

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DIONISIO MONFERO Y SOLTE, ACCUSED-APPELLANT.

G.R. No. 126367. June 17, 1999

Ponente: ROMERO, J.

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ROMERO, J.:

"Hell hath no fury like a woman scorned." On this adage, the accused-appellant erects the foundation of his defense. By presenting his victim, the complainant herein, as a spurned lover driven by blind rage and jealousy to concoct rape charges against him, accused-appellant attempts to impress upon this Court that whatever sexual relations he and the complainant had were purely consensual and voluntary. We are not persuaded.

Dionisio Monfero alias Harold Monfero was indicted before Branch 33 of the Regional Trial Court of xxx for three (3) counts of rape committed on January 6, 23, and 30, 1992 respectively. Except for the time and date, the three informations filed against Monfero and docketed as Crim. Cases Nos. S-1456, S-1457, and S-1458, were identically worded as follows:

"That on or about x x x o'clock in the afternoon of January x x x, 1992 at xxx and within the jurisdiction of this Honorable Court, the above-named accused with lewd design and by means of force and violence, did then and there wilfully, unlawfully and feloniously have sexual intercourse with one AAA, a 14 year old girl against her will and consent to her damage and prejudice.

CONTRARY TO LAW."[1]

On arraignment, accused-appellant entered a plea of not guilty to each of the informations. Hence, the cases were consolidated for trial. In a decision dated January 27, 1995, the trial court convicted and sentenced accused-appellant as follows:

"WHEREFORE, premises considered, judgment is hereby rendered finding accused DIONISIO MONFERO y SOLTE alias HAROLD MONFERO Guilty beyond reasonable doubt of the three (3) crime (sic) of rape as charged.

In Criminal Case No. S-1456 to undergo imprisonment of RECLUSION PERPETUA and to pay the victim the amount of P30,000.00 as moral damages.

In Criminal Case No. S-1457 to undergo imprisonment of RECLUSION PERPETUA and to pay the victim the amount of P30,000.00 as moral damages.

In Criminal Case No. S-1458 to undergo imprisonment of RECLUSION PERPETUA and to pay the victim the amount of P30,000.00 as moral damages.

In all these three (3) cases to pay the sum of P20,000.00 as Attorney's fee and to pay the cost.

SO ORDERED."[2]

The facts, as established by the prosecution, are as follows:

In January 1992, private complainant AAA, a thirteen-year old barrio lass living with her mother and sister in Siniloan, Laguna, was a Grade V student at the Siniloan Elementary School. At that time, accused-appellant Dionisio Monfero alias Harold Monfero was also residing with AAA's family together with his live-in partner Vangie Vargas, a friend of AAA's mother.

On January 6, 1992, AAA was alone in their house resting as she was then afflicted with smallpox.[3] At around 3:00 o'clock in the afternoon, accused-appellant Monfero arrived and asked about the whereabouts of her mother and Vangie Vargas. AAA replied that her mother was at the house of Atty. Salvador Reyes watching "betamax" while Vangie was in Balian, Pangil, Laguna making papier mache. After learning that AAA was alone in the house, accused-appellant suddenly embraced her and forcibly removed her pair of shorts and panty. He covered her mouth with his arm and pushed her near the stairs. Being sick, she could not resist his advances successfully. As he held her down, he removed his pants and brief and laid on top of her, causing her pain as he inserted his penis into her vagina. When he was done, accused-appellant got up and used a T-shirt to wipe his penis and her vagina. It was then that AAA saw that she was bleeding. Before he left, Monfero threatened to kill her, her mother, and her sister if she reported the incident. Her mother returned home at 4:00 o'clock in the afternoon while Monfero's live-in partner, Vangie, arrived at 7:00 o'clock that evening. Afraid that the accused would carry out his threat, AAA kept silent about her ordeal.[4]

On January 23, 1992, AAA was again violated by Monfero. At around 2:00 o'clock in the afternoon, accused-appellant arrived at her house and finding her alone, he again forced himself on her. In her attempt to free herself from the accused, her shorts and T-shirt were torn. After removing her shorts and panty, Monfero pushed AAA near the stairs and placed himself on top of her while at the same time kissing her and touching her breasts. She continued to fight him but as before, she did not succeed for he was too strong for her. AAA testified that, unlike the first sexual assault, the second rape caused her less pain and she did not bleed as much. In both instances, however, accused-appellant was able to penetrate her.[5] After satisfying his lust, Monfero left but not without warning her not to report the incident to anyone.

