

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUNNIFER LAURENTE Y ACEBEDO, ACCUSED-APPELLANT.

G.R. No. 129594. March 07, 2001

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Accused-appellant Junnifer Laurente was charged with the crime of rape in an information which reads:

That on or about February 22, 1996, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused by means of force, did then and there wilfully, unlawfully and feloniously have carnal knowledge with (sic) the complainant, Anna Liza Villamor, who is 21 years of age, against her will.

Contrary to law.[1]

The prosecution's version of the incident is as follows:

Complainant Anna Liza Villamor was the househelp of spouses Jerwin and Jane Carabio, residents of Emilia Homes, Cabantian, Davao. Accused-appellant, who is the elder brother of Jane Carabio, was living with the spouses in their house. The house had two rooms, one occupied by the spouses and their two children, and the other room by complainant. Accused-appellant sleeps in the living room.

At about 2:00 o'clock in the early morning of February 22, 1996, complainant was allegedly awakened by the knocking on the door by accused-appellant who wanted to get something from the room. When she opened the door, accused-appellant went inside and locked the door. Accused-appellant allegedly embraced complainant from behind with his left hand on complainant's belly and his right hand covering her mouth. In the struggle to free herself from accused-appellant's embrace, she allegedly fell on the floor on her back with her face up. While she was in that position, accused-appellant went on top of her. Complainant alleged that she tried to resist to free herself but was unsuccessful. She could not shout for help as accused-appellant was covering her mouth. Thereafter, accused-appellant removed complainant's shorts and panties, and proceeded to undress himself. He then succeeded in inserting his penis into complainant's vagina. She cried because of the pain but she could not shout as accused-appellant continued to cover her mouth. Complainant could not remember how long accused-appellant's penis stayed inside her vagina. Thereafter, accused-appellant left the room without uttering a single word.

After the incident, she could not sleep anymore and just cried. That same morning, at around 7:00 o'clock, she performed her usual household chores. Her employers left for work at 8:00 o'clock in the morning. Complainant was left in the house with the children.

At 4:00 o'clock in the afternoon, complainant went to her mother's house in San Nicolas, Buhangin, Davao, bringing with her the two children, and narrated to her mother what accused-appellant did to her. Together, they went to the police station to report the incident. She and the children went home at 6:00 o'clock in the evening.

Her employers were not yet there.

Accused-appellant arrived together with the Carabio spouses at about 10:00 o'clock in the evening. He was immediately arrested and brought to the police station. The following day, complainant subjected herself to a medical examination by Dr. Danilo P. Ledesma who, thereafter, issued a medical certificate[2] with the following findings:

GENITAL EXAMINATION:

Pubic hair, fully grown, abundant. Labia majora and minora, gaping. Fourchette, lax, with an abrasion, 0.3x0.3 cm. Vestibule, pinkish, smooth. Hymen, thick, tall with healing, complete lacerations at 5 and 9 o'clock positions corresponding to the face of a watch, with edematous, non-coaptable edges which bled on slight manipulation. Hymenal orifice, originally annular, admits a tube 2.5 cms. in diameter. Vaginal walls, tight. Rugosities, prominent.

CONCLUSIONS:

- 1.) No evident signs of extragenital physical injuries noted on the body of the subject at the time of examination.
- 2.) Healing hymenal lacerations, present.

REMARKS: Semenology: Negative for spermatozoa.

Dr. Ledesma suggested that the abrasion and the lax fourchette of complainant may be caused not only when the sexual act was performed forcibly but also when the same was mutually done by the two parties.

On the other hand, accused-appellant claimed that he has known complainant since 1981, when the latter became his neighbor. He started staying with the Carabio spouses in their house in Emilia Homes in December 1995. The house had only two bedrooms, one occupied by the Carabio family and the other occupied by complainant. Usually, accused-appellant sleeps in the living room while complainant occupies the bedroom, but sometimes, he sleeps inside the room while complainant sleeps in the living room. After some time, he became uncomfortable sleeping in the living room and began to spend the night in the same bedroom as complainant. He occupied the upper bunk of the double-deck bed while complainant stayed on the lower bunk. He became close to complainant to the extent that they often talked about personal matters. Complainant even volunteered to wash his clothes.

