PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FRANCO MORALES, ACCUSED-APPELLANT.

G.R. No. 134292. August 16, 2001

Ponente: PARDO, J.

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PARDO, J.:

The case is an appeal from the decision[1] of the Regional Trial Court, Laguna, Branch 35, Calamba, finding accused Franco Morales[2] guilty beyond reasonable doubt of rape and sentencing him to reclusion perpetua and to indemnify the complainant Jennifer Combo in the amount of P50,000.00 as actual damages and the amount of P50,000.00 as moral damages.

On April 25, 1996, 2[nd] Asst. Provincial Prosecutor of Laguna Loreto M. Masa filed with the Regional Trial Court, Laguna, Calamba, an information[3] charging accused Franco Morales with rape, reading as follows:

> "That on or about September 6, 1995, at Kapayapaan Village, Brgy. Canlubang, Municipality of Calamba, Province of Laguna and within the jurisdiction of this Honorable Court, the accused above-named, while conveniently armed with a kitchen knife by means of force and intimidation, and with lewd designs, did then and there wilfully, unlawfully and feloniously have carnal knowledge with one JENNIFER COMBO, a 14 year old girl, against her will and consent, to her damage and prejudice.
>
> "CONTRARY TO LAW."

On June 6, 1996, the trial court arraigned the accused. He pleaded not guilty.[4] Trial ensued.

Complainant Jennifer Combo hails from Bicol. In May 1995, she went to Calamba, Laguna and lived with the family of her aunt, Cherry Manglapuz.[5] Her uncle, Gil Manglapuz, financed her schooling at the Liceo de Cabuyao.[6] She was fourteen (14) years old and in second year high school.[7]

According to Jennifer, on September 6, 1995, at about 7:30 in the evening, after coming from school, she rode on a tricycle driven by accused Franco Morales. There were four other passengers. Everyone alighted ahead of Jennifer. Instead of bringing her home, accused Franco Morales brought her to a nipa hut near a vacant lot.[8]

The nipa hut was lighted with a kerosene lamp. An old woman inside asked accused Franco Morales whom he was with. The latter replied that Jennifer was his girlfriend. Jennifer did not say anything because from the moment she alighted from the tricycle, accused Franco Morales was poking a knife at her side.[9]

Accused Morales led Jennifer to a small bedroom. He asked her to undress. She refused. She was still wearing her school uniform at that time. He lifted her skirt and pulled down her underwear. He also took off his clothes. Jennifer tried to ward him off and kept on kicking him for about twenty-five (25) minutes, but she never shouted. He succeeded in inserting his penis into her vagina. He put the knife on the bed and covered Jennifer's mouth to prevent her from screaming for help.[10]

After the incident, she immediately rushed out of the nipa hut. She flagged down a tricycle and rode home

crying.[11] Her uncle, Gil Manglapuz, met her at the door. She kissed his hand ("nagmano"), went straight to her room and washed herself in the bathroom.[12] Gil testified that he did not notice anything unusual. On cross-examination, he said that Jennifer looked pale when she arrived home that evening. He did not anymore inquire why she looked pale because he was on his way to work. He never mentioned this to his wife because they were both busy with their own children and their work.[13]

On October 14, 1995, accused Franco Morales went to see Jennifer in her house. Gil asked Jennifer if she knew accused Franco Morales. She answered that she knew him by face.[14] Gil testified that accused Franco Morales and Jennifer were able to talk. After a few more questions on cross-examination, he retracted and stated that the two were not able to talk to each other. He noticed that Jennifer was pale, so he "instructed Jennifer not to talk to accused Franco Morales."[15]

Four (4) days after that meeting with accused Franco Morales, or on October 18, 1995, Gil asked Jennifer why she was not as jovial as before. She narrated her ordeal with accused Franco Morales. That same day, Gil accompanied her and reported the matter to the authorities. He and Jennifer separately executed sworn statements. The following day, Gil told his wife about the whole incident.[16] On October 20, 1995, they accompanied Jennifer to Dr. Rodrigo for a physical examination.[17]

In his defense, accused Franco Morales denied having sexually abused Jennifer. He admitted that Jennifer was his passenger on the fateful night of September 6, 1995. After all the passengers have alighted, Jennifer started to cry. She asked him to go around and refused to be brought home, claiming that her uncle maltreated her and was doing bad things to her. She pleaded with accused Franco Morales to give her a job so she could move out of her uncle's house.[18]

Accused Franco Morales pitied her. He brought her to his family's canteen and asked his mother to take Jennifer as a waitress. His mother tried to pacify Jennifer and advised her against her plans. Besides, they were not in need of additional waitress at that time. Accused Franco Morales and his parents took Jennifer home. Jennifer instructed accused Franco Morales to drop her off at a corner and she would just walk home. She was afraid that her uncle might see him. He testified that he never saw Jennifer since September 6, 1995. Accused Franco Morales denied having gone to Jennifer's house on October 14, 1995.[19]

