

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REMEGIO RUIZ, ACCUSED-APPELLANT.

G.R. No. 132369. June 29, 1999

Ponente: VITUG, J.

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VITUG, J.:

Evelyn Violeta was barely fifteen years old. An hour or so before dawn on 31 July 1994, she became another unfortunate victim of sexual assault. In open court, during the trial of the case, she was unable to contain herself and tearfully yelled, "binaboy mo ako," in identifying her attacker.

The accused, Remigio Ruiz, was tried before the Regional Trial Court of Malolos, Bulacan, Branch 15, for the crime of rape, with which he stood indicted in an information that read:

"That on or about the 31st day of July, 1994, in the municipality of Sta. Maria, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court the abovenamed accused, armed with screw driver and gun and by means of force and intimidation, did then and there willfully, unlawfully and feloniously, with lewd designs, have carnal knowledge of said Evelyn Violeta against her will and without her consent.

"Contrary to law."[1]

The accused pleaded "not guilty" to the charge.

The prosecution presented its main witness, the private complainant herself, who detailed the assault on her virtue in the early morning of 31 July 1994. Evelyn was asleep in her uncle's house at Dulong Bayan, Sta. Maria, Bulacan, when she was roused from her slumber by persistent knockings at the door. Then, just moments later, the door was kicked open. She recognized the intruder to be Remegio Ruiz. Ruiz, armed with a screw driver and a gun, warned Evelyn not to make any noise. She was pushed to the wooden bed. Placing the gun in the pocket of his jacket, Ruiz forthwith started kissing her and caressing her breast. He removed her shorts and panty and pulled up her blouse. He quickly started to undress himself. Ruiz was able to introduce about two inches of his penis into Violeta's private organ. After Ruiz was done, which lasted for about five minutes, Violeta put on her shorts. Ruiz tried to drag her to a tricycle but Violeta was able to free herself from his hold. She ran, pursued by Ruiz, towards the nearby Petron station. At the gas station, Violeta sought the help of Benigno de la Cruz, the gas station cashier, who instantly confronted Ruiz with a lead pipe prompting the latter to rush back to his tricycle and escaped. Violeta later related to her uncle the incident that had befallen her. The two straightaway repaired to the police station to report the matter.

Violeta submitted herself to physical examination before the National Bureau of Investigation; the examination yielded the following findings:

"GENERAL PHYSICAL EXAMINATION:

Height: 142.5 cm. Weight: 43.4 kgs.

Normally developed, fairly nourished, conscious, coherent, cooperative, ambulatory subject.

Breasts, developed, hemispherical, doughy. Areolae, brown, 3.5 cm. in diameter. Nipples, brown, protruding, 0.7 cm. in diameter.

No extragenital physical injuries, noted.

GENITAL EXAMINATION:

* * * * *

Pubic hair, fine, short, scanty. Labia majora, gaping. Labia minora, coaptated. Fourchette, tense with abrasion at the posterior commissure. Vestibule, pinkish. Hymen, annular, moderately thick, moderately wide, intact and distensible. Hymenal orifice, admits a tube, 2.5 cm. in diameter. Vaginal walls, tight. Rugosities, prominent.

* * * * *

CONCLUSIONS:

- No evident sign of extragenital physical injuries noted on the body of the subject at the time of examination.
- Recent genital trauma, present."^[2]

Violeta's testimony was corroborated by Benigno de la Cruz who stated that he was manning the cash register of the Petron gas station during the early morning of 31 July 1994 when Violeta came running for help. He picked up a lead pipe and went to face the pursuer, whom he recognized to be Remegio Ruiz, but the latter immediately withdrew and drove away in his tricycle.

Another corroborating witness presented at the stand was Jose Violeta, the victim's uncle, who added that in the evening of 30 July 1994 he was invited by Ruiz to a beerhouse to celebrate the birthday of one Larry. He got drunk and fell asleep but before yielding to stupor, he noticed that Ruiz had left the group.

Police Investigator Marcelo Nolasco testified that in the morning of 31 July 1994, Violeta, accompanied by her uncle, had complained of having been raped by Remegio Ruiz. He made out a written report and had it entered in the police blotter. He later confronted Ruiz about the incident, and the latter admitted that he did go to and enter the house of Violeta but he denied the accusation of rape.

