

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTONIO CAMBI Y QUISTADIO ALIAS “TONYING”; ACCUSED-APPELLANT.

G.R. No. 127131. June 08, 2000

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

This is an appeal from the decision of the Regional Trial Court, Branch 8, Malaybalay, Bukidnon finding the accused-appellant ANTONIO CAMBI y QUISTADIO guilty of the crime of rape and sentencing him to suffer the penalty of reclusion perpetua and to pay the complainant Margie Comaling the amount of P30,000.00 as civil indemnity and P20, 000.00 by way of moral damages.[1]

The following are the facts.

On September 7, 1995, an information was filed against the appellant charging him with the crime of rape allegedly committed as follows:

That on or about the 3rd day of July 1995, in the evening, at barangay Madaya, municipality of Pangantucan, province of Bukidnon, Philippines, and within the jurisdiction of this honorable Court, the abovenamed accused, with lewd design and by means of force and intimidation, did then and there willfully, unlawfully and criminally have carnal knowledge with MARGIE COMALING, a 13 year old [2] girl, against her will.

Contrary to and in violation of Article 335 of the Revised Penal Code, as amended by R.A. 7659.[3]

Upon being arraigned on November 23, 1995, appellant pleaded not guilty to the crime charged.[4] Hence, trial on the merits ensued.

Prosecution witness Margie Comaling testified as follows:

On July 3, 1995, Margie, her seventeen-year old brother, Boyet and her nine year old sister, Jinky, were working as farmhands on appellant's farm in Madaya, Pangantucan, Bukidnon. Together with appellant's brother, Lalay, they fertilized and weeded appellant's farm from 7:00 o'clock to 11:30 in the morning when they proceeded to appellant's hut located some 800 meters from the farm to rest. After resting, they resumed working on the farm until 4:00 o'clock in the afternoon. Thereafter, appellant, Margie, and Jinky proceeded to the hut while Boyet and Lalay brought a cow to pasture.[5]

Appellant prepared the group's supper while Margie washed the dishes. According to Margie, she noticed the appellant looking at her while she was washing the dishes.[6] When Lalay and Boyet arrived, they all ate dinner together. After dinner, Margie again washed the dishes and fixed the table. Once more, she caught appellant who was seated at the table staring at her.[7] After Margie had washed the dishes, they all went inside the room to sleep. Appellant designated their sleeping arrangement such that all three men slept on the bed. Lalay slept between Boyet and the appellant. On the other hand, Margie and Jinky slept on the floor with Margie at the

appellant's side.[8]

Margie was awakened from her sleep at around 11:00 o'clock in the evening when she felt somebody holding her legs.[9] In the darkness, she was able to recognize the appellant because his face was very near hers.[10] Margie was about to shout but appellant covered her mouth with his hand. Appellant frustrated Margie's attempts at warding him off by placing himself on top of her[11] and wrapping a blanket around her hands.[12] Appellant then pulled off her panties and thrust his penis into her vagina twice then remained stationary on top of her. Margie felt a searing pain in her private part which made her cry,[13] and noticed blood oozing therefrom.[14]

It was only when Jinky stirred that appellant rose and went back to bed. But before he left, he warned Margie that he would kill her should she tell her parents about what had transpired.[15] Jinky who had awakened from her sleep asked Margie why she was crying. Ashamed of what had happened to her, Margie did not answer. She was sleepless the rest of the night for fear that appellant might rape her again.[16]

The following day, Margie continued to work on the appellant's farm. At around 3:30 in the afternoon, she left without waiting for her wages. Upon reaching home, she immediately informed her mother of what the appellant did to her. Her mother accompanied her to the Barangay Captain to report the matter. Upon the advice of the latter, Margie waited for her father to arrive from Cebu before going to the police authorities. On July 10, 1995, the day after Margie's father arrived from Cebu, they went to the Municipal Hall to report the incident to the police. On that same day, Margie was examined by Dr. Emerson Adlaon.[17]

The physical examination conducted by Dr. Adlaon on Margie yielded the following results:

FINDINGS: Internal Examination:

labia majora is swollen and reddish

labia minora is reddish, swollen and tender

Hymen- positive (+) laceration

Urethral orifice- positive laceration at right posterior aspect, 0.2 cm in length[18]

On direct examination, Dr. Adlaon testified that the above condition of Margie's private part could have been caused by the entry of a hard object and possibly by the insertion of an erect penis.[19]