Accused-appellant further testified that sometime in the early part of February 1996, the stocks for his business arrived and, since there was no other room to keep them, he placed the goods on the upper bunk of the double-deck bed. Thus, he asked complainant if he can sleep beside her on the lower bunk and the latter agreed. On February 14, 1996, he greeted complainant Happy Valentine's Day and jokingly asked for a kiss, but she told him to kiss his sweetheart. That evening, accused-appellant and complainant again shared the lower bunk of the double-deck bed and, while they were lying side by side, complainant allegedly rested her head on his arm. He placed his leg on top of complainant, and she did not object. Instead, she embraced him. He touched her breast, and they both went to sleep.

On February 16, 1996, they again slept on the same bed. Complainant again rested her head on accused-appellant's arm. He felt warm and embraced her. She turned around to face him. He continued embracing and caressing her, which tickled complainant. She also embraced and caressed him. When he touched her breast, he felt that her nipples were hard. He then placed his hand on top of her vagina, which caused her to spread her legs. He felt that her vagina was wet. Complainant then touched his penis. After that, they both went to sleep.

Accused-appellant and complainant repeated the same things --- kissing, embracing and touching --- on the

subsequent nights that they slept together. On February 20, 1996, complainant masturbated him. The following night, February 21, 1996, accused-appellant raised her dress and found that she was not wearing a bra. They started to kiss, and complainant took off her shorts. Accused-appellant touched her vagina. He pulled down her panties up to her knee, and she removed it. He also removed his shorts and placed himself on top of her. She then spread her legs and he tried to insert his penis into her vagina. She made no objection. She told accused-appellant to do it slowly because it was painful. Thereafter, both of them put on their clothes and went to sleep.

In the evening of February 22, 1996, while accused-appellant was detained at the police station, he was able to talk with complainant. She told him that she wants him to marry her.

The trial court gave more credence to complainant's version. It noted that the defense did not impute malice on the part of complainant and failed to prove that she filed this case for harassment. Moreover, it found the testimonies of accused-appellant's witnesses to be tainted with bias. Finally, the trial court applied the rule that rape can be committed inside a house even while there are other people asleep. Thus, on January 3, 1997, it rendered judgment convicting accused-appellant of rape. The dispositive portion of the decision reads:

WHEREFORE, the prosecution having proven the guilt of the accused beyond reasonable doubt, Junnifer Laurente is hereby sentenced to reclusion perpetua and to indemnify Ana (sic) Liza Villamor Fifty Thousand Pesos.[3]

Aggrieved, accused-appellant appealed before this Court, raising the following assignment of errors:

- THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE FALSE AND INCREDIBLE TESTIMONY OF THE COMPLAINANT AND OTHER WITNESSES FOR THE PROSECUTION.
- THE TRIAL COURT ERRED IN MAKING FINDING OF FACTS NOT SUPPORTED BY EVIDENCE AND IN MAKING CONCLUSIONS BASED ON SURMISES, CONJECTURES AND SPECULATIONS.
- THE TRIAL COURT ERRED IN HOLDING THAT THE ACCUSED THROUGH THE USE OF FORCE HAD CARNAL KNOWLEDGE WITH PRIVATE COMPLAINANT.
- THE TRIAL COURT ERRED IN HOLDING THAT THE ACCUSED HAD CARNAL KNOWLEDGE AGAINST THE WILL OF THE PRIVATE COMPLAINANT.
- THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME OF RAPE INSTEAD OF UPHOLDING HIS INNOCENCE BASED ON THE EVIDENCE AND LAW.[4]

The only issue before this Court is whether the guilt of accused-appellant was proved by the prosecution beyond reasonable doubt.

The Solicitor General filed a Manifestation and Motion in Lieu of Appellee's Brief asking for the reversal of the trial court's decision and the acquittal of accused-appellant. He pointed out that complainant's testimony failed to meet the exacting degree of credibility sufficient to inspire belief beyond reasonable doubt due to inconsistencies in her answers in the direct and cross-examinations, and between her oral testimony and her sworn statement.

In the resolution of rape cases, the trial court is guided by the following principles: (1) to accuse a man of rape is easy, but to disprove it is difficult though the accused may be innocent; (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 merit and not be allowed to draw strength from the weakness of the evidence for the defense.[5]

Article 335 of the Revised Penal Code, before its amendment by R.A. 8353 (the Anti-Rape Law of 1997), provides:

When and how rape is committed. -- Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

- By using force or intimidation;
- When the woman is deprived of reason or otherwise unconscious; and
- When the woman is under twelve years of age or is demented. . .

