

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDGARDO ALORO, ACCUSED-APPELLANT.*G.R. No. 129208. September 14, 2000*

Ponente: DAVIDE JR., C.J.

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Accused-appellant Edgardo Aloro (hereafter EDGARDO) appeals from the decision[1] of 2 December 1996 of the Regional Trial Court of Iloilo City, Branch 33, in Criminal Cases Nos. 41121 and 42077 finding him guilty of two counts of rape.

On 25 July 1993, a complaint for rape,[2] signed by Salen Serame (hereafter SALEN) with the assistance of her mother Marylene and approved by the Provincial Prosecutor, was filed with the Regional Trial Court of Iloilo City and docketed as Criminal Case No. 41121. Subsequently, two additional complaints for rape were filed against EDGARDO, which were docketed as Criminal Cases Nos. 42077[3] and 42078.[4] EDGARDO entered a plea of not guilty in each case. The three criminal cases were thereafter consolidated and jointly tried.

The evidence for the prosecution established the following facts:

EDGARDO is SALEN's uncle-in-law, being the husband of her mother's sister Margie Aloro. In the early evening of 14 May 1993, SALEN, then fifteen years old, and her two younger brothers were attending a wake. Her aunt Margie and EDGARDO were also at the wake. EDGARDO instructed SALEN to accompany her aunt Margie back home. SALEN obliged. She, her younger brother and her aunt forthwith proceeded to the latter's house. When EDGARDO got home he requested SALEN to sleep that night with her aunt because the latter would be left alone. SALEN refused, and her aunt then told EDGARDO to escort SALEN home. SALEN's brother chose to stay behind.[5]

Before leaving, SALEN saw EDGARDO arm himself with a butcher's knife and a gun. It was around 9:00 P.M. when they proceeded to walk. EDGARDO told SALEN that they would be passing by the hill where another aunt lived. As they reached a banana field EDGARDO thrust his knife at her and warned her not to shout. She was led to a sugarcane plantation where EDGARDO removed all her clothes. She was told to lie down on the towel he brought along. EDGARDO removed his clothes except his underwear. EDGARDO kissed her face and mashed her breasts. He told her to spread her thighs, but she refused. He thus forced her legs apart and then took out his penis and inserted it in her vagina. She felt pain. SALEN resisted by struggling and kicking him, but all proved to no avail. As EDGARDO laid on top of her he was panting and pumping her.[6]

SALEN pleaded to EDGARDO to stop, since she had to urinate. She was able to relieve herself while he guarded her. She was made to lie down again, and for the second time EDGARDO raped her. She felt pain once more in her vagina. Again, she asked him to stop because she had to defecate. EDGARDO obliged. She thought of running away, but she was under his guard. When she was done, EDGARDO tried inserting his organ again in SALEN's vagina, but since it was no longer erect it could only penetrate slightly. EDGARDO thereupon ordered her to get dressed.[7]

It was around 2:00 A.M. the following day when SALEN and EDGARDO walked back to his house. He warned her not to tell anyone of the incident, otherwise he would kill her. No one was home when they arrived. Margie had earlier left to look for them, and upon her return she was with her uncle Raymund. As soon as she saw EDGARDO, Margie tried to hack him with a scythe. EDGARDO explained that he decided to pass by the houses of three women friends, but all their houses were already locked. SALEN was thus brought home by Raymund. During their walk home, SALEN revealed to Raymund that EDGARDO had raped her. Upon reaching home, Raymund informed SALEN's grandmother, Alicia Pasigay, what SALEN had told him. Alicia immediately reported the matter to the police.[8]

SALEN was initially examined by Dr. Edgar Andora, a doctor at the Provincial Hospital, who found neither external injuries nor spermatozoa in her genitalia.[9] An examination by Dr. Ricardo H. Jaboneta, an NBI medico-legal officer, disclosed that although SALEN's hymen was intact,[10] the hymenal orifice was stretched and could admit with ease a glass tube with a 1.5-centimeter diameter, indicating an insertion therein. He concluded that SALEN had sexual intercourse and was no longer a virgin.[11]

SPO4 Petronilo Suero, the officer assigned to arrest EDGARDO, testified that after his search for the latter at the latter's house and neighborhood failed, he, by chance, spotted EDGARDO aboard a tricycle and he gave chase. When the tricycle stopped, he noticed a luggage near EDGARDO. He then invited EDGARDO for questioning; and upon inspection of the luggage, he found a pistol inside. EDGARDO, however, disowned the luggage.[12]