For his part, the appellant denied the charge of rape against him. He admitted having slept in the same room with Margie and the others on the night of July 3, 1995. However, he claims that contrary to Margie's allegation, he slept on the bed next to the wall. According to the appellant, although it was true that Margie and Jinky slept on the floor, it was Boyet who slept nearest Margie and not him. Furthermore, as the size of the room was only about 4 by 2 meters, the girls had to sleep on the floor with the lower part of their bodies under the bed.[20] Appellant likewise claims that he slept ahead of Margie and the others who continued conversing with each other.[21]

Finally, appellant testified that he is a respected member of the community being an "Alagad" of the barangay church. Among his functions as "Alagad" is to perform some of the religious sacraments in the community in the absence of the parish priest. Thus, aside from extreme poverty, he cannot think of any other reason why a minor like Margie would falsely impute the crime of rape against him.[22]

The trial court found appellant's denial unworthy of credence. On the other hand, it held that there was no reason to doubt the credibility of Margie, a simple, young girl raised in the sitio who, by crying rape, would necessarily subject herself to embarrassment and humiliation. Furthermore, no ill motive on the part of Margie nor her parents was shown to taint the accusation against the appellant who in fact provided Margie and her two siblings with a source of livelihood. Lastly, the trial court pointed out that the medical findings of Dr. Adlaon was consistent with Margie's allegation that she had been raped.[23]

Thus, on July 29, 1996, the trial court rendered a decision, the dispositive portion of which reads as follows:

WHEREFORE, the court finds the accused GUILTY of the crime of rape with the use of force as defined and penalized under Section 11 of Republic Act No. 7659, and he is hereby sentenced to suffer imprisonment of reclusion perpetua. He is also ordered to compensate Margie Comaling the sum of P30,000.00 and moral damage (sic) of P20,000.00.

SO ORDERED.[24]

Hence, this appeal.

First, appellant contends that the absence of illumination in the room during the alleged commission of the crime casts doubt upon the veracity of Margie's testimony that she was indeed raped, and that it was appellant who raped her.

Appellant posits that in the darkness of the room, it was impossible for Margie to declare with certainty that sexual intercourse took place as she could not have been sure that it was appellant's penis that penetrated her and not any other "objects or part of the human hand".[25]

This contention deserves no merit in the face of Margie's clear and categorical declaration that the appellant's penis penetrated her vagina, and that the latter thrust against her twice before disengaging. Thus, she testified:

Q - Now, while in that position he has (sic) holding your hands and he was placing himself above you, what happened?

A - He pulled off my panty.

Q - What was your dress then in that particular evening?

A - Blue skirt.

Q - How did he pull your panty in that particular evening?

A - He held my two hands, (Witness demonstrating by putting her two hands on her breast) and he pulled my panty.

Q - Then after he pulled your panty, what transpired?

A - He thrust (sic) on me.

Q - What did he use in thrusting at you?

A - His penis.

Q - To what part of your body did he thrust that penis?

A - In my vagina.

Q - Did his penis penetrate your vagina?

A - Yes.

Q - How many times?

A - Two (2) times.[26]

Assuming that she was indeed raped, appellant contends that the darkness of the room made it improbable for Margie to positively identify him as her assailant, there having been two other male persons in the room. He also

asserts that Margie could not have identified him through his voice as she testified that she was not fully acquainted with appellant's voice.[27]

The absence of illumination in the place of commission of the crime does not detract from the positive identification by Margie of the appellant as her assailant. Although visibility is an important factor in the identification of a criminal offender, its relative significance depends largely on the attending circumstances and the discretion of the trial court.[28] In the case at bar, the assailant was well known to Margie as the former was her employer. In fact, appellant himself testified that he had known Margie since birth because she is the daughter of his godbrother and their families reside in the same barangay.[29] Also, prior to the night of July 3, 1995, Margie and her siblings were already working as farmhands on his farm for more than two (2) weeks.[30] Thus, it is not difficult to believe that Margie was immediately able to recognize appellant from his voice when the latter uttered threatening words to her. Furthermore, Margie's additional statement that she recognized appellant because of the proximity of his face to her own is just as plausible. It has been this Court's observation that it is the most natural reaction for victims of criminal violence to strive to see the looks and faces of their assailants and observe the manner in which the crime was committed.[31]

