

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOEL CANIEZO Y SALAZAR, ACCUSED-APPELLANT.

G.R. No. 136594. March 13, 2001

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision,[1] dated May 25, 1998, of the Regional Trial Court, Branch 33, Siniloan, Laguna, finding accused-appellant Joel Caniezo guilty of rape and sentencing him to reclusion perpetua and ordering him to pay the victim, Sheila Aninao, the sum of P50,000.00 as moral damages, and to pay the costs.

The information against accused-appellant alleged:

That on or about 5:00 o'clock in the afternoon of November 5, 1995 at Barangay Santiago, Municipality of Sta. Maria, Province of Laguna 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 have sexual intercourse with one Sheila Aninao 21 years of age against her will and consent and to her damage and prejudice.

CONTRARY TO LAW.[2]

Upon arraignment, accused-appellant pleaded not guilty[3] to the charge, whereupon trial ensued.

The prosecution presented four witnesses, namely, Sheila Aninao,[4] Apolinario Manalo,[5] Primitiva Aninao,[6] and Maxima Esconde.[7] Their testimonies established the following facts:

At around 4 o'clock in the afternoon of November 5, 1995, while Sheila Aninao was sweeping the front yard of her house at Brgy. Santiago, Sta. Maria, Laguna, accused-appellant Joel Caniezo arrived and told her that her friend Binay Alvis had something to give her. Binay and accused-appellant lived in the house of a certain Mrs. Tuvera. Binay was the caretaker of Mrs. Tuvera's citrus plantation. Sheila's mother, Primitiva, gave her daughter permission to go with accused-appellant, whereupon Sheila and accused-appellant left together to go to Mrs. Tuvera's house.[8]

When Sheila and accused-appellant arrived in Mrs. Tuvera's house, she found no one there, but accused-appellant prodded Sheila to get inside the house. There, accused-appellant held her by the right arm and, pointing a bolo to her side, told her not to shout or he would kill her. She shouted for help, but nobody responded. Sheila struggled out of accused-appellant's grasp and was able to run for about half a kilometer when she tripped and fell down. As a result, accused-appellant caught her and dragged her towards Mrs. Tuvera's citrus plantation about 25 meters from her (Mrs. Tuvera's) house. The citrus plantation, about a kilometer from Mrs. Tuvera's nearest neighbor, was deserted. Accused-appellant boxed her in the stomach, causing her to fall flat on her back. He then knocked her head on a big rock behind her, causing her to lose consciousness. When she came to, she found herself naked and felt pain in her vagina, which was bleeding.

Accused-appellant was beside her and warned her not to shout, otherwise he would kill her and her family. After

Sheila got dressed, accused-appellant accompanied her to the house of her godmother, Maxima Esconde, who was Mrs. Tuvera's nearest neighbor. Accused-appellant then left. At her godmother's house, Sheila related the incident to three of her kinakapatid who took her to her house and reported the matter to her mother Primitiva.

Primitiva took Sheila to the barangay hall and reported the incident to the barangay captain, Apolinario Manalo, who ordered the Bantay Bayan to look for accused-appellant. However, he could not be found.[9] A warrant for his arrest was issued on November 22, 1995 by the Municipal Circuit Trial Court of Mabitac, Laguna,[10] but he was not arrested until January 17, 1996 in his house in Brgy. Sampaloc, Tanay, Rizal.[11]

Accused-appellant was a farm laborer at Mrs. Tuvera's plantation and had been staying at the latter's house for approximately two months before the incident. He was introduced to the victim by his common-law wife, Zenaida Madez, on November 2, 1995, three days prior to the incident, although Sheila had already known him for two weeks before that. Sheila's mother, Primitiva, knew accused-appellant as he used to pass by their place and even eat in their house. Sheila's godmother, Maxima Esconde, also knew him since she used to visit Mrs. Tuvera.[12]

Sheila was examined by Dr. Cynthia Tamares, Rural Health Physician of Sta. Maria, Laguna, on November 6, 1995. Dr. Tamares issued a medical certificate, dated November 8, 1995 (Exh. A), showing the following findings:

General Trauma (extragenital): unremarkable

Genital Trauma:

Perineum and vulva: with areas of swelling and congestion

Hymen:

swollen and congested; lacerations noted at 3:00 o'clock, 6:00 o'clock, and 9:00 o'clock positions respectively; hematoma seen at 3:00 o'clock position.

Vagina:

on insertion of 1 finger at 6:00 o'clock position, pressing the posterior fornix, oozing blood can be seen accompanied by brownish discharge; upon insertion of only 1 finger tenderness can be [elicited] from the patient as seen in her facial expression.

