PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TUNDAGUI GAYOMMA, ACCUSED-APPELLANT.

G.R. No. 128129. September 30, 1999

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

This is another rape of a minor by a dirty old man more than four (4) decades her senior.

On 8 September 1994 Monalisa Mangili, twelve (12) years of age,[1] was invited by her playmate and neighbor Teresita Gayomma, also her age, to spend the night in her house. Both were residents of Utiw, Viewpoint, Banaue, Ifugao. After playing and reading books for a few hours the two (2) girls finally called it a night and went to bed.[2]

While Monalisa was asleep, accused Tundagui Gayomma, the father of Teresita, entered the room and placed himself on top of Monalisa. When she felt the weight of Tundagui, Monalisa was awakened but she was unable to call out for help as Tundagui threatened to kill her if she shouted or made a false move.[3] He lifted her skirt, pulled down her panties and copulated with her. After satisfying his lust he left the ravished Monalisa who wept in anguish and pain.[4]

The following morning Monalisa went home but kept her ordeal to herself as Tundagui warned her that he would kill her parents if she told anyone about what he did to her.[5] It took the hapless Monalisa four (4) days before she could muster enough courage to disclose her harrowing experience to her mother, Maria Mangili.

The next day Maria brought Monalisa to the barangay captain to seek his advice. The barangay captain told them to go to the Good News Clinic for medical examination. Before she could be examined at the Clinic, a certain SPO1 Paganaje took Monalisa's statement in English; however, it was translated into Ifugao, the dialect affiant could fully speak and understand.[6] The statement was subscribed and sworn to before Clerk of Court Ramon Dulnuan of the First Municipal Circuit Court of Banaue-Hungduan. After her statement was taken, Monalisa was examined by Dr. Ruben C. Sinfuego, Medical Specialist II of the Ifugao General Hospital. The medical report of Dr. Sinfuego disclosed the following findings: (a) labia majora - no injuries; (b) labia minora - no injuries; (c) erythema - lateral sides of vaginal canal; (d) perforated hymen; (+) myrtiform carunculae; (e) whitish secretions per vaginal orifice; and, (f) smear done from the vaginal secretions - no sperm cells seen.[7]

Thereafter an Information was filed with the Regional Trial Court of Lagawe, Ifugao, charging Tundagui Gayomma with rape for having carnal knowledge of twelve (12)-year old Monalisa D. Mangili against her will.[8]

Tundagui Gayomma denied having raped Monalisa. He recounted his own version of what transpired on the night of 8 September 1994. He admitted that Monalisa slept in their house that evening with his daughter Teresita while he slept with his son Nelson in another room.[9] According to him, he was suddenly roused from his sleep by a very loud cry coming from the room where his daughter and Monalisa were sleeping. When he entered the room to find out what it was, he saw the two (2) girls lying side by side with each other. He immediately inquired as to

who cried. Instead of getting a direct answer, he heard Monalisa tell Teresita that she had a bad dream. Upon hearing that the cause of the outcry was simply a nightmare, he returned to his room and slept.[10]

After trial, the court a quo found the accused Tundagui Gayomma guilty beyond reasonable doubt of the crime of rape and sentenced him to reclusion perpetua and to indemnify his victim Monalisa Mangili in the amount of P50,000.00. He was spared of the capital punishment because according to the trial court the conditions for its imposition did not exist.[11]

The accused Tundagui Gayomma now assails the lower court for convicting him of rape. He claims that the prosecution failed to prove his guilt beyond reasonable doubt. He asserts that: (a) the testimony of the complaining witness was not consistent with common experience; (b) he was not positively identified by the victim to be the culprit; (c) Monalisa gave conflicting statements in her testimony; and, (d) the medical findings failed to prove that Monalisa was sexually abused.

The accused first argues that the complaining witness' account of the rape is contrary to human experience, hence, not believable. He contends that from her testimony it appears that on the night she was allegedly abused, she was sleeping with his daughter, sharing one (1) bed and, in fact, even one (1) blanket. Hence, he concludes, that it is incredible that under the circumstances he could have raped her. He further claims that even more incredulous is that while he was supposedly raping her, she did not bother to shout which could have awakened those in the house. He argues that even if we believe that shock and fear induced her to meekly submit, this does not explain why she remained silent even after he had already left her. He posits that the "normal" thing for her to do, if she was truly raped, was to wake her friend up or leave immediately for home, and not to stay longer in the house, sleep and then go to school the following morning.[12]

