

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REYNALDO SAHOR BAÑAGO, ACCUSED-APPELLANT.

G.R. No. 128384. June 29, 1999

Ponente: PUNO, J.

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PUNO, J.:

Accused-appellant Reynaldo Sahor Bañago was charged before the Regional Trial Court of Malolos Bulacan with the crime of rape committed as follows:

"That on or about the 15th day of October, 1993, in the municipality of Marilao, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a gun, did then and there wilfully, unlawfully and feloniously, by means of force and intimidation and with lewd designs, have carnal knowledge to (sic) said Dolores C. Jaurigue, against her will and without her consent." [1]

Accused-appellant pleaded "not guilty" to the charge.[2] Hence, trial proceeded in due course.

The prosecution presented the testimony of the thirteen-year-old victim, Dolores Jaurigue. She testified that on October 15, 1993, she visited her sister, Dorotea Jaurigue-Mejico, who was staying with her husband at the bodega of Bauer Company in Marilao, Bulacan. That evening, she was left alone in the bodega as her sister attended a party. She went to bed at around seven o'clock. She was later roused from her sleep when she felt someone embracing her. It turned out to be accused-appellant. Accused-appellant poked a gun at her and started to remove her short pants and underwear. She tried to shout but accused-appellant slapped her twice. Then, he took off his pants and underwear and succeeded in having carnal knowledge of Dolores. He admonished her not to tell anybody about the incident. Thereafter, accused-appellant put on his pants and left the room.[3]

When Dorotea arrived from the party, she saw accused-appellant coming out of the bodega zipping his pant. Dorotea asked Dolores what happened but she did not answer.[4]

The following day, Dorotea again asked Dolores what happened the previous night. Dolores told her sister that accused-appellant raped her. Afraid of what accused-appellant might do to them, Dolores and Dorotea kept the incident to themselves.[5]

It was only on March 18, 1994 that Dolores had the courage to tell her aunt, Lourdes Corcuera, about the assault on her womanhood. Lourdes tried to talk to accused-appellant but nothing happened.[6]

During an altercation with Dolores' mother, Antonina Jaurigue, Lourdes divulged that Dolores was no longer a virgin. Shocked about the revelation, Antonina sought for an explanation. Dolores was compelled to tell her mother about the rape incident.[7]

Antonina brought Dolores to the Philippine National Police Crime Laboratory for physical examination on March 29, 1994. The medico-legal report executed by Dr. Jesusa N. Vergara of the Philippine National Police Crime Laboratory revealed that Dolores was "in a non-virgin state physically" and that "there (were) no signs of recent application of any form of violence"[8]

On July 14, 1994, Dolores, assisted by her mother, filed a criminal complaint for rape against accused-appellant.

For their part, the defense presented the testimonies of accused-appellant and Delfin Castillo.

Accused-appellant testified that he was a welder at Bauer Company. In the afternoon of October 15, 1993, he, together, with Delfin Castillo and Rolando Pambico, went to the office of their employer, Mr. Mariano Takbas, in Quezon City to get their salary. They left the office at about six o'clock in the evening and then they went home to Marilao, Bulacan. They reached Marilao at about eight o'clock in the evening. Accused-appellant proceeded to his residence in Constantino Street, Poblacion, Marilao, Bulacan. Accused-appellant denied having raped Dolores Jaurigue on the evening of October 15, 1993.[9]

Defense witness Delfin Castillo corroborated accused-appellant's testimony. Castillo testified that he was with accused-appellant in the afternoon of October 15, 1993 when they went to Quezon City to get their salary. From Quezon City, they proceeded to Marilao, Bulacan. He spent the night at the bodega of Bauer Company but he did not see private complainant there. He also stated that accused-appellant did not go to the bodega that evening.[10]

The trial court found accused-appellant guilty beyond reasonable doubt of the crime charged. It sentenced him to reclusion perpetua and ordered him to indemnify the victim the sum of P50,000.00 as moral damages.[11]

Accused-appellant appealed the decision of the trial court. He raised the following errors:

- The court a quo erred in finding accused-appellant guilty beyond reasonable doubt of the crime of rape; and
- The court a quo erred in ordering accused-appellant to indemnify (the) victim in the amount of P50,000.00 as moral damages.[12]

Accused-appellant assailed the credibility of private complainant who alone testified for the prosecution. In his brief, accused-appellant harped on the alleged flaws in the testimony of private complainant. He contended that it was unlikely for Dorotea Jaurigue, Mejico and her husband to use the bodega as their living quarters since the bodega had no division and was open to anyone who wished to enter; that although private complainant testified that her sister saw accused-appellant coming out of the bodega, the prosecution did not present her sister to testify on such fact; and that private complainant admitted that she never saw accused-appellant again after the rape although she earlier testified that she told her aunt about the incident only on March 18, 1994 because she was afraid of what accused-appellant might do to her. Accused-appellant also cited the nine-month delay in the filing of the criminal complaint.