Dr. Renato Bautista of the NBI declared that Violeta had sustained a "recent genital trauma" or an abrasion located at the entrance of the vaginal canal which could have been caused by "friction, sexual intercourse, or masturbation." The "hymen was intact (and) the orifice (hole) was 2.5 cm.," but he explained that the hymen, being elastic, might not necessarily break during sexual intercourse. He negated the presence of sperm cell in the victim's private organ.

The defense presented the accused and two other witnesses.

Ruiz testified that he was apprehended, on 31 July 1994, by Sta. Maria policemen after initially resisting arrest. He said that he was mauled by the arresting officers. The maltreatment stopped only when Pol Caguiat, a freelance reporter DZBB and Channel 7, intervened for him. Caguiat accompanied him, first to the Sta. Maria Hospital where his wounds were treated and then to the police station. The following day, he learned of the rape charge against him. He vehemently denied having molested private complainant. He averred that at around 6:00 p.m. of 30 July 1994, he was driving his tricycle and plying his usual route when he was flagged down by Winnie Violeta who invited him to a beerhouse in Bocaue. He partook of only one bottle of beer, following which he went home. Ruiz claimed that the uncle of Evelyn had demanded P100,000.00 in return for the dropping of the

accusation against him. He admitted, however, both during the direct examination and the cross examination, that he did go to the house of Evelyn Violeta at about 4:00 a.m. of 31 July 1994 because he noticed that the light was on and the door was open. He called out and Evelyn showed herself. When he learned that Evelyn's uncle was not yet home, he told Evelyn to inform her uncle that he would just come back later for the latter's tricycle fare. At this juncture, Evelyn unexplainably ran away towards a nearby gas station.

Dr. David Rolon Domingo of the Sta. Maria Emergency Hospital (now Rogaciano Mercado Memorial Hospital) stated that he had treated Ruiz at around 6:35 in the evening of 31 July 1994 for a lacerated wound on the right ear lobe. He did not ask the patient where he got his wound but he diagnosed it as "physical injuries or secondary to mauling." Ruiz, who then smelled of alcohol, was brought to the hospital by Pol Caguiat.

Pol Caguiat, a freelance reporter of DZBB, Channel 7, testified that he did not personally know Ruiz before he had brought Ruiz to the hospital after seeing him evidently wounded while being chased by policemen. Caguiat said that he was not aware of the charges against Ruiz until the family of the victim went to his house two days later and informed him of the rape incident.

After the trial had concluded, Judge Carlos C. Ofilada of the Regional Trial Court of Malolos, Bulacan, Branch 15, found accused-appellant guilty of the offense charged and sentenced him thusly:

"In view of all the foregoing premises, the Court finds accused Remegio Ruiz GUILTY beyond reasonable doubt of the crime of Rape and in consonance with Art. 335 of the Revised Penal Code hereby sentences him to suffer the penalty of SEVENTEEN (17) YEARS, FOUR (4) MONTHS and ONE (1) DAY as minimum, to TWENTY (20) YEARS, as maximum of Reclusion Temporal.

"The accused is likewise ordered to indemnify the victim the amount of P30,000.00.

"SO ORDERED."[3]

An appeal was timely brought to the Court of Appeals where the defense contended that -

"1. THE LOWER COURT ERRED IN RELYING THE TESTIMONIES OF THE PRIVATE COMPLAINANT AND PROSECUTION WITNESSES IN CONVICTING THE ACCUSED.

"2. THE LOWER COURT VIOLATED THE RIGHT OF THE ACCUSED TO DUE PROCESS OF LAW.

"3. THE LOWER COURT, MORE SPECIFICALLY THE HON. JUDGE, COMMITTED A VIOLATION OF THE CODE ON JUDICIAL CONDUCT."[4]

The appellate court, through its Second Division then chaired by now Supreme Court Associate Justice Arturo B. Buena, found no reason to reverse the findings of the court a quo. In an exhaustive discussion of the case, the appellate court, speaking through Mr. Justice Buena, elucidated:

"The appeal is devoid of any merit.

