

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LUDOVICO BLAZO Y MERSA, ACCUSED-APPELLANT.

G.R. No. 127111. February 19, 2001

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On appeal is the decision[1] of the Regional Trial Court of Quezon City, Branch 76, promulgated on September 26, 1996, in Criminal Case No. Q-96-66675, finding appellant Ludovico Blazo y Mersa guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of reclusion perpetua and to pay the victim, Susan Socuano y Batiller, the amount of P50,000.00 as moral damages.

The instant case arose from a complaint filed on June 24, 1996 before the Quezon City Prosecutor, by the offended party, with the assistance of her mother, Marilou Batiller. The Information alleged:

That on or about the 25[th] day of November, 1994 in Quezon City, Philippines, the said accused by means of force and intimidation, to wit: by then and there wilfully (sic), unlawfully, and feloniously removing the underwear of the complainant, a minor, below 12 years old, put himself on top of her, and thereafter have carnal knowledge with the undersigned complainant against her will and without her consent.

CONTRARY TO LAW.[2]

When arraigned, appellant assisted by counsel de oficio, pleaded not guilty to the offense charged. Given appellant's vehement denial of any wrongdoing, pre-trial was swiftly terminated and the case was tried on the merits.

The facts, borne out by the records, are as follows:

On November 25, 1994, private complainant was a 10-year old[3] grade IV pupil of the Placido del Mundo Elementary School in Novaliches, Quezon City, where she was enrolled in the afternoon session.[4] At around seven o'clock in the evening, she was walking home from school.[5] Home was a shack inside the Bagbag Cemetery in Novaliches where she lived with her parents, who were hog growers. She was treading her way around the tombs, when appellant, suddenly blocked her way and told her that he would bring her to the kubol.[6] The sight of appellant frightened her. Private complainant refused to go with appellant, but the latter forcibly dragged her to the kubol located in the middle portion of the graveyard. Once inside, appellant removed her clothing and shed his own garments.[7] The victim cried and resisted. She kicked appellant and tried to run away, but he caught her and at knifepoint, warned her not to escape.[8] Appellant kept the knife pointed at her, inserted his erect penis inside her vagina, causing her excruciating pain.[9] After appellant had satisfied his lust, he warned her to keep quiet about the incident or else he would kill her parents. On several occasions the previous year, appellant, a 52-year old carpenter who was her neighbor, waylaid her inside the cemetery and brought her to a kubol where he had mashed and stroked her private parts.[10] Each time, he would warn her not to tell anybody about what he did to her lest harm befall her and her parents. Out of fear, private complainant kept quiet about the lecherous abuse.

For almost two years, the victim bore her ordeal in silence, fearful of appellant's threats to kill her parents. It was only in mid-1996 that she mustered enough courage to tell her mother what she had undergone in appellant's hands.[11] Her mother brought her to the barangay captain's office to report her rape.[12] Barangay peace officers were swiftly dispatched to bring in appellant. They found appellant drinking gin in front of his house and brought him to the barangay hall where the offended party identified him as her abuser.[13] Appellant was then turned over to the police for further investigation.

On June 19, 1996, P/Senior Inspector Jesusa Vergara, M.D., of the Philippine National Police Crime Laboratory in Camp Crame examined the victim for possible signs of sexual abuse. Dr. Vergara's findings were as follows:

GENITAL:

There is absence of pubic hair. Labia majora are full, convex and gaping with the pinkish brown labia minora presenting in between. On separating the same disclosed an elastic, fleshy-type hymen with deep healed laceration at 2 o'clock and shallow healed laceration at 7 o'clock position(s). External vaginal orifice offers slight resistance to the introduction of the examining index finger and the virgin-sized vaginal speculum. Vaginal canal is narrow with prominent rugosities. Cervix is firm and closed.

CONCLUSION:

Subject is in non-virgin state physically.

There are no external signs of recent application of any form of violence.

