PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLANDO ESPIRITU Y PEREZ, ACCUSED-APPELLANT.

G.R. No. 128870. October 27, 1999

Ponente: PARDO, J.

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PARDO, J.:

The case is an appeal from the decision of Regional Trial Court, Zamboanga City, Branch 12,[1] finding accused Rolando Espiritu y Perez, guilty beyond reasonable doubt of forcible abduction with rape, committed against Aharam Aldam y Lutian, and sentencing accused to suffer the penalty of reclusion perpetua and to indemnify the victim in the amount of P50,000.00, plus costs.

On October 27, 1992, Aharam Aldam y Lutian filed with the Regional Trial Court, Zamboanga City, a complaint subscribed before an Assistant City Prosecutor of Zamboanga City, duly approved by the City Prosecutor, for forcible abduction with rape against Rolando Espiritu y Perez and one unidentified person, which reads:

> "That on or about October 25, 1992, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, armed with knife, conspiring and confederating together with an unidentified companion, mutually aiding and assisting with one another, did then and there, wilfully, unlawfully and feloniously by means of force and intimidation, that is, at knife point, abduct and carry away on board a tricycle the undersigned AHARAN ALDAN (sic) y LUTIAN, a woman 19-years of age, on the occasion when she was waiting for a ride at the junction of Baliwasan Grande and San Jose, this City and brought her to a house in Tetuan, also this City, where said accused, with lewd designs, did then and there, wilfully, unlawfully and feloniously have sexual intercourse with the undersigned against her will; there being present an aggravating circumstance in that the offense was committed with the use of motor vehicle.
>
> "CONTRARY TO LAW."[2]

Upon arraignment on December 17, 1992, accused Rolando Espiritu, with the assistance of counsel, pleaded not guilty to the offense charged. Trial of the case thereby ensued. After due trial, on February 28, 1996, the trial court rendered decision finding Rolando Espiritu guilty of the crime charged, the dispositive portion of which reads:

> "WHEREFORE, finding the accused Rolando Espiritu y Perez guilty beyond reasonable doubt of the crime of forcible abduction with rape as defined and penalized under Articles 342 and 335 in relation to Article 48 of the Revised Penal Code, this Court hereby sentences him to suffer the penalty of reclusion perpetua; to indemnify the victim Aharan Aldam in the amount of P50,000.00; and to pay the costs.
>
> "SO ORDERED."[3]

Hence, this appeal.

The facts are as follows:

On October 25, 1992, at about 12 noon, Aharan Aldam, a 19-year old midwifery student at Mindanao Electronics

Institute (MEIN), was at the Baliwasan Grande, Zamboanga City, waiting for a ride home after attending classes that day. While waiting for a jeepney to pass by, a tricycle with two (2) persons on board stopped in front of her. The person sitting at the passenger's side, later identified as accused Rolando Espiritu, alighted and poked a knife at Aharan's neck. Together with the unidentified driver, accused Rolando brought her inside the tricycle and blindfolded her. The three of them proceeded to a house in Tetuan, same city. Upon arrival thereat, the driver went home and left Rolando and Aharan by themselves in the house. Afterwards, Rolando removed the blind fold and slapped Aharan several times that made her dizzy and mentally disturbed. She cried and shouted for help but nobody came to her rescue. Then, he made her lay down on the floor, bit her and repeatedly slapped her. Accused removed her clothes and continued slapping her. Thereafter, accused Rolando sexually abused her three (3) times. Immobilized by fear and still feeling dizzy, she failed to ward off the advances made by the accused.[4]

The following morning, October 26, 1992, aboard the same tricycle driven by the same unidentified person, Rolando blindfolded Aharan again and brought her to a house at the back of the elementary school in Pasonanca, Zamboanga City. Accused brought her inside a room where she cried. After a while, Aharan heard the voice of her father, Hadji Aldam Nullidin, and she shouted "Yari ako, yari ako," meaning "I am here," then ran towards her father. Her father, together with other men caught Rolando, and brought him to the police station. At the police station, Aharan fainted and was brought to Brent Hospital, and later to Zamboanga General Hospital.[5]