"In his first assigned error, accused-appellant questions the credibility of the private complainant as well as the other prosecution witnesses. In support thereof, appellant raised four (4) arguments. First, appellant claims that it was impossible for him to be holding both hands of the victim while he was holding a gun and a screw driver on his right and left hand respectively (Appellant's Brief, p. 33, ROLLO). Second, appellant asks what could have been so painful for the victim if the NBI found that the latter's hymen was intact (Ibid., p. 37). This would also belie the victims' claim that her panty was clothed in blood (Ibid., p. 39). Still in connection with the second argument, appellant also cites the NBI medico legal officer's testimony to the effect that the abrasion found at the entrance of the vaginal canal may have been caused by masturbation (Ibid., p. 380). Third, appellant asserts that the absence of any external signs of physical injuries on the victim contradicted her protestation that a screw driver and a gun was poked at her (Ibid., p. 39). Finally, appellant pleads that the

absence of sperm cell inside the victim's vagina contradicted the latter's testimony that there was something hot with colored white which exited from the penis of accused and emitted at the victim's vagina (Ibid., p. 40).

"As regards the other prosecution witnesses, appellant contends that Benigno Dela Cruz' testimony is incredible because the latter's lead pipe allegedly used in chasing appellant away was no match for the gun of accused as alleged by the victim herself (Ibid., p. 41). The testimony of Jose 'Winnie' Violeta is also doubtful for there were some inconsistencies in his testimony particularly that part where appellant allegedly invited the victim's uncle to a drinking spree (Ibid., p. 42). Likewise, the credibility of SPO1 Manalo Nolasco was also attacked because of the alleged inconsistency between his testimony that the sworn statement of the victim and the complaint was submitted on August 1, 1994 and August 2, 1994, respectively, while appellant was arrested on July 31, 1994 (Ibid., p. 42).

"On the first argument, We find nothing irregular in the victim's testimony. A careful review of the records show that accused placed his gun inside the pocket of his jacket (TSN, November 18, 1994, p. 16). With his right hand free, it could not have been that difficult to hold and pin down his frail victim who weighed barely 43.4 kgs. and was only 142.5 cm. tall (Exh. 'C,' p. 26, RECORDS). The Honorable Supreme Court did not find it incredible for a husky male of hefty built to be able to hold down the victim while undressing himself and his victim (People vs. Villanueva, 211 SCRA 651, 655). In the present case, the fifteen (15) year old lass (TSN, November 18, 1994, p. 3) was no match for the full grown thirty-four (34) year old appellant (TSN, February 27, 1995, p. 3).

"Even granting that there were indeed inconsistencies in the victim's testimony, this Court 'cannot expect a rape victim to remember every ugly detail of the appalling outrage, especially so since she might in fact be trying not to remember them' (People vs. Jimenez, 250 SCRA 349, 356). Time and again the High Tribunal would rule that errorless testimonies of victims of this dreadful crime cannot be expected especially when a witness is recounting details of a harrowing experience (People vs. Ibay, 233 SCRA 15, 27; and People vs. Cura, 240 SCRA 234, 244). In fact, such errors in the testimony of the rape victim tend to buttress, rather than weaken her credibility for that would mean that her testimony was not contrived (People vs. Ching, 240 SCRA 267, 280). In People vs. Sarellana, 233 SCRA 31, the Honorable Supreme Court, speaking through Mr. Justice Reynato S. Puno, held that:

"It should not be considered unusual for a person under great stress, as complainant was at the moment the unlawful coitus took place, to forget certain details of the crime. Complainant's pre-occupation at the time was to avoid the assault against her, and not to photograph in her mind the lurid details of the crime.' (p. 43).[5]

"In People vs. Rivera, 242 SCRA 26, the High Tribunal declared:

"When a woman says that she has been raped, she says in effect all that is necessary to show that she had indeed been raped, and if her testimony meets the test of credibility, as in the instant case, the accused may be convicted on the sole basis of her testimony.' (p. 36).

"Furthermore, Courts usually lend credence to testimonies of young girls, especially where the facts points to their having been victims of sexual assault, for youth and immaturity are generally badges of truth and sincerity (People vs. Casil, 241 SCRA 285, 293). In People vs. Tami, 244 SCRA 1, the Honorable Supreme Court, through Mr. Justice Santiago M. Kapunan, gave the following reason:

"Considering the inbred modesty and antipathy of a Filipina to airing in public things that affect her honor, it is hard to conceive that the complainant would assume and admit the molestation and ignominy she had undergone, and endure the ordeal of testifying to all its shameful details, if she had not in fact been raped.' (p. 26; see also People vs. Vitor, 245 SCRA 392, 402; and People vs. Sapurco, 245 SCRA 519, 526).