REMARKS:

Vaginal and peri-urethral smears are negative for gram-negative diplococci and for spermatozoa.[14]

At the trial, Dr. Vergara testified that the healed lacerations in the offended party's hymen could have been caused by the "forcible entry of a hard blunt object" such as an erect male organ.[15] She could not determine, however, the approximate date when the lacerations were incurred.[16]

Appellant was the sole witness for the defense. He said he was the victim's neighbor,[17] but they were not particularly close or friendly. He claimed that he could not have raped the victim on the evening in question since he usually arrived home from work at around 9:00 P.M.[18] He theorized that the victim's parents had instructed the victim to falsely charge him after a quarrel between his wife and the victim's mother sometime in May 1996.[19] The latter was mad at his family because her family's pet dog bit his grandson.[20]

Finding complainant's account of her rape credible, the trial court convicted appellant of the offense charged. The judgment reads:

WHEREFORE, finding the accused guilty beyond reasonable doubt of the crime of rape under Art. 335 par. 2 of the Revised Penal Code as amended by RA 7659 he is hereby sentenced to suffer the penalty of reclusion perpetua and to indemnify the victim in the amount of P50,000.00 as moral damages. Cost de officio.

SO ORDERED.[21]

On October 10, 1996, appellant filed his notice of appeal.

Before us, appellant now assigns as sole error that:

THE LOWER COURT MANIFESTLY ERRED IN RENDERING A VERDICT OF CONVICTION DESPITE FAILURE OF THE PROSECUTION TO SUBSTANTIATE APPELLANT'S GUILT OF THE CRIME CHARGED BEYOND REASONABLE DOUBT.[22]

Thus, the issue for our resolution is whether the prosecution proved appellant's guilt beyond reasonable doubt?

In this appeal, appellant stresses the failure of private complainant to immediately report the alleged rape to her parents, by waiting for almost two years before doing so. He avers that the length of time it took private complainant to reveal her defilement tainted the complainant's credibility and the prosecution did not show proof that he continuously and incessantly threatened her to maintain her silence. Further, according to appellant, the trial court convicted him on dubious testimonial evidence.

He argues that the medical examination conducted on June 19, 1996 did not prove that he raped the victim on November 25, 1994, inasmuch as the medico-legal findings showed that the victim had sexual contact more than seven days prior to the examination or possibly months or weeks before, but not years before.

The Office of the Solicitor General, for the State, argues that delay in prosecuting an offense does not necessarily weaken the credibility of a witness. Delay in reporting is not an indication of a trumped up charge. Complainant's failure to immediately disclose her experience was impelled by fear for her and her family's lives. Young rape victims are easily intimidated into silence, said the OSG.

On appellant's contention that complaining witness engaged in sexual activity more recently than November 25, 1994, we note that the examining doctor testified he could not approximate the exact date when the hymenal lacerations were incurred. She could only surmise that it could have been months or weeks before the date of the examination.

In reviewing rape cases, three well-known principles guide the Court. (1) An accusation for rape can be made with facility. It is difficult to prove but more difficult for the person accused, though innocent, to disprove. (2) In rape where often only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution. (3) The evidence of the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.[23] The credibility of the complainant is, therefore, of vital importance, for in view of the peculiar nature of rape, conviction or acquittal of the accused depends almost entirely upon the word of the private complainant.[24]

In the present case, the victim testified as follows:

FISCAL SANTOS:

x x x

Q:

After all these were removed by Kuya Ludy...what were the garments or underwear removed by Kuya Ludy from you?

A: Everything, sir. He stripped me naked.

Q: After that, what did your Kuya Ludy do if any?

A: He went on top of me.

Q: When Kuya Ludy was on top of you, was he already naked?

A: Yes, sir. He was also naked.

x x x

Q: When Kuya Ludy placed himself on top of you naked, what happened after that?

A: I was crying. I kicked him and ran away but he caught me.

Q: What happened after that?

A: When he caught me, he showed me his knife.

Q: What, if any, did he tell you when he showed you the knife?

A: He told me not to escape.

Q: What happened after that?

A: He inserted his penis into my organ.

x x x

Q: How long a time did your Kuya Ludy insert his penis into your organ?

A: Maybe half an hour.

