PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGELIO PAMILAR Y REVOLIO, ACCUSED-APPELLANT.

G.R. No. 130846. October 23, 2001

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On appeal is the decision[1] dated July 23, 1997, of the Regional Trial Court of Quezon City, Branch 90, finding appellant Rogelio Pamilar y Revolio guilty of three (3) counts of rape and sentencing him to suffer the penalty of reclusion perpetua for each count and to pay the victims, Marivic and Cecilia Pamilar, moral damages in the total amount of P150,000.

Appellant was charged under the following Information:

> Crim. Case No. Q-92-37315 :
>
> That, in or about the month of March, 1991, in Quezon City, Philippines, the said accused, with lewd designs and by means of force and intimidation, did then and there wilfully, unlawfully and feloniously had carnal knowledge with the complainant MARIVIC PAMILAR y DELA CRUZ, his daughter, a minor, 17 years old, against her will and without her consent.
>
> CONTRARY TO LAW.[2]
>
> Crim. Case No. Q-92-37316 :
>
> That, on or about the 13[th] day of October, 1992, in Quezon City, Philippines, the said accused, with lewd designs and by means of force and intimidation, did then and there wilfully, unlawfully and feloniously had carnal knowledge with MARIVIC PAMILAR Y DELA CRUZ his daughter, a minor, 17 years old, against her will and without her consent.
>
> CONTRARY TO LAW.[3]
> Crim. Case No. Q-92-37317 :
>
> That, in or about the month of October, 1991, in Quezon City, Philippines, the said accused, with lewd designs and by means of force and intimidation, did then and there wilfully, unlawfully and feloniously had carnal knowledge with the complainant CECILIA PAMILAR y DELA CRUZ, his daughter, a minor, 14 years of age, against her will and without her consent.
>
> CONTRARY TO LAW.[4]

On arraignment, appellant pleaded not guilty. Thereafter, trial commenced.

The prosecution presented the two complainants, Marivic Pamilar and Cecilia Pamilar, and the medico-legal officer who examined them, Dr. Susan Nieves.

MARIVIC PAMILAR testified that she was 17 years old, residing at No. 144 Sitio Mabilog, Brgy. Culiat, Quezon

City. Her mother is Corazon Pamilar and her father is Rogelio Pamilar. Sometime in March 1991, at around 12:00 midnight, she was awakened when she felt that her panty was being removed by her father. She was not able to do anything because her father threatened her that he would kill her, her siblings and their mother if she resisted. Her father was also armed with a knife which he held against her head. After removing her panty, her father then removed his shorts and inserted his penis inside her private parts. After consummating his lust, her father left her and she just cried.[5]

Marivic also claimed that she was abused several times thereafter. She recalled that she was abused by her father on October 13, 1992, between 12:00 midnight and 1:00 o'clock in the morning. The events and circumstances of that particular rape were significantly similar to the incidents when she was first abused.[6] Marivic stated that she was not able to report the abuses immediately because of fear. She decided to report the incidents to the police only on October 17, 1992 after she felt that she had enough of her father's abuses.[7]

CECILIA PAMILAR testified that she was 14 years old, residing at No. 144, Sitio Mabilog, Culiat, Quezon City. Her mother is Corazon Pamilar and her father is Rogelio Pamilar. Sometime in October 1991, according to her, her father raped her. He entered the room while she was sleeping with her older sister, Marivic. He undressed her by first removing her shorts, followed by her t-shirt. He then removed her panty. After doing all these, her father lowered his own shorts up to his knee, spread her legs and inserted his penis inside her private parts. He then kissed her face, her neck and her breasts. She claimed that she was not able to do anything because she was afraid.[8] She reported the incident only on October 19, 1992, after her mother had already found out that she and her elder sister had been abused by their father.[9]

