PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ISAGANI BAYENG AND NOEL IBENG, ACCUSED-APPELLANTS.

G.R. No. 132064. September 07, 2001

Ponente: PUNO, J.

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PUNO, J.:

The common notion is that, in all cases, the initial sexual congress of a woman results in the rupture of her hymen. The case at bar illustrates that this concept is a myth.

Accused ISAGANI BAYENG and NOEL IBENG were charged with two counts of rape before the Regional Trial Court of Balaoan, La Union. They now appeal the decision finding them guilty and sentencing them to suffer reclusion perpetua and to solidarily pay the rape victim the amount of two hundred thousand pesos (P200,000.00).

The Information[1] against them reads:

> "That on or about the 27[th] day of November 1992, at Barangay Porporiket, Municipality of Sudipen, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with Reoves Ducao y Jamandre, a virgin of over twelve (12) but under eighteen years of age, against her will thereby causing greatest pain to her, to the damage and prejudice of said offended party.
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> "CONTRARY TO LAW."

The prosecution's case was based mainly on the testimony of fifteen (15) year old barrio lass REOVES DUCAO. Reoves grew up in the mountainous area of Sitio Lacong, Up-uplas, Sudipen, La Union. In 1992, she was a second year high school student at Balbalayang National High School in Sugpon, Ilocos Sur. She stayed in the boarding house of Ofelia Sibayan in Sugpon during schooldays.

Accused ISAGANI BAYENG and NOEL IBENG were no strangers to Reoves. She has known them since childhood. They were her barriomates. Reoves' house in La Union and that of accused Bayeng are just a kilometer apart, while accused Ibeng's house is only about fifty (50) meters away. Accused Ibeng is also a distant relative of Reoves, while accused Bayeng is her schoolmate and uncle.[2]

On November 27, 1992, a Friday, at about 3:00 p.m., Reoves left her boarding house in Sugpon and proceeded on her three-kilometer trek back to her family's house in Sudipen, Ilocos Sur. After crossing the Amburayan River[3] in Sitio Palapac, Porporiket, Sudipen, La Union, and while walking on the pathway, Reoves saw the two (2) accused a few meters in front of her, seated on a stony place. As she walked past them, accused Bayeng suddenly grabbed her hands from behind and covered her mouth. She struggled in vain. Without wasting time, accused Ibeng pulled off her skirt. Reoves tried to kick him but missed. Her failed attempt angered accused Ibeng. He retaliated by striking her on the stomach with his knee. Reoves slumped on the ground. Accused Bayeng forcefully laid her on the ground, pinned her hands over her head and covered her mouth with his other hand.

Accused Ibeng then pulled down her panty, lowered his pants and rammed his organ into hers. Reoves felt intense pain. All the while, Reoves struggled to free herself but her strength was no match to that of the accused. After Ibeng had his fill, he switched places with Bayeng. Reoves weakly resisted Bayeng's lecherous attack as she was still reeling from the stomach pain caused by Ibeng's knee attack. Eventually, Bayeng also succeeded in ravishing Reoves. Again, Reoves felt pain in her organ. The hapless girl could not shout for help as the accused took turns in covering her mouth.[4]

After the accused satisfied their bestial desires, they warned Reoves to keep the incident to herself or they will kill her and her family. An hour after they left, Reoves regained her strength and some degree of composure. She put on her underwear and skirt and proceeded on her way home. She felt so helpless and angry that she threw away her stained underwear when she got home. She did not tell a soul about her ordeal for fear that the accused would make good their threat. She had no inkling there was more to come.[5]

On February 26, 1993, a Friday, the two (2) accused, together with one Mario Catcatan, tried to accost Reoves again in Calipayan, Sugpon, while she was walking on her way home. The three men blocked her path. They were about to get closer to her when they saw the approaching jeepney of her uncle Nonoy Generosa. The three men scampered and immediately disappeared from sight. Reoves hurriedly boarded the jeepney. When she reached Up-Uplas, Sudipen, Reoves could no longer hold back her anguish. She revealed to her aunts Dolores Ducao and Ofelia Sibayan how she was ravaged by the two accused in November 1992 and their attempt to accost her again that day.[6]

Ofelia reported the crime to the Sugpon police authorities. They advised her to submit Reoves to a medical examination. Reoves proceeded to the Southern Ilocos Sur District Hospital where she was examined by Dr. Eugene Dauz. Upon ocular examination, Dr. Dauz declared that Reoves' hymen was still intact. In view of the negative findings of Dr. Dauz, the police authorities in Sugpon did not act on Reoves' complaint for rape, claiming there was insufficient evidence to prosecute the accused.

