PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GUILLERMO CARIÑO, ACCUSED-APPELLANT.

G.R. No. 131203. August 02, 2001

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

In its decision promulgated on August 25, 1997,[1] the Regional Trial Court of Echague, Isabela, Branch 24, in Criminal Case No. Br 24-0483, found accused-appellant Guillermo Cariño guilty of rape as defined and penalized under Article 335 of the Revised Penal Code. Appellant was first sentenced to death, but this penalty was reduced to reclusion perpetua in an order of the court a quo dated September 10, 1997, after a post-promulgation review of its decision wherein it was noted that the rape happened in 1990 or before the effectivity of Republic Act No. 7659, which restored the death penalty for heinous crimes. The trial court then motu proprio amended the dispositive portion of the original decision by reducing the penalty to reclusion perpetua.[2]

The facts of the case are as follows:

On October 24, 1995, appellant was charged with rape, allegedly committed as follows:

> That on or about the month of January, 1990, in the 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, intimidation and lewd designs have (sic) carnal knowledge with one Mary Ann V. Cariño, against the latter's will and consent.
>
> CONTRARY TO LAW.[3]

On arraignment, appellant with assistance of counsel pleaded not guilty to the charge. Thereafter, trial on the merits ensued.

The prosecution's evidence consisted of the medical certificate Exh. "A" issued by Dr. Marites Dalmacio,[4] and the testimonies of private complainant Maryann Cariño, her aunts Virgielyn Juan and Siony Cariño, her father Tito Cariño.

The defense offered in evidence the lone testimony of the accused.

Records show that private complainant is appellant's granddaughter, the daughter of his son Tito. Her mother died a week after her birth on September 12, 1977.[5] Tito remarried thereafter, and had four children by his second wife.[6]

At the time of the alleged offense, in January 1990, Maryann was 13 years old and a Grade 3 pupil. With her stepbrothers, stepsisters and grandfather she lived with her father in San Vicente, Jones, Isabela. As the eldest child, she looked after her younger siblings since Tito and his second wife were usually at their kaingin in the forest of Cama, San Vicente. They returned home only on Sundays.

Tito's house in San Vicente was made of cogon and bamboo. Its floor was raised one (1) meter from the ground.

Near the house was a smaller hut, where appellant stayed. Tito had four (4) nearby neighbors, one of them his sister, Virgielyn Juan, whose house was only ten (10) meters away.

Sometime in January 1990, at around 11:00 P.M., while her parents were in Sitio Cama and while her siblings were asleep, appellant armed with a foot-long knife[7] entered the room where Maryann was sleeping. He woke her up and told her he was going to "use her" ("imbagana gamitin nac"),[8] threatening her that if she refused, he was going to kill her ("Okinnam, sige ket patayin ka").[9] Frightened, Maryann allowed him to do as he pleased.

Appellant went on top of the victim and after caressing her, he succeeded in inserting his stiff penis inside her vagina. He then stayed on top of her for almost an hour and after satisfying his lust dismounted her and left.[10]

That same night, the victim's aunt Virgielyn heard what sounded like Maryann weeping. Virgielyn woke up her sister-in-law, Siony, who was staying for the night. They went to Tito's house. Noiselessly, they crept beneath the floor and eavesdropped. They heard appellant telling Maryann to remove her panty ("Ikkatemon ta sapin mon.").[11] He threatened to kill her if she refused. They also heard a bolo being unsheathed.[12] Virgielyn and Siony, afraid, kept absolutely still. The victim pleaded with appellant to "remove it as it was painful" ("Araroy co, Lolo, ikkatemon ta nasaket.")[13] He replied "Why should I remove it when I am not yet through?" Appellant then flatly stated "If you are going to report it, I will kill you" ("No ipulong mo uray siasino patayen ca.")[14] Virgielyn and Siony then left. They did not reveal what they had overheard to anyone. Both were deathly afraid of appellant who had been previously jailed for having killed his brother and a nephew.[15]

From then on, appellant had his way with complainant, having sexual intercourse with her whenever he wanted.[16] Maryann did not resist or shout for help when she was sexually abused. She was terrified of her grandfather's death threats. Fearful for her life as well as those of her family members, she did not reveal her harrowing experience to anyone.[17]

In 1995, when Maryann could not endure her ordeal anymore, she told her father that appellant raped her.