DR. SUSAN NIEVES, a medico-legal officer, testified that she was the one who examined both private complainants. She reported that Marivic Pamilar was no longer a virgin, and that she had a deep healed laceration at 5:00 o'clock aside from the shallow healed lacerations at 3:00 o'clock and 9:00 o'clock which may have been caused by a penis, and possibly sustained seven days, or weeks, or years before she was examined.[10] Dr. Nieves also reported that Cecilia Pamilar was no longer a virgin, and that she had shallow healed lacerations at 3:00 o'clock and 9:00 o'clock which could have been caused by a penis.[11]

For the defense, accused ROGELIO PAMILAR himself testified. He denied the charges that he raped his daughters, Marivic and Cecilia Pamilar. He claimed that the charges were brought upon the instigation of his wife who was mad at him, because he acquired a form of venereal disease from other women and was unable to fulfill his sexual duties to her.[12] He said that his daughters still loved him and, in fact, Marivic visited him in jail and gave him money. However, they were afraid of their mother.[13]

ROGELIO PAMILAR, JR., a son of appellant, was presented to corroborate the testimony of his father regarding the size and dimensions of their house and the room where Marivic and Cecilia slept.[14] According to him, the house was 11 by 11 feet long while the room was 8 by 4 feet long.

CORAZON PAMILAR, appellant's wife, corroborated Rogelio, Jr.'s testimony and confirmed also that appellant had gonorrhea in the past.[15]

On July 23, 1997, the trial court rendered a decision finding appellant guilty of three counts of rape. The dispositive portion of the said decision reads:

> WHEREFORE, this Court finds the accused Rogelio Pamilar y Revolio guilty beyond reasonable doubt of Rape as defined and punished under Article 335 of the Revised Penal Code as amended as principal by direct participation committed without any aggravating or mitigating circumstance and as specified in the above-quoted Informations in these cases, and in Criminal Case No. Q-92-37315, the accused Rogelio Pamilar y Revolio is sentenced to suffer a prison term of reclusion perpetua and to suffer its accessory penalties, and to

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> pay moral damages in the amount of P50,000.00 to the complaining witness Marivic Pamilar, and in Criminal Case No. Q-92-37316, the accused Rogelio Pamilar y Revolio is sentenced to suffer a prison term of reclusion perpetua and to suffer its accessory penalties and to pay moral damages in the amount of P50,000.00 to the complaining witness Marivic Pamilar, and in Criminal Case No. 92-37317, the accused Rogelio Pamilar y Revolio is sentenced to suffer a prison term of reclusion perpetua and to suffer its accessory penalties, and to pay moral damages in the amount of P50,000.00 to the complaining witness Cecilia Pamilar.
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> Being a detention prisoner, the accused Rogelio Pamilar y Revolio is entitled to the benefits of Article 29 of the Revised Penal Code as amended.
>
> SO ORDERED.[16]

Appellant interposed this present appeal, alleging that the trial court erred in:

> I. ...FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THREE (3) COUNTS OF RAPE.
>
> II. ...ORDERING ACCUSED-APPELLANT TO PAY MORAL DAMAGES IN THE TOTAL AMOUNT OF P150,000.00.[17]

In essence, appellant raises the principal issue of the credibility of the complainants as witnesses for the prosecution. He argues that the charges that they were raped is hard to believe, considering the fact that the house where they lived at was only a small one, measuring 11 by 11 feet, and the room where the alleged rapes were committed had no door separating it from the sala where the rest of the family sleeps. According to appellant, in a situation like this, it is unbelievable that the rapes could have been committed without any one knowing about it.[18]

For the State, the Office of the Solicitor General (OSG) contends that there is no rule that rape can be committed only in seclusion[19] and that lust is no respecter of time and place.[20] The OSG also points out that the testimonies of private complainants were positive, straightforward and convincing and therefore deserve to be given full faith and credence.[21]

In reviewing 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 even more difficult for the person accused, although innocent, to disprove it; (2) by reason of the intrinsic nature of the crime of rape (where only 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 merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[22] With these principles in mind, and after reviewing the records of this case, we find that the trial court did not err in convicting appellant for three counts of rape.

