PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NOEL MAMALAYAN AND REYNALDO GARCIA, ACCUSED-APPELLANTS.

G.R. No. 137255. November 15, 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, at Calamba, Branch 34, convicting Noel Mamalayan and Reynaldo Garcia of robbery with rape, and sentencing each of them to reclusion perpetua and to indemnify Bonifacio Legaspi in the sum of Thirty Five Thousand Six Hundred Eighty Pesos (P35,680.00) as actual damages and to pay Marina Legaspi the sum of One Hundred Thousand Pesos (P100,000.00) as moral damages.

On October 2, 1992, Assistant Provincial Prosecutor of Laguna Loreto M. Masa filed with the Regional Trial Court, Laguna, at Calamba an information charging Medel Mamalayan, Noel Mamalayan alias "Bong" and Reynaldo Garcia with robbery with rape, committed as follows:

> "That on or about May 31, 1988, at Barangay Lawa, Municipality of Calamba, Province of Laguna and within the jurisdiction of this Honorable Court, the accused above-named with intent of gain and with the use of force upon things, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously enter the house of BONIFACIO LEGASPI by then and there detaching the glass window where they gain entrance, and once inside, take, steal and carry away with them the following items, to wit:
>
> "1.
>
> One Armalite M16 Rifle with SN RP 005417 .....
>
> P8,000.00;
>
> "2.
>
> Seven (7) banana type magazines of armalite M16 and 210 live ammos of the same caliber
>
> 3,780.00
>
> 3.
>
> One (1) Wall Clock (Seiko)

300.00

4.

One (1) Colored TV set 14" (Sony)

12,000.00

5.

One (1) Seiko Wrist Watch

600.00

6.

One (1) Gold ring

2,000.00

7.

One (1) pair of earring

3,000.00

8.

One (1) Stereo Cassette

1,000.00

9.

Cash Money 5,000.00 having a total value of

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P35,680.00

that on the same place and occasion accused armed with fan knife, by means of violence and intimidation, conspiring, confederating and mutually helping one another take turn in having carnal knowledge with Marina Legaspi against her will and consent.

"CONTRARY TO LAW."[2]

On December 16, 1992, the trial court arraigned accused Medel Mamalayan. He pleaded not guilty.[3]

Accused Noel Mamalayan and Reynaldo Garcia remained at large. Trial on the merits proceeded against accused Medel Mamalayan alone.

After due trial, on June 21, 1993, the trial court rendered a decision convicting accused Medel Mamalayan of robbery with rape, the dispositive portion of which reads:

"WHEREFORE, this Court finds accused GUILTY of the crime penalized and defined under Article 294 sub para 1 of the Revised Penal Code thus rendering judgment CONVICTING the accused of the crime charged.

"He is hereby sentenced to suffer an imprisonment of RECLUSION PERPETUA and to indemnify Bonifacio Legaspi the amount of P35,680.00 and to pay moral damages in the amount of P100,000.00.

"SO ORDERED."[4]

On June 28, 1993, accused Medel Mamalayan filed a notice of appeal.[5]

On October 16, 1997, the Supreme Court promulgated its decision affirming the appealed decision.[6]

On February 9, 1994, CIS agents arrested accused Reynaldo Garcia in Barangay Burol, Calamba, Laguna. Sometime in 1994, accused Noel Mamalayan surrendered to the police authorities in Alaminos, Laguna, and was taken into custody.

On March 9, 1994, the trial court arraigned accused Noel Mamalayan and Reynaldo Garcia. They pleaded not guilty.[7] Trial proceeded against both accused.

Bonifacio and Marina Legaspi lived in Barangay Lawa, Calamba, Laguna with Edwin Legaspi, Bonifacio's son from his first marriage.

