PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MICHAEL FRAMIO SABAGALA, ACCUSED-APPELLANT.

G.R. No. 131040. October 05, 2001

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On appeal is the decision[1] dated October 1, 1996 of the Regional Trial Court, Toledo City, Branch 29, in Criminal Case No. TCS-1822, finding the accused-appellant Michael Framio Sabagala guilty of rape and sentencing him to suffer the penalty of reclusion perpetua and to indemnify the private complainant Annie P. Cosip,[2] in the amount of P30,000.00.

The facts of the case are as follows:

On June 2, 1992, an Information for rape was filed against Michael Framio Sabagala by Prosecutor Mamerta V. Paradiang, thus:

> The undersigned upon sworn complaint originally filed by the offended party, accuses MICHAEL FRAMIO SABAGALA, of the crime of Rape, committed as follows, to wit:
>
> That on or about the 14th day of February, 1992 at 6:00 o'clock in the afternoon, more or less, in Barangay Punod, Municipality of Pinamungahan,[3] Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused did then and there wilfully, unlawfully and feloniously and by means of force and intimidation, lie and succeeded in having carnal knowledge with Annie P. Cosip.
>
> CONTRARY TO LAW.[4]

On arraignment, the accused pleaded not guilty. Trial thereafter ensued.

The prosecution presented as witnesses Annie P. Cosip, Marcelino Boro,[5] Dr. Alfredo Soberano, and Dolores Cosip.

Private complainant Annie P. Cosip testified that she was 14 years old, single, student and a resident of Punod, Pinamungajan, Cebu.[6] On February 14, 1992, at around 5:30 p.m., while she was on her way home to Punod, she was accosted by appellant, a suitor whose suit she had refused because they were third degree cousins. Immediately after her refusal, he dragged her towards the banana plants. She shouted for help as appellant pushed her down. When she struggled to free herself, appellant boxed her.

Despite her resistance by means of fistic blows, kicks and bites, appellant was able to tear her dress and pull down her panty. Since he was physically stronger and because she was already tired, appellant succeeded in having sex with her. At around this time a certain Marcelino Boro came by and shouted at appellant who immediately stood up and walked away. Annie headed home. When she reached her house, she did not immediately tell her mother of her ordeal because she was threatened by appellant not to tell anyone. It was Marcelino Boro who informed her mother about the incident.

Accompanied by her mother, Annie reported the matter to the Barangay Captain on February 17, 1992, and the next day they went to Dr. Alfredo Soberano, the municipal health officer, who examined her.

On February 22, 1992, they went to the police station to file a complaint. She presented her torn skirt and panty that had already been washed. She learned that appellant had been telling his friends that he had his way with her. Annie denied appellant's claims. She denied meeting appellant on February 9, 1992, and other prior occasions. She said that the place of the incident was quite far from their house. She testified that she had no boyfriend and Angelito Boro,[7] said to be her boyfriend, was just a friend. Neither was it true, she said, that she and appellant have had an amorous relationship since May 3, 1991.[8] She denied attending a disco dance with appellant at the Pinamungajan fiesta. She also denied she had asked the chief of police's consent to visit appellant while the latter was in jail.

Marcelino Boro corroborated parts of Annie's story. He testified that in the afternoon of February 14, 1992, while he was grazing his carabao at around 6:00 p.m., he heard a woman's shout so he immediately proceeded to the place where the shout came from. He saw appellant and private complainant. When appellant saw him, the latter ran away. He approached complainant who was crying so he brought her home and informed her mother what had happened.

Dr. Alfredo Soberano, municipal health officer of Pinamungajan, Cebu, conducted the examination of private complainant on February 18, 1992, four days after the alleged incident. He testified that the hymen of private complainant was ruptured and the vaginal wall was inflamed. There were hematomas in the vaginal canal.

Dolores Cosip, mother of the complainant, testified that on February 14, past 6:00 in the evening, her daughter arrived with Marcelino Boro. She said Marcelino told her about the incident. He told her that her daughter was raped by Michael Sabagala.[9]

The defense, for its part, presented Hilaria[10] Sabagala, SPO4 Loreto Gines,[11] Orlando Sabagala, appellant Michael Sabagala, and Judge Esmeraldo Cantero.

