PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIO SANTIAGO, ALIAS "PAYO", ACCUSED-APPELLANT.

G.R. No. 129339. December 02, 1999

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

Accused-appellant appeals from the Decision of Branch 33 of the Regional Trial Court of Nueva Ecija dated March 5, 1997[1] in Criminal Case No. 1217-G, the decretal portion of which reads:

> WHEREFORE, in view of all the foregoing, the Court finds the accused Mario Santiago alias "Payo" guilty beyond reasonable doubt of the crime of Rape penalized under Article 335 of the Revised Penal Code, as amended, and hereby sentences him to suffer the penalty of reclusion perpetua; and to indemnify the complaining witness Michelle Mana the amount of Fifty Thousand Pesos (P50,000.00) without subsidiary imprisonment in case of insolvency.
>
> SO ORDERED.[2]

The accusatory portion of the Information to which accused-appellant entered a plea of not guilty upon arraignment, and under which he was tried and convicted, states:

> That on or about the 7th day of July, 1994, in the Municipality of Guimba, Province of Nueva Ecija, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation did then and there willfully, unlawfully and feloniously have carnal knowledge of Michelle C. Mana, against her will.
>
> CONTRARY TO LAW.

During the trial, the prosecution established that between 12:00 to 12:30 in the early morning of July 7, 1994, complainant Michelle Mana was in bed with her daughter, then aged one year and seven months, on the second floor of their house at Barangay Triala, Guimba, Nueva Ecija when she heard a noise downstairs. She went downstairs and noticed that the back door of their house was left open. Thinking it was her husband, she called to him but when no one answered, she returned upstairs and saw the accused follow her. Michelle screamed, and tried to grab something by which she can defend herself. Accused-appellant, however, poked a "lingkaw", or scythe, on her neck and pinned her against the wall with his left hand. Michelle's daughter woke up and cried. Accused-appellant ordered Michelle to get the child from the bed and place her on the floor, which she heeded. With the scythe still pointed at her neck, accused-appellant ordered the victim to remove her walking shorts and underwear and when she resisted, threatened to kill her and her daughter. On cross-examination, Michelle stated that it was accused-appellant who pulled down her walking shorts and underwear with his left hand while leveling the scythe on her daughter with his right hand.[3] Accused-appellant started kissing her, then went on top of her and performed the sexual act for about five minutes. Before accused-appellant left, he threatened Michelle that if she told anyone about what happened, her whole family will be killed.

Bringing her daughter along, Michelle went to the house of her parents-in-law, also in Barangay Triala, and told

them of what happened. Her father-in-law fetched Michelle's husband, who was then working in their ricefield. After being told of what happened, her husband and her mother-in-law accompanied her to the barangay captain to report the incident. In the morning of July 7, 1994, the barangay captain, together with a councilman and a barangay tanod, arrested accused-appellant, after which he was escorted by a police officer to the municipal police station for investigation.

The other prosecution witnesses consisted of the following: Wilfredo Mana, the husband of Michelle; Lydia Bautista Mana, the mother-in-law of the victim; Dr. Antonio Boado, Jr., who examined Michelle after the incident; and SPO2 Virgilio de Guzman, who retrieved accused-appellant from the custody of the barangay captain and brought him to the police station.

In his testimony, Dr. Boado stated that his examination of Michelle bore a negative finding of spermatozoa. There were also no injuries noted on Michelle's body. Dr. Boado attested that his findings are not conclusive as to whether the victim had in fact engaged in sexual intercourse.

The testimonies of Wilfredo Mana, Lydia Mana and Virgilio de Guzman support complainant's account as to the events which transpired after the rape. Wilfredo Mana and Lydia Mana knew of the incident only after the victim herself told them. Virgilio de Guzman came to know about it when the barangay captain of Triala sent for him to arrest accused-appellant. While in his testimony, de Guzman stated that he heard accused-appellant state to a certain Inspector Paras at the police station that complainant was his girlfriend and that they had sexual intercourse with her consent,[4] this statement was not set into writing.[5]

For his part, accused-appellant denied the rape and stated that at the time he was alleged to have raped Michelle, he was asleep in their house, also in Barangay Triala. The defense also presented accused-appellant's mother, Paula Santiago, to corroborate his alibi.