In the early morning of May 31, 1988, Marina and Edwin Legaspi were sleeping in the bedroom of their house. Bonifacio Legaspi was not at home at that time. He was on duty at Camp Aguinaldo, Quezon City, as a member of the Special Operation Group, Civil Relation Service, Armed Forces of the Philippines. At around 3:15 in the morning, Marina and Edwin woke up to the sound of dogs barking. Marina sat up on the bed and listened.

Suddenly, three men entered the house. Edwin recognized the men as the three accused, Medel Mamalayan, Noel Mamalayan and Reynaldo Garcia, who also lived in Barangay Lawa. Accused Reynaldo Garcia poked a fan knife at Edwin. Accused Noel Mamalayan poked a knife at Marina. Accused Noel Mamalayan tied Marina's hands and feet with plastic straw while accused Medel Mamalayan stuffed a t-shirt inside her mouth. Accused Reynaldo Garcia guarded Edwin.

While accused Reynaldo guarded Marina and Edwin, accused Noel and Medel Mamalayan searched the house for valuables. They took the television set, cassette, and jewelry, and placed all the articles in a rice sack. Then, they forcibly opened the locker where Bonifacio Legaspi kept his firearm. They took an armalite rifle, several banana-type magazines of an armalite rifle, and 210 live ammos.

Thereafter, accused Reynaldo Garcia pulled Edwin away from Marina and dragged him to the corner of the living room. Edwin, only eleven years old at the time, did not put up a fight.

Marina remained in the bedroom with accused Noel and Medel Mamalayan. Accused Noel Mamalayan pointed an armalite rifle at Marina. Accused Medel Mamalayan pulled Marina's duster off her by tearing the duster's hem from the neckline to the ankle. Accused Medel Mamalayan ripped her panties off her. Then, accused Medel held her shoulders and pushed her to the bed. He forced her to lie on the bed, her hands still tied behind her back and the gag still in her mouth. He removed his shorts, untied the plastic straw binding her feet and went on top of her. He kissed her body and breast. She struggled to free herself beneath his body. He parted her legs and inserted his penis into her vagina. She kept on struggling against him and he ejaculated not inside her organ but on the blanket.

Afterwards, accused Medel took the armalite rifle from Noel and poked it at Marina. Accused Noel went on top of her and inserted his penis inside her sex organ. She likewise struggled against him. He managed to ejaculate but the fluid dripped on her stomach and legs.

Then, accused Reynaldo Garcia had sexual intercourse with Marina. Marina by this time was very tired and could not put up a struggle anymore. However, accused Reynaldo Garcia failed to ejaculate inside her because the other two accused were pressuring him to finish quickly.

Thereafter, the accused left the house, carrying their loot in a sack and a blanket. Before leaving, the three accused threatened Edwin and Marina not to tell anybody about the incident, otherwise they would kill them.

Subsequently, at around 4:00 in the early morning, Sofronio Estemo, a former janitor at Camp Aguinaldo, arrived from Bicol, carrying crabs for Bonifacio Legaspi. Edwin told him to go to his father and tell him something happened. So, Sofronio left.

Bonifacio Legaspi, husband of Marina Legaspi, testified[8] that he was on duty[9] in Camp Aguinaldo, Quezon City on May 31, 1988, when he was informed that his house had been robbed. He went home and found his wife in shock. He looked around and saw that his things were scattered all over the place. He immediately looked for his firearm. The locker where he kept his firearm was destroyed and the contents taken away except for a rifle magazine he found outside his house. The door and windows of his house were destroyed and five pieces of jalousies were removed. He then noticed that several valuables were missing: a cassette, wall clock, television set, jewelry, and a wristwatch.

He asked his wife what happened. His wife, still in shock, managed to tell him that robbers entered the house and took away their personal belongings.

Thereafter, Bonifacio notified Barangay Captain Alejandro Garcia of the incident at around 11:00 in the morning. Then, Bonifacio went to the police station to report the incident.

On June 1, 1988, Bonifacio accompanied his wife to the hospital for a medical examination.

