

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AUGUSTO BUENVIAJE Y REYES, ACCUSED-APPELLANT.

G.R. No. 130949. April 04, 2001

Ponente: PARDO, J.

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PARDO, J.:

It is a truism that "the workings of the human mind when placed under emotional stress are unpredictable, and the people react differently. In such a given situation, some may shout; some may faint; and some may be shocked into insensibility; while others may openly welcome the intrusion." [1]

Such is the case before us. The Regional Trial Court, San Pablo City, Branch 32, found accused Augusto Buenviaje y Reyes guilty of rape and sentenced him to reclusion perpetua and to indemnify the private complainant Jenneth Bachao moral damages in the sum of P300,000.00, and to pay the costs. [2]

On the strength of a "salaysay" dated February 02, 1996, executed by Jenneth Bachao, on February 9, 1996, Assistant City Prosecutor Guillermo E. Sunega of San Pablo City, Laguna filed with the Regional Trial Court a Criminal Complaint, thus:

"CRIMINAL COMPLAINT

"The undersigned Complainant and Assistant City Prosecutor accuse AUGUSTO BUENVIAJE @ TITO of the crime of RAPE, defined and penalized under Article 335 of the Revised Penal Code, committed as follows:

"That on or about January 31, 1996, in the City of San Pablo, Republic of the Philippine and within the jurisdiction of this Honorable Court, the accused abovenamed with lewd design, by means of force and intimidation, did then and there willfully, unlawfully and feloniously rape and have sexual relations with undersigned complainant JENNETH BACHAO, who was then deprived of reason.

"CONTRARY TO LAW.

"City of San Pablo, February 9, 1996.

"JENNETH BACHAO

GUILLERMO E. SUNEGA

"Complainant

Assistant City Prosecutor"

Upon arraignment on February 26, 1996, accused pleaded not guilty to the information. Accused waived the pre-trial and the trial court set the case for trial on the merits. [3]

The facts of the case, as narrated by Jenneth Bachao, are as follows:

On January 11, 1996, Jenneth Bachao was at home listening to the radio when she heard that Loyola Life Plan

was in need of personnel. She immediately prepared her transcript of records and application letter and went to the office of Loyola Life Plan at Tacloban City, Leyte. When she reached the office, she met the Regional Director, Michael Grandeza, who advised her to return on January 15, 1996, for an interview.[4]

On January 15, 1996, accused-appellant Augusto Buenviaje interviewed her. He told the accused that she was at the priority list but that she would have to undergo training in Manila for three to five days. Accused enticed her about the job saying that during the training period, she would receive allowances and that after the training she would go back to Tacloban and receive a good salary, and all the expenses for the trip to Manila would be shouldered by the company. When she asked why the training would be in Manila, not in Tacloban, the accused retorted that she should not be making such inquiry, as she was just an applicant. Because the offer was good, Jenneth accepted but told accused that she needed to ask permission from her parents.[5]

Accused asked Jenneth to meet him at 12:00 noon, January 15, 1996, at Encore Corporation, and that he would accompany her home to tell her parents about the job offer. Her parents agreed to the conditions of the job. Before accused left, he told Jenneth that they would meet each other at Philtranco at 3:30 in the afternoon on that same day.[6]

They boarded a bus bound for Manila at 4:00 in the afternoon. They arrived in Naga City the following day January 16, 1996, at around 4:00 in the afternoon. She then asked the accused why they were alighting in Naga when the seminar was in Manila. Accused responded that he needed to collect some payment for encyclopedias he sold in Naga City.[7]

In Naga City, Jenneth did not see the accused collect any payment from customers. Accused called for a tricycle and suddenly pulled her inside the tricycle. While inside the tricycle, accused pulled out a balisong from his attache case and poked the balisong at her and told her not to move or escape or else she would be killed. Accused brought her to a lodging house in Naga. She could not move or ask for help as the balisong was pointed at her. While inside the room of the lodging house, the accused closed the door and immediately embraced her, kissed her several times and touched her private parts. She fought back but the accused was too strong. Accused succeeded in having sexual intercourse with her.

During all the time at the Naga lodging house, when accused would leave the room, he would locked the door from outside. Accused gave her a plastic urinal for her to use when she felt like answering the call of nature and she was not allowed to go out of the room.[8]

After the unfortunate incident in the Naga lodging house where they stayed for 3 to 4 days, accused brought Jenneth to Daet under the same threatening situation. Accused even gave her a tablet that she was forced to take. While in Daet, accused would ask her to take a bath before every sexual contact.[9]

It was also during their stay in Daet that accused prepared a draft letter for her to copy to be sent out to her parents. The letter was to the effect that she and accused had fallen in love and that she understood the state of life of accused and was truly in love with him. In Daet, they were accompanied by an old woman that accused introduced as his mother. They all slept in the same room with accused and her on one side and the old woman on the other side of the room. The accused would have sexual contact with her even in the presence of the old woman, and the old woman would not even make any move to help her even if she pleaded for help.[10]