The third rape happened on January 30, 1992 at around 3:00 o'clock in the afternoon. Being alone in their house, as before, AAA was once again abused by Monfero. In a standing position, accused-appellant tried to insert his penis into her vagina but did not succeed in penetrating her. Before he left, he threatened her again.

It was only in June 1992 that AAA told her mother about her ordeal in the hands of Monfero. Eugenia Paguinto, noticing that her daughter was gaunt and pale, compelled the latter to reveal the dastardly acts of the accused. No formal complaint was immediately filed as Eugenia got sick and had to be hospitalized. Upon learning of the rapes, however, Eugenia drove Monfero and Vangie out of their house.[6]

On July 13, 1992, AAA's uncle, Federico and her grandfather accompanied her to the General Cailles Memorial Hospital where she was examined by Dr. Aurora Cantara. The physical examination revealed that AAA's hymen had healed lacerations at 3 o'clock and 9 o'clock and her vagina admits a finger with minimum resistance.

Thereafter, on July 17, 1992, AAA assisted by her mother filed the three complaints for rape. While the case was pending trial, relatives of the accused-appellant offered to settle the cases filed against Monfero and even proposed that the latter and AAA get married. AAA refused even as her mother was open to the proposition at first. Later, however, Eugenia decided to support her daughter in her decision to pursue the rape charges.

Accused Dionisio Monfero alias Harold Monfero, 31 years old at the time of the trial and single, was making a living as a tricycle driver when he committed the alleged rapes. For his part, Monfero claims as his defense that he and AAA were sweethearts and that whatever sexual relations they had were purely voluntary and consensual. He testified that he first met AAA on October 10, 1991 when she happened to board his tricycle on her way home

with her sister Annabelle. Upon reaching their house, AAA told accused-appellant that she wanted to introduce him to her mother. Since then, he became a regular visitor of AAA, courting her for about three months until they became sweethearts. Monfero further claimed that during said courtship, he became close to AAA's mother, even calling her "biyenang." In fact, he contended, it was with Eugenia's consent that he and AAA lived together as husband and wife from January to July 1992. He likewise maintained that he was the one who paid for AAA's tuition fee at ZZZ College where she was enrolled as a first year high school student.

According to Monfero, during the time they lived together, he and AAA had sexual intercourse almost every day. He claimed that many people knew about their cohabitation -- his fellow tricycle drivers, his neighbors in Bgy. Isla, even AAAs family, including her mother who often visited them at Bgy. Isla to bring food.

As to why AAA filed the complaints for rape against him, Monfero explained that she was driven by jealousy because she had suspected that he was having an affair with Vangie Vargas. Moreover, he added, AAA's mother got mad at him when she learned that the wedding plans could not push through as he did not have enough money to pay for the expenses.

To corroborate accused-appellant's claims, the defense presented a resolution signed by the members of the Tricycle Drivers Association of xxx attesting to the fact that Monfero and AAA indeed cohabited from January to July 1992. The defense also presented Monfero's mother, the president of the tricycle drivers association, Vangie Vargas, and some of his neighbors as witnesses to support Monfero's version of the facts.

At the outset, worth recalling are the three guiding principles in rape prosecutions. First, an accusation for rape is easy to make, difficult to prove and even more difficult to disprove. Second, in view of the intrinsic nature of the crime, the testimony of the complainant must be scrutinized with utmost caution. And third, the evidence of the prosecution must stand on its own merits and cannot draw strength from the weakness of the evidence of the defense.[7]

With these principles in mind, this Court finds no cogent reason to reverse accused-appellant's conviction. As shown in the transcripts of her testimony, on direct and cross examination, AAA vividly narrated how accused-appellant raped her on three occasions. Thus, on direct examination, she testified:

Atty. Fadul

Q. And when this accused Harold Monfero arrived at your residence in xxx, what did he ask you if any?

A. He asked me about my mother's whereabouts and I informed him that my mother was in the house of Atty. Reyes watching betamax.