On January 12, 1998, the trial court rendered its judgment, the dispositive portion of which reads as follows:

> "WHEREFORE, premises considered finding the accused guilty beyond reasonable doubt of the crime charge (sic), said accused is hereby sentenced to suffer a minimum penalty of reclusion perpetua and to indemnify the complainant Jennifer Combo the amount of P50,000.00 as actual damages and the amount of P50,000.00 as moral damages.
>
> "SO ORDERED.
>
> "Calamba, Laguna, January 12, 1998.
>
> "(Sgd.) ROMEO C. DE LEON
> "J u d g e"[20]

Hence, this appeal.[21]

The sole issue is whether or not the trial court erred in giving full credence to the testimonies of the prosecution witnesses and thus convicting the accused of the offense charged.[22]

Factual findings of the lower court are normally not disturbed on appeal, unless there is a clear showing that it misunderstood or misapplied some facts of weight and substance.[23]

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We find that the lower court erred in convicting accused-appellant on the basis of the testimonies of the prosecution witnesses. In reviewing rape cases, the Court is guided by the following principles: (a) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused, though innocent, to disprove the charge; (b) considering that, in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant must be scrutinized with great caution; and (c) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[24]

It is true that in rape cases, an accused may be convicted solely on the basis of the testimony of the complainant.[25] Hence, her testimony must be viewed with utmost caution, more particularly when there are factors that cast doubt on her credibility.[26]

The resistance offered by Jennifer was unnatural for one who was raped. She resisted his advances by pushing him off and kicking him for about twenty-five minutes, but she never shouted for help.[27] She tried to shout only when accused-appellant finally succeeded in having sexual intercourse with her. She was not able to shout, though, because he covered her mouth.[28] She also testified that while accused-appellant was satisfying his lust, the knife was just lying on the bed.[29] Her hands were free, but she did not reach out for the knife so she could defend herself. The Medico Legal Report[30] revealed that there were "no signs of abrasions, contusion or injuries on the body [of the complainant]."[31]

There are inconsistencies in the testimonies of the complainant and her uncle Gil that engender a belief that the alleged rape was fabricated. Gil was worried because it was late and Jennifer was not yet home; yet, he did not observe anything unusual in Jennifer when she arrived home that night. When asked further, he finally said that Jennifer looked pale.[32]

Jennifer testified that when she arrived, she kissed her uncle's hand, went to her room, then proceeded to the bathroom. She cried inside and washed her underwear. When she went out of the bathroom, she saw her uncle "in the sala doing something."[33] Gil, on the other hand, testified that immediately after Jennifer entered the house, he left for work.[34]

Jennifer also testified that she was not able to talk to accused-appellant when the latter came to their house on October 14, 1995. Gil, on the other hand, testified that the two talked to each other. After further questions, he retracted and stated that Jennifer and accused-appellant were not able to talk to each other. He instructed Jennifer not to talk to accused Franco Morales "because of fear."[35] This was baseless because Jennifer disclosed her ordeal with accused-appellant only four (4) days after the latter went to their house. He had no reason to instruct Jennifer in that wise since Jennifer stated that she knew accused Franco Morales by face. Interestingly, Gil, after Jennifer's disclosure, accompanied her at once to Camp Vicente Lim to report the matter. He told his wife about the whole incident only the day after.[36]

With respect to the filing of this case, Jennifer's candid response was that she was "forced by [her] uncle to file this case."[37] She later testified that it was upon her initiative that the complaint was filed, and that she sought the permission of her auntie Cherry only.[38] As borne out by the records, it was her uncle Gil who accompanied her to the police authorities.

He even executed a sworn statement,[39] and Jennifer's auntie learned about it only the following day. In his testimony, Gil categorically stated that he initiated the filing of this complaint.[40]

Jennifer's disclosure of the rape is tainted with doubtful circumstances. She insisted that she kept silent for more than a month because she was afraid of accused-appellant's death threat.[41] Accused-appellant was a simple

tricycle driver. Jennifer's testimony that accused-appellant shot some dagger looks at her in the tricycle station after the rape[42] is like a speck of dust in a vast desert. She even testified that accused-appellant did not do anything to harm her.[43]

It is worthy to note that after the arraignment, Jennifer "disappeared" from her aunt's house. Three subpoenas for her were returned unserved on the ground that the "addressee cannot be located on her given address despite effort exerted."[44] It was only after the service of the third subpoena that her whereabouts became known. She was working at Motorola Philippines, Inc. in Parañaque.[45] We have held that the conduct of the complainant after the assault is of critical value;[46] of equal importance is her conduct during the prosecution of the case.