Hadji Aldam Nullidin, Aharan's father, testified that when Aharan had not arrived home in the evening of October 25, 1992, he called up his brothers to help him look for his missing daughter. They went around the city that evening but did not find her. In the morning of October 26, 1992, a man named Olasio dropped by their house looking for Hadji. Olasio informed him that Rolando Espiritu took his daughter, Aharan, and they could be in Rolando's house in Putik. Hadji informed his brothers of this development and all of them proceeded to Rolando's house. Hadji found Rolando's wife, Clarissa, in the house, but neither Rolando nor Aharan was there. Hadji told Clarissa their purpose, and Clarissa accompanied Hadji and his companions[6] in looking for his daughter and her husband. The group went around the city looking for Rolando and Aharan, first to Mampang, then to Canelar, until they found them in a house in Pasonanca. They saw a woman outside the house ironing clothes. Clarissa entered the house first, and later Hadji heard Aharan shouting, "I am here. I am here," and she ran towards him. Hadji and his companions arrested Rolando and brought him to the police station. In the police station, Aharan confided to her father that accused raped her. After narrating her ordeal, she fainted and was taken to the Brent Hospital. However, Brent Hospital refused to admit Aharan. They transferred her to Zamboanga General Hospital, where she was examined.[7]

Hadji Nullidin stated that before the above incident, Aharan was a first year student taking midwifery at MEIN. However, after what happened to her, she did not go back to school to finish her studies because her mind became abnormal.[8]

On October 26, 1992, SPO2 Jun Ajahum conducted an investigation of the case in the police station. However, he was not able to question Aharan regarding the incident since every time she heard male voices, she kept shouting. Hence, SPO2 Ajahum advised Hadji Nullidin to first bring the victim to the hospital. He could not question the victim in the hospital for she was still hysterical. In the meantime, he took the statements of the victim's relatives. After which, Ajahum went to the house in Pasonanca with a photographer to take pictures of the scene. During the night, he took the statement of the victim, Aharan, in her house.[9]

On October 26, 1992, Dr. Juliet Pasuguiron of the Zamboanga Regional Hospital examined Aharan and issued a medico-legal report, with the following findings:

> "PPE (pertinent physical exam) – Hysterical, combative and sleep pattern, shouts and cries once she hears male voice

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HEENT (head, eyes, ears, nose, throat) – swelling of upper and lower lid

Breast – fully developed

Genetalia:

= Mens pubis scanty

= Labia minora and labia majora closely apposed

= Erosions with erythema at labia minora, right

= Fresh hymenal lacerations at 1, 6, 8, 9, 10 o'clock positions

= Sperm determination – positive for spermatozoa

= LMP-October 5, 1992 – 3 days."[10]

Dr. Pasuguiron explained that the patient was hysterical. Aharan shouted and cried whenever she heard male voices. The doctor continued that the lacerations could have been caused by trauma, secondary to sexual intercourse. Due to the presence of spermatozoa, sexual intercourse most likely occurred. The fresh lacerations were sustained within 48 hours from date of examination. The swollen lids were probably caused by trauma.[11]

Accused Rolando Espiritu denied the allegations that he forcibly abducted and raped Aharan. He claimed that Aharan was his girlfriend. According to him, on October 5, 1992, his friend Norman Alvarez introduced Aharan to him. From that time on, he and Aharan dated five times, on October 6, 8, 9, 23, and 25, 1992, the date of the supposed abduction and rape. As early as October 6, 1992, he professed his love for the victim. On those occasions, they strolled, went swimming, ate out and watched movies. At times, he visited Aharan at her house.[12]

On October 25, 1992, Rolando and Aharan met outside the Rizal Theater and watched the 9 a.m. showing. At around 10:30 a.m., after the movie, they rode a tricycle and went to the abode of Rolando's aunt, Carmen Perez, located in Tetuan. During that time, all of Carmen's family members were present, including her husband, Abelardo Perez, and three children, Leny, Joel and Danny. Aharan went with him to elope. They stayed overnight in his cousin's room in the house. Although they mostly talked and kissed during the night, Rolando insisted that he did not have sexual intercourse with Aharan because he was thinking of his family.[13]

At around 12 noon on October 26, 1992, Rolando and Aharan went to the house of his friend, Norman Alvarez, in Pasonanca. Between 1:00 to 2:00 in the afternoon, while they were resting in a room upstairs, his wife, Clarissa, and Aharan's father, arrived and caught them. Upon seeing him in bed with Aharan, Clarissa slapped him. Thereafter, three men, including Aharan's father and uncle, went up and hit him. After which, Aharan's relatives brought him to the Zamboanga City Central Police Station, where he was investigated. He denied the charge and insisted that Aharan was his girlfriend.[14] As aforesaid, the trial court convicted the accused. The trial court gave credit to the testimony of the victim, Aharan. The victim's allegation of sexual abuse is adequately supported by the medical report issued by Dr. Pagsuguiron, regarding the presence of spermatozoa and fresh lacerations in her genital organ.

