

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAIME ABLANEDA @ JOEY CAPISTRANO Y DE MESA, ACCUSED-APPELLANT.*G.R. No. 131914. April 30, 2001*

Ponente: YNARES-SANTIAGO, J.

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On February 18, 1993, at around 7:00 o'clock in the morning, six-year old Magdalena Salas, a Grade I pupil at the Baldovino Elementary School, Camambugan, Daet, Camarines Norte, was walking to school. Along the way, accused-appellant Jaime Ablaneda, also known as Joey Capistrano, approached her and asked if he could share her umbrella, since it was raining. Suddenly, accused-appellant boarded a trimobile with Magdalena and brought her to a small hut. While inside, accused-appellant removed his underwear and the child's panties. He applied cooking oil, which he had bought earlier, on his organ and on Magdalena's. Then, he proceeded to have sexual intercourse with the little girl. Magdalena felt pain but was too terrified to speak or cry out. After satisfying his lust, accused-appellant ordered Magdalena to go home.

When Magdalena arrived at their house, Ailene Villaflores, her uncle's sister-in-law, noticed that she looked pale and weak, and found traces of blood on her dress. Ailene asked her what happened, but Magdalena merely said that her classmate had pushed her. Ailene did not believe this, so she brought her to a quack doctor. The latter told her that Magdalena had been raped. Ailene then brought Magdalena to the Daet Police Station and, later, to the Camarines Norte Provincial Hospital to have her medically examined. When Ailene saw Magdalena's bloodied panties, she again asked her what happened. This time, Magdalena confessed that she was raped by a man who had a scar on the stomach.

Dr. Nilda Baylon, the Medico-Legal Officer who examined Magdalena, found that the latter's hymen was completely lacerated, thus confirming that she had indeed been raped.[1]

Sometime thereafter, Magdalena and Ailene were summoned by the police because a man had been apprehended. At the precinct, Magdalena positively identified accused-appellant as her rapist.

Consequently, accused-appellant was charged before the Regional Trial Court of Daet, Camarines Norte, with the complex crime of Forcible Abduction with Rape, in an information which reads:

That on or about 7:00 o'clock in the morning of February 18, 1993 at Barangay Camambugan, Municipality of Daet, province of Camarines Norte and within the jurisdiction of this Honorable Court, the above-named accused with lewd design did then and there willfully, unlawfully and feloniously, abduct one Magdalena Salas, a minor, 7 years old (sic) by bringing her to a small hut in a grassy place and while thereat, said accused, unlawfully, feloniously, and criminally, did then and there have carnal knowledge of said Magdalena Salas against her will to her damage and prejudice.

CONTRARY TO LAW.[2]

At his arraignment, accused-appellant pleaded not guilty. After trial, the lower court rendered judgment on June

30, 1997, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered finding the accused GUILTY beyond reasonable doubt of the complex crime of forcible abduction with rape as defined and penalized by Art. 342 of the Revised Penal Code in conjunction with Art. 335 (S.3) of the Revised Penal Code and Art. 48 of the Revised Penal Code. Accordingly, he is hereby sentenced to suffer the penalty of reclusion perpetua, all accessory penalties of the law and as and by way of damages to pay the amount of Fifty Thousand Pesos (P50,000.00) to the victim and to pay the cost.[3]

Hence this appeal, where the sole issue raised is whether there was sufficient evidence to sustain his conviction.

In criminal cases, the quantum of evidence required is proof beyond reasonable doubt and not merely sufficient evidence. Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required,[4] or that degree of proof which produces conviction in an unprejudiced mind.[5] This evidentiary requirement has been duly established by the prosecution in this case.

The elements of the crime of forcible abduction, as defined in Article 342 of the Revised Penal Code, are: (1) that the person abducted is any woman, regardless of her age, civil status, or reputation; (2) that she is taken against her will; and (3) that the abduction is with lewd designs. On the other hand, rape is committed by having carnal knowledge of a woman by force or intimidation, or when the woman is deprived of reason or is unconscious, or when she is under twelve years of age.[6]

All these elements were proven in this case. The victim, who is a woman, was taken against her will, as shown by the fact that she was intentionally directed by accused-appellant to a vacant hut. At her tender age, Magdalena could not be expected to physically resist considering that the lewd designs of accused-appellant could not have been apparent to her at that time. Physical resistance need not be demonstrated to show that the taking was against her will. The employment of deception suffices to constitute the forcible taking, especially since the victim is an unsuspecting young girl. Considering that it was raining, going to the hut was not unusual to Magdalena, as probably the purpose was to seek shelter. Barrio girls are particularly prone to deception. It is the taking advantage of their innocence that makes them easy culprits of deceiving minds. Finally, the evidence shows that the taking of the young victim against her will was effected in furtherance of lewd and unchaste designs.[7] Such lewd designs in forcible abduction is established by the actual rape of the victim.[8]

In the case at bar, Magdalena testified in open court that accused-appellant inserted his penis into her private parts. The fact of sexual intercourse is corroborated by the medical findings wherein it was found that the victim suffered from complete hymenal laceration. Whether or not she consented to the sexual contact is immaterial considering that at the time thereof, she was below twelve years of age. Sex with a girl below twelve years, regardless of whether she consented thereto or not, constitutes statutory rape.

