbitrariness, such as where the trial court overlooked, mis-appreciated or misunderstood some facts or circumstance of weight and substance, which could affect the outcome of the case[23] Nothing significant has been shown to convince us that the trial court acted with bias or ignored something of substance that could have, in any degree, warranted an acquittal of the accused.

If the teenage victim is not motivated by the truth, she would not have subjected herself and her family to the rigors of a public trial, describing before total strangers the shameful, humiliating and degrading experience of having been sexually assaulted by seventeen men on one fateful night.

Lastly, the appellants rely solely on alibi as their defense. No jurisprudence in criminal law is more settled than that alibi is the weakest of all defenses, for which reason it is generally rejected[24] especially when the complaining witness sufficiently and positively established the identity of the accused. Although Atty. Efren Abando, owner of the fishing boat, and Julito Lim, ship captain, testified that all three of the accused were in the high seas at the time of the incident, this can not outweigh the positive testimony of the victim identifying them as

her assailants. Atty. Abando knew his crew members only by their faces and could not produce any proof of employment, or record of sale of the fifteen bañeras of fish they sold when they docked two days after the incident.

Neither would the testimonies of Punong Barangay Demetrio Daa, security guard Michael Abraham and barangay tanod Felicisimo Payao that they did not see anybody at Sandy Beach and Costa Brava persuade the Court. An affirmative testimony is far more trustworthy than negative testimony especially when it proceeds from a credible witness.[25] In her supplemental affidavit[26], complainant May Anne stated that the security guard saw her that night.

Second and Third Assigned Errors

Appellants claim that when the trial court propounded leading questions to the complaining witness, the judge became prosecutor and judge at the same time. They claim that the questions proved that the judge had sided with the prosecution; thus, they were denied the right to due process. We can not accept such claim.

The court's inquiries only evince its zealous regards for the truth. We can not equate it with bias for the prosecution or, for that matter, the defense.

In fact, the trial court anticipated this issue. The court explained:

"Those questions came from the Court. The court was constrained to do the questioning because the private prosecutor after letting the victim identify the 3 accused, and asked what the three did to her and victim answered that she was raped by the 3, terminated his direct examination. (p. 21, TSN of 8/15/95). Probably the private prosecutor was banking on the decision of the Supreme Court that when a rape victim declares that she was raped, all that is needed to be said are already there. The case is a capital offense and the Court feels that her credibility must be tested, more so that her mental condition was questioned by the defense." [27]

Appellants argue that the judge built the case for the prosecution when he asked searching questions after the witness gave her direct testimony.

The argument is without merit. Trial judges must be accorded a reasonable leeway in asking questions to witness as may be essential to elicit relevant facts and to bring out the truth.[28] He may seek to draw out relevant and material testimony though that testimony may tend to support or rebut the position taken by one or the other party.[29] This is not only the right but the duty of trial judges who feel the need to elicit information to the end that justice will be served. Under our system of procedure, it is often expedient or even necessary in the due and faithful administration of justice for the presiding judge, in the exercise of sound discretion, to question a witness in order that his judgment may rest upon a full and clear understanding of the facts.[30]

In this case, we do not believe that the trial judge went beyond the permissible limits of questions he could ask the witness considering that she is mentally disturbed even before the rape incident occurred. The court's questioning of the witness is not proof of pre-judgment or bias.[31]

The case of *Valdez vs. Aquilizan*[32] cited by appellants is inapplicable to the instant case. In that case, aside from denying valid motions from counsel, there were other indications of prejudice. At one point, the judge continued his cross-examination of the private complainant despite the absence of counsel for the accused under the veil of what he called "clarificatory questions" only. The record of this case, however, clearly indicates that the purpose of the judge in asking questions was no other than to insure that he has full appreciation of the facts. More so because this case involves a capital offense.

Rape is chilling, naked sadism.[33] It is marked by the savagery and brutality of the assault on the helpless victim's person and privacy. Thus, the State provides a severe penalty for this abhorrent crime, revealing the clear

legislative intent to "protect women against the unbridled bestiality of persons who cannot control their libidinous proclivities." [34]

However, the trial court failed to award indemnity to the offended party. We have mandatorily awarded P50,000.00, as indemnity to the offended party for each case of rape. [35]

WHEREFORE, finding no reversible error in the appealed decision, the Court hereby AFFIRMS the same, with the MODIFICATION that each accused is ordered to pay complainant May Anne Gabrito an additional P50,000.00, as indemnity.

With costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Melo, and Kapunan, JJ., concur.

[1] Rollo, pp. 20-29.

[2] Criminal Cases Nos. 94-12-535, 94-12-534, 94-12-536, and 94-12-537.

[3] Complaint, Original Record, Crim. Case No. 94-12537, p. 36.

[4] Original Record, Ibid., p.3.

[5] Certificate of Arraignment, p. 36.

[6] The records sometimes indicate ten instead of eleven teenagers.

[7] Rollo, p. 21.

[8] Exhibit 2, Original Records in Crim. Case No. 94-12-535, p. 10.

[9] TSN, April 10, 1995, p. 5.

[10] Ibid., pp. 7-8.

[11] TSN, August 15, 1995, pp. 8-15.

[12] Decision, Rollo, p.29.

[13] Appellant's Brief, Rollo, pp. 83-84.

[14] People vs. Tumala, Jr., 284 SCRA 436.

[15] Ibid.

[16] People vs. Evangelista, 282 SCRA 37.

[17] G.R. No. 122850, October 7, 1998.

[18] Resolution dated November 21, 1994, Original record, p. 43.

[19] Appellant's Brief, Rollo, p. 84.

[20] 284 SCRA 590.

[21] People vs. Abuan, 284 SCRA 46.

[22] People vs. Gallo, 284 SCRA 590, 613, citing People vs. Sta. Agata, 244 SCRA 677.

[23] People vs. de la Paz, G.R. No. 118316, November 24, 1998, citing People vs. Dones, 254 SCRA 696; People vs. Sabellina, 238 SCRA 492.

[24] People vs. Sumalpong, 284 SCRA 464.

[25] People vs. Estares, 282 SCRA 524.

[26] Exhibit 2, Original Records, p.9.

[27] Decision, Rollo, p. 26.

[28] People vs. Adora, 275 SCRA 441, 457.

[29] Ibid., citing People vs. Manalo, 148 SCRA 98, 105.

[30] Ibid., citing US vs. Lim Tiu, 31 Phil. 504, 506 and People vs. Moreno, 83 Phil. 286, 294.

[31] People vs. Adora, supra.

[32] 133 SCRA 150.

[33] People vs. Julian, 270 SCRA 733, 737.

[34] Ibid., citing People vs. Babasa, 97 SCRA 672, 682.

[35] People vs. Prades, G.R. 127569, July 30, 1998.

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