

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELIPE HOFILEÑA Y TAALA, ACCUSED-APPELLANT.

G.R. No. 134772. June 22, 2000

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

In denying this appeal, we rely on the doctrine that the sole, credible testimony of a rape victim is enough for conviction, and that the trial court's assessment of the credibility of testimonial evidence is accorded great respect, even finality.

The Case

Felipe Hofileña y Taala appeals the Decision[1] dated June 23, 1998, issued by the Regional Trial Court of Malaybalay, Bukidnon, (Branch 8),[2] in Criminal Case No. 8321-97, convicting him of rape.

Based on Iries Ente y Madiam's Complaint,[3] appellant was charged in an Information,[4] dated February 7, 1997, filed by Assistant Provincial Prosecutor Mario A. Dalapo, the accusatory portion of which reads as follows:

"That on or about the 9th day of November, 1996, in the afternoon, at North Poblacion, [M]unicipality of Maramag, [P]rovince of Bukidnon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a dagger and with lewd design, did then and there willfully, unlawfully and criminally enter into the room of one IRIES ENTE, a twelve years, three months and 15 days old child and once inside the room, forced her to lie down on the bed, remove[d] her skirt and panty and have sexual intercourse with IRIES ENTE, against her will, to her damage and prejudice."

With the assistance of Atty. Leo S. Rey of the Public Attorney's Office (PAO), appellant pleaded not guilty upon arraignment on August 4, 1997.[5]

After due trial on the merits, the court a quo rendered the assailed Decision, the dispositive portion of which reads:[6]

"WHEREFORE, judgment is hereby rendered finding accused Felipe Hofilena guilty beyond reasonable doubt of the crime of consummated rape in violation of Section 11 of Republic Act No. 7659. Accordingly, he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA, and to indemnify his victim Iries Ente the sum of P50,000.00."

Public Attorney Hollis C. Monsanto, counsel for the appellant, filed the Notice of Appeal on July 3, 1998.[7]

The Facts

Version of the Prosecution

The antecedents of the case, as synthesized by the solicitor general in the Appellee's Brief,[8] are as follows:[9]

"Private complainant, Iries Ente, at the time of her ravishment on November 9, 1996, was only twelve (12) years old. She lives in La Roxas, Malaybalay, Bukidnon, but, as a first-year high school student at the San Andres High School at Maramag, she was staying at a boarding house owned by one Victoria Eran, in

Maramag, Bukidnon (TSN, January 6, 1998, pp. 3-5).

"Appellant Felipe Hofileña, on the other hand, was the overseer of the boarding house of Victoria Eran, where complainant was staying, and as the overseer, he lives just across the said boarding house at a distance of about nine (9) meters more or less (TSN, January 6, 1998, p. 5; 7). He was also employed as a mechanic at the Victorias Milling Company at Cristal, Maramag, Bukidnon (TSN, February 12; 1998, p. 10).

"On November 9, 1996, at around 1:00 o'clock in the afternoon, Iries was alone in her room at the said boarding house, lying on her bed, after returning from a practice session of their school band as a baton twirler. Her three other roommates, Bebeth Cabansa, Rosalia Nalla, and Rochelyn Nalla, had already gone home, it being a Saturday. Appellant entered her room and closed the window and door of the said room. He held her two hands behind her back and pointed a knife at her and warned her not to make a noise or else, he will kill her. Appellant thereafter removed his short and brief, then inserted his penis into her vagina and did the pumping motion. Because of the pain, Iries cried. After consummating his bestial desire, appellant left her crying. Iries saw blood on the bedding (TSN, January 6, 1998; pp. 8-11).

"Iries got dressed but because of the pain, she just stayed in her boarding house. She no longer attended the school band practice for that afternoon. (Ibid., p. 12).

"The following Monday and Tuesday, Iries did not attend her classes because her vagina was still painful and for fear of appellant.

"When Iries went home to her place in La Roxas, Malaybalay, Bukidnon, she did not reveal the rape incident to her mother because of fear, having been threatened by appellant that he will kill her as well as her parents (Ibid., pp. 14-15).

"On November 17, 1996, Iries transferred to another boarding house at Purok 6, Malaybalay, Bukidnon for fear of appellant. Moreover, since appellant used to station himself on Iries' way to school, she no longer attended her school regularly (Ibid., p. 16-17).