"In this regard, We take notice of the victim's ordeal on the witness stand during the trial (TSNs, November 18, 1994, pp. 9 and 19; November 25, 1994, p. 25).

"With regard to appellant's second argument, We find nothing inconsistent between the victim's testimony that she felt pain and the NBI findings that her hymen was intact. In the NBI medico-legal report, it was found that the victim's hymen was 'distensible' (Exh. 'C,' p. 26, RECORDS) which explains why the hymen was intact despite her claim that she was raped. The absence of any lacerations in the hymen will therefore not negate rape. On the other hand, the victim's testimony that she felt pain finds support in the same NBI report which found that there was 'a recent genital trauma' (Ibid.). Trauma is defined as 'an injury or wound to a living body caused by the application of external force or violence' (underscoring supplied; WEBSTER'S THIRD INTERNATIONAL DICTIONARY, [copyright 1971], while abrasion is the 'wearing, grinding or rubbing away by friction,' or 'the rubbing or scraping of the surface layer of cells or tissue from an area of the skin or mucous membrane' (Ibid.). Consequently, the injury or wound sustained by the victim could very well result in blood stains on her panty. At this point, We take notice of the phrase used by the court stenographer in interpreting the victim's testimony, to wit: 'it (victim's panty) was clotted in blood' (TSN, November 18, 1994, p. 21). It was neither drenched nor clothed in blood as appellant would want Us to believe. Jurisprudence is to the effect that, for rape to be consummated, rupture of the hymen is not necessary, nor is it necessary that the vagina sustained a laceration (People vs., Lazaro, 249 SCRA 234, 238-239). Besides, vaginal bleeding was never an element of the crime of rape People vs. Lazaro, supra, p. 241).

"Although the NBI medico-legal officer did admit that the trauma found on the victim may have been caused by masturbation, the same officer initially said that it could be caused by sexual intercourse (TSN, January 25, 1995, p. 12). The victim's testimony coupled with the above-mentioned medical findings plus the corroborative testimony of Mr. Benigno Dela Cruz who saw the victim running away from appellant (TSN, November 25, 1994, pp. 25-37 and 39) render such testimony very credible. It has been held that the victim's credibility is strengthened by the spontaneity of her act immediately after the incident (People vs. Jaca, 229 SCRA 332, 337; see also People vs. Apawan, 235 SCRA 355, 364). The victim's willingness to face the police and to submit to an intimate physical examination before the NBI is a mute but eloquent testimony of the truth of her charges against appellant (People vs. Domingo, 226 SCRA 156, 173).

"Anent appellant's third argument, this Court finds nothing in the victim's testimony indicating that the screw driver and the gun was ever used on her. She was never hit by the screw driver nor by the gun. At most, the victim testified that the said things were poked at her (TSN, November 18, 1994, pp. 7 and 10). Poking will not necessarily result in injuries to the victim. The mere presence of the screw driver and the gun would have been enough to scare the fifteen (15) year old lass to submission. The absence of any external injuries on the victim, therefore, cannot erode her credibility nor will it weaken her testimony that appellant threatened her with a screw driver and a gun.

"As regards appellant's fourth argument, the same is not enough to overcome the overwhelming evidence against him. In her testimony, the victim said that appellant was able to insert about two inches only (TSN, November 18, 1994, p. 18) which explains why the trauma or abrasion was located at the posterior commissure or at the entrance of the vaginal canal (TSN, January 25, 1995, pp. 10-11). Further on, the victim testified that she felt something hot, and that the thing she felt was colored white and was 'emitted at her vagina' (TSN, November 18, 1994, pp. 37-38). The mere fact that she saw that 'something hot' to be colored white proves that appellant ejaculated outside the victim's vagina which explains the absence of spermatozoa when the NBI conducted the medical examination on the victim. Moreover, the absence of spermatozoa inside the victim's vagina is not sufficient to rule out the crime of rape (People vs. Quinones, 245 SCRA 87, 92; see also People vs. Laroa, 248 SCRA 277, 284).

