

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GERALD TAYABAN, ACCUSED-APPELLANT.

G.R. No. 128481. September 25, 1998

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The sole testimony of a rape victim, if credible and clear, is enough to sustain a conviction for rape. Once force is proven by the prosecution, the "sweethearts defense" does not by itself negate rape.

The Case

On November 10, 1993, an Information[1] was filed before the Regional Trial Court of Lagawe, Ifugao, charging Gerald Tayaban with rape allegedly committed as follows:

"That on or about the 15th day of February, 1993, at Poblacion, Lagawe, Ifugao Province, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there wilfully, unlawfully, and feloniously have carnal knowledge [of] Charmaigne I. Abad against the latter's will." [2]

On September 14, 1994, Tayaban, assisted by Counsel de Oficio Marcelo Homecgoy, pleaded not guilty to the charge against him.[3] Trial on the merits ensued, during which Tayaban was represented by Atty. Alfredo Balajo, Jr. of the Public Attorney's Office. On February 6, 1997, Judge Anastacio D. Anghad rendered his assailed 14-page Decision,[4] the dispositive portion of which reads:

"As a consequence of the foregoing, the prosecution, having proven the guilt of the accused, Gerald Tayaban, beyond reasonable doubt, the latter is hereby sentenced to serve the penalty of reclusion perpetua. He is further ordered to indemnify the victim Charmaigne I. Abad, [in] the amount of P50,000.00 plus costs." [5]

Hence, this appeal.[6]

The Facts

According to the Prosecution

The prosecution presented three witnesses: Charmaigne Abad, the private complainant; Laura Gohang, her grandmother; and Robert Baguiwa, police chief of Lagawe, Ifugao, who facilitated the arrest of the accused.

The trial court summarized the facts presented by the prosecution as follows:

"In the late afternoon of February 15, 1993, Charmaigne I. Abad, then 14 years of age and a second year high school student of Don Bosco High School, Lagawe, Ifugao, went to the house of her grandmother Laura Gohang, located at Lumingay, Lagawe, Ifugao, but her "Lola" was not there, so she decided to follow her [to] the house of her uncle at Awao, Macmac-ac, Lagawe, Ifugao. Reaching her uncle's house, she found out that her grandmother was not around, so she returned home passing the same route. On her way home, she saw the accused fetching water from a spring also located at Awao, Macmac-ac, Lagawe, Ifugao. While passing by, without any notice and to her shock, accused appeared from behind and grabbed her forcefully, with one of his hands covering her mouth effectively, preventing her from shouting. Accused then dragged her to a forested

area near an acacia tree. There, accused, using force and intimidation, removed her pants, laid on her [on] the ground, lowered her panty and went on top of her. She felt [the] penis [of the accused] penetrating her genitalia and she felt the sperm (referred to by the complainant as the 'white thing') of accused coming out. She tried to fight back but accused was too strong for her. After the sexual abuse, accused left her, but before leaving, he threatened her not to report the incident to anyone; otherwise he [would] do something to her. After the forced sexual contact, she was dizzy and felt extreme pain on her private part. She likewise noticed blood on her sexual organ. She went home crying but did not intimate to anybody, not even [to] her grandmother, the ordeal she had gone through because she was ashamed and was afraid of the threat made by the accused. It was not until her abdomen became noticeably bigger that she was forced to relate the rape committed against her which rape resulted [in] her pregnancy. Consequently, she was forced to drop out of school.

"Her grandmother, Laura Gohang, for all the months that passed and xxx whom Charmaine had been living with since childhood, noticed her granddaughter's abdomen getting bigger and bigger, so she kept prodding her until she narrated what the accused did to her. Thereafter, the mother of Charmaine was contacted in Manila, as well as her father. Her parents decided to file a complaint of rape against herein accused.