From Daet, accused brought her to San Pablo City. They stayed in a lodge called the Cruz lodge. During the time they were in San Pablo, she was sick and was running a high fever. When they were already inside a room, accused asked her to take off her clothes and when she was undressed, accused also undressed. Accused placed both her hands under her head, then leveled her legs on his shoulder and one by one accused placed his fingers

inside her vagina and then rotated all four fingers inside her vagina, after which accused inserted his penis inside her vagina and had sexual intercourse with her. The sexual assault happened many times that she could no longer remember how often it was.[11]

On February 1, 1996, they left Cruz lodge and accused brought her to a house owned by one Elsa Arnisto. During their stay at the house of Elsa, she gathered enough courage to tell accused that if he would rape her again, she would scream and ask help from the neighbors adjacent to the room she and the accused were staying.[12]

On February 2, 1996, she was able to talk to Elsa Arnisto and asked for help so she could talk to her sister in Tacloban City. She learned from her sister that her parents and sister did not receive the letter that accused forced her to write. She revealed to Elsa that accused was not her husband and that she was being raped by the accused. Elsa then instructed her to go to another house in Sampalok Lake belonging to Elsa's cousin so she could be away from the accused. Elsa and her cousin then accompanied Jenneth to the police headquarters for investigation. There, she gave her "salaysay." [13]

On May 5, 1997, the trial court after a thorough study and weighing of the evidence both of the prosecution and the defense, rendered a decision, the dispositive portion of which reads:

"WHEREFORE, the prosecution evidence having established the guilt of the above named accused AUGUSTO BUENVIAJE y REYES ALIAS "TITO" beyond reasonable doubt, he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA, to indemnify the private complainant Jenneth Bachao moral damages in the sum of P300,000.00 and accused is further ordered to pay costs." [14]

On May 8, 1997, accused filed a notice of appeal.[15]

In his appeal, accused-appellant Augusto Buenviaje y Reyes assigns the following errors imputed to the trial court:

- The lower court erred in convicting him despite the presence of facts and circumstances supported by evidence which cast grave doubts as to the veracity and credibility of complainant's testimony;
- The lower court erred in convicting him despite the fact that the evidence of the prosecution was insufficient to sustain a conviction beyond reasonable doubt; and
- The lower court erred when it failed to consider evidence adduced by the defense that the sexual intercourse was mutual and voluntary between him and the victim for they were sweethearts.

In a rape case, only two (2) persons are normally privy to the occurrence. Generally, the credibility of the complaining witness resolves the case. Thus, this is a task that the lower court judges easily discern. The trial court judges are in the best position to observe the demeanor and conduct of the characters. Such is the situation in the case at bar. Accused-appellants' assignment of errors boils down to one issue. Who is more credible as between accused and Jenneth Bachao?

The trial court's assessment of the credibility of witnesses is entitled to great weight and respect, absent any showing that some facts or circumstances of weight and substance were overlooked which, if considered, would affect the result of the case. The testimony of a lone witness, if credible, is sufficient to justify a judgment of conviction. "It must be stressed that the resistance of the victim is not an element of the crime, and it need not be established by the prosecution. In any event, the failure of the victim to shout or to offer tenacious resistance does not make the sexual congress voluntary." [16] "It is not necessary that the force or intimidation employed be so great or of such character as could not be resisted because all that is required is that it be sufficient to consummate the purpose that the accused had in mind..." [17] The absence of resistance does not necessarily denigrate the victim's claim that accused employed force and intimidation against her.

In the case at bar, accused-appellants' defense is that he and Jenneth Bachao were sweethearts and the sexual union between them from Naga to San Pablo City were mutual and voluntary. To prove his allegations, accused-appellant harped on his own assertion that the victim did not offer resistance at the time that they had sexual intercourse in the Cruz lodge, that the victim did not offer any resistance when he asked her to level her legs on his shoulder so he could insert his fingers in her vagina. This, according to accused, was proof that the victim consented to the sexual union.[18]

Accused-appellant further argues that Jenneth had several chances to escape when she was left alone in the lodging houses in Naga, Daet and San Pablo City. If she was really held against her will, she could have easily escaped. "The owner of the lodge in Daet, Angel de Mesa, even testified that he saw the victim Jenneth buying soft drinks twice at their counter alone." [19]

According to accused-appellant, these are telltale signs that Jenneth was not held against her will.

We are not convinced. We must take into consideration that the accused took the victim Jenneth Bachao to places completely unknown to her. The accused-appellant was obviously familiar and had friends in Naga, Daet, and San Pablo City as he was a roving salesman of encyclopedias. Unfamiliar as she was with the people and the places she was in, coupled with threats on her life, Jenneth would not have the courage to escape.