We agree with the trial court that no evidentiary weight could be given to the self-serving declarations of appellant. His ratiocination that the rapes could not have been committed in a small house where many people were living deserves scant consideration. We have held time and again that rape does not occur only in seclusion[23] and can be committed in the unlikeliest of places.[24] Situs of rape has been inside a house where there were other occupants;[25] in a room adjacent to where the victim's family was sleeping;[26] or even in a room which the victim shared with the sisters of the accused.[27] Among couples with big families who live in cramped quarters, the presence of other members of the family is not necessarily a deterrent to the commission of rape.[28] It is not impossible for the rape to take place inside a small house with no partition and with five occupants therein, including the accused and the victim.[29] Lust is no respecter of time and place.[30] The scenario illustrated by private complainants wherein they were raped inside their room by their own father is therefore not impossible nor incredible. It may seem improbable but as we held in one case:

x x x

> The very implausibility of the commission of the rape is itself a strong evidence of its truthfulness. Had the charge been merely concocted as the defense suggests, the complainant would have made it more acceptable by inventing more believable circumstances not encumbered by the presence of all the members of the family in the room when the rape was committed. The fact that she did not choose to do so suggests that she related the events as they really happened, without omission or embellishment, even if they might appear to be improbable. Verily, it is always possible that something improbable can happen.[31]

Well-established is the principle that factual findings of the trial court are conclusive upon the reviewing or appellate court and its evaluation regarding the credibility of witnesses are given great weight and respect unless there is a showing that the trial court had overlooked, misunderstood or misapplied some fact or circumstance of weight and substance that would have affected the result of the case.[32] The evaluation of the credibility of witnesses is a matter that particularly falls within the authority of the trial court[33] as it had the opportunity to observe closely their conduct and demeanor on the stand.[34]

Appellant presents no substantial and persuasive argument which would necessitate a review of the trial court's findings regarding the probative value to be accorded to the testimony of the prosecution witnesses. Absent any concrete and compelling basis to support such review, we are constrained to sustain the trial court's findings regarding the credibility of the prosecution witnesses.

Having met the test of credibility and reliability, we find the testimony of complainants, coupled with the testimony and medical findings of Dr. Nieves, more than sufficient to establish the essential requisite of illicit carnal knowledge under the provisions of Article 335 of the Revised Penal Code.[35]

It should be noted that juxtaposed against the prosecution evidence, appellant's defense is inherently weak. He interposed denial, which like alibi, cannot prevail over the positive identification of the accused as the perpetrator of the crime.[36] Such weak and self-serving negative defense cannot claim more weight or worth than the testimonies of prosecution witnesses who present clear and positive evidence.[37]

It is far from credible that his wife would go to the extent of making use of their two daughters in fabricating false accusations of rape just to get even with him. Note that his statement regarding his VD does not speak well of him. But no mother would sacrifice her own daughters, concoct stories of their deflorations, allow examinations of her daughters' private parts and subject them to the ordeal of a public trial just to retaliate against her husband for his alleged transgressions as a family man.[38]

In sum, we are morally convinced of his guilt.

However, modifications in the award of civil damages are necessary. The offended party in each case is entitled to civil indemnity of P50,000 for each rape pursuant to prevailing jurisprudence.[39] She is also entitled to exemplary damages at P25,000 for each count. The award of P50,000 for moral damages for each rape is justified and should be maintained.[40]

WHEREFORE, the assailed decision of the Regional Trial Court of Quezon City, Branch 90, finding appellant Rogelio Pamilar y Revolio guilty of three counts of rape and sentencing him to reclusion perpetua for each count is AFFIRMED with the MODIFICATION that appellant is also ordered to pay to: a) Marivic Pamilar in Crim. Case No. Q-92-37315, P50,000 as civil indemnity; P50,000 as moral damages; and P25,000 as exemplary damages; b) Marivic Pamilar in Crim. Case No. Q-92-37316, P50,000 as civil indemnity; P50,000 as moral damages; and P25,000 as exemplary damages; and c) Cecilia Pamilar in Crim. Case No. Q-92-37317, P50,000 as civil indemnity; P50,000 as moral damages; and P25,000 as exemplary damages.