Psychological evaluation of the patient: patient is conscious, responsive to questions, but there are moments when depressive mood can be seen in her facial expression.[13]

Based on her finding that there were tears and lacerations in the hymen, while the vagina was swollen and congested, Dr. Tamares opined that Sheila had been sexually molested.[14]

Accused-appellant's defense was alibi. He claimed that on November 5, 1995, he was in his house at Brgy. Sampaloc, Tanay, Rizal. He claimed that he worked nearly the whole day gathering wood on Lucina Bulda's land and making charcoal. In the afternoon, he was joined by his common-law-wife Zenaida and their youngest child. They made the wood they had gathered into charcoal. At about 3:30 p.m., they stopped working as Lucina invited them to the birthday party of her granddaughter. Except for accused-appellant and Zenaida, only immediate family members were present at the party. Lucina's son, Ruben, accused-appellant, and Zenaida had a drinking session which lasted until 7 or 8 o'clock in the evening. Accused-appellant and Zenaida then went home to sleep.[15]

Accused-appellant's common-law wife, Zenaida Madez,[16] and Lucina Bulda[17] corroborated his alibi. Zenaida had been his live-in partner for 11 years.[18] Lucina Bulda had been a close friend of the couple for a long time,

as both Lucina and accused-appellant were from Bicol. In fact, it was at the request of Lucina that accused-appellant and his family moved near Lucina's property at Tanay, Rizal to help her in her charcoal business.[19]

Accused-appellant denied ever being at Brgy. Santiago, Sta. Maria, Laguna. He also maintained that he had never met the victim Sheila nor the latter's godmother, Maxima Esconde. However, he admitted meeting the victim's mother, Primitiva, at the house of a Mr. Sta. Cruz at Brgy. Sampaloc, Tanay, Rizal, because the latter gave his pigs to accused-appellant to raise and take care of. Mr. Sta. Cruz, an uncle of Mrs. Tuvera, acted as an agent for Primitiva in the sale of certain properties. Accused-appellant denied having any misunderstanding with Primitiva or with her daughter Sheila. He did not know why Sheila should file a complaint for rape against him.[20]

After trial, the trial court rendered its decision on May 25, 1998, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered finding accused JOEL CANIEZO y SALAZAR guilty beyond reasonable doubt of the crime of "RAPE" committed against private complainant Sheila Aninao, hereby sentences him to Reclusion Perpetua; to pay the victim the sum of P50,000.00 for moral damages; and to pay the cost.

Accused Joel Caniezo y Salazar being a detained prisoner, it is hereby ordered that he be credited with the full length of his preventive imprisonment if he agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoner, otherwise, he shall be credited with 4/5 of the period he had undergone preventive imprisonment, in accordance with Art. 29 of the Revised Penal Code, as amended.

SO ORDERED.[21]

Hence, this appeal. Accused-appellant raises the following assignment of error:

THE LOWER COURT ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME OF RAPE WITHOUT HIS GUILT HAVING BEEN PROVE[N] BEYOND REASONABLE DOUBT.[22]

First. Accused-appellant contends that, contrary to Sheila's claim that she had been boxed in the stomach and her head hit against a rock, Dr. Tamares certified that the physical examination of the victim showed no injuries in the head and other parts of the body, except her genitalia.

Accused-appellant's contention is without merit. A blow on the head may not necessarily produce a wound.[23] In this case, Sheila stated in her sworn statement that the blow she received on her head, although it caused her to lose consciousness, was not too strong.[24] In addition, with respect to the blow on her abdomen, the absence of any external injury does not preclude the use of force. Indeed, according to medical authorities, when force is applied on the stomach, no marks may be detected.[25] This explains the absence of bruises on Sheila's stomach. If there were other bruises on the other parts of Sheila's body, it was also possible that they were not yet visible at the time of the medical examination, which was conducted approximately 16 hours after the incident. This is why it is sometimes suggested that a second examination of the victim be made after an interval of one or two days to detect bruising which may have only been indicated originally by tenderness on pressure or slight swelling.[26] This was not done in this case.

In any event, the absence of external signs of physical injuries does not prove that rape was not committed by accused-appellant as proof thereof is not an essential element of rape.[27]

Second. Accused-appellant contends that the claim of Sheila and her mother that they completely trusted him even if they had known him for only two weeks is contrary to human nature and is thus doubtful.

We do not agree with accused-appellant's contention. Sheila and her mother did not have to completely trust

accused-appellant for Sheila to agree to go with him to Mrs. Tuvera's house. Accused-appellant represented to Sheila and her mother that Binay wanted Sheila to come to Mrs. Tuvera's house as she (Binay) had something to give her. Sheila went with accused-appellant because she believed that Binay was in the house of Mrs. Tuvera. Sheila and her mother had no reason to suspect that accused-appellant had any evil design on the victim. They knew that he was a laborer in the plantation of Mrs. Tuvera, whom they knew very well, and that he was living in the latter's house with Binay. Thus, Sheila and her mother trusted accused-appellant to the extent of believing him when he told them that Binay was calling for Sheila to go to Mrs. Tuvera's house.

