PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BOBBY AGUNOS, ACCUSED-APPELLANTS.

G.R. No. 130961. October 13, 1999

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

When a woman says she has been raped, she says in effect all that is necessary to show that she has been raped and her testimony alone is sufficient if it satisfies the exacting standard of credibility needed to convict the accused.

Accused-appellant Bobby Agunos assails the decision of the Regional Trial Court of Echague, Isabela, Branch 24, finding him guilty beyond reasonable doubt of the crime of rape committed against Maricris B. Reyes, the dispositive portion of which reads as follows:

> WHEREFORE, finding the accused Bobby Agunos guilty beyond reasonable doubt of the crime of rape for which he is charged, the Court hereby sentences him to suffer the penalty of reclusion perpetua as provided for under Article 335 of the Revised Penal Code as amended and to indemnify the victim Maricris B. Reyes One Hundred Thousand (P100,000.00) Pesos by way of moral damages without subsidiary imprisonment in case of insolvency.
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> Costs against the accused.
>
> SO ORDERED.[1]

On the evening of May 8, 1995, complainant Maricris B. Reyes was sleeping with her two children, Christian Dave, 5, and Leslie, 3, in their house located in Lacab, Jones, Isabela. Her husband, Pepito, who was a poll watcher of a mayoralty candidate, and her brother Rizaldy Barit who lived with them in the said house, were at the Lacab Primary School, located about three (3) kilometers away, watching the counting of ballots. At around 2:00 o'clock the following morning, a man whom Maricris thought was her husband lay down on the left side of the bed between her and Christian Dave. The man kissed her lips, went on top of her and inserted three fingers of his left hand in her vagina prompting her to slap him. Maricris, suspecting that the man was not her husband, reached for the flashlight on the headboard and focused the beam on the face of the man. She then recognized Bobby Agunos, a nephew and neighbor whose house was located only twelve (12) meters away from their house. Accused-appellant was a year younger than Maricris, who is the cousin of his mother.

Accused-appellant ordered Maricris not to shout otherwise he will box her stomach and stab her. When Maricris tried to shout for help, he covered her mouth with his hand. Then, he held her by the armpit and pulled her down from the bed to the concrete floor. Accused-appellant placed his finger again in her private organ, and Maricris pleaded for him to go home since they are both married. Meanwhile, Christian Dave woke up and started to look for his mother. Maricris begged the accused-appellant to stop so she can attend to her son, and accused-appellant acceded. Thinking that accused-appellant already left after she had put the child back to sleep, Maricris proceeded to close the door where the accused-appellant gained entry. When she tried to switch the light on,

accused-appellant who hid himself behind a wall, pulled her down. Then he pulled her shorts and panty down to her knee and forced her legs apart causing her undergarments to be ripped.[2] He unzipped his pants, took out his penis and inserted it in her vagina. Maricris struggled but had difficulty moving since the accused-appellant pinned her left arm behind her back.[3] When he was about to ejaculate, Maricris struggled once more, causing accused-appellant to ejaculate outside her vagina and between her thighs. Frustrated at having ejaculated outside her vagina, accused-appellant scolded her and tried to have sex with her again. Accused-appellant warned her not to tell anyone about the incident otherwise something untoward might happen to her family.[4] When accused-appellant left, Maricris wiped the semen from her thighs with her torn underwear.[5]