Second, appellant contends that the conduct of Margie the following day belies her claim that she was raped the previous evening. Considering her allegations that she experienced pain in her private part and that she did not sleep for the remainder of the night, it would have been highly unlikely that she could still continue working on appellant's farm the following day.[32]

Unlikely maybe, but not altogether impossible. This Court has repeatedly held that there is no standard mode of behavior that can be expected of people who have just very recently been confronted with a frightening event.

x x x. It is a time-honored precept that "different people react differently to a given situation or type of situation and there is no standard form of behavioral response when one is confronted with a strange or startling experience." Not every rape victim can be expected to act conformably to the usual expectations of everyone. Some may shout; some may faint; and some may be shocked into insensibility, while others may openly welcome the intrusion.[33]

Third, appellant asseverates that neither force nor intimidation was proven. He points out that Margie's testimony that he placed himself on top of her and held her hands does not prove that degree of force necessary for a rape conviction.[34]

We do not agree. Relevant is this Court's pronouncement that:

The force or violence that is required in rape cases is relative. When applied, it need not be overpowering or irresistible. It is enough that it has enabled the offender to consummate his purpose to bring about the desired result. It is not even necessary that the offender be armed with a weapon x x x.[35]

In the instant case, Margie testified that appellant was able to immobilize her, thus:

Q - Then while sleeping, what transpired?

A - That must be past 11:00 o'clock when I noticed that he was holding my legs. (Witness was tapping with her two hands her two legs).

Q - You mentioned "he", who is this he?

A - Antonio Cambi. (Witness pointing to the accused).

Q - Then after Antonio held your two legs, what transpired?

A - I was about to shout but he covered my mouth.

Q - What did he use in covering your mouth?

A - His hand.

Q - Then considering that he held your mouth, what did you do?

A - I wiggled but he caught my two hands and placed himself above me.[36]

And

Q - So while sleeping at around 11:00 o'clock, you felt somebody on top of you, am I right?

A - Somebody held my knees.

Q - And in (sic) that point in time, the room was very dark?

A - Yes.

Q - And that somebody held your two hands?

A - Yes, he wrapped my hands with a blanket.[37]

Considering the trial court's observation that Margie "looked very young because of her diminutive size," as she "stands hardly four feet tall,"[38] it is not difficult for this Court to imagine how the appellant was able to subdue Margie's resistance with much ease and facility. Indeed we have held that the age, size and strength of the parties should be taken into account in evaluating the existence of the element of force in the crime of rape.[39]

Also of additional significance is the fact that the appellant was Margie's employer. Thus, appellant's contention that there was no intimidation prior to the commission of the alleged carnal act is simply not true. Time and again this Court has held that intimidation must be viewed in the light of the victim's perception and judgment at the time of the commission of the crime and not by any hard and fast rule.[40] This Court is not blind to Margie's unfortunate predicament of having been subjected to the unbridled lust of one who provided her and her siblings with a much needed source of livelihood. That appellant took advantage of his moral influence over his fifteen year old worker cannot be denied. We more than understand, we sympathize with the plight of this poverty stricken barrio lass who must have agonized over the loss of her innocence but also feared the very thought of losing the hand that feeds her.

Finally, appellant belabors the possibility that Margie's sexual experience did not occur at the time and place of her narration but at some other point in time.[41] In support of this contention, he cites Dr. Adlaon's testimony, to wit:

Q - So swollen and reddish, this labia majora was swollen within about three days from the time you examined it?

A - That is possible.

COURT: (to witness)

Q - How about one week, could it be possible that it can be swollen and reddish?

A - Yes Your Honor.[42]

We do not see how the above quoted testimony can help appellant's case. A closer scrutiny of Dr. Adlaon's testimony reveals that he made no categorical pronouncement as to the length of time that the swollen condition

of the labia majora would last. Thus, he testified:

Q - Now, in your findings, Exhibit "A", "labia majora - reddish", when we talked of color reddish, that is (sic) was recently or few days from the date that it swollen that the labia majora was of recent (sic)?

A - I think it depends on the condition.

Q - Now, what are the conditions?

A - When it is swollen, it will continue to be reddish until it subsides.

Q - And how many days Doctor?

A - It depends on the condition of the swollen area.

xxx xxx xxx

Q - This will depend on the physical being of the patient as well as the degree of the injury?

A - Yes Your Honor.[43] (Underscoring supplied.)

