PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JIMMY ANTONIO AND MICHAEL AREDIDON Y MONTEJO, ACCUSED-APPELLANTS.

G.R. No. 128149. July 24, 2000

Ponente: PARDO, J.

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PARDO, J.:

The case before this Court is an appeal from the decision[1] of the Regional Trial Court, Cavite City, Branch 17, finding accused Jimmy Antonio (hereinafter referred to as "Antonio") guilty of three counts of rape, imposing on him the penalty of reclusion perpetua for each count, ordering him to indemnify the victim, Adelina S. Guillang (hereinafter referred to as "Adelina") in the amount of P50,000.00 and to pay one-half of the costs of suit and finding accused Michael Aredidon (hereinafter referred to as "Aredidon") guilty as an accomplice in each of the three acts of rape, sentencing him to an indeterminate penalty of nine (9) years, four (4) months and one (1) day of prision mayor, as minimum, to thirteen (13) years, nine (9) months and eleven (11) days of reclusion temporal, as maximum, for each count of rape, ordering him to pay the victim indemnity in the amount of P30,000.00 and one-half of the costs of suit.[2]

We state the relevant facts.[3]

On September 3, 1989, at nine o'clock in the evening Aredidon fetched Adelina from her house. After asking permission from her mother, she left with Aredidon. They went to the house of Aredidon's friend, known only as "Gov." Adelina and Aredidon stayed in "Gov's" house for a while. Adelina was offered softdrinks. After drinking, she fell asleep.[4]

On the same day, September 3, 1989, Adelina woke up in a hotel room, naked, her whole body aching and her vagina bleeding. She was about to stand when Aredidon entered the room. Aredidon told her that should she attempt to escape, he would kill her with the knife he was holding.

Shortly thereafter, Antonio arrived. Antonio told Adelina that he "used her". He "again used" her. Antonio pointed a gun at her and threatened to kill her should she attempt to escape.

On September 4, 1989, Antonio raped Adelina for the second time.

On September 5, 1989, Antonio hit Adelina on the stomach and pointed a gun at her. He succeeded in sexually violating her for the third time. At that time, Adelina was only fourteen (14) years old.

During her three-day stay in the hotel, Adelina did not eat. She narrated that during that time, Antonio and Aredidon would take shabu.

The room was on the first floor of the hotel.[5] It had no windows. No hotel personnel ever entered the room. Adelina explained that although she was "anxious to get out of the hotel," she could not escape because Antonio and Aredidon did not sleep on account of the shabu they took.

On September 5, 1989, Adelina escaped, wearing Aredidon's clothes, taking his bag and money. Afraid of Aredidon and Antonio's threats, Adelina proceeded to a friend's house in Pandacan, Manila. She stayed there for a week and then went home. Upon reaching home, she told her mother about everything that happened to her.[6]

On September 26, 1989, Adelina executed a sworn statement before the police in Camp General Pantaleon Garcia in Imus, Cavite accusing Antonio and Aredidon of rape.[7]

On September 27, 1989, Dr. Prospero A. Cabanayan of the National Bureau of Investigation (NBI) examined Adelina. The medical report revealed that Adelina's hymen had "a recently healed deep laceration at 8:00 o'clock position."[8]

On March 28, 1990, Adelina filed three separate complaints[9] against accused Aredidon and Antonio, to wit:[10]

> In Criminal Case No. 114-90 --
>
> "That on or about September 5, 1989, in the City of Cavite, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, by means of , force and intimidation, did, then and there, willfully, unlawfully and feloniously have carnal knowledge of the undersigned complainant against her will.
>
> Contrary to law."

The complaints in Criminal Cases Nos. 115-90[11] and 116-90[12] alleged the same facts except for the dates of commission of the crime, which were September 4, 1989 and September 3, 1989, respectively.

On March 28, 1990, the trial court issued the corresponding warrants of arrest.[13]

On June 29, 1990, since both accused were at large, the trial court ordered that Criminal Case Nos. 114-90 and 115-90 be archived.[14]

On October 31, 1991, Criminal Case No. 116-90 was likewise archived.[15]

On October 13, 1995, Antonio was apprehended in Dalahican, Cavite City.[16]

On October 23, 1995, Antonio was arraigned. He entered a plea of "not guilty" to the three charges of rape.[17]

On November 15, 1995, the three criminal cases were consolidated and tried jointly.[18]

On May 12, 1996, accused Aredidon voluntarily surrendered to the police at Cavite City.[19]

On May 13, 1996, upon arraignment, accused Aredidon entered a plea of "not guilty" to all charges.[20]

Accused interposed the defense of denial.