"The delay in the filing of the case was explained by the grandmother, that accordingly, her grandchild did not report the sexual abuse committed on her because of the threat made by the accused." [7]

According to the Defense

In his Brief,[8] Appellant Tayaban claimed that the victim was his sweetheart, viz.:

"The accused-appellant Gerald Tayaban testified that he first met the victim when he was staying with his cousin Manuel Binway at Yakal, Lagawe. The victim frequently visit(ed) his room at Yakal[;] however, nothing happened between them. After he built his hut in Awao, the victim visited him at the said place. Although he could not remember the exact month, her first visit happened in 1993 and xxx it was in the afternoon. The victim consented and they had carnal knowledge. (TSN, January 13, 1995, p. 5)

"One week later, she visited him again, but his wife was present, so he sent them to harvest mangoes. The victim left his wife and proceeded to his house and he told her to just get the mangoes and go home. Three weeks later, after the victim's dismissal from school in the afternoon, they met again in a forested area and had carnal knowledge.

"On their next meeting, the victim was riding a bicycle, when she chanced upon him with his tricycle parked in front of a store. She asked him where he was going, to which he replied that his passengers were bound for Natuwalan. They agreed to meet in Maitab and they did the act in a hidden place near the road. On their next meeting, she rode in his tricycle and they proceeded to the house of Mariano Datong[;] however, since there were people at the said place, they went to Caba ans they did the act inside the box culvert (TSN, January 13, 1995, p. 9).

"On cross-examination, the accused stated that he had three children, and his wife was Mercy Resonabe. The victim knew that he was married and with children, [but] in spite of this, he still pursued her. They had sexual contact in his house, in a forested area, in a hidden place alongside the road at Maitab and in a box culvert without fear of being seen by people. He knew the victim was a second year high school student and inspite of this, she was aggressive and had been going after him.

"On clarificatory question by the court, he stated that they had a relationship which started in 1993. They did not write notes to each other. When she was on the family way, he stated to trhe victim that the latter knew he was married and had children. Prior to or after the [occurrence] of this alleged incident, he did not have any quarrel or misunderstanding with the victim. (TSN, January 13, 1995, p. 15).

"Mercedita Tayaban, the wife of the accused-appellant, corroborated the latter's testimony. According to the witness, she knew the victim since they stayed in Awao, Lagawe. She met the victim in January 1993 when she

was fetching water and the victim ask her if it [was] painful [to be] used by a man, to which she replied that it was, if it [was] the first time. She again met her after a week at the spring when she was fetching water. The victim asked her if it [was] painful [to] [give birth] for the first time, to which she replied yes.

"Their next meeting was when the victim came to their house, where the victim asked for some Indian mangoes. The victim went to their house and she heard her saying to Gerald, ['] why is your wife around [?][']. Gerald replied [that] she should go home and take the mangoes she asked for (TSN, February 14, 1995, pp. 5-6).

"On cross-examination, she stated that she knew the victim since their house[s] were near each other. Although the victim call[ed] her auntie, the later [was] not related to her, but xxx the relative of her husband, the accused, was married to the relative of the victim.

"According to her, their relationship with the victim's family was smooth and xxx she [did] not know why the victim sued her husband. Furthermore, there was no misunderstanding between their families and xxx they usually help[ed] each other. She knew that the victim was a second year high school student. They moved [to] Pugol, Lamut, Ifugao [in] August 1993, and xxx did not know that her husband was charged until that month.

"She loved her husband [despite all] that had happened and she testified in order to help him in this case. (TSN, February 14, 1995, p. 10)."[9]

The Trial Court's Ruling

In finding the appellant guilty of rape, the court a quo upheld the testimony of Private Complainant Charmaigne Abad and debunked the "sweethearts defense" propounded by appellant Tayaban. The court said:

"In short, that accused and Charmaigne were lovers is preposterous, incredulous and a product of his own wild imagination. Charmaigne, then 14 years old and a second year high school student, considered a village girl, unused to the ways of sex and to the outside material world, and steeped with the moral values imparted by a Catholic school such as the Don Bosco High School and by her grandmother xxx whom she had lived with since childhood, would not fall for a man much married whom she considered her uncle and accused's wife, her auntie. She was that naive and innocent about love matters o[r] affairs as she was then young. Yes, indeed, this court is not blind to high school student being in their pre-adolescent or puberty age to have crushes or infatuations on someone but such are directed ordinarily to their classmates and seldomly to their teachers. Charmaigne was no exception, she may have crushes but certainly not herein accused whom she considered her uncle, her neighbor and her elder. Has she no moral scruples to vent her infatuation or her teenage feeling [on] this accused by having several meetings with him? Good if the accused looks like the adonis type of man [who] can get [Charmaigne] turned on. The fact is that the accused is not the type as this Presiding Judge had the occasion to meet him in jail in one of this Judge's visits. The scenario painted by the accused that [his] and Charmaigne's affair [was] a love story deserves very scant consideration as it is a fake one. This is so because Charmaigne's testimony is completely antipodal to that of accused's version and the former[s] testimony convinced this Court that her narration is credible, trustworthy and carried legal weight." [10]

The trial court dismissed Mercedita Tayaban's testimony for being "suspect and biased," because such witness "wanted to save her husband from the gallows." [11] The court treated the victim's alleged inquiries on sex and giving birth as ones that were asked " will all the innocence and naiv[et'e] of a young girl." [12]

The Assigned Error

Appellant Tayaban assigns to the trial court this lone but all-encompassing error:

"The court a quo gravely erred in finding the accused-appellant guilty beyond reasonable doubt of the crime of rape." [13]

At the crux of the case is the credibility of private Complainant Charmaigne Abad, upon whose testimony

Appellant Gerald Tayaban was convicted. Thus, this will be discussed as the first issue, while the sufficiency of the evidence for the prosecution will be dealt with as the second.

The Court's Ruling

The appeal is devoid of merit.

First Issue

Credibility of Witnesses

The judge who penned the assailed Decision was not the one who presided over the trial of the case.[14] Because of this, the rule that the factual findings of the trial court will not be disturbed on appeal finds no application, because the ponente was not able to observe the witnesses or their manner of testifying. Nonetheless, after a meticulous scrutiny of the records and a careful evaluation of the evidence presented, the Court finds no reason to disturb Judge Anghad's factual findings and conclusion.

Appellant Tayaban points to several aspects of Charmaigne's testimony which allegedly affected her credibility. First, he alleges that it can be deduced from Charmaigne's testimony that her hands and feet were free; therefore, she could have resisted the rape and even escaped had she really wanted to. Second, he bewails the fact that it took Charmaigne several months to report the alleged rape. Lastly, he argues that no proof was presented to indicate that the alleged threats were continuous and thus prevented Charmaigne from reporting the rape.

The arguments do not persuade. First, Charmaigne's failure to resist the appellant's assault successfully and to escape when the opportunity presented itself should not be construed as a manifestation of consent. It does not necessarily negate her charge of rape or taint her credibility, for the indelible facts remains that appellant employed force and intimidation in the sexual assault, and the victim offered resistance. This is evident from Charmaigne's testimony:

"x x x

Q

Do you remember the date when he rape you?

A

I come to think that it [was] in February.

Q

What year?

A

In 1993, last year.

x x x

Q

Will you please narrate to the Court how the accused raped you sometime in February 1993?

A

He removed my pants.

Q

After that, what did he do, if any?

A

Then he inserted his sex organ [in] mine.

x x x

Q

And what did you do after he removed your pants and before he inserted his penis [in] your sexual organ?

A

I tried to fight or resist him, but he was too strong for me.

Q

Did you attempt to shout while he was doing the act?

A

He covered my mouth.

Q

By the way, where did this incident happen?

A

It happened in Awao, below the acacia tree. [Witness pointing beyond the mountains as the direction of the place of the incident]

Q

Madam witness, why were you there at that time at Awao, Mac-mac-ac [?] [P]lease tell the Court.

A

I was about to see my grandmother at Luminay but incidentally, she was not there, so I proceeded to Mac-mac-ac and so I returned to where I first came from, taking the same route that I took in going, and upon my return, I saw him there, fetching water.

Q

And what else happened while you were passing by?

A

I was walking and all of a sudden, he came [from] behind and covered my mouth and dragged me to xxx an acacia tree where he raped me.

x x x

Q

Will you please describe the area where the rape took place?

A

It [was] forested with plants and trees.

Q

What about houses, were there any?