"On December 2, 1996, Iries' mother learned of her frequent absences from school from her previous roommates, the Nalla sisters. This was further confirmed by Iries' substitute teacher, Cecilia Sadicon. When she confronted Iries [about] her frequent absences from school, the latter was evasive (TSN, January 6, 1998, p. 29).

"Noting her paleness, Iries' mother decided to bring her to, the Maramag Provincial Hospital. It was only in the hospital, before Iries could be examined by the doctor, that she revealed the rape to her mother (Ibid., pp. 15, 17 & 30).

"In the hospital, Iries was examined by one Dr. Venus Tagarda, who confirmed complainant's claim that she was raped. Thereafter, upon the advise of Dr. Tagarda, complainant, together with her mother, went to the police station to file a complaint and to have appellant arrested (Ibid., p. 31)."

Version of the Defense

Appellant vehemently denies that he sexually abused the victim, claiming that he was elsewhere when the alleged rape transpired. He professes that at the time of the rape, he was at the Victorias Milling Co. (VMC), located in Cristal, Maramag, Bukidnon, which was six (6) kilometers away from his house and where he worked as a mechanic. On the day the rape occurred, he allegedly worked from 7:00 until 12:00 noon. At 12:00 noon sharp, he had lunch at the motor pool, after which he rested and talked with his co-workers until about 15 minutes before 1:00 p.m. when he returned and worked until 4:00 p.m.

Appellant also presented Clarita Cosme, who corroborated his story. She testified that she went to his house on that fateful day to visit Anecia Hofileña, his wife who was her fellow catechist. She allegedly stayed in the

couple's house between 11:00 a.m. and 3:00 p.m. but did not see the appellant there.

Ruling of the Trial Court

The trial court, rejecting the appellant's alibi, accorded full credence to the victim's testimony that the appellant raped her. It ruled:

"From the evidence presented the court is convinced that accused Felipe Hofileña committed the crime of rape as charged. A young, simple girl of 13 could not have invented such a heinous crime against a 49-years old married man. There was no bad motive shown, nor did the court [find] any, why private complainant dared to expose herself to shame and perhaps ridicule in reporting a false accusation of rape. Iries was straightforward, although shy, while testifying in court.

"In the face of the overwhelming evidence presented by the prosecution, the bare denial of the accused has to be rejected. His alibi is too weak to gain any credence. The distance of, say, 6 kilometers from his place of work to the boarding house of Iries is no[t] far enough as to make it impossible for him to leave his work and be back in one hour. Admittedly there are [means of] transportation, like 'tri-sikads' (tricycles) travelling between Crystal and the poblacion. Accused is not [a] stranger to Iries who was boarding at a house very near his own residence.

"The Daily Time [Record] (Exh. `1') submitted by the accused is hardly of help to prove his innocence. Its submission lacks corroboration or authentication by either the time keeper or any official of the Victorias Milling Co. Furthermore, as mentioned above, it was not impossible for the accused to leave his work for an hour in order to be at the scene of the crime." [10]

Hence, this appeal.[11]

Issues

In his Brief, appellant presents the following assignment of errors:[12]

"I

"The Court of origin erred in not giving credence to the documentary as well as testimonial evidences presented by the defense calling for the acquittal of the accused-appellant herein.

"II

"The Regional Trial Court in Malaybalay City (Bukidnon) xxx committed an error in not exculpating the accused-appellant of the crime charged in the information due to reasonable doubt."

In disposing of this appeal, we shall take into consideration the following issues: (1) the sufficiency of the prosecution evidence, (2) the appellant's alibi, and (3) moral damages.

The Court's Ruling

We find no merit in this appeal.

First Issue

Sufficiency of the Prosecution Evidence

In reviewing rape cases, the Court is guided by the following principles: (1) to accuse a man of rape is easy, but to disprove it is difficult though the accused may be innocent; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merit and not be allowed to draw strength from the weakness of the evidence for the defense.[13] Likewise, we are aware of the dictum that when a victim of rape says that she has been defiled, she says in effect all that is necessary to show that rape has been inflicted on her, and so long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof.[14]

Following these principles, we have scrutinized the testimony of the victim, Iries Ente, and find no reason to overturn the trial court's assessment of her credibility. We quote below the portion of her testimony in which she narrated the circumstances of her defilement in the appellant's hands in the afternoon of November 9, 1996:

"Q - Now, at about 1:00 o'clock in the afternoon of November 9, 1996, can you recall where were you?