Hilaria Sabagala, appellant's aunt, testified that she knew Annie. On February 8, 1992, she went to Annie's house to ask for some papers. When she arrived at their house, the door was open and she saw Annie at the sala necking with Angelito Boro. As she left, she saw Annie and her brother arguing and the latter struck the wall of their house.

SPO4 Loreto Gines was the Chief of Police of Pinamungajan at the time private complainant filed her case. He testified that he saw several persons visit appellant during his detention, among them Annie and her classmates. Annie asked for his permission to talk to appellant in his office and he acceded. After Annie and appellant had talked to each other, he instructed the guard to put appellant back in his cell.

Orlando Sabagala, appellant's younger brother, testified that on February 14, 1992, at around 6:00 p.m., he was walking home from the basketball court with Nestor Sabagala.[12] On the bridge of Punod, they met Marcelino on a carabao and the latter even greeted them. On their way home they met appellant together with Annie. Appellant told them to wait for him as he was just going to take Annie home.[13] Appellant returned after 15 minutes.[14] The following day, February 15, he saw appellant accompanying Annie to a dance being held at Punod.

Appellant Michael Sabagala testified that he was 21 years old, single, and a resident of Punod, Pinamungajan, Cebu.[15] He alleged that on February 14, 1992, at about 4:00 p.m., he was at Pinamungajan Provincial High School to pick up Annie because they had previously agreed that he would fetch her.[16] They made this agreement on February 9, 1992, at the basketball court. According to him, he and Annie were sweethearts. On

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February 14, they met at 5:00 p.m. because Annie had classes earlier that day. Later, they went home passing the public market and they got a ride up to Hagakhakan. They arrived at Hagakhakan at around 6:00 p.m. and from there they walked towards the house of Annie in Punod. They were supposed to go to a dance but found out that none would be held on that day. On the way to Annie's house, they met appellant's brother Orlando and some friends, namely Nestor Marcelo[17]and Artemio Tangaro at the bridge.[18] At around 7:00 p.m. he parted with Annie. On his way home, he met Marcelino Boro.[19] The following day, February 15, he met Annie at the dance.[20] Annie went home at 2:00 a.m. of February 16. He did not accompany her anymore as she was with Angel Boro and her older brother, Jojit Cosip.[21] He was arrested on February 24, 1992 and while detained, Annie visited him to ask for his forgiveness for filing the case. She allegedly explained to him that it was her mother who insisted on filing the case.[22]

Appellant denied raping Annie. He pointed out that on February 14, 1992, Annie was wearing a school uniform, a blue skirt and a white blouse.[23] He said that the blue skirt presented by the prosecution belonged to Annie's sister and was not the one Annie wore on February 14.[24] On cross-examination appellant stated that he and Annie were sweethearts. He did not know whether or not they were related by blood.[25] He stated that he did not visit her in the house because her parents were strict and her mother might get angry.[26] He admitted that he asked Annie to marry him although he was not the one who raped her. Annie's mother turned down his offer.[27]

Judge Esmeraldo Cantero testified that he is the presiding judge of the Municipal Circuit Trial Court of Toledo City.[28] He alleged that after the appellant had been arrested, he saw him conversing with private complainant behind the office of the Chief of Police.[29]

On rebuttal, the prosecution presented private complainant. She denied having any amorous relations with appellant and agreeing to meet him on February 14, 1992. She belied appellant's claim that she asked him for forgiveness, saying that she was only prevailed upon by Loreto Gines, the chief of police and appellant's uncle, to talk to appellant in his office.[30] She also stated that she did not want to marry appellant because he was a "savage".[31]

The defense presented appellant as sur-rebuttal witness. He testified that he and Annie became sweethearts on May 3, 1991. He also alleged that there was a letter written to him by complainant after the incident but this was confiscated by Barangay Captain Lauriano Bagahansol.[32]

On October 1, 1996, the trial court rendered the decision finding appellant guilty of rape. Its dispositive portion reads:

> WHEREFORE, in view of the foregoing consideration, this Court finds accused GUILTY beyond reasonable doubt of the crime of RAPE under Art. 335 and hereby sentence the accused to suffer the penalty of reclusion perpetua, and to indemnify the complainant the sum of P30,000.00. The bail bond of the accused is hereby ordered cancelled and the accused is immediately committed to CPDRC, Cebu City.
>
> SO ORDERED.[33]

Accused interposed seasonably this appeal, raising the following errors:

> - THE TRIAL COURT ERRED IN REACHING A CONCLUSION NOT BASED ON THE FACTS AND THE LAW;
>
> - THE TRIAL COURT ERRED [IN] SOLELY RELYING ON THE EVIDENCE FOR THE PROSECUTION AND NOT GIVING CREDENCE TO THE EVIDENCE FOR THE ACCUSED; AND
>
> - THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED OF THE CRIME CHARGED.[34]

Appellant contends that the testimonies of the prosecution witnesses were "improbabilities". According to him, Annie's allegation that she kicked appellant while she was lying down is unbelievable, for kicking while lying down is beyond human capability and experience.[35] Likewise improbable is Annie's assertion that appellant was able to continue his sexual advances although she shouted for help eight times. Appellant maintains that no one of sound mind would pursue his passionate advances if the would-be victim had the chance to summon help by shouting, especially in remote areas.[36] Appellant also questions complainant's allegation that she reported the incident because he kept on telling everybody that he had sexual intercourse with her. He insists that it is unlikely for him to readily admit committing a heinous crime and at the same time warn complainant not to tell anybody.[37]

Likewise, appellant asserts that he could not have committed the crime near the house of Marcelino Boro as the latter would most likely discover it.[38]

Appellant points out inconsistencies and contradictions in the testimonies of Annie Cosip and Marcelino Boro. These show that they are perjured witnesses, according to appellant. First, Annie testified that appellant tore off her dress and panty while she was already lying down after he pushed her.[39] However, she also testified that he had removed her skirt before he pushed her.[40] Second, Annie vehemently denied that her skirt was merely lifted up.[41] However, Marcelino specifically stated that he saw Annie's skirt merely lifted by appellant while he was raping her.[42] Third, Annie initially testified that she did not tell anyone of the crime and that she would have remained silent had she not learned that appellant had been spreading the story that he had his way with her.[43] Later however, she testified that she told her mother about the rape right after the incident, and she admitted that she lied in court about the time when she told her mother of the rape.[44]

For the State, the Office of the Solicitor General (OSG) paid little attention to the alleged inconsistencies and contradictions raised by appellant in his brief. Findings of the trial court with regard to the credibility of witnesses, according to the OSG, are generally not disturbed by appellate courts unless certain facts of substance and value have been overlooked which, if considered, might affect the result of the case.[45] The OSG likewise focused on the offer of marriage made by appellant to the victim which it claims is an admission of guilt.[46]

From the arguments raised by appellant and the OSG, it is clear that the sole issue to be resolved in this case is the credibility of the prosecution's witnesses.

It is an entrenched jurisprudential rule that when the issue is on the credibility of witnesses, appellate courts will generally not disturb the findings of the trial court[47] on the ground that it had the advantage of having observed closely the demeanor and conduct of the witnesses. Aside from this, we are also guided by the following principles in reviewing rape cases: (1) an accusation of rape can be made with facility, but it is difficult to prove and even more difficult to disprove; (2) considering that only two persons are usually involved in the crime, 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 cannot draw strength from the weakness of the evidence for the defense.[48] With these in mind and after thoroughly reviewing the records of this case, we entertain no doubt that appellant committed the crime charged.

Appellant assails Annie's testimony for being riddled with inconsistencies and contradictions. True, her testimony was not flawless as pointed out by appellant in his brief and as we discovered on our own reading of the records. For example, Annie testified that her dress was torn off after appellant pushed her.[49] However, she also claimed that appellant had already removed her skirt before she was pushed.[50] Also, Annie alleged that she would not have told anyone about the rape had appellant not spread the news that he was able to have his way with her.[51] But upon further questioning, she changed her statement and said that she immediately informed her mother about

the rape.[52] Also, when asked what day February 9, 1992 was, Annie confidently answered that it was a "Tuesday" and that she was in school on that date.[53] When confronted that said date was a "Sunday", Annie retracted her statement and stated that she could no longer recall said date.[54] Subsequently, Annie also testified that she met the appellant prior to February 14, 1992 in a seminar for the youth at Punod Primary School.[55] However, she again withdrew this statement and stated that the seminar was held after the alleged incident of rape,[56] not before. When she was again confronted to affirm her earlier statement that she had met appellant prior to February 14, she just meekly answered, "I cannot remember anymore."[57]

However, and this we have to emphasize, these inconsistencies pertain to inconsequential and trivial matters. They do not, in any way, relate to the gravamen of the crime, that is, the fact of carnal knowledge under 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.[58] Annie had consistently held during her testimony that appellant forced her to have sex with him and that he succeeded in doing so, notwithstanding the tremendous resistance she exerted to repel his undesired advances.