On the other hand, accused-appellant's sole defense of alibi is not unacceptable. He admitted that he brought Jennifer to his house (a part of which is, incidentally, used as a canteen) on that particular night because of the latter's prodding to help her find a job so she could move out of her uncle's house.[47] Unfortunately, accused-appellant's mother rejected the idea of taking her as a waitress in their canteen since she was still young and, besides, they did not need additional waitresses at that time.[48]

The defense of alibi must not be looked with disfavor, as "there are instances when an accused may really have no other defense but denial and alibi which, if established to be the truth, may tilt the scales of justice in his favor, especially when the prosecution evidence itself is weak."[49] When the prosecution is unable to establish the guilt of an accused, alibi assumes importance.[50] In the case at bar, the Medico Legal Report[51] evidences the fact of complainant's defloration, but the prosecution failed to link accused-appellant as the abuser. The facts lead us to conclude that he was a victim of a false accusation.

WHEREFORE, the decision of the trial court is hereby REVERSED and SET ASIDE. Accused-appellant FRANCO MORALES is ACQUITTED of the crime charged on reasonable doubt. The Director of Corrections is hereby directed to forthwith release accused-appellant unless he is held for another case, and to inform the Court of the action taken hereon within ten (10) days from notice.

Costs de oficio.

SO ORDERED.

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

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[1] In Criminal Case No. 4741-96-C. Judge Romeo C. de Leon, presiding (Original Record, pp. 230-241; Rollo, pp. 17-28). He signed his name as Francisco P. Morales (Original Record, pp. 20, 26).

[2] He signed his name as Francisco P. Morales (Original Record, pp. 20, 26).

[3] Original Record, p. 41.

[4] Ibid., p. 50.

[5] Cherry Manglapuz is the sister of Jennifer's father (TSN, August 14, 1996, p. 31).

[6] TSN, August 14, 1996, p. 22.

[7] Ibid., p. 22, 31-32.

[8] Ibid., pp. 7-9.

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

[10] Ibid., pp. 12-19.

[11] Ibid., p. 20

[12] Ibid., p. 23.

[13] TSN, February 4, 1997, pp. 40-41.

[14] Ibid., pp. 31-32.

[15] Ibid., pp. 31-34.

[16] Ibid., p. 42.

[17] TSN, August 14, 1996, p. 24.

[18] TSN, February 19, 1997, pp. 7-9, 18.

[19] Ibid., pp. 10-16.

[20] Original Record, p. 241; Rollo, p. 28.

[21] Notice of Appeal, Rollo, p. 29, Original Record, p. 242.

[22] Appellant's Brief, Rollo, pp. 46-61, at p. 50.

[23] People vs. Ratunil, 334 SCRA 721, 730 (2000).

[24] People vs. Painitan, G. R. No. 137665, January 16, 2001; People vs. de Leon, 320 SCRA 495, 501 (1999); People vs. Aguinaldo, 316 SCRA 819, 828-829 (1999); People vs. Palma, 308 SCRA 466, 475-476 (1999); People vs. Bea, Jr., 306 SCRA 653, 658 (1999).

[25] People vs. Quinanola, 306 SCRA 710, 725 (1999); People vs. Dizon, 309 SCRA 669, 684 (1999).

[26] People vs. Malacura, G. R. No. 129365, December 4, 2000; People vs. Vidal, 308 SCRA 1, 19 (1999).

[27] TSN, November 12, 1996, p. 8.

[28] TSN, August 14, 1996, p. 18.

[29] Ibid., p. 20.

[30] Exh. "D".

[31] TSN, February 4, 1997, p. 21.

[32] TSN, January 22, 1997, pp. 2-6.

[33] Ibid., p. 6.

[34] TSN, February 4, 1997, p. 41 (emphasis supplied).

[35] Ibid., pp. 32-34.

[36] Ibid., p. 28.

[37] TSN, August 14, 1996, p. 27.

[38] TSN, January 22, 1997, pp. 9-10.

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[39] Exh. "E".

[40] TSN, February 4, 1997, p. 44.

[41] TSN, November 12, 1996, p. 10.

[42] TSN, January 22, 1997, p. 7.

[43] Ibid., p. 7.

[44] Original Record, pp. 52-59.

[45] Ibid., p. 61.

[46] People vs. Ratunil, 334 SCRA 721, 733 (2000); People vs. Bayron, 313 SCRA 727, 734-735 (1999).

[47] TSN, February 19, 1997, pp. 7-9, 13-14, 24.

[48] TSN, June 3, 1997, p. 8.

[49] People vs. Ladrillo, 320 SCRA 61, 74 (1999).

[50] People vs. Ibay, 312 SCRA 153, 179 (1999).

[51] Exh. "D".

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