Essentially, Aredidon and Antonio testified that Adelina was a prostitute who voluntarily went to the hotel with them. Adelina stated that she could no longer live with her mother who would beat her.[21] Antonio testified that he and Adelina frequently met, and sometimes the meetings would "end up with sex"[22] and he would give her P500 or P600 "depending on her needs."[23]

On November 20, 1996, after trial, the lower court found accused guilty and sentenced them as follows:[24]

> "WHEREFORE, in view of the foregoing, the Court finds the accused Jimmy Antonio guilty beyond reasonable doubt of RAPE in the above-entitled cases and he is hereby sentenced to RECLUSION PERPETUA in each case, to indemnify the offended party Adelina Guillang in the amount of P50,000.00 and to pay one-half (1/2) of the costs.

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> "Likewise, Michael Arediddon is also found guilty beyond reasonable doubt of RAPE as an accomplice in the above-entitled cases and he is sentenced to undergo imprisonment of from nine (9) years, four (4) months and one (1) day of prison mayor as minimum, to thirteen (13) years, nine (9) months and eleven (11) days of reclusion temporal as maximum in each case, to indemnify the offended party Adelina Guillang in the amount of P30,000.00 and to pay one-half (1/2) of the costs.
>
> "SO ORDERED."

Hence, this appeal.[25]

Accused-appellants make issue of the trial court's reliance on Adelina's testimony. We have consistently held that the credible, natural and convincing testimony of the victim is sufficient basis to convict. Rape is committed in private. Eyewitnesses are very seldom available.[26]

Accused-appellants point out that Adelina contradicted herself several times regarding the question of when she first met Antonio. At one time, she testified that she met Antonio for the first time at the hotel.[27] Then another time, she stated that the first time she met Antonio was in "Gov's" house.[28]

We are not persuaded.

The inconsistencies cited by accused-appellants cannot overthrow the trial court's conviction. The substance of Adelina's testimony was that Antonio raped her. On this matter, she did not waiver. Whether she met Antonio at "Gov's" house or at the hotel is not relevant. To disregard Adelina's testimony on this basis will result in injustice. Hae nugae seria ducent in mala. Consideration of these trifles will lead to serious mischief.[29] For a discrepancy in testimony to acquit, such must refer to significant facts crucial to the guilt or innocence of accused-appellants. Inconsistencies irrelevant to the elements of the crime are not grounds to reverse the conviction.[30]

True, Adelina waited six (6) months before she reported the crime to the police. However, this will not discredit her. It is not uncommon for a girl of tender age to be intimidated into silence by the mildest threat on her life.[31]

We affirm the trial court's finding of guilt which was based on sound legal reasons, to wit: First, the trial court categorically pronounced that "the evidence for the prosecution is more credible than that of the defense."[32] The trial court described Adelina's manner of testifying as "straight forward" and "unflinching".[33] Any inconsistency in Adelina's testimony was trivial (a "small matter") and excusable given the lapse of time from the time the crimes were committed to the time of testifying.[34] Second, the trial court found the testimonies of both accused-appellants unbelievable and contradictory. While Antonio testified that he personally knew Arediddon, Arediddon denied knowing Antonio and even feigned inability to identify him in court.[35] Third, Adelina's positive identification of accused-appellants prevails over their defense of alibi. Fourth, even if Adelina was indeed a prostitute, that does not mean that she was not raped. The victim's character and previous sexual relations are immaterial in rape.[36]

The settled rule is that the trial court's assessment of the credibility of witnesses is entitled to great respect. The court had the opportunity to observe the witnesses' demeanor and deportment on the witness stand.[37]

Adelina was fourteen years old when she was raped. Only a desire to have the culprits apprehended and punished would motivate a woman of such tender age to allow an examination of her private parts and undergo a public trial. Youth and immaturity are generally considered badges of truth and sincerity.[38]

We note that both accused-appellants were at large for five (5) years.[39] Flight indicates guilt. Accused-appellants' act of not confronting their accuser goes against the principle that the first impulse of an innocent man when accused with wrongdoing is to express his innocence at the first opportune time.[40]

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However, unlike the trial court, we find the existence of conspiracy between the two accused-appellants. Conspiracy is shown by the conduct of accused-appellants, before, during and after the commission of the crime. In a conspiracy, the act of one is the act of all.[41] Aredidon is not a mere accomplice. He clearly concurred with the criminal design of Antonio and performed overt acts which led to the multiple rape committed.

Consider that:

(1) He fetched Adelina from her mother's house.

(2) He brought Adelina to Gov's house where she was offered spiced softdrinks that made her unconsciousness;

(3) He guarded Adelina at knife-point and prevented her from leaving the hotel where she was detained for three days and where Antonio raped her.

Conspiracy may be deduced from the mode and manner in which the offense was perpetrated. It may be inferred from the acts of the accused, evincing a joint or common purpose and design, concerted action and community of interest.[42]

We also find the trial court's award of damages erroneous.

