PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALFREDO ABLANEDA Y PECONIA, ALIAS "KALAHUPAG," ACCUSED-APPELLANT.

G.R. No. 128075. September 14, 1999

Ponente: PUNO, J.

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PUNO, J.:

This is an appeal by Alfredo Ablaneda y Peconia, alias "Kalahupag" from the decision[1] of Branch 41, of the Regional Trial Court of Daet, Camarines Norte finding him guilty of rape. The dispositive portion of the decision reads:

> "WHEREFORE, in view of the foregoing, accused ALFREDO ABLANEDA y PECONIA alias KALAHUPAG is convicted of the offense of RAPE, and is sentenced to serve an imprisonment of (r)eclusion (p)erpetua, with all the accessory penalties provided for by law, and for accused to pay the cost. Moreover, accused is ordered to indemnify the complainant/victim, Wilma Canada, in the sum of P50,000.00.
>
> "Accused, who has been under detention since November 24, 1993 until the present, is given full credit for said preventive imprisonment.
>
> "SO ORDERED."

The evidence for the prosecution shows that the complainant-victim is Wilma Canada, a 35-year old housewife, living in Barangay Tuaca, Basud, Camarines Norte. She claimed that at 2:30 in the afternoon of May 21, 1993, she was waiting by the roadside for a ride home when the accused Alfredo Ablaneda, alias Kalahupag appeared. The accused, a reputed member of the New People's Army (NPA), told her that she was being summoned by members of the NPA to answer some questions. "About what?" she asked him, but the accused just muttered, "basta ngaya." Fearful of the NPAs, she agreed to go but asked the accused whether she could first inform her husband. The accused acceded and they boarded a jeepney for Bgy. Tuaca to go to her house. They alighted at the crossing of Bgy. Tuaca, where Rolando, the husband of Wilma was waiting. Upon learning of the order of the NPAs, Rolando asked whether he could accompany Wilma but the accused refused saying, "nothing will happen to her". The accused and Wilma proceeded to the supposed rendezvous until they reached the backyard of Marta Aban. Wilma noticed that nobody was around and she asked, "Where are the NPAs?" When the accused did not reply, Wilma sensed something bad was about to happen and she started to run. The accused went after her, tugged at her skirt and grabbed her right hand. He took out a fan knife from his waist and pointed it at her neck. He warned her not to shout or she would be killed. He then pushed her on the ground, raised her skirt and pulled her panty down her thighs. In an instant, he was able to remove his pants and underwear and forcibly lied on top of her. She struggled to free herself but in vain. The accused was much stronger and he succeeded in having sexual intercourse with her. She cried and was ordered to go home. Once again, he threatened to kill her should she tell anyone about the incident.

Rolando proceeded to the house of Junior Aban[2] to wait for his wife. When he saw Wilma emerge from the

backyard of Marta Aban's house, he asked her what happened. She bid him to wait until they were home. When they got home she told him that the accused raped her. He did not confront the accused because he was known to be a member of the New People's Army (NPA).

The next morning, Wilma went to the house of her aunt, Cecilia Bendecio and confided to her the incident, including the threat of the accused. Cecilia did not report to the police. Three (3) months passed by before Wilma decided to break her silence. She went to barangay captain Pablo Cardil, Sr. to complain. The barangay captain put into writing Wilma's complaint and asked her to sign it. He also summoned the accused who denied raping Wilma. The matter was then referred to the Police Headquarters of Basud.[3]

On August 20, 1993, Wilma filed a sworn complaint[4] against the accused. The Municipal Trial Court of Basud conducted a preliminary investigation and found probable cause for filing an information. Consequently, the provincial prosecutor of Daet, Camarines Norte filed an information[5] dated October 20, 1993 against the accused for rape.