Dr. Solita Plastina, Municipal Health Officer, Calamba, Laguna conducted a physical examination of Marina Legaspi and found no bruises or physical injuries on her body. She also failed to find any erosion inside the vaginal wall of the patient.[10] The spermatozoa examination turned out to be negative.[11]

On June 2, 1988, Marina testified that she burned in the stove at the back of her house her duster, panty, the plastic straw used to tie her hands and feet, and the t-shirt used to gag her mouth, blanket, beddings and bed cover.[12]

In their defense, appellants interposed an alibi and denial.

Accused Noel Mamalayan claimed that on May 30, 1988, he went to the house of his aunt's brother-in-law, Pascual Malacaman, at Barangay Paciano Rizal, Calamba, Laguna in preparation for the barangay fiesta to be held the following day. He helped prepare food to be served at the fiesta from afternoon until 10:00 in the evening. He then went to the fair and returned home at 11:00 in the evening. He was tired and drunk when he returned to his house in Barangay Lawa, having consumed eight bottles of gin. He went to his house with Jessie Manaig. Thereafter, he slept. He woke up the next day at around 7:00 in the morning.[13]

He claimed that Bonifacio Legaspi filed the case against him because his mother refused to pay P20,000.00 and give an armalite rifle to Bonifacio.[14] Noel Mamalayan only learned of the case a week after the criminal complaint was filed when, at around 9:00 in the evening, four members of the 224[th] Company, Philippine Constabulary went to his house. His mother answered the door and the Constabulary officials requested that her son go with them. His mother told them that he was not at home at the time.[15] His mother told him to go into hiding, since there was a shoot to kill order for him. His mother had heard about the news of the robbery incident in the house of Bonifacio Legaspi, but commented that it was far from their house, so she did not mind it. His mother did not hear anything about rape accompanying the robbery.[16]

From 1988 up to 1994, he stayed at his grandfather's house in Alaminos and worked at the coconut plantation there.[17] He surrendered to the police authorities in Alaminos, Laguna sometime in 1994.[18]

Accused Reynaldo Garcia also denied any involvement in the crime charged.

He learned that he was charged with rape two weeks after the incident in 1988. He then left his house in Barangay Lawa, Calamba, Laguna and stayed at his grandmother's house in the same barangay. After a month, he transferred to Liliw, Laguna and stayed there until 1991. He then went to his uncle's poultry farm in Barangay Burol, Calamba, Laguna.[19]

He was arrested on February 9, 1994 in Burol, Calamba, Laguna and taken to the CIS office in Camp Vicente Lim.[20]

Medel Mamalayan testified that he was not with the other two accused on the date of the incident.[21]

Barangay Captain Alejandro Garcia testified that at 6:00 in the morning of May 31, 1988, Marina and Edwin Legaspi came to his house to report an incident that occurred in their house the previous night.[22] Marina told him that three persons entered her house and took away their personal belongings. Marina did not mention the rape. Barangay captain Garcia asked Marina if she knew the persons who entered her house. She told him that she did not know them although she would recognize them if she saw them again. He noticed that her wrists still had marks of plastic straw.[23] He recorded her report in the barangay logbook. The report was of the robbery, and did not mention the rape. Then, he went to her house to conduct an ocular inspection. The next day, the spouses Legaspi came to his house after reporting the incident to the police as robbery with rape. The Legaspis attempted to convince him to change the entry in the barangay logbook to robbery with rape as well, but barangay captain Garcia refused.[24]

On June 3, 1998, after due trial, the trial court rendered a decision, the dispositive portion of which states:

> "Accordingly, this Court finds accused Noel Mamalayan and Reynaldo Garcia GUILTY beyond reasonable doubt of the crime of Robbery with Rape as defined and penalized under Article 294, sub-paragraph 1 of the Revised Penal Code and hereby sentences each one of them to suffer the penalty of Reclusion Perpetua and to indemnify Bonifacio Legaspi the sum of Thirty Five Thousand Six Hundred Eighty Pesos (P35,680.00) as actual damages and to pay Marina Legaspi the sum of One Hundred Thousand Pesos (P100,000.00) as moral damages.