"On the credibility of prosecution witness Benigno Dela Cruz, We are not persuaded by appellant's contention. It is our considered opinion that appellant ran away not because his gun was no match against the lead pipe of Benigno, but because the former was guilty of a very despicable act and he was afraid to be found out.

"As regards the veracity and credibility of the testimony of prosecution witness Jose 'Winnie' Violeta, We do not see any need or reason to dwell on the matter. His testimony is not relevant to the present case.

"Finally, the alleged inconsistency between the date of the sworn statement and the date appellant was arrested can simply be explained by the fact that the victim, although she may have complained to the police on the same day the rape happened, may have waited for the perpetrator to be apprehended and the result of the NBI examination to be finished before submitting her sworn statement and formally lodging the complaint. After reviewing the records, We found that the medical examination of the NBI was conducted at exactly 9:45 A.M. on August 1, 1994 (Ex. 'C,' p. 26, RECORDS) which means that the request of SPO1 Nolasco to the NBI was made the day before or on July 31, 1994. Hence, the victims' initial complaint to the police was most certainly made on the same day the rape was committed.

"In the second and third assigned errors, appellant's claim that there was no due process cannot hold water. On February 27, 1995, appellant testified and was able to air his side. On March 22, 1995, appellant continued his testimony. On that same day, defense witness Eugenia G. Calara was also presented. On May 29, 1995, Defense witnesses Dr. Rawland Domingo and Pol Caguiat gave their testimonies. Appellant cannot feign denial of due process where he had the opportunity to present his defense, through his own narration on the witness stand (*People vs. Acol*, 232 SCRA 406, 411). The trial judge's pronouncement that there was 'consummated rape' during the testimony of the victim (TSN, November 18, 1994, p. 37) is but a mere finding of fact based on the evidence before him. It would have been different if the said judge declared that appellant was guilty right there and then. Moreover, appellant through his counsel was given the chance to cross-examine the prosecution witnesses (*People vs. Mercado*, 190 SCRA 452, 459). Clearly, appellant was heard. He was afforded due process.

"With regard to the alleged partiality and bias of the trial judge, the Honorable Supreme Court has ruled that 'divergence of opinion between the trial judge and a party's counsel as to admissibility of evidence is not proof of bias or partiality' (*Go vs. Court of Appeals*, 221 SCRA 397, 413). It must be sufficiently established that the judge had an interest, personal or otherwise, in the prosecution of the case for mere suspicion that the judge was partial is not enough (*Abad vs. Belen*, 240 SCRA 733, 735). The fact that the trial judge believed the prosecution's evidence more than the defense does not indicate that he was biased (*People vs. Tabarno*, 242 SCRA 456, 460)."[6]

The appellate court held that the penalty imposed by the trial court should have been reclusion perpetua pursuant to Article 335 of the Revised Penal Code. After raising the penalty accordingly, the records of the case were certified to this Court; viz:

"WHEREFORE, We find the appellant Remegio Ruiz guilty beyond reasonable doubt of the crime of rape. He should, therefore, be made to suffer the penalty of reclusion perpetua based on Article 335 of the Revised Penal Code and ordered to indemnify the offended party, Evelyn Violeta, the sum of Fifty Thousand (P50,000.00) Pesos.

"In accordance, therefore, with Section 13, Rule 124 of the Revised Rules on Criminal Procedure, We refrain from entering judgment and forthwith certify the case and elevate the entire record hereof to the Honorable Supreme Court for review.

"SO ORDERED."[7]

In the Court's resolution of 16 March 1998, accused-appellant and the Office of the Solicitor General were given, if minded, an opportunity to submit their respective additional briefs.

In an additional brief submitted by accused-appellant, two other asseverations were included in the assignment of errors; to wit:

"(4) THAT THE COURT A QUO ERRED IN GIVING FULL CREDENCE TO THE TESTIMONY OF THE PRIVATE COMPLAINANT, AND IN DOING SO, IT DISREGARDED FACTS AND CIRCUMSTANCES OF SIGNIFICANCE IN THE CASE.

"(5) THAT THE LOWER COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT AND THE COURT OF APPEALS IN AFFIRMING SAID CONVICTION DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT."[8]

This Court, after its own review of the case, does not see differently from the findings carefully made by the Court of Appeals. The testimony of the principal witness for the prosecution, the victim herself, has been straightforward and categorical. We quote from the transcript of stenographic notes; thus:

"Fiscal:

"Q Madam Witness, do you remember where were you on July 31, 1994 at about 3:30 in the morning?