In defense, the accused painted a different picture of what transpired between him and Wilma on that afternoon of May 21, 1993. According to him, at 3:00 p.m. on that day, three (3) men, whom he suspected to be NPA members because "they were armed and looked different from military personnel" came to his house and ordered him to bring Wilma Canada to the land of Rufino Aban because they wanted to ask her a few questions. Afraid of incurring their ire, he went to Wilma's house but was informed she was in Tuaca.[6] He looked for her and spotted her together with her husband at the crossing of Tuaca, while alighting from a bus. He told Wilma about the summon of the NPAs. She asked the accused to accompany her. He told Wilma to first inform her husband but she refused. The accused then accompanied her to the land of Rufino Aban, a kilometer and a half from his house and situated along the national highway. When they got there, the three (3) armed men were nowhere in sight. He told Wilma to go home. Three months later, on August 16, 1993, barangay captain Pablo Cardil, Sr. informed him that a complaint[7] for rape was filed against him by Wilma. On May 28, 1994, the police arrested him.[8]

As earlier adverted to, the trial court convicted the accused of rape and sentenced him to suffer the penalty of reclusion perpetua. Hence, this appeal where he raises the following errors:

> "I
> THE COURT A QUO ERRED IN GIVING WEIGHT AND CREDENCE TO THE TESTIMONY OF PRIVATE COMPLAINANT WHICH IS FULL OF IMPROBABILITIES AND INCONSISTENCIES.
>
> II
> THE COURT A QUO ERRED IN FINDING ACCUSED-APPELLANT ALFREDO ABLANEDA GUILTY OF THE CRIME CHARGED WITHOUT PROVING HIS GUILT BEYOND REASONABLE DOUBT."

In convicting accused-appellant, the trial court relied on the oft repeated ruling that "(w)hen an alleged victim of rape says that she was violated, she says in effect all that is necessary to convict the accused so long as her testimony meets the test of credibility."[9] In its own words, the trial court held that "x x x it is inclined to lend credence to the testimony of the complainant, who claims to have been sexually assaulted since it is inconceivable that she would invent such a sordid tale of defilement unless it be the plain truth."[10]

Accused-appellant challenges the assumption behind this ruling and asserts that his guilt has not been proven beyond reasonable doubt. He pounds on the fact that when Wilma first reported the incident to the barangay captain of Tuaca, she executed the following sworn statement where she declared that he was not able to consummate the rape as she succeeded in playing a trick on him, viz:

> "Ako si Gng. Wilma Canada, may asawa, nakatira saTuaca, Purok 2, Basud, Camarines Norte.

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> "Dahil sa nangyari sa akin na inilihim ko nang matagal na panahon, dahilan sa banta sa akin na kung magre-reklamo ako ay papatayin niya daw ako.
>
> "Sa matagal na panahon, pinag-aralan ko, minabuti ko na magkita kami sa harap ng autoridad para maayos kami at maalis ang pagbabanta niya sa akin.
>
> "Nangyari lamang ito noong Mayo 21, 1993 sa oras ng 3:00 p.m., na nagkasabay kami sa paglakad sa daan noong pauwi na ako. Nagsabi siya sa akin na mayroong tao na naghahanap sa akin. Dahil gusto akong makausap sa gusto kong kasunduan. Sumama ako sa kanya pagdating namin doon sa pinagbahayan ni Marta Aban huminto kami. At ang sabi wala pa ang taong hihintayin natin dito. Wala namang dumating na tao sabi ko nasaan ang taong sinasabi mo na gusto akong makausap. Wala siyang sinabi kundi hinawakan niya and kamay ko at hiningi niya ang pagkababae ko.
>
> "Dahil sa ayaw kong mangyari sa akin nag-isip ako ng paraan para makatakas ako na ang sabi ko sa kanya, "oo" pero sandali dahil masama ang tayo natin dito sa daan, nakakahiya kung may makakita sa atin dito kaya binitiwan niya ako.
>
> "Kaya pagbitaw, agad akong tumakas at hinabol pa niya ako na nagsabi na pagnagsumbong ako, papatayin niya ako.
>
> "Bilang pagpatunay sa mga nabanggit sa itaas, ako ay lumagda ng tunay kong pangalan na hindi ako pinilit o tinakot sa harap ng autoridad na si Capt. Pablo Cardel.
>
> "May reklamo,
>
> Sgd. Wilma Canada."
> (Exh. 1)[11]

Moreover, accused-appellant contends that "after the incident, she went home, x x x exhibiting no sign of apprehension or physical harm."[12] Accused-appellant also claims that the prosecution's failure to present Wilma's torn panty and skirt further negates her story.[13] And, finally, accused-appellant capitalizes on the fact that Wilma reported the alleged rape three (3) months after its commission.[14]

On opposite ends of the scale are the constitutional presumption of innocence of the accused and the principle giving easy credence to the testimony of the victim in rape cases. In People v. Godoy[15], we explained the proper approach of courts when confronted by this problem, viz:

> "The trial court, in holding for conviction, relied on the presumptio hominis that a young filipina will not charge a person with rape if it is not true. In the process, however, it totally disregarded the more paramount constitutional presumption that an accused is deemed innocent until proven otherwise.
>
> "It frequently happens that in a particular case two or more presumptions are involved. Sometimes the presumptions conflict, one tending to demonstrate the guilt of the accused and the other his innocence. In such case, it is necessary to examine the basis for each presumption and determine what logical or social basis exists for each presumption, and then determine which should be regarded as the more important and entitled to prevail over the other. It must, however, be remembered that the existence of a presumption indicating guilt does not destroy the presumption against innocence unless the inculpating presumption, together with all of the evidence, or the lack of any evidence or explanation, is sufficient to overcome the presumption of innocence by proving the defendant's guilt beyond a reasonable doubt (sic) until the defendant is shown in this manner, the presumption of innocence continues.
>
> "The rationale for the presumption of guilt in rape cases has been explained in this wise:
> 'In rape cases, especially, much credence is accorded the testimony of the complaining witness, on the theory that she will not choose to accuse her attacker at all and subject herself to the stigma and indignities her

> accusation will entail unless she is telling the truth. The rape victim who decides to speak up exposes herself as a woman whose virtue has been not only violated but also irreparably sullied. In the eyes of a narrow-minded society, she becomes a cheapened woman, never mind that she did not submit to her humiliation and has in fact denounced her assailant. At the trial, she will be the object of lascivious curiosity. People will want to be titillated by the intimate details of her violation. She will squirm through her testimony as she described how her honor was defiled, relating every embarassing movement of the intrusion upon the most private parts of her body. Most frequently, the defense will argue that she was not forced to submit but freely conjoined in the sexual act. Her motives will be impugned. Her chastity will be challenged and maligned. Whatever the outcome of the case, she will remain a tainted woman, a pariah because her purity has been lost, albeit through no fault of hers. This is why many a rape victim chooses instead to keep quiet, suppressing her helpless indignation rather than denouncing her attacker. This is also the reason why, if a woman decides instead to come out openly and point to her assailant, courts are prone to believe that she is telling the truth regardless of its consequences. x x x.'

"The presumption of innocence, on the otherhand, is founded upon the first principle of justice, and is not a mere form but a substantial part of the law. It is not overcome by mere suspicion or conjecture; a probability that the defendant committed the crime; nor by the fact that he had the opportunity to do so. Its purpose is to balance the scales in what would otherwise be an uneven contest between the lone individual pitted against the People and all the resources at their command. Its inexorable mandate is that, for all the authority and influence of the prosecution, the accused must be acquitted and set free if his guilt cannot be proved beyond the whisper of a doubt. This is in consonance with the rule that conflicts in evidence must be resolved upon the theory of innocence rather than upon a theory of guilt when it is possible to do so."

On the basis of the foregoing and after a thorough review of the evidence presented by both sides, we acquit the accused-appellant:

First, Wilma's sworn statement before the barangay captain categorically declaring that she was able to avoid accused-appellant's sexual advances casts a serious doubt on the veracity of her accusation. The trial court did not give weight to this damaging declaration by holding that sworn statements are often incomplete and inaccurate. Allegedly, court decisions generally consider them to be inferior to testimony given in open court.[16] We hold, however, that these rulings are not applicable in the case at bar for Wilma's sworn statement is not merely incomplete, but tells an entirely different story. It says that no rape was committed against her by accused-appellant because she was able to escape from his lascivious clutches.

Second, we find it hard to believe that Wilma was calm and composed after the alleged sexual assault. She even managed to keep her husband's inquiry at bay, when she met him a few minutes after the incident. She was not crying, she did not look disheveled or harassed. Her husband did not observe anything unusual about her which could have immediately aroused his suspicion that something bad might have happened to her.[17] Time and again, we emphasize that a woman's conduct immediately after the alleged assault is of critical value in gauging the truth of her accusations.[18] It must coincide with logic and experience.[19] In this case, we cannot say that Wilma's deportment is consistent with a victim of rape.[20]

Third, Wilma's medical examination itself does not establish that rape was committed against her, viz:

> "PHYSICAL EXAMINATION:
>
> "GENITALIA: = Prominent labia minora, hymen no longer intact, (-) tear/laceration;