On September 11, 1995, she filed a complaint for rape with the Municipal Circuit Trial Court of Jones-San Agustin, Isabela.[18] She underwent a medical examination. The examining physician found no lacerations in her hymen, but noted that she had a "ruptured hymen."[19] Finding probable cause to hold appellant for the rape charge, the municipal judge ordered his arrest and the filing of the proper information against him before the Regional Trial Court.

On March 10, 1997, after the prosecution had presented its evidence, appellant with leave of court filed a motion to dismiss on demurrer to evidence[20] on the ground that material inconsistencies and discrepancies in the testimonies of the prosecution witnesses raised reasonable doubt concerning appellant's probable guilt.

On March 24, 1997, the trial court denied appellant's motion and ordered the defense to present its evidence.

On the witness stand, appellant denied raping private complainant.[21] He professed ignorance why his own granddaughter would accuse him of such a crime. He claimed that he was seventy (70) years old and no longer capable of having an erection.[22]

After trial, the court rendered judgment as follows:

> WHEREFORE, finding the accused GUILLERMO CARIÑO GUILTY beyond reasonable doubt of RAPE with which he is charged with the use of deadly weapon attended with the aggravating circumstance of relationship, the Court hereby sentences him to suffer the penalty of RECLUSION PERPETUA and to indemnify the victim Maryann Cariño P100,000.00 moral damages without subsidiary imprisonment in case of insolvency.
>
> SO ORDERED.[23]

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Hence this appeal, with appellant assigning the following errors:

> I
>
> THE COURT A QUO ERRED IN GIVING CREDENCE TO THE INCREDIBLE AND INCONSISTENT TESTIMONY OF THE PRIVATE COMPLAINANT.
>
> II
>
> THE COURT A QUO ERRED IN GIVING CREDENCE TO THE INCONSISTENT AND UNBELIEVABLE TESTIMONIES OF THE WITNESSES FOR THE PROSECUTION.[24]

Both assigned errors involve the issue of credibility of witnesses and shall be jointly discussed.

At the outset, appellant asks us to note that even the trial court noted inconsistencies in private complainant's testimony, to wit:

> x x x
>
> To be sure, there are some contradictions in the testimony of Maryann. For instance, she declared that the first sexual intercourse with the accused was done inside the house, only to change it later and say that it was done inside the hut in front of the house. Then she said that the first sexual intercourse was done at night only to change it later on and say that it was done at daytime.[25]
>
> x x x

Appellant contends that it was error for the trial court to believe the victim's story despite these inconsistencies. He argues that mere passage of time is insufficient to account for such inconsistencies regarding time and place of the alleged rape because what she was being asked to recall was only the approximate time. Her inconsistencies put into serious doubt her credibility.

For the State, the Office of the Solicitor General admits that the victim indeed committed minor inconsistencies in narrating the details of where and when she was raped. However, according to the OSG, such lapses are understandable when a person is asked to recount details she considers too painful to recall.

In rape cases, we note that the only persons present during a rape are usually only the offender and the offended. While the lone testimony of the victim is sufficient to convict the accused, her testimony must be clear, positive, convincing, and consistent with human nature and the normal course of things.