Q.

And how about the live in partner of Harold Monfero, where was she on that time?

A. She was in Balian making pap(i)er mache.

Q. What did Harold Monfero do after asking those questions and you answered him?

A. He suddenly embraced me.

Q. Aside from embracing you, what else did he do to you?

A. He removed my short(s) and panty. Afterwards, he covered my mouth with his arm.

Q. And did you exert effort to evade him?

Atty. Bellosillo

Leading, Your Honor.

Court May answer.

A. Yes, sir.

Atty. Reyes

Q. What did you do when you said you resisted him?

A. I tried to evade him by removing his hands. But he pushed me near the stairs.

Q. Were you able to put aside his hands?

A. Because during that time I was very weak because of my small pox.

Q. And afterwards, what happened next when you were pushed according to you?

A. After he removed my short and panty, he put off his pants and brief.

Q. And after removing his pants and brief, what did he do?

A. He laid on top of me.

Q. And after lying on top of you, what did he do?

A.

He inserted his penis inside my vagina and it was very painful. There was blood. I do not know if he was already finished with his desire when he rose and got a T-shirt and used it in wiping his penis and my vagina and threatened me that if I will report the matter, he will kill me, my mother and my sister.

x x x.

Q.

How about on January 23, 1992 at about 2:00 in the afternoon, where were you?

A. Also in our house.

Q. And did you have any visitor on that date and hour?

A. None sir.

Q. How about accused Harold Monfero?

A.

He was there.

Q. What happened if there was anything?

A. He again abused me.

Q. When you said he again abused you, what did he do specifically?

A.

He removed my short(s), panty, lady sando and he removed his pants and brief.

Q. How did he remove your short(s) and panty, will you inform the Court?

A. He forcibly removed my short(s) while I was resisting, in the process, the automatic was cut off and he was able to remove my T-shirt which was torn.

Q.

After removing your short(s) and panty, what did the accused do next?

A. I went near our stairs and the accused placed himself on top of me while I was resisting but I was not able to evade him because he was very strong.

Q. Aside from lying on top of you, what else did he do to you?

A. He kissed my neck and at the same time touching my bust.

Q. How long (did) Harold Monfero laid (sic) on top of you?

A. Around five to seven minutes sir.

Q. Do you know whether the sexual intercourse have been committed (sic) by the accused and you?

A. I do not know.

Q. Was there blood after the sexual intercourse?

A. During the first time that he abused me, there was blood, plenty, but the second time he abused me, only few drops of blood.

Q. Did the accused (leave) after the sexual intercourse (with) you?

A. Before he left, he threatened to kill me, my mother, my brother and in addition thereto, he threatened to kill my uncle as well as Atty. Reyes.

x x x.

Q. How about on January 30, 1992, more or less 3:00 in the afternoon, did you have occasion to see Harold Monfero alias Dionisio (sic)?

A. Yes, sir.

Q. What transpired there, when Harold Monfero arrived?

A. He went inside our house while looking outside (sic) and I told him not to go inside anymore but he approached me and touched my shoulder.

Q. Did you consent with (sic) the touching of your shoulder?

A. No, sir because it was very painful.

Q. What else did he do with you aside from touching your shoulder?

A. While he was holding my shoulder, he opened the (zipper) of my pants and removed my pants and panty and he removed his pants.

Q. Aside from his pants, what did he remove?

A. No more.

Q. You mean to say he has no brief?

A. I have said already that he removed his pants as well as his brief.

Q. After removing his pants and brief, what did he do to you?

A. He embraced me and while we were standing by the door, he inserted his penis inside my vagina.

Q. You mean to say you were in the standing position?

A. Yes, sir.

Q. Was he able to have his penis penetrate your private part?

A. No, sir.

Q. And how long did he have this thing done to you?

A. For a short time only sir.

Court After that, what else happened?

A.

He did not threatened (sic) me anymore because I did not report the first and second threat but he said that he will push through with his threat if I will report the matter.

Court In that incident, was he able to insert his penis to your private part?