Accused-appellant contends that it was Ailene who inserted her finger into the victim's vagina to prove that the young girl was already qualified to be sold. This was allegedly the reason why there was blood in her dress. Accused-appellant likewise alleges that since the girl was found not qualified to be brought to Manila by a certain Maning Cabela, the latter ordered accused-appellant to kill her, but instead of killing the child, he let her go.

However, the trial court correctly rejected the theory of the defense and upheld the prosecution's evidence regarding Ailene's actuation after the incident. More specifically, it was established that Ailene's curiosity was aroused when she saw bloodstains on the front and back portions of Magdalena's dress. This prompted her to seek professional advice, albeit from a quack doctor. After being informed that Magdalena had been raped, Ailene immediately brought her to the police station, where the incident was reported, and then to the Camarines Norte

Provincial Hospital, to submit Magdalena to a medical examination. Similarly, this Court finds the foregoing to be more consistent with ordinary human behavior.

The trial court likewise noted that when Ailene Villaflores and Magdalene went to the police station to report this incident, Ailene did not describe accused-appellant. Thus, Ailene could not have known him at that time, contrary to the claim of the defense. More importantly, the trial court ruled that if Aileen had indeed stuck her finger into Magdalena's private part, Magdalena could have told the policeman about it, rather than report that she was raped by accused-appellant whose name she did not know then. Magdalena could have also informed the quack doctor or the Medico- Legal Officer about this to explain the complete laceration on her hymen. But even then, the medico- legal findings would not support the theory that the complete laceration of the victim's hymen was caused by the mere insertion of a finger. Rather, the said findings lead to the conclusion that the laceration was caused by the full penetration of a male organ.[9]

In the ultimate analysis, the findings of facts of the trial court, when supported by evidence on record, are binding on this Court. No significant facts or circumstances were shown to have been overlooked or disregarded which, if considered, might substantially affect the outcome of this case. Consequently, the trial court's conclusions and assessments on the credibility of witness must be accorded respect on appeal.[10]

The imposition of the penalty of reclusion perpetua, for the crime of forcible abduction with rape committed in 1993, was correct. No qualifying or aggravating circumstance was proven in this case and there was none alleged in the information.

However, the trial court erred in failing to award civil indemnity to the victim. Whenever the crime of rape is committed, a civil indemnity is awarded to the victim without necessity of proof or pleading, and the same is automatically granted together with moral damages, generally in the amount of P50,000.00 each. In this connection, the prayer of the Solicitor General that the civil indemnity be increased to P75,000.00 cannot be granted, the same being contrary to jurisprudence. [11] In cases where the death penalty cannot be imposed, the civil indemnity is reduced from P75,000.00 to P50,000.00.[12]

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Daet, Camarines Norte, Branch 40, in Criminal Case No. 7763, finding accused-appellant Jaime Ablaneda @ Joey Capistrano y de Mesa guilty beyond reasonable doubt of the complex crime of Forcible Abduction with Rape, and sentencing him to suffer the penalty of reclusion perpetua , is **AFFIRMED** with the **MODIFICATION** that accused-appellant is ordered to pay to the victim civil indemnity in the amount of P50,000.00 in addition to moral damages in the amount of P50,000.00.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

[1] Exhibit "B".

[2] Rollo, p. 7.

[3] Penned by Judge Gregorio E. Manio, Jr.; Rollo, p. 23.

[4] *People v. Santiago*, 319 SCRA 644 [1999].

[5] Rules of Court, Rule 133, Section 2.

[6] *People v. de Lara*, G.R. No. 124703, June 27, 2000.

[7] People v. Crisostomo, 46 Phil. 775 (1924).

[8] People v. Aczon, 225 SCRA 237 (1993); People v. Bacalso, 210 SCRA 206 (1992).

[9] Rollo, pp. 22-23.

[10] People v. Suba, 319 SCRA 374 (1999); People v. Nablo, 319 SCRA 784 (1999).

[11] People v. Penis, G.R. No. 127903, July 9, 1998.

[12] People v. Mangompit, G.R. Nos. 139962-66, March 7, 2001; People v. Canonigo, G.R. No. 133649, August 4, 2000.

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