Rather than weaken her testimony, said inconsistencies tend to strengthen complainant's credibility as these prove that she was being spontaneous during her narration of the ordeal she suffered at the hands of appellant, an indication that she was not a rehearsed witness.[59] It is too much for us to expect a victim of a heinous crime, such as rape, to narrate her unfortunate experience free from any mistake or error.[60] A rape victim is not and cannot be expected to keep an accurate account of her traumatic experience.[61] A court cannot expect a rape victim to remember every ugly detail of the appalling outrage, especially so since she might in fact have been trying not to remember them.[62] Moreover, it must be remembered that the victim was only a 14-year old barrio lass, far from being a sophisticated woman who could be expected to weigh her every word with care so as to be free of inconsistency.

Even the alleged contradiction between Annie's testimony and that of Marcelino Boro, however, refers to an immaterial aspect of this case. Annie testified that appellant pulled down her skirt, it was not lifted up.[63] However, Marcelino specifically stated that Annie's skirt was merely raised up while appellant was doing the coital act.[64] What should be stressed here is that notwithstanding the above contradiction, Marcelino proved to be consistent throughout his testimony. He testified that he heard cries for help and when he went to the source of these shouts, he saw appellant, with his pants lowered down to his knees, having sexual intercourse with Annie.[65] He even categorically stated in court that, "he (appellant) sexually abused Annie."[66] The defense failed to present any valid reason for Marcelino to lie in court except for the flimsy and nonsensical insinuation that his son was the "boy friend" of Annie. This, to our mind, is not sufficient to compel Marcelino to perjure himself. Absent any showing of ill-motive on his part, his testimony deserves full faith and credit.

Between the positive and categorical testimony of a rape victim, duly corroborated by a disinterested witness on one hand, and the appellant's bare denial on the other, it is a time honored principle that the former generally prevails, especially if there is no sufficient motive on the part of the prosecution witnesses to falsely testify against appellant.[67]

Appellant offered to marry private complainant in his desperate attempt to free himself from any liability. In a number of cases, we have held that an offer of marriage is considered an admission of guilt by the accused.[68] If it were true that he did not commit the crime, there is no reason why appellant would go to the extent of offering to marry the woman who supposedly fabricated false charges against him. This is not in accord with ordinary human experience. He would have stood his ground and defended his innocence.

In sum, we find no error in the finding of guilt made by the trial court. However, we see the need to modify the

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award for damages to conform to current jurisprudence. The trial court awarded P30,000.00 to private complainant as civil indemnity. This is not enough. Recent jurisprudence pegs the amount of civil indemnity to be awarded for simple rape at P50,000.00.[69] Aside from this, an additional amount of P50,000.00 should be awarded as moral damages.[70] This is because it is recognized that the victim's injury is concomitant with and necessarily resulting from the odious crime of rape to warrant the award of moral damages.[71] Lastly, pursuant to prevailing jurisprudence, the offender should also pay to the victim P25,000.00 as exemplary damages.

WHEREFORE, the assailed decision of the Regional Trial Court of Toledo City, Branch 29, finding appellant Michael Framio Sabagala GUILTY of rape and sentencing him to suffer the penalty of reclusion perpetua is AFFIRMED with MODIFICATIONS. The award for civil indemnity is increased to P50,000.00 and an additional award for moral damages in the amount of P50,000.00 as well as P25,000.00 for exemplary damages is granted in favor of the offended party.

No pronouncement as to costs.

SO ORDERED.

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

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[1] Rollo, pp. 23-29.

[2] "Cosip" is sometimes spelled as "Cosep" in the records. "Annie" is also referred to as "Ana" in some parts of the records.

[3] Also spelled as "Pinamungajan" in the records.

[4] Rollo, p. 6.

[5] "Boro" is often spelled as "Buro" in the records. "Marcelino" was referred to as "Siloy" in Orlando Sabagala's testimony dated June 21, 1994.

[6] TSN, November 27, 1992, p. 2.