Totally unbelieving of the medical findings, Reoves and her family sought a second opinion. An examination was thus conducted by Asst. Medical Director Dr. Beatriz Dela Cruz of the Lorma Hospital. Dr. Dela Cruz found that Reoves' organ easily admitted two fingers and she felt no pain. She also found evidence of a healed laceration on the posterior part of Reoves' genitalia. Dr. Dela Cruz concluded that Reoves was no longer a virgin[7]

Accused set up the defense of denial and alibi. Both claimed they were in another place at the time of the commission of the rape.

Accused IBENG recalled that on November 27, 1992, at about 12:00 noon, his neighbor, Sansio Cuyapen, came over his house and asked his help to bring down sacks of palay from Mt. Rabao. He acceded. They asked another neighbor, Inocensio Tubedan, to join them. At about 1:00 p.m., the three left for Mt. Rabao. They each carried a sack of palay back to Sansio's house.

At about 3:00 p.m., Ernesto Cuyapen, father of Sansio, directed Ibeng to cook chicken for their pulutan. He did as he was told. The four of them then had drinks of native wine (basi). It was already 6:00 p.m. when Ibeng left the Cuyapens'.[8] Ibeng's alibi was corroborated by Ernesto.[9]

Accused Ibeng claimed that before the filing of the rape case, the Ibengs had a close, harmonious relationship with Reoves' family. Allegedly, after the alleged rape in November, 1992, Reoves still joined him and his friends in going around various houses to sing Christmas carols in December that year. Reoves even talked to him about four (4) times that December when they saw each other in the basketball court.[10]

Accused BAYENG proferred another alibi. On November 27, 1992, at about 2:00 p.m., he was in the house of

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Michael Pang-lao in barangay Duplas, Sudipen, La Union.[11] Rodolfo, Michael's father, won in the jueteng (illegal numbers game) and to celebrate, he directed Bayeng and his friends to look for a dog to butcher. At 5:00 p.m., after cooking the dog, they started their drinking session. At 10:00 p.m., Bayeng turned in for the night. He slept with Michael in the latter's room. He returned to his house the following day.[12]

Bayeng admitted his relation to Reoves. The paternal grandmother of Reoves is the first cousin of Bayeng's father. Before the filing of the rape case against him, there was no bad blood between the Ducao and Bayeng families. He claimed that he used to go to the same school with Reoves. He used to walk with Reoves to school from December 1-16, 1992, after the alleged rape in November of that year.[13] Bayeng theorized that the rape charge against him was a mere fabrication to destroy the political carreer of his father who was holding a position in the Sangguniang Bayan in 1992. Reoves' father was then a councilman in their barangay.[14]

After trial on the merits, the court a quo found that the two accused, acting in concert, sexually abused Reoves. They were found guilty of two (2) counts of rape, thus:[15]

> "WHEREFORE, in the light of the foregoing, the Court hereby renders judgment declaring the accused ISAGANI BAYENG and NOEL IBENG guilty beyond reasonable doubt of the crime of RAPE as defined and penalized in Article 335 of the Revised Penal Code. Considering the existence of conspiracy, where the act of one is the act of all, the Court thereby sentences EACH of the accused to RECLUSION PERPETUA for two (2) counts and to pay private complainant Reoves Ducao P200,000.00 jointly and severally as civil indemnity and costs."
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> "SO ORDERED."

In their appeal, the appellants raise the following assigned errors:

