

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, vs. PRUDENCIO BALMORIA, ACCUSED-APPELLANT.

G.R. No. 134539. November 15, 2000

Ponente: PUNO, J.

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PUNO, J.:

This is an appeal from the decision of the Regional Trial Court[1] convicting Prudencio Balmoria of rape and sentencing him to suffer the penalty of reclusion perpetua.

The information states:

"That sometime in the month of March 1992, in the municipality of Matalom, Province of Leyte, Philippines and within the jurisdiction of this Honorable Court[,] the above-named accused by means of force and intimidation, willfully, unlawfully and feloniously did lie, and succeeded in having carnal knowledge with Merlin P. Torillas[,] a minor[,] then of (sic) 8 years old[,] in the house of Geronimo Gopo."

The victim, Merlin P. Torillas, testified that the accused was a close friend of her father. When Geronimo Gopo died, Merlin was asked to attend the wake at the house of a certain Lola Honor[2] in San Salvador, Matalom, Leyte. She helped in menial chores at the wake. When night came, Lola Honor told her to sleep at the house of the deceased located some 30 meters away from where the wake was held. She was accompanied by her twin, Helen, and two others.[3] They slept in the sala illuminated by a lamp inside the house and the lights from the vigil.[4] Other guests slept in different rooms of the house.

While Merlin was asleep, the accused entered the house. He approached Merlin, fondled her breasts and private part and kissed her. He removed her underwear and straddled her. By then, the accused was already naked from his waist down. He made pumping motions and penetrated Merlin after some thirty minutes. Merlin groaned and felt pain. She did not shout for the accused threatened to kill her.[5]

The accused fled after abusing Merlin because he heard Margarito "Titong" Gopo, husband of Lola Honor, calling him.

Merlin wrapped herself with a blanket.[6] Early in the morning, Merlin walked to their home some 100 meters away. She traversed the distance easily. There was no one home when she arrived. She did not return to the wake. The following day, she ran away and met her twin sister but she did not reveal her rape.

On cross-examination, Merlin testified that she was born on February 22, 1980. Her birth certificate, however, was not presented. She admitted that she could not remember the year when she was raped nor when Geronimo Gopo died. She could only recall that she celebrated her birthday prior to the death of Geronimo.[7]

Dr. Radegunda L. Uy, Municipal Health Officer of Matalom, Leyte, examined Merlin on February 20, 1995. Her examination revealed that Merlin has a swollen clitoris and labia majora. Her hymen bore a 1/3 cm. long healed laceration at 5 o'clock position.[8] Dr. Uy opined that the swelling of the labia majora and the clitoris could have been caused by the force of contact by a hard object.[9]

The accused denied the charge against him.

He testified that he has been happily married to Artemia since 1965. He alleged that he did not know when Geronimo died nor if there was a vigil for that purpose. He said he only knew Merlin when she filed the case at bar. He claimed that the case was instigated by Merlin's father who stole his fighting cock. He reported the theft to their barangay captain. The barangay captain, however, failed to resolve the case but instead sided with Merlin's father.[10]

On cross-examination, the accused said that he resides at Sitio Kawradio, Barangay Hituog, Matalom, Leyte. From there, it takes about four (4) hours to reach San Salvador, Matalom, Leyte, where the wake of Geronimo was held. He added that he and the father of Merlin were friends before the latter stole his fighting cock.[11]

Felix Gopo, brother of the deceased Geronimo, testified for the accused. He declared that he stayed at the house of Geronimo until the day of the burial. He said he did not see either the accused or Merlin in the said house during the wake and the burial of the deceased.

The accused also presented Manuel Gozon, a barangay kagawad of Brgy. Lipunan, Matalon, Leyte.[12] He testified that he conducted an investigation of the alleged rape. He questioned Leonora Gopo about the incident. However, he did not disclose the result of his investigation.[13]

The trial court[14] convicted the accused in its decision of April 20, 1998. It relied heavily on the testimony of Merlin and held that the prosecution established that the rape was committed by means of force and intimidation.[15] However, it ruled that the prosecution did not prove the age of Merlin when the crime was perpetrated. The dispositive portion of the decision states:

"WHEREFORE, premises considered, the Court finds the accused PRUDENCIO BALMORIA guilty beyond reasonable doubt of the crime of rape under Article 335 (1) of the Revised Penal Code, as amended, and hereby sentences said accused to suffer the penalty of reclusion perpetua. In addition, the accused shall indemnify the victim MERLIN P. TORILLAS by way of moral damages in the amount of Fifty Thousand Pesos (P50,000.00)."[16]

In this appeal, the accused assigns the following as errors of the trial court:

"I

THE LOWER COURT ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.

II

THE LOWER COURT ERRED IN ORDERING THE ACCUSED-APPELLANT TO INDEMNIFY (THE) VICTIM (IN) THE AMOUNT OF P50,000.00 AS MORAL DAMAGES."