The evidence for the defense disclosed that in the evening of 14 May 1993, EDGARDO and his wife Margie, as well as SALEN, were at a wake. Margie, however, went home ahead of EDGARDO, accompanied by SALEN. EDGARDO went home some hours later. Upon seeing that SALEN was with his wife he told the latter that he was going back to the wake. SALEN wanted to go with him to the wake, but he refused and asked her to keep her aunt company. He left the house alone. Some minutes later, SALEN sought permission to play bingo at the wake and then left.[13]

Before going back to the wake, EDGARDO went from one store to another to buy a cigarette, but all stores were closed. After walking more than four kilometers, he decided to go home instead. He could not walk briskly because of a recent surgery on his right foot; hence, it was already around midnight when he arrived home. To his surprise, there was nobody home. He then lay down, as he felt dizzy and sleepy. After an hour, he was awakened by a movement. He saw SALEN also lying down at the other corner of the house. When inquired where Margie was, SALEN replied that she was at a hill, where she too had just come from. He went back to sleep.[14]

When Margie arrived and saw him, she proceeded to attack him. She repeatedly demanded to know what he had done to SALEN. He denied doing anything. SALEN was awakened, and suggested to let EDGARDO explain first. Margie calmed down. SALEN was later summoned by her uncle Raymund, and the two left for home.[15]

Margie was still asleep when EDGARDO left the house the following morning to go to his parents' house. He first rode a bus and then boarded a tricycle. There were two other passengers in the tricycle, and EDGARDO was seated behind the driver. He had no luggage with him, but he saw one resting at the feet of one of the passengers. He failed to reach his parents' house because the tricycle was stopped by the police, accompanied by his mother-in-law.[16]

When interrogated, EDGARDO denied owning the luggage found in the tricycle and the gun hidden in it. Nevertheless, he was brought to the police station. Margie followed him there. At the station, the spouses heard SPO1 Gorgonio Galeno ask SALEN whether she was raped, and SALEN answered in the negative. SALEN was required to undergo a physical examination.[17]

According to SPO1 Galeno, at a later date EDGARDO's wife sought for a meeting with SALEN's mother and grandmother to settle the case. At the meeting presided over by him, SALEN's grandmother declared that EDGARDO could only be released from jail if he would leave Margie under her care and he would go to Manila to look for a job. Margie rejected the arrangement, and no settlement was reached.[18]

EDGARDO was, however, unaware of any negotiation to settle his case. He admitted that he was not in good terms with his mother-in-law (SALEN's grandmother), who had always wanted his wife to separate from him so she could go to Singapore.[19]

The trial court gave credence to SALEN's story. It debunked EDGARDO's version, for it found incredible that a person whose foot was in pain would walk alone at night looking for cigarettes when it is common knowledge that provincial stores close early in the evening. It held that the attempt of EDGARDO's wife to settle the case through the intercession of a police officer, and his flight after the rape incidents cast doubt on EDGARDO's innocence. It then convicted EDGARDO of two counts of rape after finding that the prosecution failed to establish the consummation of the third rape. Accordingly, it sentenced him, for each count, to suffer the penalty of reclusion perpetua and to pay complainant Salen Serame (a) P50,000 as civil indemnity; (b) P50,000 as moral damages for the physical suffering and mental anguish she suffered; and (c) P25,000 as exemplary damages awarded by way of example or correction for the public good.

EDGARDO seasonably appealed the decision to us. In the Appellant's Brief he contends that the trial court erred in

I

... NOT ACQUITTING [HIM] ON THE BASIS OF THE TESTIMONIES OF THE EXAMINING PHYSICIANS THAT THERE WAS NO EVIDENCE OF EXTERNAL PHYSICAL INJURIES.

II

... NOT GIVING CREDENCE TO THE TESTIMONY OF POLICE INVESTIGATOR GREGORIO GALENO THAT THE COMPLAINANT INFORMED HIM DURING THE INTERVIEW THAT SHE WAS NOT RAPED.

III

... CONVICTING [HIM] ON THE SOLE UNCORROBORATED TESTIMONY OF SALEN SERAME.

IV

... NOT GIVING CREDENCE TO THE TESTIMONY OF MARGIE ALORO THAT THE CASE AGAINST HER HUSBAND WAS FILED BECAUSE HER MOTHER WANTED HER TO SEPARATE FROM [HIM].

In the Brief for the Appellee, the Office of the Solicitor General recommended that EDGARDO's conviction be affirmed in toto on the basis of the lone testimony of the victim notwithstanding the absence of injuries.

We find no merit in the appeal.

It is fundamental that in the review of rape cases we are guided by the following principles: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove it; (2) in view of the intrinsic nature of the crime where two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.[20]

The paramount issue in rape cases is the credibility of the witnesses. The determination thereof lies with the trial courts, which have the opportunity to observe the witnesses' deportment and manner of testifying. As a general rule, we do not disturb the finding and conclusion of the trial judge on the credibility of the witnesses unless there exists a fact or circumstance of weight and influence which has been ignored or misconstrued. Thus, the trial court's finding on the matter is accorded the highest degree of respect and will not be disturbed on appeal.[21]

In the instant case, the trial court adopted the version of the prosecution that SALEN was twice ravished by EDGARDO. It appreciated the innocent and straightforward manner by which SALEN testified.