A - Yes.

Q - Where were you at this time?

A - At our boarding house.

Q - What were you doing there at that time?

A - I was lying down.

Q - By the way, can you recall what day was November 9, 1996?

A - Saturday.

Q - Where were you lying at that time?

A - On a bed.

Q -. Where is this bed located?

A - Inside the boarding house.

Q - Meaning inside the room of your boarding house?

A - Yes.

Q - Why were you lying at that time?

A - Because I just came from [a] practice session of our band.

x x x x x x x x

Q - Now, you said you were lying down at that time inside the room of your boarding house, [did] you have [a] companion during that time in that room?

A - x x x x x x x x

They already went home because that was a Saturday.

Q - Now, while you were lying down inside the room of your boarding house, what transpired if there was any?

A - Felipe Hofileña came inside.

A - x x x x x x x x

Q - Now, when Felipe Hofileña suddenly came inside your bedroom, what transpired next?

A - He held my two hands.

Q - After holding your two hands, what did he do next?

A - He closed the window of the room and also the door of the said room.

Q - After he closed the door and the window of the room, what transpired next?

A - He then held my hands behind my back and pointed a knife at me and warned me that I should not make any noise because he will x x x kill me.

Q- Now, after Hofileña placed your hands at your back pointed a knife to you and said do not make any noise because he is going to kill you, what did he do next?

A - He then removed my skirt and my panty.

Q - Was he able to remove your skirt and your panty?

A - Yes.

Q - After your skirt and panty [were] removed, what did he do next?

A - He then also removed his short and his brief.

Q - After he removed his short and brief, what did he do next?

A - He then inserted his penis inside my vagina.

Q - After placing his penis into your vagina, what did he do next?

A - He continued to put it inside and stayed there for a long time.

COURT: (to witness)

Q - Did he make a pump?

A - Yes, your Honor.

Continue.

PROSECUTOR DALAPO:

Q - Now, while he was doing his pumping motion over you after you said he inserted his penis to your vagina, what did you do?

A - I only cried.

Q - Why you only cried?

A - Because it was painful.

Q - Other than crying, what else did you do if there is [any]?

A - I only cried.

Q - Now, while he was pumping you said when he inserted his penis to your vagina, what did you feel if any during that time?

A - Pain.

Q - What part of your body was painful?

A - My vagina.

Q - Now, you said he was pumping after he placed his penis to your vagina, what transpired next after pumping?

A - He just left.

Q - Now, when this Hofileña left, what did you do?

A - I continued crying.

Q - After that what transpired next after crying?

A - I then changed my clothing.

Q - Why did you change your clothing?

A - I put back the skirt that was removed but I changed my panty.

Q - Now, by the way Iris right after Hofileña left the room and before you changed your panty, did you look at and observe xxx what happened to your vagina and your thighs?

A - x x x x x x x x

A - There was a small blood.

A - x x x x x x x x

PROSECUTOR DALAPO:

Q - Now, how were you able to see this small blood?

A - Because I saw the blood on the beddings.

A - x x x x x x x x

Q - Now, after you changed your panty, what did you do?

A - I just stayed in the boarding house.

Q - Now, you said that you stayed there in your boarding house on Saturday because you had a band practice, [d]id you xxx practice in the afternoon that whole day?

A - Yes, because our practice was [the] whole day.

Q - And did you attend the practice xxx that afternoon?

A - No.

Q - Why?

A - Because I felt pain when I walked.

A - x x x x x x x x

Q - How about in the evening, what did you do?

A - I just closed the room very well.

Q - Why, why did you close the room very well?

A - Because I was afraid that Felipe Hofileña might come back."[15]

Her testimony clearly demonstrates that the appellant had carnal knowledge of her by force or intimidation. Under Article 335 of the Revised Penal Code, as amended, rape is committed "by having carnal knowledge of a woman xxx [b]y using force or intimidation." In the present case, appellant used such force and intimidation by threatening the victim with an eight-inch knife to keep her from shouting.[16]

The victim's story is further corroborated by the Medico-Legal Report, as well as the testimony of Dr. Venus Tagarda, which we quote as follows:

"PROSECUTOR DALAPO

Q: For the record Doctor, will you please read for the record your findings of the examination you made?