Accused-appellant stated that he went to bed at about 9:00 in the evening of July 6, 1994 and woke up at 6:00 the next morning. He came to know of the accusation against him only when his mother, who heard about it at a nearby store, told him. He then decided to go to the house of the barangay captain to clarify the charges. On his way there, he saw the barangay captain and Virgilio de Guzman, who arrested him and brought him to the police station.

Paula Santiago corroborated all aspects of her son's story, especially concerning the part of his being in bed on the night of July 6, 1994. She stated that she even woke up at around 12:30 a.m. and saw accused-appellant sleeping on the mat next to hers.

The trial court rejected the defenses of denial and alibi interposed by accused-appellant in the face of complainant's positive identification of him as the assailant. The trial court also found no reason to doubt the forthright statements of complainant considering that her re-telling of the incident in question necessarily brought shame and embarrassment on her and her family.

Accused-appellant comes before us with this lone assignment of error: that the court a quo has erred in finding that his guilt has been proved beyond reasonable doubt. He would have us reconsider his evidence on alibi, and how it would have been physically impossible for him to have committed the rape when he was clearly at a different place at the time.

It is well-settled that alibi is a weak defense. For it to prosper, the accused must establish that he was so far away that he could not have been physically present at the place of the crime, or its immediate vicinity, at the time of its commission.[6] Where there is even the least chance for the accused to be present at the crime scene, the alibi seldom will hold water.[7]

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It is accused-appellant's testimony that at about 12:00 to 12:30 in the morning of July 7, 1994, he was asleep in his house. His claim is buttressed by the testimony of his own mother, who affirmed that he was indeed sleeping next to her at the time in question. Also according to accused-appellant's mother, the house of Michelle Mana was about 400 meters away from the house of the victim.[8] We are hard put to treat the foregoing as credible and convincing proof that he could not have been at the scene of the crime. Considering that alibis are so easy to fabricate with the aid of immediate family members or relatives, they assume no importance in the face of positive identification, as in the instant case by the rape victim herself.

In People vs. Ramirez, 266 SCRA 335,[9] the Court enumerated three settled principles in the review of rape cases: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused, though innocent, to disprove the charge; (2) considering that, in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great 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.

It will be remembered that the findings of the medical examination of Michelle Mana, as admitted by Dr. Boado himself, are not per se indicative of whether she had been through sexual intercourse, much less whether such had been committed against her will. These findings, however, do no damage to the prosecution's case for it is now settled that a negative sperm-detection test is immaterial to the crime of rape, it being firmly settled that the important consideration in rape is penetration and not emission.[10] The absence of spermatozoa in the complainant's vagina does not disprove the commission of rape, because there may be a valid explanation for such absence, as when the semen may have been washed away or when the rapist failed to ejaculate.[11] Nor does the absence of physical injuries on the victim's body negate rape, because this crime can also be committed through intimidation, such as by threatening the victim with a scythe,[12] as in this case.

Thus, the instant rape case is one of multifarious cases where there are no identified witnesses, and where the evidence effectively boils down to the complainant's word against the accused's. However, a pronouncement of guilt arising from the sole testimony of the victim is not unheard of, so long as her testimony meets the test of credibility.[13] This is especially true in the crime of rape the evidentiary character of which demands so much on the part of the victim --- it entails her to submit to an examination of her private parts, and to subject the sordid details of her story to a public trial and against a given presumption of the accused's innocence. Hence, it is not unusual for lower courts in cases of rape to convict on the basis of the sole testimony of the victim, upon an ascertainment that she is motivated solely by the desire to have her honor avenged and for the culprit to meet his just punishment. As this Court succinctly stated in People vs. Borja, 267 SCRA 370, "a victim who says she has been raped almost always says all there is to be said."