An award of civil indemnity ex delicto in favor of the offended party in the amount of P50,000.00 is mandatory upon the finding of the fact of rape.[43] The award is for each count of rape proved.[44]

Likewise, moral damages for each count of rape must also be awarded without further need of proof of mental and physical suffering.[45]

WHEREFORE, we AFFIRM with modification the decision of the Regional Trial Court of Cavite City. We find accused-appellant Jimmy Antonio guilty beyond reasonable doubt of three (3) counts of rape and sentence him to reclusion perpetua for each of the three counts of rape.

We also find the existence of a conspiracy, hence, accused-appellant Michael Aredidon y Montejo is likewise found guilty beyond reasonable doubt as co-principa1 in the three acts of rape and is sentenced to reclusion perpetua for each of the three acts of rape committed.

Both accused-appellants are held solidarily liable and ordered to pay Adelina Guillang P50,000.00 as civil indemnity and another P50,000.00 as moral damages for each of the three counts of rape proved.

Costs against accused-appellants.

SO ORDERED.

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

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[1] Dated November 20, 1996, in Criminal Case Nos. 114-90, 115-90 and 116-90, Judge Rolando D. Diaz, presiding.

[2] Rollo, pp. 17-32.

[3] Rollo, pp. 19-21.

[4] TSN, January 29, 1996, p. 6.

[5] Holiday Hotel in PN, Cavite City.

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[6] TSN, January 29, 1996, pp. 6-39.

[7] Regional Trial Court Record, Crim. Case No. 114-90, pp. 47-48.

[8] Regional Trial Court Record, Crim. Case No. 114-90, p. 49.

[9] Subscribed and sworn to before Agapito S. Lu, Third Assistant City Prosecutor and Manuel C, Medina, Actg. First Asst. City Prosecutor and approved by Evergisto D. Gabriel, City Prosecutor, all of Cavite City.

[10] Rollo, p. 5; Regional Trial Court, Record, Crim. Case No. 114-90, p. 1.

[11] Rollo, p. 6; Regional Trial Court Record, Crim. Case No. 115-90, p. 1.

[12] Rollo, p. 7; Regional Trial Court Record, Crim. Case No. 116-90, p. 1.

[13] Regional Trial Court Record, Crim. Case Nos. 114-90, 115-90 and 116-90, p. 2.

[14] Regional Trial Court Record, Crim Case No. 114-90, p. 5; Crim Case No. 115-90, p. 5.

[15] Regional Trial Court Record, Crim. Case No. 116-90, p. 6.

[16] Regional Trial Court Record, Crim. Case No. 114-90, p. 10.

[17] Rollo, p. 18; Regional Trial Court Record, Crim. Case No. 114-90, pp. 19-20.

[18] Regional Trial Court Record, Crim. Case No. 116-90, p. 12.

[19] Regional Trial Court Record, Crim. Case No. 114-90, p. 72.

[20] Rollo, p. 18; Regional Trial Court Record, Crim. Case No. 114-90, pp. 66, 69.

[21] TSN, May 13, 1996, pp. 13-21.

[22] TSN, May 14, 1996, pp. 6-7.

[23] Ibid., p. 22.

[24] Rollo, pp. 31-32; Regional Trial Court Record, Crim. Case No. 114-90, pp. 86-100.

[25] The notice of appeal was filed on November 26, 1996 (Rollo, p. 33; Regional Trial Court Record, Crim. Case No. 114-90, p. 104)

[26] People v. Sancha, G.R. Nos. 131818-19, February 3, 2000.

[27] Rollo, p. 58 citing TSN, January 29, 1996, pp. 21-22.

[28] Ibid., citing TSN, May 16, 1996, p. 12.

[29] People v. Villablanca, G.R. No. 89662, October 1, 1999.

[30] People v. Sancha, G.R. Nos. 131818-19, February 3, 2000; People v. Bato, G.R. No. 134939, February 16, 2000.

[31] People v. Abalde, G.R. No. 123113, March 31, 2000.

[32] Rollo, p. 28.

[33] Ibid.

[34] Rollo, p. 29.

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[35] Ibid.

[36] Rollo, p. 30.

[37] People v. Juntilla, G.R. No. 130604, September 16, 1999; People v. Lomerio, G.R. No. 129074, February 28, 2000.

[38] People v. Juntilla, supra; People v. Mitra, G.R. No. 130669, March 27, 2000.

[39] From 1990 to 1995.

[40] People v. Malapayon, G.R. Nos. 111734-35, June 16, 2000.

[41] People v. De Vera, G.R. No. 128966, August 18, 1999.

[42] People v. Francisco, G.R. Nos. 118573-74, May 31, 2000.

[43] People v. Mendiona, G.R. No. 129056, February 21, 2000.

[44] People v. Mangila, G.R. Nos. 130203-04, February 15, 2000; People v. Omar, G.R. No. 120656, March 3, 2000; People v. Alicante, G.R. Nos. 127026-27, May 31, 2000.

[45] People v. Mangila, supra; People v. Gajo, G.R. No. 127749, March 9, 2000.

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