A. No, Your Honor.

Court (What) (a)bout in the first incident?

A. Yes, Your Honor.

Court (What) (a)bout in the second incident?

A. Yes, Your Honor.

Court More or less on the first incident, what time did it (take) place?

A. Around 3:00 in the afternoon Your Honor.

Q.

(What) (a)bout the second time?

A. More or less 2:00 in the afternoon Your Honor.

Court The third time?

A.

3:00 in the afternoon.

x x x.[8]

From the evidence adduced at the trial, there is no dispute that AAA is no longer a virgin. A medical examination of her genitalia revealed healed hymenal lacerations. In fact, the accused himself admitted having had carnal knowledge of AAA but he denied having raped her, claiming that she consented to have sex with him as they were living together as husband and wife from January to July 1992.

Well settled is the rule that when an alleged victim of rape says she was violated, she says, in effect, all that is necessary to show that rape has been inflicted on her and so long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof.[9] Certainly, no woman, especially one who is of tender age, would concoct a story of defloration, allow an examination of her private parts and thereafter permit herself to be subjected to a public trial if she is not motivated solely by the desire to have the culprit apprehended and punished.[10]

With respect to the first and second sexual assaults, AAA was certain that Monfero was able to penetrate her. In fact, she testified that she bled after each of the two rapes. As for the third rape, however, AAA was unsure whether there was penetration or not, but she said she felt his penis touch her vagina. Thus, on cross examination, AAA narrated:

Q.

On the 3rd occasion, January 30, 1992, you said that that was around 3:00 in the afternoon, you said that the accused allegedly was not able to insert his penis at (sic) your vagina, is it not correct?

A. I felt that his penis touched my vagina.

Q.

That was only what you felt Miss witness, can you say that the penis was not able to go inside your vagina?

A. I do not know whether he was able to insert it or not, I just felt that it was touching my vagina.

Q. So, you were changing your answer that the accused was not able to insert his penis in your vagina because you felt that it only touched your vagina?

A. He was able to insert it sir.[11]

Considering that AAA is obviously an ingenue barely out of puberty and considering also their relative positions at that time, it is understandable that she was unable to categorically state whether or not accused-appellant was able to penetrate her fully. One thing she was sure about though was that Monfero's penis touched her vagina as he attempted to insert it into her genital. Well settled is the rule that full penetration of the vaginal canal is not an essential element of rape. The slightest introduction of the male organ into the labia of the victim already constitutes rape.[12]

As for accused-appellant's claim that AAA failed to show that she exerted sufficient resistance to Monfero's sexual advances, it is enough to point out that, in rape cases, it is not necessary that the victim should have resisted unto death.[13] Physical resistance need not be established in rape when intimidation is exercised upon the victim and the latter submits herself, against her will, to the rapist's embrace because of fear for life and personal safety.[14] Actual resistance on the part of the victim is not an essential element of rape. What the victim should adequately prove is the use of force or intimidation by the alleged rapist. In any case, from AAA's testimony during trial, it is clear that she tried to stop Monfero's advances during each of the three assaults but her efforts proved futile as her strength was no match to his.

Furthermore, as held by this Court, the failure of the complainant to immediately report the rapes to her family or to the police authorities does not detract from her credibility, her hesitation being attributable to her age, the moral ascendancy of the accused-appellant and his threats against the former.[15]

Regarding the alleged inconsistencies in the statements made by AAA before and during trial, the same refer only to minor details that are not at all related to the incidents complained of. The Court has held that the credibility of a witness is not impaired where there is consistency in relating the principal occurrence and positive identification of the accused. Inconsistency on minor details is insignificant. Rather than eroding the credibility of the witness, such difference in fact constitutes a sign of veracity.[16]

From the records, there is also nothing that would reveal that AAA had a motive other than to bring her rapist to justice and vindicate her honor. Worth noting is the fact that when AAA testified that her mother at first acquiesced to settle the case, she cried on the witness stand.[17] Her tears clearly evinced her frustration over her mother's willingness to come to a settlement. Besides, AAA's sincere, straightforward and candid statements regarding the details of her rape by the accused-appellant hardly indicate that she was just weaving a tall tale to secure a conviction. It is doctrinal that the evaluation by the trial court of the testimony of a witness is accorded the highest respect because it has the direct opportunity to observe the witness' demeanor on the stand and determine if she is telling the truth or not.[18] The decision of the trial court is bereft of any finding that AAA is a girl of loose morals as the accused-appellant holds her out to be.