Q: What did you feel if you feel (sic) anything?

A: It was painful.

Q: And what was your reaction?

A: I was crying.

Q: After he did that to you, what if any did he tell you?

A: He told me not to tell anyone or he would kill my parents.

Q: So you did not report it to your parents?

A: No, sir.

Q: Why?

A: I was afraid of him.[25]

The foregoing testimony, consistent throughout even under cross-examination, leaves us no doubt regarding her charge that appellant raped her.

We note that private complainant was only 10 years old when she was sexually abused and only 12 years old when she took the witness stand. Her willingness to undergo the trouble and humiliation of a public trial is eloquent testimony to the truth of her complaint.[26] The alleged delay in reporting the rape is clearly and categorically explained. She was cowed into silence by appellant's threats to kill her family. Delay or vacillation in making a criminal accusation is not an indication of a fabricated charge, if such delay is satisfactorily explained. This Court has held that even a delay of eight (8) years is not an indicium of deceit or fabrication.[27] Some may immediately relay the incident to the authorities and close relatives but others need time to compose themselves before deciding on a course of action.[28] A young girl, such as the victim in this case, cannot be expected to have the courage and intelligence of a mature woman to immediately report her defilement, especially when accompanied by a death threat.[29] No adverse inference can be drawn from private complainant's hesitation or failure to immediately expose her tragic experience. Fear of reprisal, social humiliation, familial considerations, and economic reasons are sufficient explanations.[30]

On appellant's contention, that the medico-legal findings showed more recent sexual contact and hence could not

have proved he raped Susan, is a non sequitur. As correctly pointed out by the Solicitor General, the examining physician admitted that she could not determine the exact date when the hymenal lacerations were caused.[31] However, the possibility that the lacerations were caused by the rape cannot be discounted. In any case, a medical examination and a medical certificate are merely corroborative and are not indispensable to the prosecution of a rape case.[32] Lacerations of the hymen, while considered as the most telling and irrefutable physical evidence of the penile invasion, are not always necessary to establish the commission of rape,[33] where other evidence is available to show its consummation. When the complainant in a rape case, more so if she is a minor, testifies credibly that she has been raped, she says in effect all that is necessary to show rape has been committed.[34] So long as her testimony meets the test of credibility, the accused may be convicted on the sole basis thereof.[35] As we have earlier pointed out, we find no reason to doubt complainant's account of how appellant, a man old enough to be her grandfather, ravished her.

Neither can we give credence to appellant's claim that the victim's parents concocted the rape charge because their dog bit his grandchild, leading to a quarrel between his wife and the victim's mother. It is too trite, and unworthy of belief. Motives such as family feuds, resentment or revenge have never swayed this Court from giving full credence to the testimony of a minor complainant who remained steadfast throughout her direct and cross examinations. More importantly, no parent would expose his or her daughter to the shame and scandal of having undergone such a debasing defilement of her chastity if the charge filed were not true.[36]

Considering the circumstances in this case, we agree with the trial court's finding that the prosecution has successfully proved that appellant had sexual intercourse, using force and intimidation, with a girl ten (10) years of age. Thus, his conviction for statutory rape is in order, the gravamen of his offense being carnal knowledge of a woman below twelve (12) years old.[37]

We note, however, that while the trial court awarded moral damages to the offended party, no award of civil indemnity was made. Pursuant to prevailing jurisprudence, the offended party in rape is entitled to the award of P50,000.00 as civil indemnity.[38]

WHEREFORE, the decision of the Regional Trial Court of Quezon City, Branch 76, finding appellant Ludovico Blazo y Mersa, in Criminal Case No. Q-96-66675 guilty beyond reasonable doubt of rape and sentencing him to reclusion perpetua, with the accessory penalties provided by law, is hereby **AFFIRMED WITH THE MODIFICATION** that appellant shall pay private complainant Susan Socuano y Batiller the amount of P50,000.00 as indemnity ex delicto and P50,000.00 as moral damages.

SO ORDERED.

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

[1] Records, pp. 33-36.

[2] Id. at 1.