Third. Accused-appellant points out the inconsistencies between Sheila's sworn statement and testimony in open court, to wit:

- She testified that her head was banged twice against a rock, causing her to lose consciousness, while in her sworn statement, she claimed that her head was knocked on a rock only once and not so hard, but still caused her to lose consciousness;
- She declared in open court that she was boxed on the stomach while in her sworn statement, she said that she was boxed at the side of her body;
- She testified that accused-appellant dragged her to the citrus plantation, about 4 meters from Mrs. Tuvera's house, but later retracted and said that it was 25 meters.

The inconsistencies concern minor matters. It must be remembered that testimonies during trial are more detailed and elaborate than those stated in sworn statements. The latter are often inaccurate due, in part, to suggestion or want of specific inquiries.[28] Moreover, victims of rape are not expected to have an errorless recollection of the incident which is so humiliating and painful that they might in fact be trying to obliterate it from their memory.[29] What is important is that Sheila was consistent in saying that she was boxed in the abdomen and that her head was knocked on a rock, causing her to lose consciousness.

As to Sheila's uncertainty regarding the distance between Mrs. Tuvera's house and her citrus plantation, her testimony only shows that she does not know how to measure distances. This is clear from the following portion of her testimony:

Q How far is that citrus plantation from the house of the accused?

A More or less 4 meters.

Court.

How far?

Interpreter.

From here up to the stair of the Municipal Building, a distance of about 25 meters more or less.[30]

It is clear that it was the interpreter who measured the distance of 25 meters based on Sheila's rough estimate of distances in the municipal building.

In any event, accused-appellant should have confronted Sheila with her prior inconsistent statements and given her a chance to explain the alleged inconsistencies as required by Rule 132, §13. As accused-appellant did not do so in this case, he should not now be allowed to raise this matter on appeal.[31]

Fourth. Accused-appellant claims that it is against common experience for witness Maxima Esconde, Sheila's godmother, to know him when he had stayed at Mrs. Tuvera's house for only two months, and yet not know the name of her neighbor, Mrs. Tuvera's previous laborer, who had stayed at Mrs. Tuvera's house for more than a

year.

Accused-appellant's contention has no merit. Maxima testified that she knew accused-appellant because she used to visit Mrs. Tuvera, who was her neighbor. She said:

Q

What is the name of the former laborer of Mrs. Tuvera who went home to Zambales?

A

His name is Boy, I do not know his surname.

Q

How long did this Boy stay in the property of Mrs. Tuvera before Joel Caniezo arrived?

A

He was there a long time already. I cannot remember the date when he came there.

Q

Is it more than a year before Joel Caniezo arrived?

A

Maybe more than that, sir.[32]

It is clear that Maxima also knew the previous laborer at Mrs. Tuvera's farm. The fact that she was uncertain about the period of the former laborer's stay but certain about accused-appellant's is explained by the fact that, first, she was neither a resident in Mrs. Tuvera's house nor a laborer in the citrus plantation. She was merely an occasional visitor. Second, the laborer's stay in Mrs. Tuvera's house was longer and earlier than that of the accused-appellant. Third, accused-appellant's stay was shorter, more recent, and more controversial, thus magnifying in her mind every encounter she had with him.

Fifth. The trial court was correct in rejecting accused-appellant's denial and alibi. It is well settled that denial and alibi are the weakest of defenses as they are not only self-serving evidence, but they are also easy to fabricate and difficult to disprove.[33] Where, as in this case, the denial and alibi are established mainly by the testimonies of accused-appellant himself and his friends, there is more reason to disregard their probative value, especially considering the victim's and the other witnesses' positive identification of accused-appellant as the malefactor.[34]

However, the trial court erred in stating in its decision that the imposable penalty on accused-appellant ranges from reclusion perpetua to death. Under Art. 335 of the Revised Penal Code, this particular range of penalty may be imposed only when rape is committed with a deadly weapon and is alleged in the information.[35] As the circumstance of use of deadly weapon was not alleged in the information, it can only be considered a generic qualifying circumstance. Accordingly, the imposable penalty is reclusion perpetua. This penalty cannot be modified by the aggravating circumstance mentioned considering the provision of Art. 63 of the Revised Penal Code which provides that a single indivisible penalty must be applied regardless of any mitigating or aggravating circumstances which may have attended the commission of the crime.