A

Yes, there [were] houses, but [they were] quite far.

Q

After raping you, what did the accused tell you, if any?

A

He told me not to reveal to anybody what happened [;] otherwise , he would [do] something to me."[15]

In *People v. Moreno*, [16] we held that "[t]he force necessary in rape is relative, depending on the age, the size and strength of the parties." Indeed, the Court has ruled that "it is not necessary that the force and intimidation employed in accomplishing it be so great or of such character as could not be resisted, it is only necessary that the force and intimidation be sufficient to consummate the purpose which the accused had in mind. 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 fast rule." [17]

In the present case, there can be no doubt that appellant employed that amount of force sufficient to consummate rape. It must be stressed that when the rape was committed, the victim was only fourteen years old and hardly an adult, while the appellant was in his late twenties and in his prime. The obvious disparity between their physical strengths manifests the futility of any resistance. [18] Appellant need not have exerted much effort to subject the victim to his carnal desires; according to the victim, he was too strong for her. In fact, the physical superiority of appellant clamped down not only the body of the victim but also her mind, for he succeeded in totally intimidating her. An adult would normally be on a constant lookout for escape and resistance. But Charmaigne was not yet an adult; she was barely out of her childhood . Thus, she was intimidated more easily than a mature woman would have been. Consequently, appellant overcame her will to resist and escape.

In any event, it must be stressed that "the law does not impose a burden on the rape victim to prove resistance. What has to be established by the prosecution is the use of force or intimidation by the accused in having sexual intercourse with the victim." [19] Likewise, the Court has held that physical resistance need not be established in rape, if intimidation had been exercised upon the victim who, out of fear for life and personal safety, [20] submitted her self against her will to the rapist's embrace. In the present case, the prosecution has proven beyond reasonable doubt that appellant had indeed used force and intimidation against Charmaigne.

In *People v. Ferrer*, [21] the Court was also confronted with an argument that the victim had put up only token resistance. In debunking appellant's contention, the Court noted that there was a great disparity between the physical builds of the parties, for the victim was "a young and frail 14-year old" while the appellant was "a 60-year old with a much bigger and sturdier build." Thus, we ruled that any resistance, which the victim would have put up, would have been futile.

Second, the victim's delay in reporting the rape was primarily caused by her fear of the appellant's threat, which to her mind was very real.

"x x x

Q

Did you tell what happened to anyone?

A

I did not tell to anyone.

Q

Why did you not inform the police o[r] your relatives what Gerald Tayaban did to you?

A

Yes, because I was afraid.

Q

Afraid of what, madam witness?

A

I felt that he might do something to me once I [told] my parents and relatives what happened.

x x x "[22]

The Court has consistently ruled that "it is not uncommon for young girls to conceal for some time the assaults on their virtue because of the rapist's threats on their lives." [23] As in this case, a rape victim cannot be expected to act in a manner that is reasonable and in conformity with the usual expectations of everyone. The Court observed in *People v. Cabel*: [24] "Erratic as her conduct may have been, it is not difficult to understand or rationalize why she did not react to her ordeal in the well-ordered manner of an adult wise in the ways of the world and possibly also of the law. [The victim] was only fifteen years old then and, evidently, she did not know what to do." Accordingly, the fact that there was a delay in reporting the sexual assault does not by itself undermine Charmaigne's accusation. [25]

Lastly, as regards appellant's argument that there was no proof of continuous threat that would have prevented the victim from reporting the alleged rape, we find it appropriate to repeat the trial court's elucidation on the matter:

"x x x the accused and the complainant lived or resided in the same area or place, and the accused [was] then visible as he was a tricycle driver and [more] often than not, the sight of the accused was a grim reminder to her of his threat. She preferred to suffer in silence than to go public x x x" [26]

All in all, we agree with the trial court that the testimony of Charmaigne, narrating the rape and pointing to the appellant as her rapist, was credible, clear and straight forward. As the Court held in *People v. Ferrer*, [27] "it is settled jurisprudence that testimonies of child-victims are given full weight and credit, since when a woman or a girl-child says that she has been raped, she says in effect all that is necessary to show that rape was indeed committed."