[3] Her birth certificate shows she was born on February 15, 1984. See Exhibit "B," Folder of Exhibits, p. 1.

[4] TSN, August 6, 1996, p. 10.

[5] Ibid.

[6] A more or less permanent, roofed structure built over and around tombs in certain places in the Philippines, used by relatives of the dead as shade and shelter when visiting the final resting places of their loved ones.

- [7] Id. at 12. See also TSN, August 13, 1996, p. 6.
- [8] Id. at 13; Id. at 8.
- [9] Id. at 13-14; Id. at 7.
- [10] Supra Note 4, at 7-9.
- [11] Id. at 14; Id. at 8; TSN, August 21, 1996, p. 3.
- [12] Exhibit "E," Folder of Exhibits, p. 4; TSN, August 28, 1996, p. 3.
- [13] TSN, August 28, 1996, p. 4.
- [14] Exhibit "D," Folder of Exhibits, p. 3.
- [15] TSN, September 3, 1996, p. 4.
- [16] Ibid.
- [17] TSN, September 9, 1996, p. 7.
- [18] Id. at 3-4.
- [19] Id. at 4, 9-11.
- [20] Id. at 4.
- [21] Supra Note 1, at 36.
- [22] Rollo, p. 35.
- [23] People v. Sapinoso, et al., G.R. No. 122540, March 22, 2000, p. 6 citing People v. Abrecinoz, 281 SCRA 59 (1997).
- [24] People v. Baltazar, G.R. No. 115990, March 31, 2000, p. 7, citing People v. Alitagtag, G.R. No. 124449, June 29, 1999.
- [25] TSN, August 6, 1996, pp. 12-14.
- [26] People v. Brigildo, G.R. No. 124129, January 28, 2000, p. 9, citing People v. Mengote, 305 SCRA 380, 381 (1999).
- [27] People v. Coloma, 222 SCRA 255, 263 (1993).
- [28] People v. Lampaza, 319 SCRA 112, 129 (1999).
- [29] People v. Manggasin, 306 SCRA 228, 244, (1999), citing People v. Soan, 243 SCRA 627 (1995).
- [30] People v. Accion, 312 SCRA 250, 263-264 (1999), citing People v. Lusa, 288 SCRA 296 (1998), People v. Viovicente, 286 SCRA 1 (1998).
- [31] See TSN, September 3, 1996, p. 4.
- [32] People v. Lerio, G.R. No. 116729, January 31, 2000, p. 8, citing People v. Branderes, G.R. No. 130092, July 26, 1999; People v. De la Cuesta, 304 SCRA 83, 94 (1999); People v. Taneo, 284 SCRA 251 (1998).
- [33] People v. Baltazar, G.R. No. 115990, March 31, 2000, p. 12, citing People v. Marcelo, 305 SCRA 105, 115 (1999).

[34] *People v. Brigildo*, G.R. No. 124129, January 28, 2000, p. 10, citing *People v. Flores*, G.R. No. 130546, July 26, 1999, *People v. Dela Cruz*, 321 Phil. 436, 443 (1995).

[35] *People v. Tabion*, 317 SCRA 126, 136 (1999), citing *People v. Garcia*, 288 SCRA 382, 396 (1998); *People v. Antido*, 278 SCRA 425, 440 (1997).

[36] *People v. Batoon*, 317 SCRA 545, 554 (1999), citing *People v. Zaballero*, 274 SCRA 627, 639 (1997).

[37] REVISED PENAL CODE, Art. 335 (3) states: "When and how rape is committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

x x x

(3) When the woman is under twelve years of age or is demented."

See also *People v. Campuhan*, G.R. No. 129433, March 30, 2000, p. 7; *People v. Dedace*, G.R. No. 132551, March 22, 2000, p. 8.

[38] *People v. Sampior*, G.R. No. 117691, March 1, 2000, p. 7, citing *People v. de los Santos*, G.R. No. 120235, September 30, 1999, *People v. Pagpaguitan, et al.*, G.R. No. 116599, September 27, 1999, *People v. Bañago*, G.R. No. 128384, June 29, 1999.

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