Accused-appellant assails the credibility of Merlin. He contends that: (a) she only reported the rape three (3) years after its commission yet there was no threat on her life nor that of her family considering the distance of her residence and that of the accused-appellant; (b) she allegedly lied when she testified that she was only eight (8) years old when she was raped; and (c) it is unbelievable that the other people in the sala were never awakened when she was raped despite her groans for thirty (30) minutes.

The appeal has no merit.

First. Accused-appellant can not seek exculpation due to the delay of Merlin in reporting the rape incident. The delay is not necessarily an indication of a fabricated charge nor does it invariably cast doubt on the credibility of

the complainant.[17] Merlin was young when she was ravished by the accused-appellant. She was threatened with death. It is not uncommon for young girls to conceal for some time the assault against their virtue because of the threats on their lives.[18] A young girl, unlike a mature woman, can not be expected to have the courage and intelligence to immediately report a sexual assault committed against her especially when a death threat hangs over her head.[19]

Second. The failure of the young Merlin to remember her age when she was raped does not warrant a conclusion that she was not raped. A rapist should not expect the hapless object of his lechery to have the memory of an elephant and the cold precision of a mathematician.[20] What is important is that Merlin remembers that she was abused by accused-appellant during the wake of Geronimo. Lapses in memory are often committed by victims of rape who want to forget their dreadful experience. They should not necessarily be taken as evidence of false testimony.

Third. We cannot also reject the testimony of Merlin on the ground that her three (3) other companions were not awakened by her groans while she was being raped. Allegedly, the sala where Merlin slept measured only, more or less, five meters. Again, we have ruled that it is not impossible to commit rape in a small room even if there are several persons in it.[21] We note that, in the case at bar, the crime was committed in the middle of the night. It is at this time when children are in deep slumber and could not easily be awakened.

Fourth. Accused-appellant cannot also fault the trial court in rejecting the testimony of Felix Gopo that he did not see accused-appellant at the house of Geronimo during the wake. As explained by the trial court, viz:

"As to the testimony of the second witness, FELIX GOPO, this Court finds the same to be without any evidentiary value. Upon examination of the records of this case, this court has noted that Felix Gopo is the son of Leonora Gopo who is xxx the wife of Margarito 'Titong' Gopo and that the latter is the father of a certain Francino Gopo who has been reported by herein complainant to the police authorities to have committed some lascivious acts upon her. From these facts, the court can only conclude that Felix Gopo and Francino Gopo are brothers, hence, being such, he can not be expected to take the side of herein complainant, the very person who might have caused his brother Francino Gopo and their family to be subjected to embarrassment and gossip." [22]

Moreover, the direct and straight forward testimony of Merlin is sufficient to convict the accused-appellant.

Finally, the Court can not subscribe to the accused-appellant's theory that the case at bar was filed because of the theft of his fighting cock by the father of Merlin. It will take an enormous amount of evil for a young, uncouth woman to accuse a person with rape on account of theft of a chicken. Moreover, accused-appellant did not even try to prove how Merlin was influenced by her father in filing the case. In the absence of any evil motive on the part of Merlin, we see no reason to disbelieve her story.

The guilt of the accused-appellant was proven beyond reasonable doubt. The trial court correctly imposed the penalty of reclusion perpetua and the payment of moral damages in the amount of P50,000.00. However, it failed to award civil indemnity which current case law places at P50,000.00.

IN VIEW WHEREOF, the decision of the Regional Trial Court, Hilongos, Leyte, Branch 18 in Criminal Case No. H-658 is affirmed with the modification that the accused-appellant, Prudencio Balmoria, shall further pay P50,000.00 as civil indemnity in addition to the moral damages already awarded. Costs against the accused-appellant.

SO ORDERED.

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

- [1] Hilongos, Leyte, Branch 18.
- [2] Also known as Leonora.
- [3] TSN, January 21, 1997, pp. 5-8.
- [4] Id., pp. 9-10.
- [5] Id., pp. 8, 10-11.
- [6] Id., p. 11.
- [7] Id., pp. 12-13.
- [8] TSN, March 4, 1997, pp. 5-6.
- [9] Id., pp. 10-11.
- [10] TSN, December 2, 1997, pp. 3-7.
- [11] Id., pp. 8-10.
- [12] Records show that he was not cross-examined.
- [13] See TSN dated August 12, 1997.
- [14] Presided by Judge Abraham B. Apostol.
- [15] Rollo, p. 20.
- [16] Records, p. 188.
- [17] People vs. Malabago, 271 SCRA 464 (1997).
- [18] People vs. Leoterio, 264 SCRA 608 (1996).
- [19] People vs. Soan, 243 SCRA 627 (1995).
- [20] People vs. Mandap, 244 SCRA 457 (1995).
- [21] People vs. Abordo, 258 SCRA 571 (1996).
- [22] Decision, p. 6; Rollo, p. 54.

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