

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. IRENEO DEQUITO, ACCUSED-APPELLANT.

G.R. No. 132544. May 12, 2000

Ponente: PUNO, J.

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PUNO, J.:

The Regional Trial Court of Gumaca, Quezon[1] convicted[2] Ireneo Dequito of rape under an information which averred:

"That on or about the month of July 1996, at Barangay Montes Balaon, in the Municipality of Atimonan, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by means of force, threats, violence and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge of one Analiza A. Pidoc, a minor, 15 years of age, against her will."[3]

The people's case as shown by the prosecution's evidence is as follows:

Analiza Pidoc and her younger brothers, Alfred and Arnel, were living with Ireneo Dequito – common-law husband of their older sister, Analyn, at Barangay San Andres Labak, Atimonan, Quezon. Their mother entrusted their custody to the spouses when she left for Manila to work. Ireneo was a copra maker at the land of Lito Villarama and Ely Escritor.

Sometime in July 1996, Ireneo asked Analiza to help him pile coconuts at the plantation of Villarama at Barangay Montes Balaon. She initially refused but later on changed her mind. After working, Ireneo invited her to rest on a nearby rock. While resting, Ireneo tried to remove her clothes. Analiza ran away and Ireneo chased and caught her. She resisted his advances until she became weak. Ireneo succeeded in taking off her garments. He then undressed, held her hands and performed coitus. Analiza felt pain and bled. After Ireneo satisfied his lust, he warned Analiza that he would abandon her sister if the incident would come to the latter's knowledge. He went home. Afterwards, Analiza followed.[4] She related her ordeal to Marilou Benitez, her close acquaintance.

On cross-examination, Analiza clarified that Ireneo raped her on the first and last week of July 1996. When the second rape transpired, they were making copra with her brothers who were two years old and four years old while Analyn remained in their house.[5]

On September 2, 1996, Analiza accompanied by her aunt, Margarita Legaspi, reported the incident to the authorities. She executed a statement[6] and underwent a physical examination at the Doña Marta Memorial Hospital. Dr. Cheres A. Daquilanea examined her perineal area and found hymenal lacerations at 11 o'clock, 1 o'clock and 5 o'clock positions.[7]

Appellant presented a different version. He alleged that when he worked on the land of Villarama[8] and Escritor[9] in the month of July 1996, he was with Analiza, Normelita Quezada, Jaime Querante, Analyn, Boknoy and Dopong. Analiza, together with her younger brothers, joined him only on July 15. They finished working on the land of Escritor on July 24, 1996. On August 19, 1996, he made copra on the land of Villarama. Only Analyn

was with him as Analiza took care of her brothers at home. In September 1996, Analiza left their home.

Appellant and Analyn sought and found Analiza in the house of her aunt, Margarita Legaspi. Appellant inquired why she left. Analiza replied that she wanted to get married but she was no longer a virgin. She said she was deflowered by a relative.[10]

On September 5, 1996, appellant learned that Analiza filed a case of rape against him. After his arrest, Analiza and Analyn visited him at the municipal jail where Analiza allegedly divulged that she filed the case against him at the insistence of Margarita.

Analyn corroborated his defense. She related that appellant was always by her side when they made copra.[11] On August 17, 1996, while they were taking a respite from work, Analiza gave her a letter disclosing that she was no longer a virgin and that the man who deflowered her was a certain Bady.[12] The letter reads:

"Dangay,

"Ate maniwala ka sana dito. Pero isa lang ang pakiusap ko sa iyo huwag mong sasabihin kay kuya Eri dahil baka ako ay mapatay. Ate ang una ngang gumamit sa akin ay si Bady nga. Pero saka ko na lang sasabihin sa iyong mag-asawa kung sino yon. Siguro hindi pa panahon ngayon. Siya nga pala ate yong gumamit na iyon sa akin ay nandito lang sa tabi-tabi. Alam mo ate, tsismis na kami dito sa buong San Andres Labak. Ate yun nga pala ay tatlo silang magkakasama pero isang (sic) lang ang pumanhik dito sa bahay yun pa nga ay ayaw kung papanhikin kaya ay itinulak ang pinto (sic).