[7] Also referred to as "Angel Boro".

[8] TSN, December 2, 1992, p. 15. "May 31, 1991" in RTC decision.

[9] Records, pp. 488-490.

[10] Also spelled as "Helaria" in some parts of the records.

[11] Also referred to as "Honorito Gines" in some parts of the records.

[12] TSN, June 21, 1994, pp. 3-4.

[13] Id. at 4-6.

[14] Id. at 7.

[15] TSN, December 5, 1994, p. 2.

[16] Id. at 3.

[17] Referred to as "Nestor Sabagala" in Orlando's testimony, see TSN, June 21, 1994, p. 4.

[18] TSN, December 5, 1994, pp. 4-7.

[19] Id. at 8.

[20] TSN, December 6, 1994, pp. 3-4.

[21] Id. at 4.

[22] Id. at 5-6.

[23] Id. at 6.

[24] Id. at 7.

[25] TSN, February 10, 1995, p. 6.

[26] Id. at 5.

[27] Id. at 7-8.

[28] TSN, July 12, 1995, p. 2.

[29] Id. at 5.

[30] TSN, August 30, 1995, p. 3.

[31] Ibid.

[32] TSN, October 25, 1995, pp. 2-5.

[33] Rollo, p. 29.

[34] Id. at 48.

[35] Id. at 50.

[36] Id. at 50-51.

[37] Id. at 51.

[38] Id. at 51-52.

[39] TSN, November 27, 1992, p. 5.

[40] TSN, July 22, 1993, p. 6.

[41] Ibid.

[42] TSN, July 23, 1993, p. 13.

[43] TSN, November 27, 1992, pp. 8-9.

[44] TSN, July 22, 1993, pp. 8-9.

[45] Rollo, pp. 95-96.

[46] Id. at 98.

[47] Id. at 96.

[48] People vs. De Leon, G.R. No. 128436, 320 SCRA 495, 501 (1999).

[49] TSN, November 27, 1992, p. 5.

[50] TSN, July 22, 1993, p. 6.

[51] TSN, November 27, 1992, pp. 8-9.

[52] TSN, July 22, 1993, pp. 8-9.

[53] TSN, December 2, 1992, pp. 7-8.

[54] Id. at 9.

[55] Ibid.

[56] TSN, December 2, 1992, p. 10.

[57] Ibid

[58] People vs. Gianan, G.R. Nos. 135288-93, September 15, 2000, p. 17.

[59] People vs. De Guzman, G.R. No. 124368, 333 SCRA 269, 287 (2000), citing People vs. Abad, G.R. No. 114144, 268 SCRA 246, 255 (1997).

[60] See People vs. Nava, Jr., G.R. Nos. 130509-12, 333 SCRA 749, 760 (2000), citing People vs. Venerable, G.R. No. 110110, 290 SCRA 15, 25 (1998).

[61] People vs. Historillo, G.R. No. 130408, 333 SCRA 615, 622-623 (2000), citing People vs. Garcia, G.R. No. 120093, 281 SCRA 463, 477 (1997).

[62] Id. at 623, citing People vs. Butron, G.R. No. 112986, 272 SCRA 352, 362 (1997).

[63] TSN, July 22, 1993, p. 6.

[64] TSN, July 23, 1993, pp. 4, 13.

[65] Id. at 4.

[66] Ibid.

[67] People vs. Cambi, G.R. No. 127131, 333 SCRA 305, 318 (2000), citing People vs. Maglente, G.R. Nos. 124559-66, 306 SCRA 546 (1999); People vs. Cristobal, G.R. No. 116279, 252 SCRA 507, 516 (1996).

[68] People vs. Gerones, G.R. No. 91116, 193 SCRA 263, 269 (1991); People vs. Valdez, G.R. No. L-51034, 150 SCRA 405, 411 (1987); People vs. Aragona, G.R. No. L-43752, 138 SCRA 569, 577 (1985).

[69] People vs. Cambi, supra at 318, citing People vs. Poñado, G.R. No. 130334, 311 SCRA 529, 546 (1999); People vs. Mostrales, G.R. No. 125937, 294 SCRA 701, 712-713 (1998).

[70] Ibid.

[71] People vs. Cambi, supra at 318, citing People vs. Dizon, G.R. Nos. 126044-45, 309 SCRA 669, 691 (1999).

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