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"With costs against the accused.

"SO ORDERED."[25]

Hence, this appeal.[26]

In this appeal, appellants alleged that the prosecution failed to prove beyond reasonable doubt the fact of rape, because of insufficient physical evidence to support such charge and the suspicious conduct of the victim after the alleged rape.

We find the appeal without merit.

To be convicted of robbery with rape, the following elements must concur: (1) the taking of personal property is committed with violence or intimidation against persons; (2) the property taken belongs to another; (3) the taking is done with animo lucrandi; and, (4) the robbery is accompanied by rape.[27]

From an examination of the record, including the transcript of stenographic notes, we find the evidence sufficient to prove beyond reasonable doubt that accused-appellants committed robbery with rape in this case. The witnesses Marina Legaspi and Edwin Legaspi categorically identified accused-appellants in court as the persons who entered their house that fateful night and who took away their appliances and other personal belongings. The accused-appellants threatened them and poked knives at them and later, an armalite rifle. The barangay captain even noticed the marks of the plastic straw that tied the hands of Marina. Bonifacio Legaspi remarked on the disarrayed condition of his house when he came home after the incident.

It is doctrinally settled that in the absence of evidence showing that the prosecution witnesses were actuated by improper motive, their identification of the accused as the culprit shall be given full faith and credit.[28] The matter of evaluating the credibility of witnesses depends largely on the assessment of the trial court. Appellate courts rely heavily on the weight given by the trial court on the credibility of a witness as it had a first-hand opportunity to hear and see the witness testify.[29]

There is a question, though, regarding the fourth element of the crime, that is, whether rape accompanied the robbery.

Accused-appellants pointed out that the medical evidence showed an absence of any spermatozoa or physical injury on the body of Marina Legaspi that would corroborate her claim that she had been raped. However, the absence of spermatozoa does not negate rape.[30] A sperm test is not a sine qua non for the successful prosecution of a rape case.[31] By the same token, the absence of fresh lacerations in the victim's hymen is no indication that the victim was not raped.[32] Likewise, the absence of external signs of physical injuries does not prove that rape was not committed by accused-appellants as proof thereof is not an essential element of rape.[33]

When a woman testifies that she has been raped, and if her testimony meets the test of credibility, the accused may be convicted on the basis thereof.[34] In this case, Marina Legaspi testified in a categorical, straightforward, and frank manner. Even in the face of intense and lengthy cross-examination, she remained composed and consistent throughout her entire testimony.

Marina admitted burning the duster, panty, bed sheet, and blanket. She explained that she did not wish to remember the rape that occurred, so she had everything burned. Accused-appellants maintained that the complainants wanted to destroy evidence that would indicate a fabricated charge. However, the conduct of a rape victim after the occurrence of the crime varies from person to person. There is no standard form of behavioral response when one is confronted with a strange or startling experience.[35] Thus, Marina's urgent wish to remove all that would remind her of the horrible deed done to her by three men in succession in one night may be

considered a normal reaction.

Noteworthy, though, is accused-appellants' conduct after discovering that criminal cases were filed against them. They hid from the authorities for several years, transferring abode for different periods of time. The rule is settled that flight of an accused is competent evidence of guilt, and when unexplained, is a circumstance from which an inference of guilt may be drawn.[36]

Thus, considering the evidence on record, we find the accused-appellants guilty of robbery with rape.

Pursuant to Art. 294, par. (2), of the Revised Penal Code, which was the applicable law at the time the crime was committed, when the robbery accompanied by rape is committed with the use of a deadly weapon or by two (2) or more persons, the penalty is reclusion perpetua to death.[37] In this case, the crime was committed by two or more persons and with the use of deadly weapons. However, since the crime was committed in 1988, prior to the enactment of Republic Act No. 7659,[38] and during the effectivity of the constitutional proscription on the imposition of the death penalty,[39] the penalty of reclusion perpetua imposed by the trial court is proper.[40]

However, the award of moral damages is proper even without proof of moral suffering but in reduced amount of P50,000.00 in line with current jurisprudence.