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SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

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[1] Rollo, pp. 30-40.

[2] Id. at 11.

[3] Id. at 13.

[4] Id. at 15.

[5] TSN, January 22, 1993, pp. 1-4.

[6] TSN, January 29, 1993, pp. 1-3.

[7] Id. at 3.

[8] TSN, March 4, 1993, pp. 1-3.

[9] TSN, March 5, 1993, pp. 2-3.

[10] TSN, March 26, 1993, pp. 2-4.

[11] Id. at 2-3.

[12] TSN, May 20, 1994, pp. 2, 5-7.

[13] TSN, June 30, 1994, pp. 1-2.

[14] TSN, March 16, 1995, pp. 1-3.

[15] TSN, November 16, 1995, pp. 5-10.

[16] Rollo, p. 40.

[17] Id. at 71.

[18] Id. at 75.

[19] Citing People vs. Burce, G.R. Nos. 108604-10, 269 SCRA 293, 313 (1997).

[20] Citing People vs. San Juan, G.R. No. 105556, 270 SCRA 693, 709 (1997).

[21] Rollo, p. 113.

[22] People vs. Moreno, G.R. No. 115191, 321 SCRA 334, 348 (1999); People vs. Quijada, G.R. No. 114262, 321 SCRA 426, 431 (1999); People vs. Rafales, G.R. No. 133477, 323 SCRA 13, 20-21 (2000).

[23] People vs. Ramon, G.R. No. 130407, 320 SCRA 775, 789 (1999), citing People vs. Sangil, Sr., G.R. No. 113689, 276 SCRA 532, 540 (1997).

[24] People vs. Talaboc, G.R. No. 103290, 256 SCRA 441, 449 (1996).

[25] People vs. Guibao, G.R. No. 93517, 217 SCRA 64, 74 (1993).

[26] People vs. Codilla, G.R. Nos. 100720-23, 224 SCRA 104, 120 (1993).

[27] People vs. Villorente, G.R. No. 100198, 210 SCRA 647, 659 (1992).

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[28] People vs. Geromo, G.R. No. 126169, 321 SCRA 355, 363-364 (1999).

[29] People vs. Sancha, G.R. No. 131818-19, 324 SCRA 646, 665 (2000).

[30] People vs. Cortes, G.R. No. 129693, 323 SCRA 131, 143 (2000).

[31] People vs. Sangil, Sr., supra, at 541.

[32] People vs. Ablaza, G.R. No. L-27352, 30 SCRA 173, 176 (1969); People vs. Carido, G.R. No. L-32242, 167 SCRA 462, 473 (1988); People vs. Tejada, G.R. No. 81520, 170 SCRA 497, 501-502 (1989).

[33] People vs. Baygar, G.R. No. 132238, 318 SCRA 358, 365 (1999); People vs. Venerable, G.R. No. 110110, 290 SCRA 15, 25 (1998).

[34] People vs. Lomboy, G.R. No. 129691, 309 SCRA 440, 450 (1999).

[35] People vs. Nicolas, G.R. No. 125125-27, 324 SCRA 748, 753 (2000).

[36] People vs. Magbanua, G.R. No. 128888, 319 SCRA 719, 738 (1999).

[37] Supra, note 35 at 754.

[38] See People vs. Flores, G.R. No. 123599, 320 SCRA 560, 570 (1999).

[39] People vs. Panique, G.R. No. 125763, 316 SCRA 757, 768 (1999) citing People vs. Maglente, G.R. No. 124559-66, 306 SCRA 546, 578 (1999).

[40] See People vs. Ramos, G.R. No. 136398, November 23, 2001, p. 26.

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