

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PATRICK A. COLISAO, ACCUSED-APPELLANT.

G.R. No. 134526. December 11, 2001

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

Before us is an appeal from a Decision[1] dated May 27, 1998 rendered by the Regional Trial Court, Branch 46, Urdaneta, Pangasinan, in Criminal Case No. U-9456, the dispositive portion of which decrees:

WHEREFORE, JUDGMENT of CONVICTION beyond reasonable doubt is hereby rendered against accused PATRICK COLISAO for the crime of SIMPLE RAPE defined and penalized under Article 335 of the Revised Penal Code in relation to R.A. 7659, the Court sentences Patrick Colisao to suffer the penalty of Reclusion Perpetua and to pay Maylene Tabin the amount of P50,000.00 as moral damages.

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On December 17, 1997, an Information[2] dated December 15, 1997 was filed against appellant Patrick A. Colisao. The information reads:

That on or about December 3, 1997, in the evening at barangay Bantog, municipality of Asingan, province of Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did, then and there wilfully, unlawfully and feloniously [sic] have sexual intercourse with Maylene C. Tabin, a minor 13 years old, against her will and without her consent, to her damage and prejudice.

CONTRARY to Art. 335, Revised Penal Code, as amended by R.A. 7659.

On arraignment, appellant, assisted by counsel, entered a plea of "not guilty." During trial, the prosecution presented and offered the testimonies of Maylene and her father, Melecio; Dr. Noemi Taganas; and SPO4 Benjamin Velasco Mariano. On the other hand, the defense presented four (4) witnesses, namely: the appellant himself; his aunt Rebecca Almanza; his mother Gloria; and his niece Marivic Almanza.

The evidence of the prosecution discloses the following facts:

At about 6:30 in the evening of December 3, 1997, Maylene Tabin, then 13-years old and the second of the ten (10) children of Melecio and Helen Casiano Tabin, went to the house of their neighbor Mario Almanza to watch television, together with her two (2) sisters and one brother. That night, appellant was also a visitor at Almanza's house, Almanza being the former's uncle. Appellant was there to seek the assistance of his uncle in writing a billet-doux to a paramour named Naty.[3] Appellant, it turned out, was already married and the father of a four-year old son, although he and his wife separated after the latter ran off with another man.[4]

At approximately 8:00 p.m., Maylene stepped out of Almanza's house to answer the call of nature. Upon finishing, as she stood up to adjust her clothes, she was seized from behind by appellant. He clapped a hand over her mouth, and with the other, grabbed hold of her two (2) hands. He dragged her toward a nearby river, and after

removing her shorts and underwear and his shorts, he succeeded in ravishing her. Maylene who stood only 5'4",[5] proved no match for her 5'9" tall, 65 kilogram[6] assailant, and was unable to shout for help as appellant threatened to kill her. She categorically stated that appellant was able to insert his organ into her vagina.

In the meantime, Maylene's siblings had gone home without her. Her father Melecio was alarmed,[7] particularly so when Marivic Almanza, Mario Almanza's daughter who had accompanied the Tabin children home, told him that she saw appellant pulling Maylene toward the river.[8] Melecio set out into the night to look for his daughter. He first went to Mario Almanza's house, but he was told by the latter's wife, Rebecca, that appellant and Maylene were not there. He crossed the river to the house of Badong Dumlao (whose daughter was a friend of Maylene's and whose wife was a relative of appellant's), but his daughter was not there either. Getting more agitated by the minute, he went to Asingan to the house of his in-laws to inform the latter that Maylene was missing. As a last resort, he looked for his daughter in the house of appellant's mother, Gloria, but he also failed to find her there. Hence, he went home and it was there that he found Maylene who appeared to be in a state of shock. Maylene informed her father that she was raped by appellant. Both father and daughter proceeded to the Medicare Community Hospital where the latter was examined by the hospital chief, Dr. Taganas. During the examination, Maylene was "crying and very hard to motivate." [9]

The medical examination[10] conducted on the complainant disclosed the following:

Internal Findings:

- Hymen ruptured showing complete lacerations with fresh bleeding at about 11:00, 1:00, 3:00 6:00, 9:00 o'clock position;
- Fresh bleeding coming from vagina.
- Hymenal orifice admits 1-2 fingers with difficulty.
- Fresh abrasion with bleeding from lower inner lower portion of the vagina.

Diagnosis: Physical Virginity Lost.