We affirm the trial court's finding upholding the credibility of the testimony of complainant Michelle Mana and agree that her accusations bore no apparent ulterior motive other than to tell the truth and seek justice for herself. Her positive identification of accused-appellant as the perpetrator of the rape is well-taken, her vision during the incident having been aided by the light of a "lampara"[14] and also because she knew accused-appellant for quite some time.[15] We also find entirely plausible the fear which forced her to succumb to accused-appellant's heinous wishes, as her life and even her daughter's were being threatened.

Having scrutinized the records and weighed the evidence anew, we are left convinced, contrary to the assailment in accused-appellant's lone assignment of error, that the guilt of accused-appellant has been proven beyond reasonable doubt. "Proof beyond reasonable doubt", as we have invariably held, does not mean such degree of proof, as excluding the possibility of error, as to produce absolute certitude, but only requires moral certainty.[16]

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The evidence having established that the rape was committed by the use of intimidation, we find the imposition of the penalty of reclusion perpetua to be in accord with Article 335 of the Revised Penal Code.[17]

We also affirm the award of civil indemnity, in the amount of P50,000.00, consistent with present case law which treats the same as mandatory upon the finding of fact of rape.[18] Further in accordance with recent jurisprudence[19] to grant moral damages to victims of rape without need for pleading or proof of the basis thereof, we modify the trial court's ruling to add an award of P50,000.00 as and for moral damages. For, as this Court stated in People vs. Ignacio, 294 SCRA 542, "any victim of rape, regardless of age, status, social or professional position, religious orientation, or sexual preference, would suffer physical pain, emotional outrage, mental anxiety and fright." The rape victim's testimony, once found credible, speaks for itself.

WHEREFORE, the decision of the Regional Trial Court of Nueva Ecija finding Mario Santiago guilty beyond reasonable doubt of the crime of rape, sentencing him to suffer the penalty of reclusion perpetua, and ordering him to pay Michelle Mana the amount of Fifty Thousand Pesos (P50,000.00) by way of civil indemnity, is AFFIRMED, with the MODIFICATION that accused-appellant is further ordered to pay Michelle Mana moral damages in the amount of Fifty Thousand Pesos (P50,000.00).

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Purisima, JJ., concur.

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[1] Written by Executive Judge Rogelio P. de Guzman.

[2] Rollo, 25.

[3] TSN, January 6, 1997, 23.

[4] TSN, January 20, 1997, 4.

[5] Ibid., 6.

[6] People vs. Balderas, 276 SCRA 470; People vs. Tadulan, 271 SCRA 233; People vs. Quinao, 269 SCRA 495.

[7] People vs. Enriquez, 281 SCRA 103.

[8] TSN, January 27, 1997, 3.

[9] See also People vs. Abad, 268 SCRA 246; People vs. Corea, 269 SCRA 76.

[10] People vs. Alcala, G.R. Nos. 127023-25, May 19, 1999; People vs. Barera, 262 SCRA 63.

[11] People vs. Salomon, 229 SCRA 403.

[12] People vs. Quiamco, supra.

[13] People vs. Corea, 269 SCRA 76; People vs. Quitoriano, 266 SCRA 373; People vs. Ramirez, 266 SCRA 335; People vs. Peralta, 251 SCRA 6.

[14] TSN, January 6, 1997, 20-21.

[15] Ibid., 4.

[16] People vs. Magana, 259 SCRA 380; People vs. Esquila, 254 SCRA 140; People vs. Soronio, 204 SCRA 741.

[17] "When and how rape is committed. --- Rape is committed by having carnal knowledge of a woman under

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any of the following circumstances: (1) by using force or intimidation; (2) when the woman is deprived of reason or otherwise unconscious; and (3) when the woman is under twelve years of age or is demented. The crime of rape shall be punished by reclusion perpetua. xxx ”

[18] People vs. Ignacio, 294 SCRA 542; People vs. Gementiza, 285 SCRA 478.

[19] People vs. Fuertes, 296 SCRA 602; People vs. Ignacio, supra; People vs. Prades, 293 SCRA 411.

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