The behavior and reaction of every person cannot be predicted with accuracy. It is an accepted maxim that "different people react differently to a given situation or type of situation and there is no standard form of behavioral response when one is confronted with a strange or startling experience. Not every rape victim can be expected to act conformably to the usual expectations of every one. Some may shout; some may faint; and some may be shocked into insensibility, while others may openly welcome the intrusion." [20]

As to accused-appellant's claim that Jenneth could have easily escaped during the times he left the motel, Jenneth explained during her testimony that the door was locked from the outside, so she could not leave the room.

As to the claims of the defense witnesses Angel de Mesa and Antonio Cabrera, the managers and owner of the motels where accused-appellant took Jennette, we are not inclined to believe their testimonies as they were not even able to produce receipts in payment for the rooms rented by accused-appellant in Naga and Daet. We also can not ignore the fact that if indeed the sexual acts between accused-appellant and the victim Jennette were mutual, the one person who could testify to this is the mother of accused-appellant who was with them inside the motel rooms. The defense did not present accused's own mother. Instead, he presented the managers and owners of the motels who could very well be his good friends.

We are inclined to believe the version of Jenneth Bachao that the only opportunity she had to escape was when they were at the house of Elsa Arnisto who she learned was also from Leyte. When they first arrived at the house of Elsa Arnisto, she admitted that when Elsa asked her if she was the wife of accused-appellant she said yes because accused-appellant and his mother were with them. However, the next morning, February 2, 1996, at around 9:00 a. m., she found the opportunity to talk to Elsa alone and revealed to her the ordeal she went through with accused-appellant and asked for help.

In rape "[I]t suffices that the testimony of the rape victim is credible because the established rule is that the sole testimony of the offended party is sufficient to sustain the accused's conviction if it rings the truth or is otherwise credible. What must be established is that there was indeed some form of force or intimidation at the time of the sexual assault. In fact, considering that human reactions vary and unpredictable, thus different persons react differently to the same situation, the force and intimidation must be viewed in the light of the victims' perception and judgment at the time of the commission of the crime. The force and intimidation need not even be irresistible,

it being enough that it is present and it brings about the desired result." [21]

"The accused may be convicted on the basis of the lone uncorroborated testimony of the rape victim provided that her testimony is clear, positive, convincing and consistent with human nature and the normal course of things." [22] As found by the trial court, the offended party testified in a manner "credible, natural and convincing consonant with the course of normal behavior." [23]

Equally settled is the principle that "when a woman says that she has been raped, she says in effect all that is necessary to show that rape has been committed, and if her testimony meets the test of credibility, the accused may be convicted on the basis thereof." [24] This is because in rape, generally, 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." [25]

IN VIEW WHEREOF, we AFFIRM the decision of the trial court sentencing accused-appellant Augusto Buenviaje y Reyes to reclusion perpetua, with modification that he shall indemnify the victim Jenneth Bachao in the amount of P50,000.00 as civil indemnity and P50,000.00 as moral damages.

Costs in this instance against accused-appellant.

SO ORDERED.

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

[1] People vs. Alfeche, 355 Phil. 776, 797 (1998); People vs. Pontilar, Jr., 341 Phil. 333, 353 (1997).

[2] RTC Record, pp. 66-86, at p. 86.

[3] Original Record, Order, p. 13.

[4] TSN, April 11, 1996, pp. 4-6.

[5] Ibid., pp. 6-11.

[6] Ibid.

[7] Ibid., pp. 12-13.

[8] TSN, April 11, 1996, pp. 13-17.

[9] Ibid., pp. 19-20.

[10] TSN, April 18, 1996, pp. 5-10.

[11] Ibid., pp. 11-12.

[12] Ibid., p. 13.

[13] Ibid., pp. 13-15.

[14] Original Record, Judgment, Criminal Case No. 9916-SP, Judge Zorayda Herradura-Salcedo, presiding, pp. 66-86.

[15] Ibid., Notice of Appeal, p. 89.

[16] People vs. Buendia, 314 SCRA 655, 666 (1999).

[17] People vs. Barcelona, 325 SCRA 168, 176 (2000), citing People vs. Paranzo, 317 SCRA 367 (1999).

[18] Brief for accused-appellant, Rollo, pp. 65-71, 71-72.

[19] TSN, January 7, 1997, p. 8.

[20] People vs. Barcelona, supra, Note 17, citing People vs. Silvano, 309 SCRA 362 (1999); People vs. Llonor, 351 Phil. 26, 36 (1998).

[21] People vs. Traverro, 342 Phil. 263, 275 (1997).

[22] People vs. Campos, G.R. Nos. 133373-77, September 18, 2000; People vs. Sancha, 324 SCRA 646, 663 (2000).

[23] Original Record, Decision, at p. 84.

[24] People vs. Bali-Balita, G. R. No. 134266, September 15, 2000.

[25] People vs. Aloro, G.R. No. 129208, September 14, 2000; People vs. Pagupat, 355 Phil. 225, 260 (1998).

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