That same morning, at around 6:00 o'clock, Maricris went to the house of her sister-in-law Presentacion Villanueva to buy medicine. Presentacion, noticing Maricris' unusual pallor asked her what happened. Maricris replied that she was just suffering from a headache. Three hours later, a befuddled Maricris returned to Presentacion's house. Upon further prodding from Presentacion, Maricris disclosed that she had been sexually molested by accused-appellant. Presentacion then advised her to report the matter to the Barangay Captain.[6] Maricris, however, was afraid to do so. On May 11, 1995, at the house of her in-laws, Maricris told her husband that accused-appellant inserted his finger into her private organ. She did not tell him she was raped because she was afraid of his adverse reaction and the threats of accused-appellant. However, when her husband left, she told her mother-in-law that accused-appellant was able to insert his penis into her private organ.[7] It was only on May 12, 1995 that she had the courage to report the incident to the Barangay Captain. However, the Barangay Captain, while being related to both accused-appellant and complainant, had closer ties with accused-appellant. Realizing that no assistance was forthcoming from the Barangay Captain, Maricris and her husband went to the Office of the Philippine National Police to file a complaint against accused-appellant, Bobby Agunos, on May 25, 1995. When Maricris was investigated, she was not able to reveal everything that transpired because her husband was present.[8] She submitted to police investigator Regimino Pastor her torn shorts but was too embarrassed to submit her semen-stained underwear.[9]

On August 10, 1995, Maricris executed a complaint/affidavit charging Bobby Agunos of the crime of rape before the Office of the Provincial Prosecutor of Echague, Isabela. On September 25, 1995, an information was filed against Bobby Agunos before the Regional Trial Court of Echague, Isabela, Branch 24, docketed as Criminal Case No. Br. 24-0476, which reads as follows:

> The undersigned Second Assistant Provincial Prosecutor of Isabela, in the instance of the victim, Maricris B. Reyes, who filed the corresponding Criminal Complaint/Affidavit in this office and which is made as an integral part of this Information, accuses BOBBY AGUNOS, for the crime of RAPE, defined and penalized under Article 335 of the Revised Penal Code, as amended by Republic Act No. 4111, committed as follows:
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> That sometime on May 9, 1995 at about 2:00 o'clock early dawn at Barangay Lacab, municipality of Jones, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously by means of force and intimidation, have carnal knowledge with one Maricris B. Reyes against the latter's will and consent.
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> **CONTRARY TO LAW. [10]**

Accused-appellant pleaded not guilty at his arraignment. He maintained on the witness stand that he was at the school building which served as a polling place in Lacab, Jones, Isabela, at the time the incident took place. He said he served as a guard for poll watchers of a certain Mayor Sebastian and he never left the polling place from 7:00 o'clock in the morning of May 8, 1995 to 3:00 o'clock in the morning of May 9, 1995, except for a brief respite at his home at about 2:00 o'clock in the afternoon of May 8, 1995.[11] Accused-appellant insisted that at the time of the incident, or at about 1:00 o'clock to 3:00 o'clock in the morning of May 9, 1998, he was sleeping

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underneath a mango tree just outside of the polling place with a number of companions, among them, Samuel Agunos and Danilo Barit.[12] He only left the place at past 3:00 o'clock in the morning.[13] Accused-appellant said he had no idea why Maricris filed the complaint against him.

Accused-appellant's story was corroborated by his aunt, Ofelia Hequilan, a distant cousin of Maricris. On the night in question, Ofelia served as a poll watcher of a certain candidate in Lacab, Jones, Isabela. She was assigned to watch the counting of ballots for Precinct No. 27 in Lacab Primary School. While Ofelia stayed inside the polling place, accused-appellant, who served as guard for poll watchers of Mayor Sebastian, stayed outside. At around 1:30 o'clock in the morning of May 9, 1995, Ofelia and her companions saw accused-appellant sleeping under a mango tree outside the polling place when they were sent by some teachers to buy some ice. At around 2:00 o'clock, when Ofelia and her companions returned to the polling place, they saw Bobby still asleep. Accused-appellant was apparently in such deep slumber inasmuch as he was still sleeping when Ofelia and her companions left the polling place at around 3:00 o'clock in the morning of May 9, 1995.[14]

The trial court did not give credence to the testimony of accused-appellant and on April 30, 1997 rendered the aforesaid decision finding him guilty beyond reasonable doubt of the crime of rape committed against complainant Maricris B. Reyes.

In his appeal, accused-appellant contends that the trial court erred in giving credence to the version of the prosecution that rape was committed. He claims that complainant's testimony is full of contradictions to be worthy of belief.