The trial court also erred in not awarding civil indemnity of P50,000.00 and exemplary damages to the victim, Sheila Aninao. Civil indemnity is mandatory upon the finding of the fact of rape.[36] Exemplary damages may also be awarded as part of the civil liability when the crime was committed with one or more aggravating

circumstances, as provided by Art. 2230 of the Civil Code.[37] Hence, in addition to the moral damages amounting to P50,000.00, the victim should also be awarded civil indemnity in the amount of P50,000.00 and exemplary damages in the amount of P20,000.00.

WHEREFORE, the decision of the Regional Trial Court, Branch 33, Siniloan, Laguna, is AFFIRMED with the MODIFICATION that the accused-appellant is sentenced to reclusion perpetua and is ordered to pay civil indemnity to complainant Sheila Aninao in the amount of P50,000.00 and exemplary damages amounting to P20,000.00, in addition to the amount of P50,000.00 for moral damages which he was ordered to pay to complainant by the trial court.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Buena, and De Leon, Jr., JJ., concur.

[1] Per Judge Venancio M. Tarriela.

[2] Records, p. 30.

[3] Id., p. 33.

[4] TSN (Sheila Aninao), pp. 1-10, April 10, 1996; TSN (Sheila Aninao), pp. 1-7, May 29, 1996.

[5] TSN (Apolinario Manalo), pp. 1-8, June 24, 1996.

[6] TSN (Primitiva Aninao), pp. 1-10, Sept. 4, 1996.

[7] TSN (Maxima Esconde), pp. 1-11, Sept. 8, 1997.

[8] TSN (Sheila Aninao), pp. 3-4, April 10, 1996; TSN (Sheila Aninao), p. 2; 5, May 29, 1996; TSN (Primitiva Aninao), p. 4, Sept. 4, 1996.

[9] TSN (Primitiva Aninao), p. 5, Sept. 4, 1996; TSN (Apolinario Manalo), pp. 4-7, June 24, 1996.

[10] Records, p. 22.

[11] TSN (Lucina Bulda), p. 4, Feb. 5, 1997.

[12] TSN (Maxima Esconde), p. 5, Sept. 8, 1997; TSN (Sheila Aninao), p. 3, April 10, 1996; TSN (Sheila Aninao), p. 6, May 29, 1996; TSN (Primitiva Aninao), p. 7, Sept. 4, 1996; TSN (Maxima Esconde), p. 8, Sept. 8, 1997.

[13] Records, p. 8.

[14] TSN (Dr. Cynthia Tamares), pp. 7-9, March 25, 1996.

[15] TSN (Zenaida Madez), pp. 2-5, Oct. 30, 1996; TSN (Lucina Bulda), pp. 3-4, Feb. 5, 1997; TSN (Joel Caniezo), pp. 2-4, March 3, 1997.

[16] TSN (Zenaida Madez), pp. 1-8, Oct. 30, 1996.

[17] TSN (Lucina Bulda), pp. 1-7, Feb. 5, 1997.

[18] TSN (Zenaida Madez), p. 3, Oct. 30, 1996.

[19] TSN (Lucina Bulda), p. 5, Feb. 5, 1997; TSN (Joel Caniezo), p. 8, March 3, 1997.

[20] TSN (Joel Caniezo), pp. 5-7, March 3, 1997.

[21] Decision, p. 11; Rollo, p. 27.

[22] Brief for the Accused-Appellant, p. 5; Rollo, p. 64.

[23] *People v. Taclan*, 308 SCRA 368 (1999).

[24] Records, p. 17.

[25] *People v. Renojo*, 132 SCRA 365 (1984); *People v. Feliciano*, 195 SCRA 19 (1991).

[26] R. B. H. GRADWOHL, LEGAL MEDICINE 277 (1968).

[27] *People v. Patriarca*, 319 SCRA 87 (1999).

[28] *People v. Miranda*, 235 SCRA 202 (1994).

[29] *People v. Mengote*, 305 SCRA 380 (1999); *People v. Palma*, 308 SCRA 466 (1999).

[30] TSN (Sheila Aninao), p. 5, May 29, 1996.

[31] *People v. Campaner*, G.R. Nos. 130500 and 143834, July 26, 2000.

[32] TSN (Maxima Esconde), pp. 8-9, Sept. 8, 1997.

[33] *People v. Capillo*, 319 SCRA 223 (1999); *People v. Geromo*, 321 SCRA 355 (1999).

[34] *People v. Jerez*, 285 SCRA 393 (1998); *People v. Paraiso*, 319 SCRA 422 (1999); *People v. Pacistol*, 284 SCRA 520 (1998); *People v. Santiago*, 319 SCRA 644 (1999).

[35] *People v. Bayron*, 313 SCRA 727 (1999).

[36] *People v. Bernaldez*, 322 SCRA 462 (2000).

[37] *People v. Bermudez*, 309 SCRA 124 (1999).

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