On the other hand, the "sweetheart theory" propounded by the defense hardly convinces the Court that accused-appellant is entitled to an acquittal. In the first place, Monfero's version of the facts is simply incredible. As Monfero would have us believe, AAA introduced him to her mother the same day they first met and three months later, agreed to live and have sex with him. That a thirteen-year old barrio lass would voluntarily have a relationship with a man more than twice her age is already hard enough to conceive. Even harder to accept is the claim that the girl's mother consented to it. Certainly, these circumstances do not conform to reality. As the Solicitor General put it, evidence to be believed, must not only come from a credible source but must also be credible in itself. It must be natural and in conformity with human experience.

As to Monfero's claim that AAA and her mother fabricated the rape charges because they suspected that he was having an affair with Vangie Vargas and because he did not have enough money to finance his wedding to AAA, the same strains one's credulity. Even when consumed with hate and revenge, it would take a certain degree of moral depravity for a girl to concoct a story, publicize occurrences that cast a stain on her honor, and drag her entire family to shame just to sate her need for vengeance. As for AAA's mother, it is unnatural for a parent to use her offspring as an engine of malice if it will subject her to embarrassment and even stigma.[19] Moreover, as the Court ruled in a similar case, "(n)o mother would stoop so low as to subject her daughter to the hardships and shame concomitant to a rape prosecution just to assuage her own hurt feelings. It is unthinkable that a mother would sacrifice her daughter's honor to satisfy a grudge, knowing fully well that such an experience would certainly damage her daughter's psyche and mar her entire life. A mother would not subject her daughter to a public trial with its accompanying stigma on her as the victim of rape, if said charge is not true." [20]

Regarding the document signed by Monfero's fellow tricycle drivers attesting to the fact that he and AAA lived together as husband and wife from January to July 1992, the same has no probative value because, as the Solicitor General correctly observed, it was not subscribed to before a person authorized by law to take sworn statements. Neither was the attestation affirmed by the signatories on the witness stand.

Although the president of the tricycle drivers' association, Rene Gabatan, was presented as defense witness to identify the said certification and to testify about Monfero and AAA's alleged relationship, his testimony hardly helped in exculpating the accused-appellant. In the first place, according to Gabatan, the said certification was prepared and signed at the request of accused-appellant's mother. Second, the transcripts of Gabatan's testimony clearly show the inconsistencies in his statements. For instance, Gabatan earlier testified that he knew that Monfero and AAA were living together as husband and wife in accused-appellant's house in Brgy. Isla. However, on further questioning, he admitted that he had never been to Monfero's house and that he only saw the latter and AAA riding the tricycle together and on another occasion, when AAA allegedly accompanied Monfero to one of the association's meetings.[21] Furthermore, on cross-examination, he completely changed his answers to the questions propounded to him after being reminded that he could be held liable for perjury if he lied. Thus,

Court And you know for a fact that if you are telling a lie before this Court, you will be punished for perjury?

A. I know that, sir.

Q. You are very sure that you saw Harold Monfero and AAA in the month of January 1992?

A. I saw them sir.

Q. You will not change your answer?

A. I cannot tell whether it was in January 1992.

x x x.

Court How about on February, 1992?

A. I am not sure. I think it was in the month of May because I called for a meeting during that month, your Honor.

(On Redirect)

Q. Mr. witness, you stated that you used to see Harold Monfero and the victim AAA always together in a tricycle, is that correct?

A. Not always, sir.

Q. But you used to see Harold Monfero and the victim AAA together in a tricycle?

A. Not very often, sir.

Q. Can you still recall Mr. witness, how often did you see the accused and AAA together?

A. I do not remember because the incident does not call my attention. I do not mind them together.

Court How about in the house of Harold Monfero, have you seen them together?

A. No, your Honor.

Atty. Gatdula But you know that the victim resides also in the house of Harold Monfero?