Jurisprudence abounds holding that lust is no respecter of time or place; that it can be consummated in the same room where the rapist's spouse is asleep, or in a small room where other members of the family also sleep.[13] Thus the undisputed fact that Monalisa and Teresita were asleep in one (1) bed does not negate rape. Teresita confirmed that she "never actually felt or saw anything that night because (she) slept soundly."[14]

That Monalisa's behavior during the supposed rape and thereafter was atypical does not disprove her claim. Gayomma's proposition would expect a twelve (12)-year old victim to react "normally" to what is rightfully a thoroughly shocking, if not sordid, experience which can permanently damage a person's psyche, something which he would not wish on the daughter of even his most hated enemy. As we have repeatedly held, there is no standard norm of behavior for victims of rape during the forcible coitus and its ugly aftermath. This is especially true with child victims.[15] The words "do not shout or move because I will kill you" are more than enough to silence a child of tender age.[16] The added threat that he would kill her parents if she ever told anyone about it effectively explains why Monalisa endeavored to behave "normally," even to the extent of going to school as if nothing had happened and to keep everything to herself. To her the threats were ominously real.

Gayomma also professes that he was not categorically identified by Monalisa as her rapist and that there is no way a victim could positively identify her attacker by just relying on her sense of smell and perception of weight. But the fact remains that Monalisa clearly identified the accused not only by noticing that he was drunk and heavy but also by recognizing his voice when he uttered the death threats which cowed her into silence -

> Q: And how did you recognize the voice? Was it the voice of Tundagui Gayomma or the voice of another person?
>
> A: The voice of Tundagui Gayomma.
>
> Q: What did Tundagui Gayomma exactly utter to you that night?

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> A: He said, "Achi a kumuti ya achie pumalag te patehon cha-an haon." Meaning to say, do not move and do not talk because I will kill you.[17]

The sound of the voice of a person is an acceptable means of identification where it is established that the witness and the accused knew each other personally and closely for a number of years.[18] Complaining witness was a neighbor of accused Tundagui Gayomma; she was a close friend and playmate of his daughter.[19] Gayomma even admitted in his testimony that Monalisa treated him as her own uncle.[20] All these prove that the victim was indeed familiar with the accused and had been in close contact with him for a long period of time before the incident. She is therefore more than competent to recognize Gayomma by the sound of his voice.

Accused Gayomma also points to the inconsistencies in the testimony of Monalisa which to him cast serious doubt on whether she did in fact hear his voice during the alleged rape. Thus, the Presiding Judge questioned Monalisa -

> Q: Did you hear any utterance of words at that time?
>
> A: None.
>
> Q: Are you familiar with the voice of Tundagui?
>
> A: Yes.
>
> Q: Will you clarify to the Court when were those words uttered?
>
> A: When he was on top of me.
>
> Q: What really is your testimony? Did you hear the words or none at all?
>
> A: There is (sic).[21]

While it is true that Monalisa answered "[N]one" when initially asked if Tundagui uttered some words, she subsequently explained that she understood the clarification of the question by the Judge. In fact, when asked the second time, she readily answered "[T]here is (sic)." At any rate, such perceived inconsistency should not really be considered damaging. As this Court recognizes -

> Rape, as a harrowing experience, is usually not remembered in detail. For, such an offense is not something which enhances one's life experience as to be worth recalling or reliving, but rather, something which causes deep psychological wounds and casts a stigma upon the victim for the rest of her life. Thus, a rape victim is not and cannot be expected to keep an accurate account of her traumatic experience. With more reason must we have greater compassionate understanding of herein complainant's plight who, at a very tender age, was mercilessly corrupted by a conscienceless human being with bestial desires.[22]

Finally, accused Gayomma assails his conviction as the medical findings failed to prove that Monalisa was raped. He concludes that the absence of injuries and sperm cells in her genitalia is concrete proof that the rape charge is nothing but a fabrication.

This is unpersuasive, to say the least. Monalisa was examined four (4) days after the rape which explains the absence of injuries which since had healed. The examining physician testified that Monalisa's hymen was perforated and scarring already formed.[23] Be that as it may, the medical examination is not an indispensable element for the successful prosecution of the crime as the testimony of the rape victim alone, if credible, is sufficient for the conviction of the accused.[24]

In fine, the defense failed to come up with a credible reason why Monalisa would falsely accuse Gayomma of rape other than the lame excuse that the "filing of the case (was) to destroy (his) reputation." Thus -

Q: Mr. Witness, before September 8, 1994, you never had conflict with the parents of Monalisa, is that true?

A: None, sir.

Q: You cannot therefore imagine of any reason for them to charge you for a serious offense if that incident is not true?

A: There is none.