"Ate pasinsiya (sic) ka na sa sulat kong barok kasi dali dali ako.

Ang nagsulat nito

Analiza (alyas) Ening[13]

Jaime Querante, who also corroborated appellant's defense, recounted that once, while he was husking coconuts, he saw Analiza and Analyn arguing. Appellant was also present that time. Querante overheard that Analiza wanted to leave their house and told the spouses that they had no business meddling with her life.[14]

On rebuttal, Analiza denied having written a letter to Analyn. She reiterated that Analyn tried to convince her not to file a case against appellant. She added that Querante's testimony referred to an incident that transpired at Barangay Mangalayaan in August 1996. Querante was not with them in July when they worked at Barangay Montes Balaon.[15]

The trial court rejected the defense of the accused. It ruled that his denial cannot prevail over the positive and credible testimony of Analiza. It held that Analyn is not worthy of belief since she did not even verify the content of the letter allegedly sent to her by Analiza. It was unnatural for her not to show the slightest interest over such a serious matter. Her testimony was biased by her desire to free her husband from criminal liability. It also disbelieved the testimony of Querante since he could not have monitored every movement of the accused while he (Querante) was husking coconuts.

The dispositive portion of the decision reads:

"WHEREFORE, judgment is hereby rendered convicting the accused, IRENEO DEQUITO, of the crime of Rape and he is hereby sentenced to suffer the penalty of reclusion perpetua, with its accessory penalties under Article 41 of the Revised Penal Code, and he shall indemnify the private offended party, Analiza A. Pidoc, the amount of P50,000.00."[16]

In this appeal, appellant assigns the following errors:

"I

THE TRIAL COURT ERRED IN NOT FINDING THAT THE PROSECUTION FAILED TO PROVE THE COMMISSION BY THE ACCUSED OF THE CRIME CHARGED IN THE INFORMATION.

II

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED EVEN BASING ON THE INCIDENT TESTIFIED TO BY COMPLAINANT WHICH DOES NOT CONSTITUTE RAPE."

Appellant contends that before presenting Analiza, the prosecutor made the following offer of proof, viz.:

"PROSECUTOR MAGNO:

xxx [T]hat on or about the month of July, 1996, she (ANALIZA) is only fourteen (14) (sic) years old; and, she was then living with the accused, who is the live-in partner of the sister of the witness; and, while she was living in that house with the accused, she was sexually abused several times by the said accused, the last being this case now tried before this Honorable Court; and that she will prove all the allegations contained in the information and all the collateral matters, Your Honor." [17]

Allegedly, Analiza testified that she was first raped by the appellant on the first week of July 1996 and the trial court convicted appellant for this first rape and not for the last rape committed on the same period. Allegedly too, the first rape was not charged in the Information.

This contention is unconvincing.

Rule 132, Sections 34, 35 and 36 of the Rules of Court, provide, viz.:

"Sec. 34. Offer of evidence. The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified."

"Sec. 35. When to make an offer. As regards the testimony of a witness, the offer must be made at the time the witness is called to testify.

xxx."

"Sec. 36. Objection. Objection to evidence offered orally must be made immediately after offer is made.

xxx."

To start with, a mere perusal of the information will show that appellant was charged with rape committed on or about the month of July 1996. The prosecution offered Analiza's testimony to prove that she was sexually abused several times by the appellant on or about the month of July 1996.[18] The prosecutor's statement that what was being tried was the last rape committed in July 1996 is an innocuous error that did not prejudice the rights of the appellant. The records show that Analiza testified that appellant raped her on the first and last week of July 1996 and Analiza was cross-examined on both incidents. The counsel for appellant did not object that Analiza cannot testify on the first rape as the prosecutor was presenting her only to prove the second rape in July 1996. Appellant therefore cannot complain of surprise. He was able to defend himself from the charge of the complainant.