A: I put entry Introitus and Nulliparous. Meaning to say she has not given birth. And I examined the hymen and it [appeared] that there was [an] old laceration at the rationing [sic] of designated areas which [were] 3:00 o'clock, 6:00 o'clock, 11 "00 o'clock and 1:00 o'clock. I noted also that there was absence of pubic hair.

Q: These lacerations Doctor, could it be possible that it has been caused by a laceration of a penis?

A: It could be possible.

Q: Now, it says here old healed laceration and your examination was on December 2, 1996. Now, this old healed laceration, could it be possible that the same could have been caused on November 9, 1996?

A: It could be possible."[17]

On the basis of the testimonies of the victim and the medico-legal officer, the trial court correctly held that the prosecution met the quantum of proof required to overturn the constitutional presumption of innocence.

Second Issue:

Appellant's Alibi

Appellant builds his defense around his alibi and Cosme's corroboration. He vehemently denies having sexually abused the victim, saying that it was physically impossible for him to have done so. He testified that at the time the rape occurred, he was about six kilometers away from the crime scene working at the VMC in Cristal, Maramag, Bukidnon, as shown in his Daily Time Record.[18] He allegedly had lunch at the company motor pool with the chief mechanic and the assistant mechanic, and by 1:00 p.m., he was already back at work.

The defense of alibi is always viewed with suspicion and received with caution, not only because it is inherently weak and unreliable, but also because it can easily be fabricated.[19] In the present case, the reliability of the story of the appellant is suspect, because of his failure to present any corroborative testimony, which he justified by pointing out that the company time keeper and mechanics had been transferred to the main office in Negros Occidental. We note, however, that his supervisor, Engineer Catapang, who was still with VMC, Bukidnon, had not been presented to corroborate his alibi.

For this defense to prosper, it must be convincing enough to preclude any doubt about the physical impossibility of the presence of the accused at the locus criminis or its immediate vicinity at the time of the incident.[20] In other words, he must prove not only that he was somewhere else when the offense was committed, but also that it was physically impossible for him to have been at or near the crime scene.[21]

In the present case, it was not physically impossible for the appellant to commit the crime. VMC was only five to six kilometers away from the victim's boarding house,[22] which was accessible to tricycles.[23] This fact allowed the appellant sufficient time to commit the crime and return to VMC in time for his afternoon shift.

The testimony of Clarita did not bolster the alibi of appellant, because it only proved that he was not at his house from 11:00 a.m. to 3:00 p.m. She was silent on the issue of whether he had gone to the victim's boarding house, which was right across his own.

In the absence of strong and convincing evidence, alibi could not prevail over the positive testimony of the victim, who had no improper motive to testify falsely against him.[24] Thus, the trial court correctly decided to grant full

credence to her, rather than to the appellant's testimony. Well-settled is the doctrine that the assessment by the trial court of testimonial evidence of the witnesses is accorded great respect, owing to its direct opportunity to observe their demeanor during the trial.[25]

Besides, no woman, least of all a thirteen-year old child, would concoct a story of defloration, subject herself to an examination of her private parts, and expose herself to public trial and perhaps ridicule, if she has not in truth been a victim and unless her purpose is to bring the perpetrator to the bar of justice and to avenge her honor.[26] Not even the appellant dared to question her credibility.

Hence, the appellant's defense must necessarily fail.[27]

Third Issue

Moral Damages

We agree with the solicitor general's plea for the grant of moral damages in favor of the victim. In line with jurisprudence, moral damages may be awarded to rape victims, in addition to civil indemnity.[28] After all, the anguish and the pain that the victim had to endure are evident.[29] We need not belabor the fact that the offended party in a rape case is a victim many times over. In our culture which puts a premium on the virtue of purity or virginity, rape stigmatizes the victim more than the perpetrators.[30]

WHEREFORE, the appealed Decision is AFFIRMED, but appellant is ordered to PAY the victim P50,000 as moral damages, in addition, to the indemnity ex delicto of P50,000 also. Costs against appellant.