"A I was inside the house of my uncle, sir.

"Q And where is this house of your uncle located?

"A At Dulong Bayan, sir.

"Q And where is this Dulong Bayan?

"A

At Sta. Maria, Bulacan, sir.

"Q What were you doing then on that date and time?

"A I was sleeping, sir.

"Q While sleeping, do you recall any untoward incident that occurred?

"A

While I was sleeping beside a baby, I heard a knock on the door, I did not open the door even if there was somebody knocking but that person outside the door kicked on the door, so it was forcibly opened and that person approached me and pointed a screw driver and a gun, sir.

"Q You said a certain person knocked and kicked the door and entered the room, who is this person, Miss Witness?

"A Remigio Ruiz alias Rody, sir.

"Q If this Romeo Ruiz alias Rody is inside the courtroom, can you identify him?

"Court:

You approach him and point your finger at him.

"Fiscal:

The defense counsel is intimidating my witness, your Honor, by moving his eyes, your Honor.

"Atty. dela Cruz:

I think that is improper, your Honor, how can the counsel be the one intimidating.

"Fiscal:

I noticed, that, your Honor, that the defense counsel is looking.

"Atty. dela Cruz:

That is illogical and unethical, your Honor.

"Court:

We are observing the reaction of the accused. You better keep quiet.

"Atty. dela Cruz:

That is addressed to me, your Honor.

"Fiscal:

May we make it on record, your Honor, that the private complainant is crying while identifying the accused.

"Court:

May we let her bring out what is inside of her.

"Interpreter:

In response to the request, the witness stepped down from the stand and approached a detention prisoner who identified himself as Remigio Ruiz and immediately thereafter pointing to the accused, the witness suddenly burst into tears and uttered the following words: `Putang ina mo, hayop ka, binaboy mo ako, mamatay ka na sana' and then she cried.

"Fiscal:

May we know if counsel for the defense heard the remarks of the . . .

"Atty. dela Cruz:

Well, your Honor, that is violation of the order of this Court.

"Court:

You go to the human rights. It is not a violation, overruled.

"Fiscal:

"Q You said that a screw driver and a gun was poked to you by the herein accused, what happened after Remigio Ruiz poked the screwdriver and the gun to your person?

"A He told me not to shout anymore as he will kill me, sir.

"Q And what did you do after you were ordered by Remigio Ruiz not to shout anymore as he will kill you?

"A I was not able to shout anymore, sir, because the gun was pointed at me.

"Q And what did he do after he poked the gun and the screw driver?

"A He asked me to lie down in our wooden bed, sir.

"Court:

You illustrate.

"Fiscal:

"Q Will you please illustrate how the accused ordered you to lie down on the papag?

"Fiscal:

The witness referring to the right hand as holding the gun and the left hand as holding the screw driver.

"Court:

You act. How?

"Witness:

"A He forced me to lie down on the wooden bed, sir.

"Fiscal:

"Q How did he force you to lie down on the papag?

"A By holding my two (2) hands, he pushed me towards the wooden papag, sir.

"Atty. dela Cruz:

The complainant herself, your Honor, actually held the hands of Mrs. Quevedo pushing her on the bed.

"Court:

Yes, we saw all that.

"Atty. dela Cruz:

Two hands, your Honor, but the witness testified that there is a gun on his right hand and a screw driver on the left hand.

"Fiscal:

We will come to that, your Honor.

"Atty. dela Cruz:

That is only my manifestation.

"Fiscal:

We will clarify that from the witness, your Honor.

"Witness:

"A He kissed me on my cheeks, my lips and he caressed my breast, sir, and then after that he removed my

shorts and my panty, sir.

"Court:

"Q What were you wearing at that time. . .

"Q

. . . short, t-shirt and panty inside?

"A Yes, sir.

"Q How about bra?

"A I was wearing a bra, sir.

"Fiscal:

May I proceed, your Honor?

"Q After Remigio Ruiz caressed your breast, kissed your cheeks and lips, what happened?

"A He removed my shorts and panty and pulled up my blouse, sir.