Next, appellant maintains that the testimony of Analiza is not sufficient to establish rape. Allegedly, there was no force employed because her panty was not torn when removed. Doubt is also cast on her story because her brothers always accompanied them in making copra. Appellant also capitalized on the delay for two (2) months in reporting the incident on the part of the complainant.

We reject these contentions.

A torn underwear is not indispensable to prove the crime of rape. Rape can be committed without damaging the

apparel of the victim. Analiza's testimony explains well why her underwear was not damaged. She testified that appellant began raping her while they were resting on a rock. He started to remove her clothes but she ran away. He chased and caught her. While he was forcing himself on her, she resisted until her strength ebbed away. She gave a last ditch effort to preserve her honor but to no avail. That was the time appellant removed her underwear and consummated his lust.[19] Thus, her underwear was not torn. Anent the second contention, Analiza testified she and appellant were alone when she was abused. She was not with her brothers who were two years old and four years old. Assuming that they were present, it is doubtful whether they understood what appellant was doing to Analiza. The result of the medical examination corroborated Analiza's story as it disclosed that Analiza was no longer a virgin.

The delay of Analiza in reporting the incident can not diminish her credibility. The incident happened when she was only 15-years old and living with appellant and her sister. Her parents were absent. She was dependent on appellant. Appellant warned her that he would leave her sister if the latter knew of the incident and she feared this eventuality. Further, her sister prevented her from filing charges. Given all these, it can not be expected that she would act like a mature woman, young and inexperienced as she was. Our consistent doctrine is that delay in reporting a rape, if sufficiently explained, does not affect the credibility of a witness.

Appellant tried to impute the authorship of the crime to another person through a letter that Analiza allegedly gave to Analyn. Allegedly, Analyn established that Analiza wrote the letter.

This contention is unconvincing. On rebuttal, Analiza denied that she wrote the letter. She also claimed that Analyn dissuaded her from filing charges against appellant. We agree with the trial court that Analyn is not worthy of belief.[20] As aptly observed, she did not show the slightest interest about the contents of the letter that affected the honor of her younger sister. She said that Analiza wrote the letter in front of her and gave it when they were jesting with each other. Her testimony is incredible. Analiza could not have treated her debasement as a joke. Evidence to be believed must not only come from credible witnesses, but must be credible in itself.[21]

All considered, the prosecution proved appellant's guilt beyond reasonable doubt. But in addition to the P50,000.00 indemnity awarded by the trial court, another P50,000.00 should be given as moral damages.[22]

IN VIEW WHEREOF, the decision of the regional trial court in Criminal Case No. 5434-G is AFFIRMED with the modification that appellant is further ordered to pay P50,000.00 to Analiza Alvarez Pidoc as moral damages in addition to the P50,000.00 indemnity. Cost against appellant.

SO ORDERED.

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

[1] Branch 61, Presided by Judge Proceso K. De Gala.

[2] In Criminal Case No. 5434-G.

[3] Rollo, p. 6.

[4] TSN, July 15, 1997, pp. 3-8.

[5] Ibid., pp. 15-17.

[6] Exhibit "A", Folder of Exhibits, p. 2.

[7] TSN, August 7, 1997, p. 4.

[8] TSN, September 16, 1997, p. 3.

[9] Ibid., p. 4.

[10] Ibid., pp. 12-13.

- [11] TSN, September 23, 1997, p. 5.
- [12] TSN, September 24, 1997, pp. 3-17.
- [13] Exhibit "1", Folder of Exhibits, p. 4.
- [14] Ibid., pp. 18-20.
- [15] TSN, October 2, 1997, pp. 3-5.
- [16] Decision, p. 14.
- [17] Rollo, p. 44.
- [18] Fn. 16.
- [19] TSN, July 15, 1997, pp. 5-8.
- [20] Decision, p. 10.
- [21] People vs. Manambit, 271 SCRA 344 (1997)
- [22] People vs. Gementiza, 285 SCRA 478 (1998); People vs. Bernaldez, 294 SCRA 317 (1998)

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