In the present case, in our view, the perceived discrepancies in the testimony of Maryann concerning when and where she was raped do not destroy her credibility as complaining witness, much less vitiate the evidentiary value of said testimony. Inconsistencies of this nature can be expected of a young girl whose ravishment she is called upon to recall painfully. Rape victims hardly retain in their memories the dates, number of times, and manner of their ravishment. For this reason the exact time and date of the commission of the rape is not an essential element of the crime.[26] The victim in the present case only finished Grade 6.[27] But despite her educational limitations, her narration of her ordeal on the witness stand was straightforward, spontaneous and candid. Under rigid cross-examination, she was steadfast on her tragic tale of defilement. Lapses concerning the date, time, and place of the sexual assaults only tend to buttress, rather than weaken her credibility, since they show that she was neither coached nor were her answers contrived.[28] Besides, no motive has been attributed to her that would make her testify falsely against the accused.[29] Note that her alleged rapist was her own grandfather. A rape victim's testimony is entitled to great weight when she accuses a blood relative of having raped her.[30] Note finally that Maryann cried as she narrated her ravishment at her grandfather's hands.[31] The crying of the victim during her testimony is added hallmark of the credibility of the rape charge.[32]

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Appellant next assails Maryann's failure to report immediately the alleged rape and the successive acts of sexual abuse that allegedly followed. He claims her silence for some sixty (60) months is inconsistent with the natural reaction of an outraged victim. Her long silence creates room for doubt on the veracity of her story, according to him.

The OSG, however, points out that Maryann's silence is not unusual among young victims of rape, considering that she was overwhelmed by fear. Young girls like Maryann often conceal the assaults on their virtue, out of shame, humiliation and social ostracism but their initial reluctance in reporting their rape is neither unknown nor uncommon.[33] Their vacillation in filing charges does not undermine their credibility if the delay can be satisfactorily explained.[34]

Moreover, Maryann was not unaware that her ravisher had been jailed for killing blood relatives. She had reason to fear and not to ignore his mortal threats. Delay in reporting a rape in the face of threats of death or physical violence should not be taken against the victim.[35]

Appellant also faults the testimonies of the prosecution's corroborative witnesses as highly incredulous and unworthy of belief. He insists it is contrary to human experience that Virgielyn and Siony did not rush to the victim's aid nor report the incident to the police when they heard her being raped. Their testimonies then are suspect as fabrications, according to him.

The OSG points out, however, that nowhere was it shown that the victim's father and two aunts were motivated by improper motives enough to falsely accuse their own kin of a crime so serious and despicable. They were only motivated by their sense of justice for a wronged kin.

We find Virgielyn and Siony's testimonies credible. It is not rare for witnesses to delay reporting a crime and the delay, if adequately explained, does not destroy their credibility.[36] We are convinced Virgielyn and Siony were indeed held back in terror because of appellant's violent reputation. They could not ignore the possibility of reprisals should they aid the victim.[37] Even the victim's father admitted in open court his fear of appellant, as the latter was capable of carrying out any threat he might make.[38] Death threats and fear of reprisals are adequate reasons why witnesses are reluctant to get involved in criminal cases.[39]

Noteworthy, corroborative testimonies of witnesses in this case are mere icing on the cake. The peculiar nature of rape is that conviction or acquittal depends almost entirely upon private complainant's word.[40] Her accusations are supported by her credible, pertinent, and material testimony.

The gravamen of rape is carnal knowledge of a woman against her will or without her consent.[41] Appellant failed to rebut private complainant's categorical testimony that he was able to ravish her by holding a bladed weapon, with threats to kill her. The act of holding a knife by itself is strongly suggestive of force and threatening the victim with a knife is sufficient to bring a woman, much more a young and naïve barrio lass, to submission.[42] Against Maryann's positive declaration, all he can offer is mere self-serving denial. Denial is an inherently weak defense, which cannot prevail over the positive testimony of private complainant.[43] Hence, his appeal must fail for sheer want of merit.

Appellant is the grandfather of the victim. Under the Revised Penal Code, the alternative circumstance of relationship is considered "when the offended party is the spouse, ascendant, descendant, legitimate, natural, or adopted brother or sister, or relative by affinity in the same degrees of the offender."[44] The relationship between appellant and private complainant is especially aggravating circumstance in this case.