For its part, the defense offered a different version of the events in question. The accused denied having even laid a hand on Maylene. Appellant alleged that although he and Maylene were sweethearts, their expressions of affection were limited to kissing, embracing and holding hands.[11] Although they supposedly called each other "Mama" and "Papa," they never engaged in the private and intimate activities that husbands and wives do.[12]

On the witness stand, appellant narrated[13] that at around seven of the night in question, he went to the house of Melecio Tabin to collect the sum of Three Thousand Pesos (P3,000.00). The amount allegedly owed was in payment of labor performed by appellant, as a chainsaw operator, for Melecio. Appellant claimed to have cut down some thirty (30) ipil-ipil trees and converted them to five hundred (500) board feet of lumber, at the cost of Six Pesos (P6.00) per board feet. Melecio, though, failed to pay, and allegedly even got angry at appellant since the former did not have the money that night. Afterward, appellant went to Almanza's house, where he came upon Maylene and her siblings. Maylene allegedly asked appellant to buy her Coca-cola and sanitary napkins at Lani's store. Together with Marivic Almanza, Maylene and appellant went to the store and bought the said items. The three (3) of them then proceeded to Marilou Dumlao's house where they were invited to watch television. After doing so for a while, they went home. Appellant then averred that he slept at the nipa hut of Mario Almanza, when a few moments later, Maylene approached him and proposed that they elope. Appellant, a 25-year old married man, agreed. Just as they were about to leave, they heard Maylene's father calling for her. Maylene allegedly changed her mind and informed appellant that she would be going home instead. After they separated, appellant claimed that he went back to town to buy cigarettes, and thereafter went home to sleep. He was accosted

only the following morning by Maylene's father in connection with the alleged rape[14] and subsequently arrested by the police.

On May 27, 1998, the trial court rendered judgment[15] convicting appellant of simple rape and sentencing him to reclusion perpetua. The trial court found that the prosecution was able to prove appellant's culpability beyond reasonable doubt. In its decision, the trial court found and declared that:

The negative denial of Colisao that he had not raped Maylene could not prevail over the positive and categorical testimony of Maylene which is full of specifics and in details.

Besides, Maylene immediately reported to her father the dastardly acts committed by Colisao. They (Maylene and Melecio Tabin) immediately went to the Police about 10:00 P.M. to lodge her complaint against Colisao for rape. After the usual police investigation, she submitted for medical examination.

Even if the court would take as gospel truth the version of Colisao that he and Maylene were sweethearts and that Maylene addressed him as "Papa" and he addressed Maylene as "Mom" and that they kissed and embraced each other, nonetheless, on the night of December 3, 1997, about 8:00 o'clock P.M., when he dragged, pulled and covered the mouth of Maylene and brought her to the nearby river and thereafter forced her to lie down on the ground and inserted his organ to her private organ without the consent of Maylene, it constitute rape.

The prosecution was able to prove the guilt of the accused beyond reasonable doubt of the crime of simple rape. The Court finds Patrick Colisao guilty beyond reasonable doubt of the crime of simple rape defined and penalized under Art. 355 of the Revised Penal Code in relation to R.A. 7659. On the civil aspect, the Court awards P50,000.00 for moral damages Maylene Tabin suffered in the hands of the accused.

Appellant premises the instant appeal on a single assigned error, to wit:

The lower court erred in giving full credit to the fabricated testimony of private complainant Maylene Tabin that she was raped by accused-appellant.

In reviewing a conviction for rape, we have been consistently guided by these precepts: (a) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (b) in view of the intrinsic nature of the crime of rape, where only two persons are usually involved, the testimony of the complainant is scrutinized with extreme caution; and (c) the evidence of the prosecution stands or falls on its own merits and cannot be allowed to draw strength from the weakness of the defense.[16] Applying these principles to the case at bar, we find that appellant's culpability has been established beyond reasonable doubt. Perforce, we affirm.

The elements to be proven in an indictment for rape are: (1) that the offender had carnal knowledge of the victim; and (2) that the act was accomplished through the use of force or intimidation; or when the victim is deprived of reason or otherwise unconscious; or when the victim is twelve (12) years of age, or is demented.[17] An extract from Maylene's testimony, quoted hereunder, indubitably established the presence of the aforesaid elements:

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PROS. BINCE:

Q:

After the accused pulled you with a distance of 40 to 50 meters from the place where you urinated, what else happened, if any?

WITNESS:

A:

I was made to lie down sir.

Q:

Were you able to lie down when he made you to lie down?

A:

Yes, sir.

Q:

What else happened after you lay down to the ground?

A:

He undressed me, sir.

Q:

What did he remove when he undressed you?

A:

My short pant together with my panty, sir.

Q:

After the accused removed your short pant and panty, what did he do, if he did anything?

A:

He also removed his pant sir.

Q:

After that what else happened, if any?

A:

He went on top of me, sir.

Q:

And then what else did he do after he went on top of you?

A:

He forced me sir, ...

COURT:

The public is hereby ordered to get out from the courtroom.

WITNESS:

A:

His organ was made to insert to my vagina, sir.

Q:

Was his penis able to insert to your vagina?

A:

Yes, sir.

Q:

And what did he do when he was able to insert his penis to you (sic) vagina?