In his sole assignment of error, accused Rolando Espiritu avers that the trial court erred in finding him guilt

beyond reasonable doubt of the crime of forcible abduction with rape. Accused submits that the complainant was his sweetheart. The mere fact that he is married does not erase the fact that he is an attractive man who still visits and goes on dates with Aharan.

The Solicitor General, in his comment, stands by the verdict of conviction. However, the Solicitor General recommends the increase of the civil indemnity to P75,000.00, even if the rape committed was not qualified by any circumstance which would warrant the imposition of the death penalty.

We affirm the conviction of the accused.

We find that the prosecution adequately established the guilt of the accused beyond reasonable doubt. The issue boils down to the credibility of the witness, specifically, the victim Aharan. While the victim did not elaborate in detail how she was raped by the accused, it is a fact that she was sexually abused. This is supported by the medical findings.

The medical report indicates fresh lacerations and the presence of spermatozoa in the victim's vagina. She had swollen lids caused by trauma. This is in contrast to the accused's testimony that he did not have sexual intercourse with Aharan.

Accused's allegation that they were sweethearts is self-serving and deserves no merit. "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."[15]

Forcible abduction, as defined and penalized under Article 342 of the Revised Penal Code, is the taking of a woman against her will and with lewd designs, or of a girl below 12 years of age. When the accused forcibly took away the victim, for the purpose of raping her, as in fact he did rape her, lewd and unchaste designs existed since the commencement of the crime. Consequently, when accused raped Aharan, he committed the complex crime of forcible abduction with rape. The trial court correctly imposed the penalty of reclusion perpetua, for the crime of forcible abduction with rape, in relation to Article 48 of the Revised Penal Code.

Regarding the civil liability of the accused, the trial court correctly awarded P50,000.00 as civil indemnity ex delicto. Consistent with prevailing jurisprudence, we award an additional P50,000.00 as moral damages.[16]

WHEREFORE, the Court AFFIRMS the appealed decision with MODIFICATION. The Court finds accused ROLANDO ESPIRITU y PEREZ guilty beyond reasonable doubt of forcible abduction with rape committed against Aharan L. Aldam, defined and penalized under Articles 342 and 335, in relation to Article 48 of the Revised Penal Code, and in the absence of any modifying circumstance, sentences him to suffer the penalty of reclusion perpetua, with the accessory penalties of the law, and to indemnify the victim Aharan L. Aldam in the amount of P50,000.00 as civil indemnity, plus P50,000.00 as moral damages.

With costs.

SO ORDERED.

Davide, Jr., C.J.,, Kapunan, and Ynares-Santiago, JJ., concur.

Puno, J., on official business abroad.

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[1] In Criminal Case No. 11341, rendered on February 28, 1996 by Judge Hakim S. Abdulwahid, Rollo, pp. 22-35.

[2] Original Record, p. 1.

[3] Original Record, p. 169.

[4] TSN, February 16, 1993, pp. 2-10, 22-35.

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[5] TSN, February 16, 1992, pp. 11-19, 35-50.

[6] The group who looked for Aharan was composed of 4 men, to wit: Jun, Amil, Atang Isahac and Hadji Nullidin.

[7] TSN, August 17, 1993, pp. 2-23.

[8] Id., at pp. 4, 14.

[9] TSN, August 2, 1993, pp. 1-11.

[10] Original Record, Exhibit H.

[11] TSN, August 17, 1993, pp. 26-39.

[12] TSN, August 17, 1995, pp. 2-8.

[13] TSN, August 17, 1995, pp. 8-10, 24-25.

[14] TSN, August 17, 1995, pp. 10-15.

[15] People v. Tayaban, G.R. No. 128481, September 25, 1998.

[16] People v. Yabut, G.R. No. 133186, July 28, 1999.

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