Some modifications in the monetary awards are in order. The trial court did not award any civil indemnity which current jurisprudence has fixed at P50,000.00.[45] Accordingly, appellant is further sentenced to indemnify

private complainant in the amount of P50,000.00 for the rape he committed against her. We however reduce the moral damages of P100,000.00 to P50,000.00, conformably with prevailing jurisprudence. The alternative circumstance of relationship having aggravated the offense, the award of P25,000.00 as exemplary damages is in order.[46]

WHEREFORE, the decision of the Regional Trial Court finding GUILLERMO CARIÑO guilty beyond reasonable doubt of rape and sentencing him to reclusion perpetua is AFFIRMED, with the MODIFICATION that he is also sentenced to pay complainant Maryann Cariño the amount of P50,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages. Costs against appellant.

SO ORDERED.

Bellosillo, (Acting Chief Justice), (Chairman), Mendoza, (Acting Chairman), and De Leon, Jr., JJ., concur.
Buena., J., (on official leave).

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[1] Rollo, pp. 12-17.

[2] Id. at 18-19.

[3] Records, p. 1.

[4] Id. at 3.

[5] Id. at 4. See also Exh. "1" and "1-a".

[6] TSN, October 24, 1996, pp. 6-7.

[7] Id. at 11.

[8] Id. at 9.

[9] Id. at 10; TSN, January 7, 1997, p. 3.

[10] TSN, January 7, 1997, pp. 4-8.

[11] [TSN, January 23, 1997, pp. 17-19; TSN, February 4, 1997, pp. 5-7.]

[12] Id. at 20, 24-25; Id. at 9.

[13] Id. at 20; Id. at 7.

[14] Ibid.

[15] Id. at 21-23; TSN, February 4, 1997, p. 9.

[16] TSN, January 7, 1997, p. 7.

[17] Id. at 13.

[18] Records, p. 2.

[19] Id. at 3.

[20] Id. at 89-101.

[21] TSN, June 25, 1997, pp. 4-5.

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Id. at 5.[22]

[23] Rollo, pp. 18-19.

[24] Id. at 41.

[25] Id. at 16.

[26] People v. Alvero, 329 SCRA 737, 747 (2000), citing People v. Bernaldez, 294 SCRA 317, 327 (1998).

[27] TSN, January 7, 1997, p. 11.

[28] People v. Sancha, 324 SCRA 646, 654 (2000), citing People v. Calayca, 301 SCRA 192, 200 (1999).

[29] People v. Ramos, 330 SCRA 453, 458 (2000), citing People v. Escala, 292 SCRA 48, 59 (1998).

[30] People v. Razonable, 330 SCRA 562, 574 (2000), citing People v. Sevilla, 320 SCRA 107, 120 (1999).

[31] TSN, October 24, 1996, p. 10; TSN, January 7, 1997, p. 5.

[32] People v. Bea, Jr., 306 SCRA 653, 659 (1999), citing People v. Gecomo, 254 SCRA 82, 96 (1996).

[33] People v. Cabana, 331 SCRA 569, 581 (2000), citing People v. Montefalcon, 243 SCRA 617, 624 (1995).

[34] People v. Mitra, 328 SCRA 774, 789 (2000).

[35] People v. Cabingas, et al., 329 SCRA 21, 30 (2000), citing People v. Melivo, 253 SCRA 347, 356 (1996).

[36] People v. Padao, 267 SCRA 64, 76 (1997).

[37] TSN, January 23, 1997, pp. 22-23; TSN, February 4, 1997, pp. 9, 13-14.

[38] TSN, February 6, 1997, pp. 5-6, 10.

[39] People v. Leoterio, 264 SCRA 608, 615 (1996); People v. Castillo, 261 SCRA 493, 500-501 (1996).

[40] People v. Baltazar, 329 SCRA 378, 386 (2000), citing People v. Alitagtag, 309 SCRA 325, 335 (1999).

[41] People v. Reyes, 315 SCRA 563, 577 (1999), citing People v. Igat, 291 SCRA 100, 107-108 (1998).

[42] People v. Reynaldo, 291 SCRA 701, 713-714 (1998).

[43] People v. Fraga, 330 SCRA 669, 688 (2000).

[44] Rev. Penal Code, Art. 15.

[45] People v. Sabredo, 331 SCRA 663, 672 (2000).

[46] Civil Code, Art. 2230.

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