Accused-appellant does not deny that he tried to have sexual intercourse with complainant. The question, therefore, is whether the element of force was present in the sexual intercourse between accused-appellant and complainant as charged in the Information.

This Court has ruled that the test of sufficiency of force or intimidation in rape is whether it produces a reasonable fear in the victim that if she resists or does not give in to the sexual demands of the accused, the threat would be carried out.[6]

We do not find the presence of force in this case. There was no testimony that complainant was ever threatened by accused-appellant. In fact, in her direct testimony, complainant testified that after the supposed rape, accused-appellant simply left the room without uttering any word to her.[7] She affirmed her testimony in the cross-examination, thus:

Atty. Ilagan:

x x x x x x x x

Q

By the way after the accused removed his penis from your vagina, he immediately left the room?

A.

Yes, sir.

Q.

Did he not say anything that time when he made the push and pull movement?

A.

None, sir.

Q.

So you mean to say that from the time you fell down on the floor after accused grabbed you up to the time he left the room he did not say anything?

A.

None, sir.

Q. When he left the room you did not shout?

A. No, sir, because I was weak.

Q. Did the accused box you?

A. No, sir.

Q. Did the accused kick you?

A. No, sir.

Q. He was just only holding your hands?

A. Yes, sir.[8]

Significantly, complainant also admitted that accused-appellant was not even armed at the time of the alleged assault. In her cross-examination, she testified:

Atty. Ilagan:

x x x x x x x x

Q. Was the accused armed during that time?

A. No, sir.

Q. He was not bring (sic) anything like knife (sic)?

Court: The court is satisfied.[9]

In view of the absence of threat or force, it is difficult to believe complainant's assertion that when accused-appellant embraced her, forcibly removed her shorts and panties and forcibly entered her vagina, she resisted and tried to free herself.[10] In prosecutions for rape, the testimony of the victim is generally scrutinized with great caution, for the crime is usually known only to her and the accused. Indeed, it is well-settled that conviction always rests on the strength of the evidence of the state, never on the weakness of the defense.[11]

Moreover, complainant's assertion that she resisted and accused-appellant used force is doubtful considering the lack of physical evidence to prove that she resisted his advances. The medical examination conducted the following day shows that there were "no evident signs of extragenital physical injuries noted on the body of the subject at the time of examination." [12]

Granting that complainant was forced to perform the sexual act on account of threats from accused-appellant, the same became suspect because of her behavior after the alleged rape. In her direct examination, she testified that after the incident, she performed her usual duties in the kitchen.[13] In fact, she even went on an errand at Avon Cosmetics and dropped entries for the Sarimanok Promo of ABS-CBN for her female employer.[14] Her actuation is not the normal reaction of an outraged woman whose virginity had just been violated.

Time and again, this Court has emphasized that a woman's conduct immediately after the alleged assault is of critical value in gauging the truth of her accusations. It must coincide with logic and experience.[15] True, she should not be expected to act in a particular manner, for after all, people react differently to a given situation; still, this Court finds it hard to believe that she would act normally so soon after a harrowing incident.

Moreover, prosecution witness Police Officer Rodolfo Clapis testified that complainant kept quiet throughout the investigation.[16] She did not exhibit any outrage or manifest any emotion when she came face to face with the person who allegedly violated her honor.

In *People v. Docdoc*, [17] it was stressed that:

It is our ruling case law that the testimony of the offended party in crimes against chastity should not be received with precipitate credulity for the charge can be easily concocted. We exercise the greatest degree of care and caution before giving full faith and credit to the testimony of complainant. We have not hesitated to reverse judgments of conviction when there are strong indications pointing to the possibility that the rape

charges are false. Nor have we sustained convictions when the complainant's conduct towards her alleged offender runs counter to human nature or appears uncharacteristic of a victim of such an abominable act.