It is doctrinally settled that the lone testimony of a rape victim, by itself, is sufficient to convict if credible.[22] Equally settled is the principle that when a woman declares that she has been raped she says in effect all that is necessary to mean that she has been raped, and where her testimony passes the test of credibility the accused can be convicted on the basis thereof.[23] This is because from the nature of the crime the only evidence that can be offered to establish the guilt of the accused is the complainant's testimony. Indeed, no woman would openly admit that she was raped and consequently subject herself to an examination of her private parts, undergo the trauma and humiliation of a public trial and embarrass herself with the need to narrate in detail how she was raped, if she was not in fact raped.[24] This ruling especially holds true where the complainant is a minor, whose testimony deserves full credence.[25]

EDGARDO's insistence that SALEN denied having been raped by him when she gave her statement to the police does not persuade us. In her testimony SALEN explained that at that time she was not aware that she was actually a victim of rape and her feeling of shame restrained her from revealing her ordeal, thus:

Q

It is clear now that you were asked by Pat. Gorgonio Deaño one of the investigators in the Dingle PNP whether you were raped or not and you answered Pat. Gorgonio Deaño that you were not raped and after the NBI examination you now went again to the police station and told Pat. Antonio Laraño that you were raped, is that what happened?

A

At first when I went to the Dingle Police Station, I told them that Edgardo Aloro only touched my all [sic] parts of my body because I did not expect that he was able to divergenize [sic] me. I did not really know if he was able to sexual intercourse [sic] with me but then I told them I don't know.

ATTY SANDICO:

And it was this Gorgonio Deaño whom you told that you did not know whether you were raped by Edgardo Aloro or not, it was this Gorgonio Deaño, is that correct?

A

Yes, sir.

...

FISCAL AMULAR:

I want to ask you very clearly Salen, why did you say that you are not sure whether you were raped by your Uncle or not? Why did you say that when you were asked by the defense counsel?

A

I don't know if he was able to penetrate, but I don't know if he was able to divergenize [sic] me.

Q

What do you understand by when you say "ginbulgan and pagkatao mo" and you were divergenized [sic]?

A

If he was able to destroy my virginity.

Q

What do you mean by that, would you explain to this Honorable Court?

A

If his penis was able to penetrate my vagina.

Q

Were you not aware of the fact?

A

I knew it.

Q

Why do you doubt before this Honorable Court, whether your virginity was destroyed or not?

A

Because I was ashamed to talk about it there.

Q

Why were you ashamed to talk about that?

A

Because it was still fresh at that time.[26]

EDGARDO was prosecuted under Article 335 of the Revised Penal Code . Thereunder, there is rape when a man has carnal knowledge of a woman with the use of force or intimidation.[27] EDGARDO's acts of thrusting the knife at SALEN and threatening to shoot her with his gun[28] undeniably constituted such intimidation as to produce fear in SALEN's mind of the consequences that might befall her should she refuse. Needless to state, the intimidation employed by EDGARDO was overpowering to SALEN's mind and perception, considering that she was then a minor and her aggressor was her uncle. Her submission to his evil deed with little resistance explained the absence of external injuries.

EDGARDO's argument that SALEN bore no injury is irrelevant. In proving rape it is not necessary that the act was committed with genital injury.[29] And a finding that the victim's hymen is intact, as in SALEN's case, does not disprove rape.[30] In fact, a medical examination is not indispensable in the prosecution for rape.[31] Nonetheless, the NBI medico-legal officer supported the finding of rape. He concluded that SALEN had sexual intercourse and was not a virgin anymore.[32]

Neither are we convinced by EDGARDO's assertion that the rape charges against him were filed to accomplish his mother-in-law's desire to have him separated from his wife. His and his wife's explanations are self-serving and unworthy of belief. It is inconceivable for a grandmother to expose her granddaughter of innocent age to the humiliation and ordeal of a public trial of rape unless the charge is true. It is even more inconceivable that SALEN's mother would let her experience the said ordeal in the absence of any indication that SALEN's mother harbored any ill-will against EDGARDO. Finally, there is at all no evidence of any improper or ulterior motive on the part of SALEN which might have compelled her to testify falsely against EDGARDO. Where there is no evidence to show a doubtful reason or improper motive why a prosecution witness should testify against the accused or falsely implicate him in a crime, the said testimony is trustworthy.[33]