"Fiscal:

We want to make it of record, your Honor, that the victim herself is lying on the alleged papag.

"Witness:

"A While lying down on the wooden bed, he. . .

"A . . pulled my shorts and panty and pulled up my blouse towards my face and started again to play on my breast, sir.

"Fiscal:

"Q And after the accused, Remigio Ruiz, successfully removed your shorts and panty and putting your blouse upward, what else did you do, if any?

"Atty. dela Cruz:

Your Honor, may we request the word, successfully, that is a conclusion on the part of the counsel, your Honor, it was removed but not successfully.

"Fiscal:

As per demonstration, your Honor, the accused was successful in removing the shorts and the panty.

"Court:

Overruled.

"Witness:

"A He placed himself on top of me, sir.

"Fiscal:

"Q And after he placed himself on your top, what happened?

"A He embraced me, sir.

"Q What else happened, Madam Witness?

"A After he placed himself on top of me, he inserted his penis into my vagina, sir.

"Court:

"Q How could he insert the male organ without removing his pants?

"A He had already removed his pajama and he placed his gun on the pocket of his jacket, sir.

"Court:

I think in rape cases, public is excluded, if the public wants to view the trial, they must sit down.

"Fiscal:

We will exclude the public, your Honor, if we reached the portion of the optoptic evidence, your Honor.

May I proceed, your Honor.

"Q After Remigio Ruiz placed his body on top of you and inserted his organ to your private organ, what happened next?

"A

As it was so painful, I shouted, sir.

"Q Was Remigio Ruiz able to insert his organ to your organ, Madam Witness?

"A Yes, sir.

"Q The whole penis, Madam Witness?

"A No, sir, about 2 inches only. (And in addition, the witness indicated a 2 inches measurement)

"Q How long did the accused stay his body on your top?

"A Just for a little while, sir.

"Q Can you approximate the time he stayed on your top?

"A

About five (5) minutes, sir.

"Q What else did he do while he was on top of you and his organ was inside your organ?

"A I could not move because he was holding on my two hands and two legs, sir.

"Q How about the body of the accused while he was on top of you, was he moving or in a . . .

"Q . . . stationary position?

"A He was moving, sir.

"Q Will you please tell the Court how did the body of the accused move while he was on top of you?

"Fiscal:

The witness demonstrating a push up and down movement and we want to make it on record, your Honor, that the private complainant continuously crying while demonstrating, the movement of the accused.

"Atty. dela Cruz:

While the public prosecutor is smiling, your Honor, that is my observation, your Honor.

"Fiscal:

Well, your Honor, it is familiar on my face to have a smiling face, your Honor.

"Fiscal:

May be he wants to cry, your Honor.

"Court:

What else?

"Fiscal:

"Q What happened after five minutes movement of the herein accused while he is on your top?

"A

He went down our wooden bed and re-wore the pajama, sir.

"Q What did you do after he stepped down on your top and wore his pajama?

"A I wore my panty and shorts, sir.

"Court:

"Q Where is your panty?

"A

I threw it away, sir. (Tinapon ko na po).

"Fiscal:

"Q What happened to your panty?

"A It was clotted with blood, sir.

"Court:

"Q That is the reason why you threw it away?

"A Yes, sir.

"Fiscal:

"Q What did you do after you wore your shorts and panty?

"A I only wore my shorts, sir.

"Q What else happened after you wore your shorts?

"A After that and after he had worn his pajama, Romigio Ruiz told me not to tell anybody of what had happened because he will return and kill me, sir.

"Q What happened after that, after you were threatened by Remigio Ruiz?

"A

After saying that, he dragged me towards his tricycle but I was able to free myself and run at the back of the Petron station in order to seek help, sir.

"Q

Were you able to seek help after freeing yourself from Remigio Ruiz?

"A He chased after me, sir.

"Q What happened after he chased you?

"A I asked help from the Petron people, sir.

"Q

Were you able to seek help?

"A Yes, sir. (And the witness in addition to the answer pointed to a man who answered by the name of Benigno dela Cruz)

"Atty. dela Cruz:

According to the prosecution, there is no other person inside.

"Fiscal:

He is a guardian, your Honor, he is entitled to be present.

"Atty. dela Cruz:

How about the other, he will not testify?

"Fiscal:

He will testify, your Honor.