A:

The witness demonstrated push and pull movement.

Q:

How long did he have that push (sic) and pull movement?

A:

I cannot calculate, sir.

Q:

After the push and pull movement made by the accused, what did he do next?

A:

He stood up and warned me if I report he will kill me, sir.

Q:

Before the accused stood up, what did you feel in your vagina, if any?

A:

Painful, sir.

Q:

Aside from painful, what else did you feel?

A:

Very hot, sir.

Q:

What do you mean by hot, there was a hot substance that entered into your vagina?

ATTY IGNACIO:

May we put on record that the witness is hard to answer.

COURT:

What happened to your vagina?

WITNESS:

A:

Painful, sir.

Q:

Why is it painful?

A:

Because of the push and pull, sir.

PROS. BINCE:

Q:

When he threatened not to report because he will kill you, what did you do?

A:

I reported to my father, sir.[18]

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In his brief, counsel for appellant attempts to discredit Maylene by pointing out alleged inconsistencies in her testimony. These so-called inconsistencies - e.g., the part of Almanza's house where she urinated, whether she had finished urinating when Colisao grabbed her (or even whether she urinates standing up), the distance from the house she was dragged by appellant, whether she was able to shout or break free from her attacker - evince her predisposition to lying under oath. We disagree. A review of the transcripts of the proceedings shows that these supposed inconsistencies bear on relatively minor points, and even taken as a whole, fail to debunk the gravamen of the accusation: that appellant had carnal knowledge of the complainant against the latter's will. An impeccable recollection cannot reasonably be expected from the victim of a horrendous crime, such that minor contradictions in a witness' testimony are perceived to enhance, rather than detract from, the credibility of said witness.[19]

It is also argued by the defense that Maylene should have suffered more and graver injuries taking into account

the disparity in height and built between the complainant and appellant. The insinuation, of course, is that Maylene should have collapsed[20] from the weight of appellant Colisao bearing down upon her. This line of reasoning is non sequitur; whether the victim suffered other external injuries other than the violation done to her private parts is immaterial,[21] for the medical report is sufficient proof that she sustained the injury which under the law qualifies it as rape.

In the same manner, we cannot sustain the argument that rape did not occur since no spermatozoa were detected in Maylene's underwear submitted in evidence. This contention is quite shallow inasmuch as the absence of spermatozoa does not entirely negate rape.[22] Moreover, the forensic chemist who tested the blood clot on Maylene's underwear stated that the sample could give a negative result for semen if the blood and the seminal fluid had mixed (in which event decomposition would result), and if the sample was improperly handled, which was what happened in the instant case.[23]

There is much to be said in the case at bar about a 25-year old married man who presents himself as the swain of a 13-year old lass. Even if we were made to believe that he thought that Maylene was already sixteen,[24] his civil status alone should have given him pause from pursuing such a relation. In the provinces, the inhabitants are generally more conservative than their city-dwelling counterparts. They do not share the same liberal mores that would perhaps allow others to turn a blind eye toward such an irregularity. As it is, we cannot fathom the emphasis placed by the defense on the alleged romance between Maylene and Colisao inasmuch as what the defense principally relied on is pure and simple denial.

It has been repeatedly held in a number of cases that denial, like alibi, is inherently a weak defense, for it is easy to concoct and difficult to disprove. It cannot stand vis-à-vis the unequivocal assertion to the contrary of the complainant. It can safely be stated that the defense of denial assumes significance only when the prosecution's evidence is such that it does not prove guilt beyond reasonable doubt.

Such is not the case here. It has been held that the lone testimony of the complainant is sufficient to form the basis for conviction provided that it meets the test of credibility.[25] There is ample reason to apply the said ruling to the case at bar. First, Maylene did not tarry in reporting the offense committed against her. The lack of delay in reporting her defilement has been seen to greatly reinforce the credibility of the complainant.[26] Second, appellant's bare denial cannot stand against an unequivocal assertion to the contrary of the rape victim, specially when the results of the medical examination supports the victim's claim. Carnal knowledge is deemed established when the testimony of the complainant is consistent with the medical findings.[27] Third, the defense failed to show any plausible motive which would have impelled Maylene to perjure herself and knowingly hurl false accusations against an innocent man.[28]

Amid the rancor surrounding an accusation of rape, the ultimate query is: should the complainant be believed. In the end, we consider it unthinkable that a girl as young as Maylene would fabricate a tale of her forcible defloration, subject herself to the indignity of a medical examination where her private parts would be poked and probed, and risk the rigors of a public trial where her honor and that of her family would be called into question.[29]