Moreover, damaging to the defense is the admission of its witness SPO1 Gorgonio Galeno that EDGARDO's wife approached him to mediate a settlement of the case. Two meetings were arranged for such purpose. EDGARDO did not disown but claimed ignorance of the attempts made by his wife to settle the case with his in-laws. Curiously, he failed to assign as error the finding and conclusion of the trial court on that issue, and nowhere was it raised in the Appellant's Brief. In criminal cases an offer to compromise by the relatives of the accused is tantamount to an implied admission of guilt.[34]

WHEREFORE, the assailed decision of 2 December 1996 in Criminal Cases Nos. 41121 and 42077 of the Regional Trial Court, Iloilo City, Branch 33, finding accused-appellant EDGARDO ALORO guilty beyond reasonable doubt of two counts of rape and sentencing him in each case to suffer the imprisonment penalty of reclusion perpetua and pay the offended party Salen Serame the sums of P50,000 as indemnity; P50,000 as moral damages; and P25,000 as exemplary damages is AFFIRMED in toto.

Costs against accused-appellant.

SO ORDERED.

Puno, Kapunan, and Pardo, JJ., concur.
Ynares-Santiago, J., on leave.

[1] Original Record (OR), 346-359; Rollo, 23-37. Per Judge Florentino P. Pedronio.

[2] Id., 1; Id., 11.

[3] OR, Criminal Case No. 42077, 2.

- [4] OR, Criminal Case No. 42078, 1.
- [5] TSN, 8 November 1993, 16-20.
- [6] Id., 21-28; TSN, 1 December 1993, 18, 24.
- [7] TSN, 8 November 1993, 28-31.
- [8] Id., 32-34.
- [9] Exhibit "3"; OR, 342.
- [10] Exhibit "A"; OR, 6.
- [11] TSN, 8 November 1993, 5-7; TSN, 13 December 1993, 9-10.
- [12] TSN, 5 January 1994, 15-20, 24.
- [13] TSN, 31 January 1994, 23-28; 19 January 1994, 10-14.
- [14] TSN, 31 January 1994, 28-37.
- [15] Id., 39-42; 19 January 1994, 25-27.
- [16] TSN, 31 January 1994, 42-48.
- [17] Id., 48-50; 19 January 1994, 33-36; 10 January 1994, 15-18.
- [18] TSN, 10 January 1994, 18-21.
- [19] Id., 53-54; 19 January 1994, 4.
- [20] *People v. De Guzman*, 265 SCRA 228, 241 [1996] ; *People v. Abrecinoz*, 281 SCRA 59, 71 [1997] ; *People v. Abangin*, 297 SCRA 655, 663-664 [1998] .
- [21] *People v. Malunes*, 247 SCRA 317, 324 [1995] ; *People v. Grefaldia*, 273 SCRA 591, 601 [1997] ; *People v. Abangin*, *supra* note 20, at 664.
- [22] *People v. Delovino*, 247 SCRA 637, 650 [1995]; *People v. Antido*, 278 SCRA 425, 440 [1997].
- [23] *People v. Gagto*, 253 SCRA 455, 467 [1996]; *People v. Antido*, *supra* note 22; *People v. Abangin*, *supra* note 20, at 664.
- [24] *People v. Gagto*, *supra*, at 468; *People v. Abrecinoz*, *supra* note 20, at 72; *People v. Fundano*, 291 SCRA 356, 368 [1998] .
- [25] *People v. Gagto*, *supra* note 23; *People v. Leoterio*, 264 SCRA 608, 617 [1996] ; *People v. Abangin*, *supra* note 20, at 665.
- [26] TSN, 13 December 1993, 30-32.
- [27] *People v. Diaz*, 262 SCRA 723, 730 [1996] .
- [28] TSN, 1 December 1993, 26, 27.
- [29] *People v. Tismo*, 204 SCRA 535, 556 [1991] ; *People v. Bantasil*, 249 SCRA 367, 377-378 [1995]; *People v. Conde*, 252 SCRA 681, 689-690 [1996] .
- [30] *People v. Tismo*, *supra* note 29; *People v. Gagto*, *supra* note 23, at 464; *People v. Baygar*, G. R. No. 132238,

17 November 1999

[31] *People v. Delovino*, supra note 22; *People v. Bernaldez*, 294 SCRA 317, 334 [1998] .

[32] Exhibit "A," supra note 10; TSN, 8 November 1993, 6-7.

[33] *People v. Gagto*, supra note 23, at 468; *People v. Leoterio*, supra note 25, at 618; *People v. Abangin*, supra note 20, at 665.

[34] Paragraph 2, Section 27, Rule 130, Rules of Court; *People v. De Guzman*, supra note 20, at 245; *People v. Diaz*, supra note 27, at 733.

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