Second Issue:

Sufficiency of Evidence

It is axiomatic that in criminal cases, the prosecution has to prove the guilt of the accused beyond reasonable doubt. This is especially true in rape cases which are difficult to prove, but even more difficult for the accused to disprove. The testimony of the complainant must be scrutinized with extreme caution, and evidence for the prosecution must stand or fall on its own merits. [28]

Appellant Gerald Tayaban was convicted of rape as defined in Article 315 (1) of the Revised Penal Code --that is, he had carnal knowledge of Private Complainant Charmaigne Abad through the use of force and intimidation. His

conviction was anchored primarily on the testimony of the alleged victim.

Tayaban does not deny that he had carnal knowledge of Charmaigne. However, he asserts that the victim was his sweetheart, and that she consented to their sexual relationship which started in 1993. He narrated details of their alleged trysts and implied that Abad was sexually aggressive, much to his surprise.[29] To prove this relationship, he presented his wife, Mercedita, who (1) corroborated his testimony that the victim visited him at their house and (2) testified that the latter had, on two occasions, asked her questions about sex.[30]

We find appellant's allegation of an amorous relationship with the private complainant to be unworthy of credence. It must be noted that Charmaigne was a girl of fourteen and a sophomore in a Catholic high school, while Gerald Tayaban was a married man twice her age (he was in his late twenties when the alleged rape occurred), who was related to her by affinity.[31] How could a naive adolescent initiate and maintain sexual relations with someone she considered her uncle? Other than appellant's self-serving testimony, no other evidence, like love letters, mementos or pictures were presented to prove his alleged relationship with Charmaigne.[32] Neither was there any corroborative testimony supporting this alleged voluntary amorous liaison. In fact, Charmaigne denied that they were even friends.[33] Mercedita's testimony -- which was, at best, circumstantial -- did not prove anything. Also, appellant's total lack of concern for his and Charmaigne's purported offspring negates his story of love and his assertion of an intimate relationship with the young girl.

The pronouncement of the Court in dismissing a similar defense is appropriate to the present case:[34] "This argument which is based on the much abused sweetheart theory in rape cases, so blandly invoked in the instant case, rashly derides the intelligence of the Court and sorely tests its patience. This is not even a case of consenting adults for the victims was only fifteen years old [fourteen in the present case] at the time she was raped by appellant who, in fact, is married man and a fugitive from justice. Moreover, there was no evidence whatsoever of any romantic relationship between them."

Besides, even assuming that the appellant and the private complainant were indeed sweethearts, this fact alone would not negate the commission of rape, especially when it has been established in this case that coitus took place, not with the victim's consent, but through force and intimidation. In *People v. Domingo*,[35] it was held that "a sweetheart cannot be forced to have sex against her will. From a mere fiancée, definitely, a man cannot demand sexual submission, and worse, employ violence upon her on a mere justification of love. Love is not a license for lust."

In all, we find that the testimony of Charmaigne Abad had adequately proven that Appellant Gerald Tayaban did indeed have carnal knowledge of her through force and intimidation. Private complainant's candid and straightforward narration of how the rape occurred, as shown by the records of the case, bears the earmarks of credibility untainted by any allegations of ill motive. In fact, appellant even testified that he had no quarrel or misunderstanding with the private complainant.[36] As has been held in numerous cases, the testimony of the rape victim, if credible, is enough to sustain a judgement of conviction.[37]

WHEREFORE, the appeal is DENIED. The assailed Decision of the court a quo is hereby AFFIRMED. Costs against the appellant.

SO ORDERED

Davide, Jr., (Chairman), Bellosillo, Vitug and Quisumbing, JJ., concur.

[1] Signed by Provincial Prosecutor Jose Godofredo M. Naui, and filed upon the recommendation of Acting Judge

Dionisio M. Buduhan of the Municipal Trial Court of Lagawe, Ifugao, who conducted the preliminary investigation (record, p. 7). Charmaine Abad filed her Complaint on September 30, 1993 (record, p 1).

[2] Rollo, p. 3.

[3] Record, p. 22.

[4] Dated January 29, 1997. Although it was Judge Anghad who penned the assailed Decision, it was Judge Bragado who heard the evidence.