For the prosecution to succeed, it is imperative that the complainant's testimony be not only believable but must spring from the mouth of a credible witness which common experience can probe under the circumstances.[18] In rape cases, an accused may be convicted solely on the testimony of the complaining witness provided her testimony is credible, natural, convincing and consistent with human nature. Hence, the complainant's credibility becomes the single most important issue.[19]

In this case, complainant's narration of how she was raped falls short of the above-cited criteria. As underscored by the Solicitor General, it was almost impossible for accused-appellant to remove complainant's shorts and panties with such ease using only his left hand because his right hand was allegedly covering her mouth all the time, and considering also that she was supposedly kicking and struggling at that time. Moreover, if it was true that accused-appellant undressed her with his left hand and covered her mouth with his right hand, that would have left complainant's hands free, allowing her to ward off accused-appellant's advances. Yet, she did nothing, despite the absence of threats and the lack of a weapon on accused-appellant's part, or of any showing that she was paralyzed with fear.[20]

Similarly, in the recent case of *People v. Docdoc*,[21] we rejected private complainant's claim that accused-appellant was able to rape her while his hand was covering her mouth, thus:

xxx. Malou would now have this Court believe that during all this time, the appellant's hand covered her mouth, preventing her from shouting for help. However, based on Malou's account, it would take superb acrobatic skill for the appellant to have carried out such an elaborate sexual act on an unwilling victim, without removing his hand over her mouth. Malou's claim simply goes against human experience.[22]

For evidence to be believed, it must not only proceed from the mouth of a credible witness but must be credible in itself such as the common experience and observation of mankind can approve as probable under the circumstances. The test to determine the value of the testimony of a witness is whether such is in conformity with knowledge and consistent with the experience of mankind. Whatever is repugnant to these standards becomes incredible and lies outside of judicial cognizance.[23]

Complainant's credibility is further eroded by inconsistencies between her sworn statement, on the one hand, and her court testimony, on the other hand. In her sworn statement, she stated: "That Junnifer, once inside, reclosed and locked the door and windows and suddenly grabbed me by the arm, covered my mouth with a piece of cloth and without a word begun touching my private parts --- from my breast down to my sexual organ." [24] In her testimony during cross-examination, however, complainant insisted that accused-appellant only locked the door but not the window. She admitted that her affidavit does not state that particular event correctly. She further admitted that accused-appellant did not touch her private parts but instead immediately proceeded to remove her shorts and panty.[25] Also, she alleged in her sworn statement that it took hours before she regained consciousness, after which she immediately went home to San Nicolas and confided the incident to her mother who, in turn, brought her to the police precinct.[26] However, she refuted herself in open court when she declared that her statement in her affidavit that she lost consciousness was not true.[27]

While the above inconsistencies do not directly touch on the whys and wherefores of the alleged crime, it is difficult to nonchalantly dismiss them outright taking into consideration her assertion in her oral testimony that what she stated to in her affidavit were actually not true. Her declarations, taken together with her other inconsistent statements on direct and cross-examination, as well as her actuations after the supposed rape, all betray her lack of trustworthiness and credibility. Significantly, the prosecution did not attempt to offer any

plausible explanation to these conflicting statements made by complainant herself.

Moreover, it would have been unnatural for accused-appellant to go home that night if he really did something wrong. The logical post-incident impulse of a criminal is to distance himself from his victim as far as and as soon as practicable to avoid suspicion, discovery and apprehension.[28]

Finally, the observation of the prosecutor, as contained in his resolution[29] after conducting the initial inquest proceedings, further reinforces the doubt of this Court as to the guilt of accused-appellant, thus:

Complainant admitted during clarificatory, that after the reported incident, she did her usual household chores in her employer's house. That she even went downtown on some personal business and also did an errand for her employer. But she denied the allegation that respondent sleeps in the same room where she sleeps. However, during the initial inquest proceedings, complainant actually admitted to the undersigned Inquest Prosecutor that respondent used to sleep in the same room with her two (2) months prior to the incident.

When complainant was presented during inquest, she was observed to be acting in a carefree and jovial manner. Only her accompanying relatives were acting in a serious manner. This behaviour of complainant is so inconsistent with one who had undergone a supposed recent traumatic sex experience. Even her unusual behaviour of doing her usual household chores after the supposed rape is quite puzzling. Equally puzzling was her failure to shout for help, create some noise or commotion during the supposed sexual assault, if only to attract the attention of the occupants of the other room, so that help may come her way.

But while the foregoing observation may pose doubts on complainant's credibility, its degree cannot however overcome her positive statement that despite her attempts to resist and struggle, respondent succeeded in forcibly inserting his sexual organ to hers, an act constituting the crime of Rape. Whether she was in fact raped by respondent or the event was induced by mutual attraction and desire as alleged by respondent, should be left for the Court to decide.