> I
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> "THE HONORABLE TRIAL COURT ERRED BY FAILING TO CONSIDER THE HIDDEN AGENDA OF PRIVATE COMPLAINANT, REOVES DUCAO, IN HER SUSPICIOUS SHIFT OF VENUE OF HER COMPLAINT WHICH WAS ACTUALLY AT SITIO SIMERON, CALIPAYAN, SUGPON, ILOCOS SUR, TO SITIO PALAKAPAK, PORPORIKET, LA UNION, HER HOMETOWN, WHICH WAS TANTAMOUNT TO FORUM SHOPPING, SO TO SPEAK, EITHER PROBABLY TO GENERATE HOMETOWN SYMPATHY OR TO AFFORD COMPLAINANT AND HER SUPPORTERS AN OPPORTUNITY TO MANIPULATE EVIDENCE.
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> II
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> THE HONORABLE TRIAL COURT ERRED BY FAILING TO CONSIDER AND APPRECIATE IN APPELLANTS' CAUSE AND FAVOR THE IMPACT OF THE MEDICAL CERTIFICATE (EXH. "4") ISSUED BY THE SOUTHERN ILOCOS SUR DISTRICT HOSPITAL AT TAGUDIN, ILOCOS SUR, AND IGNORING ALTOGETHER THE TESTIMONIES OF DR. EUGENE DAUZ AND DR. MARIA ANGELITA SANTOS WHO BOTH ISSUED SAID EXH. "4" WITH THEIR NEGATIVE FINDINGS PERFORMED ON MARCH 10, 1993.
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> III
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> THE HONORABLE TRIAL COURT ERRED IN ACCEPTING THE TESTIMONY OF THE PRIVATE COMPLAINANT AS GOSPEL TRUTH IN THE LIGHT OF PATENT IMPROBABILITIES, MATERIAL INCONSISTENCIES AND UNEXPLAINED DISCREPANCIES IN DIFFERENT VERSIONS GIVEN BY HER ON DISTINCT OCCASIONS.
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> IV

THE HONORABLE COURT ERRED IN CONVICTING THE APPELLANTS SEEMINGLY ON THE WEAKNESS OF THEIR DEFENSE, RATHER THAN ON THE STRENGTH OF THE EVIDENCE FOR THE PROSECUTION.

V

THE HONORABLE TRIAL COURT ERRED IN NOT ACQUITTING APPELLANTS ON THE BASIS OF THE ERRORS SPECIFIED AND POINTED OUT FROM THE FOUR PRECEDING ASSIGNMENT OF ERRORS.

VI

THE DECISION IS NOT IN ACCORDANCE WITH THE EVIDENCE PRESENTED AND THEREFORE IS CONTRARY TO LAW AND JURISPRUDENCE.

We affirm the conviction.

As is usual in rape cases, the appellants in the case at bar charge that the trial court erred in giving credit to the testimony of the rape victim. Essentially, they contend that the prosecution evidence failed to establish the following: the date of the commission of the crime, the locus criminis and the physical evidence in the rape case.

First, the date when the crime was committed: The appellants point out that Mrs. Ofelia Sibayan reported to the police authorities in Sugpon, Ilocos Sur, that Reoves was raped by the appellants on February 26, 1993, not November 27, 1992 as alleged in the Information. They contend that the shift of venue from Sugpon to Sudipen where Reoves resided was calculated to generate hometown sympathy and enable the prosecution to manipulate the evidence. Second, as to the the locus criminis, appellants contend that the trial court erred in not dismissing the case for lack of jurisdiction as the rape was committed, not in Sitio Palakapak, Porporiket, Sudipen, La Union, but in Sugpon, Ilocos Sur, as recounted by Reoves before the police investigators.

These contentions deserve scant consideration. Ofelia Sibayan testified that her niece Reoves revealed to her that she was sexually abused by the appellants on November 27, 1992. Reoves herself categorically and consistently affirmed this fact -- during the investigation conducted by the Sugpon police authorities, during the preliminary investigation by the municipal trial judge and throughout the course of the trial. Mario Catcatan got involved only on February 26, 1993 when he was with the appellants when they attempted to rape Reoves again. Catcatan was not included as accused in the case at bar as it dealt only with the consummated rape committed by the appellants in November, 1992. As to the locus criminis, Ofelia Sibayan and Reoves both testified that it was Ofelia who first reported the sexual assault on her niece to the police authorities of Sugpon, Ilocos Sur. Acting on the report, two police officers from Sugpon went to Reoves' house to question her. Reoves personally narrated to them her ordeal, i.e., that she was raped by the appellants on November 27, 1992 in Sudipen, La Union, and on February 26, 1993, the appellants, together with Catcatan, tried to rape her again in 1993 in Sugpon, Ilocos Sur. Reoves even assisted the Sugpon police officers in their investigation by accompanying them to Sugpon and Sudipen where the two rape incidents transpired as these were only two kilometers apart and separated only by the Amburayan River. Reoves clarified that she filed her complaint for rape in La Union as it was in Sudipen where the assault on her virtue was consummated. The trial court correctly ignored the alleged contrary statement[16] given by Reoves before the Sugpon police officers that she was raped in Sugpon. Patent on the face of said affidavit was an erasure, interestingly, on the portion stating the place where the rape was committed. No counter signature appears on said portion. We thus find that the appellants failed to substantiate their claim that the transfer in the venue of the case to Sudipen was intended to generate hometown sympathy and manipulate the evidence. Their allegation is purely speculative. There was no specific instance cited when the defense was denied access to any document, record or witness they needed during the trial of the case in La Union. As to the jurisdiction of the trial

court, the elementary rule is that jurisdiction in criminal cases is determined by the allegations in the Information. The Information in the case at bar clearly placed the locus criminis in Sugpon, La Union. Thus, based on the prosecution evidence, the Court is sufficiently convinced that the rape for which the appellants now stand accused was proved to have been consummated on November 27, 1992, in Sudipen, La Union.