[5]. Decision, p. 14; Rollo, p. 22.

[6] Notice of Appeal was filed on February 12, 1997. The case was deemed submitted for resolution upon receipt by the Court of the Appellee's Brief on July 2, 1998. The filing of a reply brief was deemed waived, as none was submitted within the reglementary period.

[7] Decision, pp. 2-3; Rollo, pp. 10-11.

[8] Filed on January 26, 1998 and signed by Atty. Arceli Adan-Rubin, Amelia C. Garchitorena and Marvin R. Osias of the Public Attorney's Office. The Appellee's Brief, on the other hand, was signed by Solicitor General Silvestre H. Bello, Assistant Solicitor General Amy C. Lazaro-Javier and Associate Solicitor Joey Luis B. Wee.

[9] Appellant's Brief, pp. 6-9; Rollo, pp. 40-43.

[10] Decision, pp. 6-7; Rollo, pp. 14-15.

[11] Ibid., p.13 Rollo, p. 21.

[12] Ibid.

[13] Appellant's Brief, p. 1; Rollo, p. 35.

[14] The Decision (p. 1) itself stated: "This [was] one case left undecided by then acting Judge Manuel Bragado. This incumbent acting judge had no hand during the course of the trial so that reliance on the record, specially the transcripts, was made, to arrive at fair and just decision."

[15] TSN, December 9, 1993, pp. 3-5. Italics supplied.

[16] GR No. 126921, August 28, 1998, per Panganiban, J. See Also *People v. Miranda*, 262 SCRA 351, 262 SCRA 351, September 24, 1996; *People v. Errojo*, 229 SCRA 49, January 4, 1994.

[17] *People v. Antonio*, 233 SCRA 283, 299, June 17, 1994, per Davide, Jr., J.

[18] *People v. Ferrer*, GR Nos. 116516-20, September 7, 1998.

[19] *People v. Segundo*, 228 691, December 27, 1993, per Bellosillo, J.

[20] *People v. Angeles*, 222 SCRA 451, May 21, 1993.

[21] GR Nos. 116516-20, September 7, 1998, per Romero, J.

[22] TSN, December 9, 1994, pp. 5-6.

[23] *People v. Alib*, 222 SCRA 517, May 24, 1993, per Davide, Jr., J. See also *People v. Joya*, 227 SCRA 9, October 1, 1993.

[24] GR No. 121508, December 4, 1997, per Regalado, J.

[25] See *People v. Sta. Ana*, G.R. Nos. 115657-59, June 26, 1998.

[26] Decision, p.11 ; Rollo, p. 58.

[27] *Supra*, See also *People v. Gabayron*, 278 SCRA 78, August 21, 1997.

[28] *People v. Lucas*, 232 SCRA 537, May 25, 1994.

[29] TSN, January 13, 1995, pp. 4-15.

[30] TSN, February 14, 1995, pp. 3-6.

[31] *Ibid.*, p. 7.

[32] *People v. Gumahob*, 265 SCRA 84, November 28, 1996; *People v. Acabo*, 259 SCRA 75, July 17, 1996; *People v. Mohado*, 227 SCRA 95, October 5, 1993.

[33] TSN, December 8, 1994, p. 10.

[34] *People v. Cabel*, *supra*.

[35] 226 SCRA 156, September 8, 1993 per Regalado, J. See also, *People v. Acabo*, 259 SCRA 75, 1996; *People v. Laray*, 253 SCRA 654, February 20, 1996; *People v. Vallena*, 244 SCRA 685; *People v. Tacipit*, 242 SCRA 241, March 8, 1995.

[36] TSN, January, 13, 1995, p. 15.

[37] *People v. Francisco*, 258 SCRA 558, 196; *People v. Plaza*, 242 SCRA 724, March 27, 1995; *People v. Rivera*, 242 SCRA 26, March 1, 1995; *People v. Repollo*, 237 SCRA 476, October 7, 1994; *People v. Martinez*, 219 SCRA 502, March 4, 1993; *People v. Magallanes*, 218 SCRA 109, January 29, 1993.

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