Accused-appellant's contention deserve scant consideration as they pertain merely to minor details and do not negate private complainant's positive testimony that accused-appellant violated her on the evening of October 15, 1993. Even the delay in the filing of the complaint does not favor accused-appellant's cause. The records show that private complainant did not report the incident to the authorities because accused-appellant threatened to harm her if she tells anybody about it. It is understandable for any woman, especially a young girl, to hide such a traumatic and horrible experience even from the persons closest to her because of shame and fear.

The parameters for scrutinizing the credibility of witnesses have been sent forth as follows:

"First, the appellate court will not disturb the factual findings of the lower court unless there is a showing that it had overlooked, misunderstood, or misapplied some fact or circumstances of weight and substance that would have affected the result of the case;

"Second, the findings of the trial court pertaining to the credibility of witnesses are entitled to great respect since it had the opportunity to examine their demeanor as they testified on the witness stand; and

"Third, a witness who testified in a categorical, straightforward, spontaneous and frank manner and remained

consistent on cross-examination is a credible witness." [13]

We find no reason in the case at bar to disturb the findings of the trial court regarding private complainant's credibility. A reading of the transcript of the trial shows that private complainant, young and innocent as she was, was able to recount clearly and candidly before the court how accused-appellant ravished her on the evening of October 15, 1993. Her testimony must be given full weight, especially since it is supported by the medical report submitted by the Philippine National Police Crime Laboratory. As a rule, testimonies of rape victims who are young and immature deserve full credence, considering that no young woman, especially of tender age, would concoct a story of defloration, allow an examination of her private parts, and thereafter pervert herself by being subject to a public trial, if she was not motivated solely by the desire to obtain justice for the wrong committed against her. [14] Hence, we affirm accused-appellant's conviction.

We likewise affirm the award of moral damages to private complainant. In rape cases, the court may, in its discretion, award moral damages to the victim without need for pleading or proof of the basis thereof. We held in *People vs. Prades* [15] that "the conventional requirement of *allegata et probata* in civil procedure and for essentially civil cases should be dispensed with in criminal prosecutions for rape with the civil aspect included therein, since no appropriate pleadings are filed wherein such allegations can be made." As the fact of rape has been sufficiently proved in this case, we find the award of moral damages proper and correct.

We note, however, that the trial court failed to award civil indemnity to private complainant. Time and again, we have held that moral damages is separate and distinct from the civil indemnity awarded to rape victims. The moral damages cannot take the place of the civil indemnity. While the award of moral damages is discretionary on the part of the court, the civil indemnity, which is actually in the nature of actual or compensatory damages, is mandatory upon the finding of the fact of rape. [16] Hence, in addition to the P50,000.00 moral damages, accused appellant is ordered to pay private complainant the amount of P75,000.00 by way of civil indemnity.

IN VIEW WHEREOF, the judgment appealed from is **AFFIRMED** with the **MODIFICATION** that in addition to the P50,000.00 moral damages, accused-appellant is also ordered to pay private complainant P75,000.00 as civil indemnity.

SO ORDERED.

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

[1] Criminal Complaint, Original Records, p. 2.

[2] Order dated September 15, 1994, Original Records, p. 16.

[3] TSN, February 1, 1995, pp. 4-7; TSN, March 21, 1995, pp. 6-9.

[4] TSN, March 21, 1995, p. 10.

[5] *Ibid.*

[6] TSN, February 1, 1995, p. 11.

[7] *Id.*

[8] Exhibit "B", Original Records, p. 63.

[9] TSN, March 12, 1996, pp. 4-5.

[10] Id.

[11] Rollo, pp. 18-19.

[12] Id., pp. 38-39.

[13] People vs. Galimba, 253 SCRA 722 (1996).

[14] People vs. Dacoba, 289 SCRA 265 (1998); People vs. Auxtero, 289 SCRA 75 (1998); People vs. Galimba, supra.

[15] 293 SCRA 411 (1998).

[16] People vs. Gementiza, 285 SCRA 478 (1998); People vs. Prades, supra; People vs. Victor, G.R. No. 127903, July 9, 1998.

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