A.

I know nothing about that.

Q. How come you testified before this Court that they are living together as husband and wife?

A. I just said that they were together on a tricycle.

Court But you have not informed this Court that they were living together as husband and wife?

A. I did not said (sic) that, your Honor.

Q. But you always see them from the period of January up to July that the accused and the victim were together?

A. Sometimes.[22]

The defense presented other witnesses and evidence to support accused-appellant's "sweetheart theory," but the trial court did not give credence to the same and we find no reason to hold otherwise. All told, it appears that the alleged love affair between Monfero and AAA is but a mere fabrication by the former to exculpate himself from the rape charges filed against him. In a similar case where the "sweetheart theory" was also used as a defense, the Court ruled that the absence of love notes, mementoes or pictures casts doubt on the accused's claim that he and the victim were sweethearts.[23] Being an affirmative defense, the allegation of a love affair must be supported by convincing proof. This accused-appellant failed to do. In any case, being sweethearts does not prove consent by the complainant to the sexual act.[24] A love relationship, even if true, will not necessarily rule out force.[25]

In view of the circumstances of this case, we find that the accused-appellant is guilty of all the charges under Article 335 of the Revised Penal Code:

"Art. 335. When and how rape is committed - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;

x x x.

The crime of rape shall be punished by reclusion perpetua.

x x x."

As regards the civil liability of the accused-appellant, the award of P30,000 in moral damages should be increased to P50,000 for each count of rape in line with current jurisprudence.[26] In *People vs. Prades*,[27] we held that "the fact that complainant suffered the trauma of mental, physical and psychological sufferings which constitute the bases for moral damages are too obvious to still require the recital thereof at the trial by the victim, since the Court itself even assumes and acknowledges such agony on her part as a gauge of her credibility. What exists by

necessary implication as being ineludibly present in the case need not go through the superfluity of still being proved through a testimonial charade."

Moreover, accused-appellant is likewise liable to pay his victim P50,000 as civil indemnity for each rape committed.

WHEREFORE, premises considered, the appeal is hereby DENIED and the judgment of the lower court is AFFIRMED with the MODIFICATION that for each of the three counts of rape, accused-appellant is ordered to pay the victim P50,000 as civil indemnity and P50,000 as moral damages. Costs against the appellant.

SO ORDERED.

Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.
Panganiban, J., on leave.

[1] Rollo, pp. 7-9.

[2] Rollo, pp. 23-37.

[3] tsn, December 1, 1992, p. 4.

[4] ibid, pp. 6-10.

[5] ibid, pp. 10-12.

[6] ibid, pp. 19-21.

[7] People vs. Butron, 272 SCRA 352 (1997), People vs. Ramirez, 266 SCRA 335 (1997).

[8] tsn, December 1, 1992, pp. 6-19.

[9] People vs. Abad, 268 SCRA 246 (1997), People vs. Rabosa, 273 SCRA 142 (1997).

[10] People vs. Ramirez, supra.

[11] tsn, December 15, 1992, pp. 14-16.

[12] People vs. Sanchez, 250 SCRA 14 (1995).

[13] People vs. Dio, 226 SCRA 176 (1993).

[14] People vs. Padre-e, 249 SCRA 422 (1995).

[15] People vs. Abad, 268 SCRA 246 (1997).

[16] People vs. Pareja, 265 SCRA 429 (1996).

[17] Tsn, December 15, 1992, p. 18.

[18] People vs. Atuel, 261 SCRA 339 (1996).

[19] People vs. Escobar, 281 SCRA 498 (1997).

[20] People vs. Gecomo, 254 SCRA 82 (1996).

[21] tsn, September 15, 1993, pp. 4-10.

[22] *ibid*, pp. 20-22.

[23] *People vs. Larag*, 253 SCRA 654 (1996).

[24] *People vs. Corea*, 269 SCRA 76 (1997)

[25] *People vs. Betonio*, 279 SCRA 532 (1997).

[26] *People vs. Prades*, G.R. No. 127569, July 30, 1998; *People vs. Fuertes*, G.R. No. 126285, September 29, 1998.

[27] *supra*.

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