Doctrinally, the trial court is deemed to be in a better position to decide the question of credibility, because it heard the witnesses and observed their behavior and manner of testifying. Hence, its factual findings are entitled to the highest respect and will not be disturbed on appeal, unless, there is a clear showing that the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance that would affect the result of the case.[30]

In this case, however, there is a clear showing that the trial court overlooked the absence of the element of force, the inconsistent and conflicting declarations of complainant both in her oral testimony and in her sworn statement, her actuations after the supposed rape, her actuation towards her alleged rapist, the observation of the inquest prosecutor, and the lack of physical evidence to support her claims of force and resistance. The combination of all the above is more than sufficient to cast doubt on the guilt of accused-appellant.

There should be no mistake, however, that this Court, by its findings and opinion, totally accepts accused-appellant's version of the incident. If there is any truth to complainant's assertions, this Court's opinion should not be viewed as condoning what was done. It simply means that the prosecution was not able to establish the immutable requisite of proof beyond reasonable doubt in order to obtain conviction. Truly, this Court can guess and theorize on what really happened on the day in question, or speculate on the motives why the charges have been filed, but in the process, this Court will be treading on the realm of conjecture. This is simply not allowed. In criminal prosecution, the court is always guided by evidence that is tangible, verifiable and in harmony with the usual course of human experience and not by mere conjecture or speculation. While guilt should not escape, innocence should not suffer.[31]

Rape is a very emotional word, and the natural human reactions to it are categorical; sympathy for the victim and

admiration for her for publicly seeking retribution for her outrageous misfortune, and condemnation of the rapist. However, being interpreters of the law and dispensers of justice, judges must look at a rape charge without those proclivities and deal with it with extreme caution and circumspection. Judges must free themselves of the natural tendency to be overprotective of every woman decrying her having been sexually abused and demanding punishment for the abuser. While they ought to be cognizant of the anguish and humiliation the rape victim goes through as she demands justice, judges should equally bear in mind that their responsibility is to render justice based on the law.[32]

Enshrined in the Bill of Rights is the right of the accused to be presumed innocent until the contrary is proved, and to overcome the presumption, nothing but proof beyond reasonable doubt must be established by the prosecution. If the prosecution fails to discharge its burden, then it is not only the accused's right to be freed; it is, even more, the court's constitutional duty to acquit him.[33]

WHEREFORE, for failure to prove the guilt of accused-appellant Junnifer Laurente y Acebedo beyond reasonable doubt, the decision of the Regional Trial Court, Branch 15, Davao City, is REVERSED and SET ASIDE and, in lieu thereof, another one is rendered ACQUITTING him of the crime of rape.

The Director of Prisons is directed to immediately RELEASE accused-appellant from custody, unless he is being lawfully held for some other charge and to report to this Court the action taken hereon within five (5) days from receipt hereof.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

[1] Records, p. 1.

[2] Ibid., p. 7.

[3] Decision penned by Judge Jesus V. Quitain, Rollo, p. 23.

[4] Brief for Appellant, Rollo, pp. 55-56.

[5] People v. Hofilena, G.R. No. 134772, June 22, 2000.

[6] People v. San Diego, G.R. No. 129297, March 17, 2000.

[7] TSN, August 26, 1996, p. 35.

[8] Id., p. 53.

[9] TSN, August 26, 1996, p. 50.

[10] Id., pp. 34-35.

[11] People v. Ibay, 312 SCRA 153 [1999].

[12] Records, p. 7.

[13] TSN, August, 26, 1996, p. 36.

[14] Id., p. 53.

[15] People v. Ablaneda, 314 SCRA 334 [1999].

- [16] TSN, July 17, 1996, p. 20.
- [17] G.R. No. 134679, August 8, 2000.
- [18] *People v. Baldevieso*, 314 SCRA 803 [1999].
- [19] *People v. Docdoc*, *supra*.
- [20] *Rollo*, p. 187.
- [21] *Supra*.
- [22] *People v. Docdoc*, *supra*.
- [23] *People v. San Juan*, G.R. No. 130969, February 29, 2000.
- [24] *Records*, p. 5.
- [25] TSN, August 26, 1996, pp. 48-49.
- [26] *Records*, p. 5.
- [27] TSN, August, 26, 1996, p. 51.
- [28] *People v. San Juan*, *supra*.
- [29] *Records*, p. 4.
- [30] *People v. Ibay*, *supra*.
- [31] *People v. Baldevieso*, *supra*.
- [32] *People v. Ladrillo*, 320 SCRA 61 [1999].
- [33] *People v. San Juan*, *supra*.

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