Q: And before September 8, 1994, you never committed an act which would cause the accuser to hate you?

A: None.

Q: You are therefore not aware of any reason why the complainant should charge you for this very serious offense if it were not true?

A: What I know is that the filing of the case is to destroy my reputation.[25]

It is settled that where there is no evidence showing devious reasons or improper motives why a prosecution witness would falsely testify against an accused or implicate him in a heinous crime, the testimony is worthy of full faith and credit.[26] A young girl's revelation that she has been raped, coupled with her voluntary submission to medical examination and her willingness to undergo public trial where she could be compelled to give out details of an assault on her womanhood cannot be so easily dismissed as a mere concoction. The credibility of a rape victim is augmented when, as in the instant case, she has no malevolent motive to testify against the accused or where there is absolutely no evidence which even remotely suggests that she could have been actuated by such motive. We are thus convincingly assured that the lower court prudently fulfilled its obligation as a factual assessor and a legal adjudicator. We accordingly give due respect to the evaluation of the trial court on the credibility of the complaining witness.[27] Indeed, Monalisa could not have filed this rape case against the accused just to destroy his reputation, but rather, to seek justice for the irreparable wrong he committed against her. After the court a quo clearly found the testimony of Monalisa to be credible, positive and convincing, we have no reason to disagree with its faith in her credibility. Her testimony then, even standing alone, is sufficient to convict accused Tundagui Gayomma of rape.

In line with recent jurisprudence, complaining witness is entitled to civil indemnity in the amount of P50,000.00. Additionally, she is also entitled to a similar amount in moral damages. That Monalisa has suffered the trauma of mental, physical and psychological sufferings which constitute the basis for moral damages provided in Art. 2217 of the Civil Code is too obvious to still require the recital thereof at the trial by the victim. The Court itself assumes and acknowledges such agony on her part as a gauge of her credibility.

WHEREFORE, the judgment appealed from finding accused TUNDAGUI GAYOMMA guilty of rape and sentencing him to reclusion perpetua is AFFIRMED with the modification that in addition to the civil indemnity of P50,000.00 therein awarded, the accused is further ordered to pay the offended party MONALISA MANGILI another P50,000.00 for moral damages, and to pay the costs.

SO ORDERED.

Mendoza, Quisumbing, and Buena, JJ., concur.

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[1] The Certificate of Live Birth of Monalisa Mangili shows that she was born on 11 February 1982; Records, p. 6.

[2] TSN, 7 February 1995, pp. 2-3.

[3] TSN, id., p. 3.

[4] TSN, id., pp. 3-4.

[5] TSN, id., p. 4.

[6] Exh. "B."

[7] Medical Certificate dated 12 September 1994 issued by Dr. Ruben C. Sinfuego, Medical Specialist II, Ifugao General Hospital; Records, p. 9.

[8] Docketed as Crim. Case No. 919; Records, p. 1.

[9] TSN, 5 July 1995, p. 3.

[10] TSN, id., pp. 3-5.

[11] Decision penned by Judge Anastacio R. Anghad, RTC-Br. 14, Lagawe, Ifugao; Records, pp. 91-110.

[12] Appellants Brief, id., p. 47.

[13] People v. Luterio, G.R. No. 127177, 23 February 1999; People v. Ramos, G.R. No. 129439, 25 September 1998; People v. Bersabe, G.R. No. 122768, 27 April 1998, 289 SCRA 685.

[14] TSN, 7 March 1995, p. 5.

[15] People v. Deleverio, G.R. Nos. 118937-38, 24 April 1998, 289 SCRA 547.

[16] People v. Abutin, G.R. No. 119225, 26 July 1998, 259 SCRA 500.

[17] TSN, 7 February 1995, p. 9.

[18] People v. Reynaldo, G.R. No. 116305, 2 July 1998, 291 SCRA 701.

[19] TSN, 7 February 1995, p. 5.

[20] TSN, 5 July 1995, p. 7.

[21] TSN, 7 February 1995, p. 9.

[22] People v. Garcia, G.R. No. 120093, 6 November 1997, 281 SCRA 463, 477.

[23] TSN, 7 February 1995, p. 2.

[24] People v. San Juan, G.R. No. 105556, 4 April 1997, 270 SCRA 693; People v. Betonio, G.R. No. 119165, 26 September 1997, 279 SCRA 532.

[25] TSN, 5 July 1995, p. 6.

[26] People v. Abrecinoz, G.R. Nos. 122474-76, 17 October 1997, 281 SCRA 59.

[27] People v. Prades, G.R. No. 127569, 30 July 1998, 293 SCRA 411.

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