"Court:

You are making a mountain out of every issue.

"Fiscal:

"Q What happened after you were helped by Benigno dela Cruz?

"A This Benigno dela Cruz took a lead pipe and chased after Remigio Ruiz but the latter was able to board the tricycle and ran away, sir.

"Q What did you do after he was able to board on his tricycle?

"A

I remained at the back of the Petron station because I lost consciousness, sir.

"Q And when did you regain your consciousness?

"A I regained consciousness after my uncle came at the back of the Petron station, sir.

"Q What did you do after your uncle came?

"A

I cried before him, sir.

quot;Q

&How about your kuya, what did he do?

"A

He immediately went to the police station, sir.

"Q And in the police station, what happened? What transpired?

"A We complained as to everything that had happened to me, sir."[9]

The Court finds no major inconsistencies in Evelyn's declaration. In fact, witnesses are not expected to remember every single detail of an incident with total recall.[10] It is only essential that the mass of testimony jibes on material points, and the slight clashing of statements dilute neither the credibility of the witness nor the veracity of the testimony.[11] Also, we here reiterate that this Court looks with favor at the findings of facts of the trial court since it is during the trial that an opportunity presents itself for the observance of the witnesses, their demeanor at the witness stand and the manner in which their testimony is given. The records of this case would show the pain and distress experienced by the victim while giving the narration of her ordeal in the hands of appellant. Like what has heretofore been said in a good number of cases, no Filipina, specially one who is yet in her tender years,

would concoct a charge so much humiliating, allow the examination of her private parts, and subject herself to public trial, if she did not truly undergo the complained sexual abuse.[12]

The evidence has established sufficient factual basis both for the conviction beyond reasonable doubt of the crime of rape defined in and punished under Article 335[13] of the Revised Penal Code, as well as for the award of moral damages to the victim which the Court hereby fixes in the amount of P50,000.00.

A final observation that this Court cannot allow to pass unnoticed. It has become a common occurrence to hear of complaints of maltreatment perpetrated by some police officers in the handling of suspected law offenders. Law enforcement authorities should be reminded that all due respect must be accorded an accused for until his guilt has been finally pronounced by the court, he is still and should be presumed innocent and treated like any other law-abiding individual.

WHEREFORE, the decision of the Court of Appeals, finding Remigio Ruiz guilty beyond reasonable doubt of the crime of rape, sentencing him to suffer the penalty of reclusion perpetua, and ordering him to pay Evelyn Violeta the amount of Fifty Thousand (P50,000.00) Pesos by way of civil indemnity, is AFFIRMED. In addition, accused-appellant is ordered to pay said victim another amount of P50,000.00 by way of moral damages. Costs against accused-appellant.

SO ORDERED.

Panganiban, Purisima, and Gonzaga-Reyes JJ., concur.
Romero, (Chairman), J., on official business abroad.

[1] Records, p. 1.

[2] Records, p. 26.

[3] Records, pp. 78-79.

[4] Court of Appeals Rollo, pp. 32-33.

[5] Court of Appeals Decision, pp. 7-12.

[6] Court of Appeals Decision, pp. 7-12.

[7] Court of Appeals Decision, pp. 12-13.

[8] Rollo, pp. 13-14.

[9] TSN, Evelyn Violeta, 18 November 1994, pp. 6-25.

[10] People vs. Alas, 274 SCRA 310.

[11] See Antonio vs. Court of Appeals, 273 SCRA 328.

[12] People vs. Ramirez, 266 SCRA 335; People vs. Cabillan, 267 SCRA 258.

[13] ART. 335. When and how rape is committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances.

- By using force or intimidation;

- When the woman is deprived of reason or otherwise unconscious; and

- When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by reclusion perpetua.

Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.

When the rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be reclusion perpetua to death.

When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death.

The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

- When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.
- When the victim is under the custody of the police or military authorities.
- When the rape is committed in full view of the husband, parent, any of the children or other relatives within the third degree of consanguinity.
- When the victim is a religious or a child below seven (7) years old.
- When the offender knows that he is afflicted with Acquired Immune Deficiency Syndrome (AIDS) disease.
- When committed by any member of the Armed Forces of the Philippines or the Philippine National Police or any law enforcement agency.
- When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation. (As amended by Sec. 11, Ra 7659.)

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