WHEREFORE, the Court AFFIRMS the decision of the Regional Trial Court, Laguna, Branch 34, with modification, convicting accused-appellants Noel Mamalayan alias "Bong" and Reynaldo Garcia of robbery with rape, and sentencing each of them to reclusion perpetua and to pay Bonifacio Legaspi the amount of thirty five thousand six hundred eighty pesos (P35,680.00) as actual damages and to pay Marina Legaspi the amount of one hundred thousand pesos (P100,000.00) as moral damages. The award of damages is reduced to P50,000.00.

With costs.

SO ORDERED.

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

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[1] In Criminal Case No. 3228-92-C, Judge Antonio M. Eugenio, Jr., presiding.

[2] Information, Regional Trial Court Record, pp. 19-20.

[3] Regional Trial Court Record, Vol. 1, p. 23.

[4] In Criminal Case No. 3228-92-C, Judge Francisco Ma. Guerrero, presiding (Regional Trial Court Record, Vol. 1, pp. 40-58).

[5] Regional Trial Court Record, Vol. 1, pp. 63-64.

[6] People v. Mamalayan, 345 Phil. 998, 1003 [1997].

[7] Order, Regional Trial Court Record, Vol. 2, p. 26.

[8] TSN, September 6, 1994, pp. 3-18.

[9] As a member of the Special Operation, Civil Relation Service, Armed Forces of the Philippines (TSN, September 6, 1994, p. 3).

[10] TSN, August 25, 1994, pp. 6-7.

[11] TSN, August 25, 1994, p. 8.

[12] TSN, March 7, 1995, pp. 9-10.

[13] TSN, November 21, 1995, pp. 23-28.

[14] TSN, November 21, 1995, p. 32.

[15] TSN, November 21, 1995, p. 33; TSN, November 29, 1995, p. 24.

[16] TSN, November 29, 1995, pp. 35-37.

[17] TSN, November 29, 1995, pp. 7-8.

[18] TSN, November 21, 1995, p. 29.

[19] TSN, July 23, 1996, pp. 3-6.

[20] TSN, February 23, 1996, p. 9.

[21] TSN, May 17, 1996, pp. 4-5.

[22] TSN, August 4, 1995, pp. 10-20.

[23] TSN, August 4, 1995, p. 29.

[24] TSN, August 4, 1995, pp. 25-26.

[25] Regional Trial Court Record, pp. 202-208.

[26] Notice of Appeal filed on July 28, 1998, Regional Trial Court Record, p. 213.

[27] People v. Seguis, G. R. No. 135034, January 18, 2001.

[28] People v. Martinez, 340 Phil. 374, 386 (1997).

[29] People v. Dela Cruz, 342 Phil. 150, 156 (1997).

[30] People v. Asuncion, G.R. No. 123916, June 19, 2001; People v. Soriano, 339 Phil. 144, 149 (1997).

[31] People v. Calma, 356 Phil. 945, 975-976 (1998).

[32] People v. Diasanta, 335 SCRA 218, 230 (2000).

[33] People v. Caniezo, G. R. No. 136594, March 13, 2001.

[34] People v. Seguis, G. R. No. 135034, January 18, 2001.

[35] People v. Perez, G. R. No. 113265, March 5, 2001.

[36] People v. Villadares, G. R. No. 137649, March 8, 2001.

[37] People v. Cristobal, 306 SCRA 358, 365-366 (1999).

[38] Entitled "An Act to Impose the Death Penalty on Certain Heinous Crimes."

[39] Section 19 (1), Article III, 1987 Constitution of the Philippines.

[40] People v. Belo, 360 Phil. 36, 50 (1998); People v. Cristobal, 306 SCRA 358, 366 (1999).

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