The appeal is bereft of merit.

The Supreme Court is guided by three principles in reviewing rape cases, namely: (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 of rape where only two persons are usually involved, the testimony of the complainant must be received 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.[15]

Accused-appellant makes much of an issue the fact that complainant did not present a medico-legal report or her torn undergarments to corroborate her contention that accused-appellant had forcible sexual intercourse with her. Accused-appellant claims that the sexual congress was consensual inasmuch as complainant never testified that she suffered any injury which might have corroborated her allegation of sexual abuse. He claims that complainant's resistance against his advances was not sufficient and cannot qualify as valid and complete resistance in the eyes of the law.

It is well entrenched in our jurisprudence that a medical examination of the victim is not indispensable in a prosecution for rape inasmuch as the victim's testimony alone if credible is sufficient to convict the accused of the crime.[16] Neither is the non-presentation of the complainant's undergarments fatal to the prosecution's case. Complainant's non-presentation of the medico-legal report and the torn underwear is understandable. Accused-appellant is not only a relative but also a friend of her husband. She was thus naturally confused, traumatized and humiliated by the incident to submit herself to a medical examination and to preserve evidence of the incident which she would rather commit to oblivion. Complainant herself, in fact, had reservations about divulging the incident to anyone. She initially told her in-laws and her husband with much hesitation that accused-appellant had inserted his fingers in her vagina.[17] She submitted her torn shorts to the police when she went to the police station to report the incident but was too embarrassed to submit her torn underwear which she used in wiping accused-appellant's semen. She could not even bring herself to divulge during the investigation

that she was ravished by accused-appellant because her husband was around.[18] It was only upon further prodding that she was forced to reveal the violation committed on her by accused-appellant.

Accused-appellant's claim that the resistance of complainant was not sufficient in the eyes of the law is not well-taken considering that force and violence in rape cases need not be overpowering or irresistible when applied. The record shows that amidst complainant's pleas and struggles, accused-appellant pinned complainant's hand behind her back, covered her mouth with his hand and pulled her underwear to her knee before spreading her legs apart with such force that her undergarments were ripped. It likewise appears that accused-appellant remained unfazed when complainant slapped him and struggled to point the beam of the flashlight at him not only to take a look at her assailant but apparently to deter him from consummating his bestial desires.

Curiously, while accused-appellant insists that the sexual congress was consensual, in the same breath, he suggests that complainant's attacker was another person who pretended to be Bobby Agunos.

It is difficult to believe that the complainant would let a relative take the blame for an assault against her honor if the crime was in fact committed by another person in the community. Complainant is a relative of accused-appellant. Her husband is a close friend of accused-appellant as well. Certainly, her close association with accused-appellant would have made her familiar with the sound of his voice, with his manner and build such that she would have no difficulty in ascertaining whether her assailant was Bobby Agunos or not. Accused-appellant was positively identified by the complainant as the perpetrator of the crime because complainant pointed the flashlight at him.[19] Complainant not only had a look at the face of her assailant, she spoke to him and begged him to go home.[20] Accused-appellant even had the temerity to scold complainant when the latter tried to free herself from his embrace, causing him to ejaculate outside her private part and between her thighs.[21] Needless to say, complainant had sufficient opportunity to verify the identity of her assailant. Obviously, as between her testimony and that of accused-appellant's, the latter's paltry defense of mistaken identity is more improbable.

Accused-appellant's contention that he was at Lacab Primary School at the time the incident took place deserves scant consideration. Lacab Primary School was, at most, only three (3) kilometers away from complainant's house. Accused-appellant himself admitted that he was at liberty to leave the polling place anytime he wanted to.[22] Hence, it would not have been impossible for accused-appellant to slip out of the polling place unnoticed and go to complainant's home to ravish her, then go back to the polling place just before 3:00 o'clock in the morning of May 9, 1995. The shopworn rule is that for alibi to prosper, it is not enough that accused was at some place else at the time of the commission of the crime, it must also be proved by clear and convincing evidence that it was physically impossible for him to have been at the scene of the crime at the time of its commission and commit the crime.[23] His aunt's testimony that he was seen sleeping outside the polling place from 1:00 o'clock to 3:00 o'clock in the early morning of May 9, 1995 must be taken with a grain of salt inasmuch as accused-appellant failed to present other disinterested witnesses aside from a close relation to corroborate his claim that he was nowhere near complainant's home at the time of the commission of the crime.