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= Introitus admits two (2) fingers with ease;

= Cervix admits tip of finger;

"SPECULUM EXAM: = No bleeding; No laceration;

"ACTION: = Committed rape can't (sic) be established by internal examination because of the patient's gravidity and parity (G8P8 (8005)), likewise of the time of the rape was committed and the time of examination (sic)."[21]

Fourth, the prosecution failed to present her torn panty and skirt. The trial court brushed this omission aside, invoking the rule that a rape victim's torn panty and skirt are not indispensable evidence to prove rape. The rule, however, holds true only if there exist other corroborative evidence sufficiently and convincingly proving the rape charge beyond reasonable doubt. The rule would go the other way, where the testimony of the complainant is weak and no other physical evidence has been presented to bolster the charge of sexual assault.[22]

Fifth, accused-appellant's reputation as an NPA member was not proven. On the contrary, barangay captain Cardil's testimony shows that the accused-appellant is a person given to boasting when drunk and for this reason his barriomates did not take him seriously:

"CROSS-EXAMINATION BY ATTY: DIALOGO:

"Q: In what purok in Tuaca is this accused residing, Mr. Witness?

"Barangay Captain Pablo Cardil, Sr.

"A: In purok 2, sir.

"Q: How about you in what purok in Tuaca you reside?

"A: In purok 2 also, sir.

"Q: You mentioned, Mr. Witness, that you have information that the accused is a collector of NPA. How did you come to know about that information?

"A: I have learned that information because whenever the accused has taken much liquor of got drunk he kept on saying that he is a collector of the NPA and he has been known to be collector of NPA, sir.

"Q: You mean to say that he says that only whenever he is drunk?

"A: Yes, sir.

"Q: But when he is not drunk he denies being collector of NPA?

"A: Yes, sir. He does not say that he is a collector of NPA.

"x x x.

"Q: Did you believe him when he said that he is a collector of the NPA?

"A: I don't believe that he is a collector of the NPA because whenever he is not drunk, he just smiles, sir.

"Q: In fact, you never reported this information to the military or police because you did not believe when the accused said that he is collector of the NPA?

"A: Yes, sir. I did not report to the military or police that he is a collector of the NPA. Maybe he was just

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committing abuses, sir.

"Q: You did not even believe that he is a member of the NPA?

"A: Yes, sir, I have not seen him going with the NPA members and he is always there in our barangay. He says that he is collector of the NPA whenever he is drunk, sir."[23]

Last, it took Wilma three (3) months before reporting the alleged sexual assault. In light of the totality of evidence, such tardy reporting cannot but put the story of Wilma in serious doubt.

IN VIEW WHEREOF, the decision appealed from is REVERSED and accused-appellant is ACQUITTED. No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

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[1] Penned by Judge Emmanuel S. Flores dated April 15, 1996.

[2] Records do not disclose whether this is the same house as Marta Aban's.

[3] TSN, Wilma Canada, August 16, 1994, pp. 3-29.

[4] Original Record, p. 2.

[5] Original Record, p. 1.

[6] Records do not disclose the exact place in Tuaca.

[7] Exhibit 1; Original Record, p. 75.

[8] TSN, Alfredo Ablaneda, January 19, 1996, pp. 2-18.

[9] Citing People v. Marciano Sapurco, G.R. No. 107748, July 3, 1995, Decision p. 3; Rollo, p. 57.

[10] Decision, p. 3; Rollo, p. 57.

[11] As translated in Pilipino.

[12] Appellant's Brief, pp. 8-9; Rollo, pp. 49-50.

[13] Id., at p. 9; Rollo, p. 50.

[14] Id.

[15] 250 SCRA 676 [1995].

[16] Citing People v. Alegado, G.R. No. 80532, Nov. 8, 1993, Decision, p. 4; Rollo, p. 58.

[17] TSN, Rolando Canada, November 16, 1994, p. 9.

[18] People v. Herrick, 187 SCRA 364 [1990].

[19] People v. Cartuano, 255 SCRA 403 [1996].

[20] People v. Antido, 278 SCRA 425 [1997].

[21] Exhibit B, Original Record, p. 3.

[22] Supra Fn 15.

[23] TSN, Pablo Cardil, Sr., April 26, 1995, pp. 22-25.

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