Rape committed through the use of force, threat or intimidation is punishable by reclusion perpetua.[30] In this respect, the trial court did not err in imposing the said penalty, in the absence of any qualifying circumstance which would call for the imposition of a harsher penalty. Likewise, it correctly assessed against appellant the sum of Fifty Thousand Pesos (P50,000.00) as moral damages. In rape cases, moral damages may be awarded without need of proof or pleading since it is assumed that the victim suffered moral injuries,[31] more so where the victim is aged 13 to 19.[32] However, in addition to moral damages, appellant must also be ordered to pay the additional

amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity for the offense. Jurisprudence holds that the payment of civil indemnity is mandatory upon a finding of rape; it is distinct from any award for moral damages as the latter is based on a different jural foundation and is assessed at the trial court's sound discretion.[33] Further, appellant must be adjudged liable to pay Three Thousand Pesos (P3,000.00) in actual damages in view of the defense's admission that the victim's family incurred the said amount in connection with the filing of the complaint.[34]

WHEREFORE, the judgment appealed from is hereby AFFIRMED, with the MODIFICATION that appellant Patrick A. Colisao is also ordered to pay the appellee Maylene C. Tabin, the additional amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity and Three Thousand Pesos (P3,000.00) as actual damages. Costs against appellant.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, and Quisumbing, JJ., concur.
Buena J., on official leave.

[1] Penned by the Hon. Modesto C. Juanson, Presiding Judge.

[2] Records, p. 1.

[3] TSN, February 26, 1998, p. 8.

[4] TSN, March 3, 1998, pp. 4-6.

[5] TSN, April 1, 1998, p. 3.

[6] TSN, March 31, 1998, p. 2.

[7] TSN, February 10, 1998, pp. 5-12.

[8] TSN, February 10, 1998, p. 8.

[9] TSN, February 2, 1998, p. 8.

[10] Medico-Legal Certification, Exhibit "A," Records, p. 10.

[11] TSN, March 31, 1998, p. 4.

[12] TSN, April 1, 1998, p. 4.

[13] TSN, March 31, 1998, pp. 5-7 and TSN, April 1, 1998, pp. 3-10.

[14] According to Melecio Tabin, appellant offered to marry Maylene; see TSN, February 10, 1998, p. 17.

[15] Records, pp. 145-157.

[16] *People v. Mahinay*, 302 SCRA 455, 473 (1999); *People v. Menggasin*, 306 SCRA 228, 239 (1999); *People v. Bea*, 306 SCRA 653, 658 (1999); *People v. Monfero*, 308 SCRA 396, 404 (1999); *People v. Palma*, 308 SCRA 466, 475-476 (1999); *People v. Narido*, 316 SCRA 131, 140-141 (1999); *People v. Celis*, 317 SCRA 79, 91 (1999); *People v. Tabion*, 317 SCRA 126, 135 (1999); *People v. Lasola*, 318 SCRA 241, 249 (1999); *People v. Apostol*, 320 SCRA 327, 337 (1999).

[17] *People v. de Leon*, 320 SCRA 495, 504 (1999).

[18] TSN, February 2, 1998, pp. 15-17.

[19] *People v. Padilla*, 301 SCRA 265, 275 (1999); *People v. Calayca*, 301 SCRA 192, 200 (1999); *People v. Mengote*, 305 SCRA 380, 393 (1999); *People v. Reñola*, 308 SCRA 145, 161-162 (1999); *People v. Juntilla*, 314 SCRA 568, 581 (1999); *People v. Hivela*, 314 SCRA 815, 823 (1999).

[20] Brief for the Accused-Appellant, Rollo, pp. 75-76.

[21] *People v. Managaytay*, 305 SCRA 316, 323 (1999).

[22] E.g., *People v. Oliver*, 303 SCRA 72, 82 (1999); *People v. Gastador*, 305 SCRA 659, 674 (1999).

[23] TSN, April 2, 1998, pp. 7-9.

[24] TSN, April 1, 1998, p. 2.

[25] *People v. Villaluna*, 303 SCRA 518, 526 (1999); *People v. Bolatete*, 303 SCRA 709, 729 (1999); *People v. Acala*, 307 SCRA 330, 346 (1999).

[26] *People v. Velasquez*, G.R. No. 137383-84, November 23, 2000, citing *People v. Escala*, 292 SCRA 48, 59. (1998).

[27] *People v. Motos*, 317 SCRA 96, 115 (1999).

[28] Cf. *People v. Sagun*, 303 SCRA 382; *People v. Gayomma*, 315 SCRA 639.

[29] *People v. Quiñanola*, 306 SCRA 710, (1999).

[30] Article 266-B, Revised Penal Code, as amended by Republic Act No. 8353.

[31] *People v. Banela*, 301 SCRA 84, 95 (1999); *People v. Alba*, 305 SCRA 811, 831 (1999).

[32] *People v. Dizon*, 309 SCRA 669, 691 (1999).

[33] *People v. Marabillas*, 303 SCRA 352, 360 (1999).

[34] TSN, February 18, 1998, p. 2.

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