Ultimately, we adhere to the time honored principle that between the positive and categorical testimony of a rape victim on one hand and the accused's bare denial on the other, the former generally prevails. This is especially true when, as in this case, there is no evidence of improper motive on the part of the victim to falsely testify against the appellant.[44]

The trial court awarded Margie the amounts of P30,000.00 and P20,000.00 by way of civil indemnity and moral damages, respectively. As regards the civil indemnity, this Court has to date consistently ruled that if, in the crime of rape, the death penalty is not imposed, the indemnity ex delicto for the victim should be in the amount of P50,000.00.[45] Moral damages may also be awarded to the victim in such amount as the court deems just without the necessity for pleading or proof of the mental or physical suffering provided in Article 2217 of the Civil Code other than the fact of the commission of the offense. This is because it is recognized that the victim's injury is concomitant with and necessarily resulting from the odious crime of rape to warrant per se the award of moral damages.[46] In the light of the circumstances of the present case, we find the award of P50,000.00 by way of moral damages justified.

WHEREFORE, the decision of the Regional Trial Court, Branch 8, Malaybalay, Bukidnon, finding appellant guilty beyond reasonable doubt of the crime of rape is **AFFIRMED**, with **MODIFICATION** that the amounts of civil indemnity and moral damages awarded to the victim Margie Comaling are both increased to P50,000.00.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and Buena, JJ., concur.

[1] Records, p. 44.

[2] The RTC found Margie Comaling's actual age at the time of the alleged commission of the crime to be 15 years old as proven by her birth certificate and her testimony in court.

[3] Records, p. 12.

[4] Records, p. 21.

[5] TSN, February 13, 1996, pp. 9-14.

- [6] Id., p. 17.
- [7] Id., p. 19.
- [8] TSN, February 13, 1996, pp. 20-22.
- [9] TSN, February 13, 1996, p. 24.
- [10] TSN, February 13, 1996, p. 47.
- [11] TSN, February 13, 1996, p. 24.
- [12] TSN, February 13, 1996, p. 37.
- [13] TSN, February 13, 1996, pp. 25-27.
- [14] TSN, February 13, 1996, p. 39.
- [15] TSN, February 13, 1996, p. 47.
- [16] TSN, February 13, 1996, pp. 27-30.
- [17] TSN, February 13, 1996, pp. 31-35.
- [18] Records, p. 3.
- [19] TSN, February 13, 1996, pp. 10-12.
- [20] TSN, March 4, 1996, p.12.
- [21] TSN, March 4, 1996, p. 13.
- [22] TSN, March 4, 1996, p. 31.
- [23] Records, pp. 43-44.
- [24] Records, p. 44.
- [25] Brief for Accused-Appellant, p. 15.
- [26] TSN, February 13, 1996, pp. 25-26.
- [27] Brief for Accused-Appellant, p. 13.
- [28] *People vs. Mendoza*, 254 SCRA 61, 74 (1996)
- [29] TSN, March 4, 1996, p.5.
- [30] TSN, March 4, 1996, p. 21.
- [31] *People v. Sartagoda*, 221 SCRA 251, 257 (1993); *People vs. Apawan*, 235 SCRA 355, 363 (1994); *People vs. Mendoza*, *supra*, p. 75;
- [32] Brief for Accused-Appellant, p. 10.
- [33] *People vs. Silvano*, G.R. No. 127356, June 29, 1999.
- [34] Brief for Accused-Appellant, p. 16.
- [35] *People vs. Sagaysay*, G.R. No. 128818, June 17, 1999.

[36] TSN, February 13, 1996, pp. 24-25.

[37] TSN, February 13, 1996, p. 37.

[38] Records, p. 40.

[39] People vs. Moreno, 294 SCRA 728, 739 (1998)

[40] People vs. Gastador, G.R. No. 123727, April 14, 1999; Ibid.

[41] Brief for Accused-Appellant, p. 14.

[42] TSN, February 13, 1996, pp. 15-16.

[43] TSN, February 13, 1996, pp. 14-16.

[44] People vs. Maglente, G.R. Nos. 124559-66, April 30, 1999; People vs. Cristobal, 252 SCRA 507, 516 (1996)

[45] People vs. Poñado, G.R. No. 130334, July 28, 1999; People vs. Mostrales, 294 SCRA 701, 712-714 (1998)

[46] People vs. Dizon, G.R. Nos. 126044-45, July 2, 1999.

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