We are also not impressed by accused-appellant's assertion that it would have been impossible for complainant's children not to have been awakened by the commotion caused by the alleged struggle between him and Maricris. It is not unlikely for the children of complainant not to have been awakened by the commotion. Owing to their tender age, children sleep more soundly than grown-ups and are not easily disturbed by the gyrations and exertions of adults in the night.[24]

Rape is not a simple physical violation. It debases a woman's dignity, leaving a stigma on her honor and scarring

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her psyche for life.[25] To have it committed by a relative, be it a close or distant relative, makes it even more abhorrent. Certainly, no woman in her right mind would fabricate a story of bestiality against her own relative that could sully her reputation and expose herself, as well as her family, to all sorts of public aspersions were she not so motivated to seek justice for a wrong committed against her.

While we affirm the ruling of the trial court in finding accused-appellant guilty beyond reasonable doubt of the crime of rape committed against complainant, however, the award of P100,000.00 by way of moral damages should be reduced to P50,000.00 there being no special circumstances warranting the same. Nevertheless, accused-appellant is liable to pay the complainant the additional sum of P50,000.00 by way of indemnity in line with existing jurisprudence that civil indemnity in the sum of P50,000.00 is automatically awarded to the complainant without further proof other than the fact of rape.[26]

WHEREFORE, the decision of the Regional Trial Court of Echague, Isabela, Branch 24, finding accused-appellant Bobby Agunos guilty beyond reasonable doubt of the crime of rape committed against Maricris B. Reyes and thereby sentencing him to suffer the penalty of reclusion perpetua is AFFIRMED with the MODIFICATION that he is ordered to pay the complainant the sum of P50,000.00 as moral damages and the additional sum of P50,000.00 by way of indemnity. Costs against accused-appellant.

SO ORDERED.

Puno, and Pardo, JJ., concur.

Davide, Jr. C.J., (Chairman), and Kapunan, J., on official business abroad.

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[1] Record, p. 122; penned by Judge Henedino P. Eduarte.

[2] TSN, February 20, 1996, p. 15.

[3] TSN, February 15, 1996, p. 14

[4] TSN, February 15, 1996, pp. 15-16

[5] TSN, February 15, 1996, p. 40.

[6] TSN, September 24, 1996, p. 13.

[7] TSN, February 15, 1996, p. 21.

[8] TSN, February 15, 1996, p. 20.

[9] TSN, February 15, 1996, p. 40.

[10] Records, p. 1

[11] TSN, December 5, 1996, p. 17.

[12] TSN, December 5, 1996, p. 8.

[13] TSN, December 5, 1996, p. 10.

[14] TSN, November 12, 1996, pp. 15-17.

[15] People vs. Antipona, 274 SCRA 328 [1997]; People vs. Butron, 272 SCRA 353 [1997] People vs Gabris, 258 SCRA 663[1996]; People vs. Excija, 258 SCRA 424[1996].

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[16] People vs. Salazar, 258 SCRA 55[1996].

[17] TSN, February 15, 1996, p. 17, 21.

[18] TSN, February 15, 1996, p. 20.

[19] TSN, February 15, 1996, p. 9.

[20] TSN, February 15, 1996, p. 10.

[21] TSN, February 15, 1996, p. 15.

[22] TSN, December 5, 1995, pp. 16-17.

[23] People vs. Cordero, 263 SCRA 122[1996].

[24] People vs. Faigano, 254 SCRA 10[1996].

[25] People vs. Vargas, 257 SCRA 603[1996].

[26] People vs. Pili, 289 SCRA 118[1998].

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