Melo, (Chairman), Purisima, and Gonzaga-Reyes, JJ., concur.

Vitug, J., abroad on official business.

[1] Rollo, pp. 10-14.

[2] Penned by Judge Vivencio P. Estrada.

[3] Records, p. 1.

[4] Records, p. 13.

[5] Records, p. 31.

[6] Decision, p. 5; rollo, p. 14.

[7] Rollo, p. 15.

[8] This was signed by Solicitor General Ricardo P. Galvez, Assistant Solicitor General Rodolfo G. Urbiztondo and Solicitor Encebrin E. Javier.

[9] Rollo, pp. 69-72.

[10] RTC Decision, pp. 4-5; rollo, pp. 13-14.

[11] This case was deemed submitted for resolution on March 3, 2000 upon the Court's receipt of the appellant's Reply Brief.

[12] Appellant's Brief, p. 5; rollo, p. 43. It was signed by Public Attorney II Froilan L. Valdez.

[13] *People v. Sta. Ana*, 291 SCRA 188, June 26, 1998; *People v. Ramirez*, 266 SCRA 335, January 20, 1997; *People v. Teves*, 246 SCRA 236, July 14, 1995; *People v. Guamos*, 241 SCRA 528, February 21, 1995; *People v.*

Casinillo, 213 SCRA 777, September 11, 1992.

[14] *People v. Garces, Jr.*, GR No. 132368 January 20, 2000, pp. 9-10; *People v. Penaso*, GR No. 121980, February 23, 2000, pp. 5-6; *People v. Borja*, 267 SCRA 370, 379, February 3, 1997; *People v. Ramirez*, 266 SCRA 335, 348, January 20, 1997.

[15] TSN, January 6, 1998, pp. 7-12.

[16] *Ibid*, pp. 17-18.

[17] TSN, February 12, 1998, p. 4.

[18] Exh. "I-A," RTC Records, p. 53.

[19] *People v. Penaso*, *supra*, p. 7.

[20] *People v. Tulop*, 289 SCRA 316, 333, April 21, 1998; *People v. Pallarco*, 288 SCRA 151, 166, March 26, 1998; *People v. Andres*, 296 SCRA 318, 337, September 25, 1998.

[21] *People v. Pallarco*, *supra*; *People v. Alipayo*, GR No. 122979, February 2, 2000, p. 12.

[22] TSN, February 17, 1998, pp. 5 & 14-16.

[23] *Ibid.*, pp. 16-17.

[24] *People v. Kulais et al.*, 292 SCRA 551, 577, July 16, 1998.

[25] *People v. Garces Jr.*, *supra*, p. 15; *People v. Cabanela*, 299 SCRA 153, 160, November 24, 1998; *People v. Sancha*, GR Nos. 131818-19, February 3, 2000, p. 17; *People v. de la Cruz*, 276 SCRA 191, July 24, 1997; *People v. Corea*, 269 SCRA 76, March 3, 1997; *People v. Frago*, 232 SCRA 653, May 31, 1994.

[26] *People v. Abangin*, 297 SCRA 655, 664-665, October 12, 1998; *People v. Loriega*, GR No. 116009-10, February 29, 2000, p. 13; *People v. Alama Magdato*, GR Nos. 134122-27, February 7, 2000, p. 10; *People v. Erese*, 281 SCRA 316, 322, November 5, 1997; *People v. Mamalayan*, 280 SCRA 748, 760, October 16, 1997; *People v. Gomez*, 279 SCRA 688, 696, September 29, 1997.

[27] *People v. Pallarco*, *supra*, p. 169; *People v. Sabalones et al.*, 294 SCRA 751, 797, August 31, 1998; *People v. Kulais et al.*, *supra*.

[28] *People v. Garces Jr.*, *supra*, p. 22; *People v. Penaso*, GR 121980, February 23, 2000, p. 9; *People v. Loriega*, *supra*, p. 15.

[29] *People v. Ignacio*, 294 SCRA 542, August 24, 1998; *People v. Lampaza*, GR No. 138876, November 24, 1999.

[30] *People v. Villamor*, 297 SCRA 262, 275, October 7, 1998.

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