Third, the physical evidence: While Dr. Eugene Dauz of the Southern Ilocos Sur District Hospital found that Reoves' hymen was intact, Dr. Beatriz de la Cruz of the Lorma Medical Center certified that Reoves was no longer a virgin. In view of these conflicting medical findings, the appellants submit that the fact of rape was not established by the prosecution.

We disagree. The conflicting medical findings as to the condition of Reoves' hymen is more apparent than real. The records show that the two physicians used different methods in examining Reoves. Dr. Dauz examined Reoves' hymen by merely looking at her genitalia, while Dr. de la Cruz conducted the gynecological examination by inserting her two fingers in Reoves' organ. As her fingers were easily admitted and Reoves felt no pain, Dr. de la Cruz concluded that Reoves was no longer a virgin.

It is established that an unruptured hymen does not equate with virginity or with a woman's utter lack of experience in sexual intercourse. The fact that the victim's hymen is still intact or the absence of laceration on her genitalia does not negate the commission of the rape.[17] Even defense witness Dr. Santos, the assistant of Dr. Dauz, agreed with this theorem.[18] In the 1999 case of People vs. Aguinaldo[19] the Court held that the strength and dilability of the hymen varies. It may be so elastic and resistant as to stretch during intercourse without laceration. Even the conception of a woman may not always imply penetration of her hymen. In fact, cases of pregnancies in women had been reported with their hymen still intact. In light of these premises, Dr. Dauz' medical findings that Reoves' hymen was still intact does not per se disprove the commission of the sexual assault against her by the appellants. We reiterate that what is essential in the prosecution for rape is the clear and credible testimony of the victim as to the commission of the crime. It is to be given more weight than the debatable condition of the victim's hymen.[20]

We find no reason to depart from these principles in the case at bar. Reoves positively identified the appellants as the malefactors. There was no room for mistake in her identification. She was sexually assaulted in broad daylight by the appellants with whom she practically grew up in the same barangay. The trial court was impressed with Reoves' straightforward way of recounting her tragic ordeal during the arduous trial.[21] Her testimony was unshaken by the rigorous cross-examination of the defense counsel. She categorically declared that the appellants, through the use of force, inserted their penis into her vagina that caused her intense pain. Not once did she falter as she demonstrated in court how the appellants succeeded in having sexual congress with her against her will.[22] Unable to control her anguish, she broke into tears on the witness stand when asked to quantify in terms of money the distress caused by her experience.[23] On the whole, we are in total accord with the trial court's assessment of her credibility.

In stark contrast, the testimonies of the appellants are inconsistent and unworthy of trust. We find improbable Bayeng's claim that he stayed friendly with Reoves after the alleged rape in November 1992 as they even walked together in going to their school to attend their classes from December 1-16, 1992. The prosecution's rebuttal evidence, consisting of the testimony of Bayeng's school teachers and the head of his school, coupled with the school records, undeniably show that Bayeng had already been expelled from school as early as December 11 of that year for a number of violations, viz: illegal possession of marijuana, being under the influence of liquor and possessing a deadly weapon, all within the school compound. Neither is it true that Bayeng played in the school intramural on November 25-26, 1992, two days before the rape incident. The prosecution witnesses in the person of the school officials testified that the intramural games in that year were held in October. The trial court also

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correctly dismissed the testimony of defense witness Roselda Ducao, Reoves' relative, that the Bayengs and Ducaos had cordial relations even after the alleged rape on November 27, 1992. For one, the records disclose that Roselda was also related to Bayeng as they were cousins. Secondly, Roselda did not testify out of her own accord as it was Bayeng's father who asked her to testify for the defense.[24] Finally, the alleged harmonious relationship of the Ducaos and the Bayengs even after the November rape can be attributed to the fact that it was only four months later when the Ducaos learned from Reoves about the appellant's dastardly act.

Similarly, the testimony of Ernesto Cuyapen which sought to corroborate the alibi of appellant Ibeng deserves scant attention. Ernesto, a distant relative of both Reoves and Bayeng, was a councilman at the time the rape was committed. Yet, when he learned that Ibeng was accused of the crime, he did not come forward and inform the police authorities that Ibeng was with him at the time of the alleged rape.[25] Neither did he go to Reoves' house to confront her about her supposedly false charges.[26]

The Court also notes that the defense failed to establish sufficient motive for Reoves to falsely charge the appellants with such a grave crime. On the part of appellant Ibeng, he himself admitted that no bad blood existed between his family and that of Reoves' which could have engendered the filing of the false charges against him.[27] Insofar as Bayeng is concerned, we cannot accept his claim that the rape charge was fabricated and politically motivated to destroy his father's career in the Sangguniang Bayan. We find it inconceivable that a family will go to the extent of exposing their teenage daughter in a rape scam and withstand the scandal of a public trial to taint the reputation of an accused's father. Reoves endured a grueling trial and cross-examination. She had to change her residence and transfer to another school to avoid the extreme humiliation created by the trial.[28]

On the whole, our evaluation of the evidence adduced by both parties leads us to conclude that the guilt of the appellants had been proved beyond moral certainty. However, as to the civil liability of the accused, the Court imposes the additional amount of twenty-five thousand pesos (P25,000.00) as exemplary damages for each count of rape, consistent with current jurisprudence.

IN VIEW WHEREOF, the appealed Decision is hereby AFFIRMED, subject to the modification that exemplary damages in the total amount of fifty thousand pesos (P50,000.00) is additionally imposed against appellants ISAGANI BAYENG and NOEL IBENG.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

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[1] Rollo, p. 10.

[2] Accused Bayeng is the first cousin of Reoves' father; July 21, 1993 TSN, Reoves Ducao, pp. 16-18; July 20, 1993 TSN, Reoves Ducao, pp. 5-12.

[3] The Amburayan River separates Sugpon, Ilocos Sur and Porporiket, Sudipen, La Union; July 21, 1993 TSN, Reoves Ducao, pp. 22.

[4] July 20, 1993 TSN, Reoves Ducao, pp. 12-22, 26-28; January 26, 1994 TSN, Reoves Ducao, pp. 10-12.

[5] July 29, 1993 TSN, pp. 22-27; July 21, 1993 TSN, p. 7.

[6] July 20, 1993 TSN, Reoves, Ducao, pp. 26-28; July 21, 1993 TSN, Reoves Ducao, pp. 26-27; January 26, 1994 TSN, pp. 6, 8 & 14.

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[7] July 20, 1993 TSN, Reoves Ducao, pp. 28-35; July 14, 1993 TSN, Dr. Beatriz G. Dela Cruz, pp. 1-18.

[8] January 18, 1995 TSN, Noel Ibeng, pp. 16-24.

[9] July 14, 1994 TSN, Ernesto Cuyapen, pp. 2-37.

[10] January 18, 1995 TSN, Noel Ibeng, pp. 2-3, 28-29.

[11] Two days before, or on November 25-26, 1992, he was in Sugpon playing basketball during their school's intramural games; July 13, 1995 TSN, Isagani Bayeng, p. 10.

[12] June 21, 1995 TSN, Isagani Bayeng, pp. 10-12.

[13] Id., pp. 2-3.

[14] Id., p. 13.

[15] Decision, dated April 17, 1997, penned by RTC Judge Senecio O. Tan, First Judicial Region, Branch 34, Balaoan, La Union; Rollo, pp. 89-101.

[16] Exhibit "5", Original Records, p. 198.

[17] People vs. Bayang, penned by Associate Justice Ynares-Santiago, G.R. No. 131942, October 5, 2000, citing the case of People vs. Balora, G.R. No. 124976, May 31, 2000.

[18] March 24, 1994 TSN, p. 8.

[19] 316 SCRA 819, 833 (1999), citing Tedeschi's Forensic Medicine (1977 edition).

[20] People vs. Deacosta, G.R. No. 110131, May 28, 2001.

[21] Decision, dated April 17, 1997, at p. 8; Rollo, at p. 44.

[22] July 20, 1993, p. 17; January 26, 1994 TSN, pp. 11-13.

[23] July 20, 1993 TSN, p. 36.

[24] May 11, 1994 TSN, p. 13.

[25] July 14, 1994 TSN, Ernesto Cuyapen, p. 30.

[26] Id., p. 32.

[27] January 18, 1995 TSN, p. 27.

[28] January 26, 1994 TSN, Reoves Ducao, pp. 4-5.

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