

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODOLFO VILLADARES, ACCUSED-APPELLANT.

G.R. No. 137649. March 08, 2001

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

Before us is the appeal of Rodolfo Villadares from the decision[1] of Branch 166[2] of the Regional Trial Court of Pasig City, in Criminal Case No. 109934-H, convicting him of the crime of rape and imposing on him the penalty of reclusion perpetua, and ordering him to indemnify the victim, Eliza Sabanal, in the amount of P50,000.00 as moral damages.

The Information against him alleges as follows:

"That on or about the 20[th] day of January, 1996 in the Municipality of Tagig, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force, threats, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one Eliza Sabanal y Estillana, a twelve (12) year old girl, against her will and consent.

CONTRARY TO LAW."[3]

On March 13, 1997, accused-appellant assisted by counsel was duly arraigned and, after his plea of not guilty to the charge of rape, the court a quo proceeded to trial.

The facts as presented by the prosecution and given credence by the lower court are summarized in the Brief for the Appellee submitted by the Office of the Solicitor General as follows:

"About 2:30 p.m. of January 20, 1996, private complainant Eliza Sabanal was invited by Margarita Villadares, daughter of appellant, to play at the house of appellant in No. 46, Bagong Sikat, Ligid Tipas, Taguig. Appellant's house is adjacent to that of private complainant. Private complainant and Margarita played with a plastic doll. Later private complainant and Margarita fell asleep (p. 3, TSN, May 7, 1997; Exhibit A).

Private complainant was awakened when she felt that her short pants and panty were being removed by appellant. Appellant touched her private organ and breast. Later, he inserted his penis into her private organ (tapos ipinasok po niya iyong titi niya sa kiki ko po; Exhibit A). Eliza cried and went home. The following day, Emma Sabanal, sister of private complainant who witnessed the incident, informed Rosa Sabanal, their mother, about the rape (Exhibits A and C).

On January 29, 1996, Rosa Sabanal accompanied private complainant to the Philippine National Police Crime Laboratory Service (PNPCLS), Camp Crame for medical examination (p. 3, TSN, November 5, 1997). On January 31, 1996, Dr. Jesusa Vergara, Chief of the Medico-Legal Division completed the examination and issued Medico-Legal Report No. M-0165-96 stating the following:

Findings:

GENERAL AND EXTRAGENITAL:

Fairly developed, fairly nourished and coherent female child. Breasts are undeveloped. Abdomen is flat and soft.

GENITAL

There is laguno-type growth of pubic hair. Labia majora are full, convex and keeping with the pinkish brown labia minor presenting in between. On separating the same disclosed an elastic, fleshy-type hymen with deep healed laceration at 6 o'clock. External vaginal orifice admits tip of the examiner's smallest finger with strong resistance.

CONCLUSION

Subject is in non-virgin state physically.

There are no external signs of application of any form of violence.

REMARKS:

Vaginal and peri-urethral smears are negative for gram-negative diplococci and/or spermatozoa.

TIME AND DATE COMPLETED: 1620H 31 January 1996.

(Exhibit B; Underscoring supplied)

On February 3, 1996, the sworn statements of private complainant, Emma Sabanal and Rosa Sabanal were taken by Senior Police Officer 4 Eufemia Tagale Mendoza at the Taguig Police Station (Exhibits A, C and D)."[4]

For his part, accused-appellant interposed denial and alibi as his defense. On the witness stand, he testified that on January 20, 1996, he and his wife left their house in Taguig at 3:00 in the morning and proceeded to Pasig to sell newspapers. He stayed in Pasig to sell newspapers and shine shoes until he went home at 4:00 in the afternoon and arrived thereat an hour later. He knows the Sabanal family as they are neighbors and he has a good relationship with them. He had been giving the Sabanal family food during the time he was living in his house in Taguig because the income of private complainant's father was not enough. He could not think of a reason why the Sabanal family would hate him, but he surmised that he was falsely accused with rape because he sometimes failed to give them food which the children badly needed.[5] Accused-appellant's daughter Margarita and granddaughter Melvie corroborated accused-appellant's testimony that he left the house at 3:00 in the morning of January 20, 1996 and proceeded to Pasig to work. They testified that he was back home at 6:00 in the afternoon.

On November 23, 1998, the court a quo rendered its decision, the decretal portion of which reads:

"WHEREFORE, the court finds accused RODOLFO VILLADARES Guilty beyond reasonable doubt of the crime of Rape as charged in the Information and is hereby sentenced to suffer the penalty of Reclusion Perpetua and indemnify Eliza Sabanal the sum of Fifty Thousand (P50,000.00) Pesos, as moral damages, and pay the costs of suit."[6]

Hence, this appeal from the lower court's decision, with the sole assignment of error allegedly committed by and imputed to the court a quo:

THE LOWER COURT ERRED IN GIVING FULL CREDENCE TO THE TESTIMONY OF ALLEGED VICTIM ELIZA SABANAL AND THE RESULTS OF THE EXAMINATION OF HER GENITALS WHICH ARE WEAK EVIDENCE AND NOT SUFFICIENT TO SUSTAIN CONVICTION BEYOND REASONABLE DOUBT.[7]

Accused-appellant avers that the trial court erred in convicting him because the testimony of the victim, Eliza, is contradictory and filled with inconsistencies. He argues that Eliza testified that when accused-appellant had

sexual congress with her, she struggled and tried to shout but he covered her mouth with his left hand, at the same time, he used his right hand to undress her. However, accused-appellant points out that she likewise testified at that juncture, that he was also poking a knife at her. According to accused-appellant, it is contrary to human experience and highly incredible for him to be covering her mouth, poking a knife at her and undressing her all at the same time.

Next, accused-appellant relies on the inconsistencies between Eliza's testimony and that of Emma, her sister. He argues that Emma testified that Eliza shouted during the time of the incident in question, while Eliza declared that she could not shout because accused-appellant covered her mouth. Further, accused-appellant makes much of the alleged inconsistencies in the statement Emma executed before the police authorities and her testimony in court, citing the following: on direct examination, she testified that accused-appellant was completely naked when she was about to have sex with Eliza, but in her statement, she stated that accused-appellant was wearing shorts without briefs; and on cross-examination, she declared that the former inserted his penis into the latter's organ, but in her statement, she merely stated that accused-appellant went "on top" of Eliza. As to Emma's testimony in court, he draws attention to Emma's initial testimony that accused-appellant had sexual congress with the private complainant, but supposedly contradicted herself by saying she only saw accused-appellant on January 20, 1996, when the latter was boarding a jeepney.

We are not persuaded. A close and detailed examination of the entire record of the case at bar impels us to affirm.

First. Accused-appellant's arguments as summarized above involve basically a question of credibility. It is doctrinal that the evaluation by the trial court of the testimony of a witness is accorded with highest respect because the trial court had the direct and singular opportunity to observe the facial expression, gesture and tone of voice of a witness while testifying and therefore, competent to determine whether or not the witness is telling the truth.[8] There is no reason for departing from this doctrine. In the case under scrutiny, the trial court gave credence to the testimony of Eliza, who was twelve (12) years and five (5) months old when the incident happened. A perusal of the transcript of stenographic notes shows that Eliza testified in a candid and straightforward manner. She did not testify that accused-appellant held her hand with one hand, undressed her with the other, and still held a knife to threaten her. On direct examination she testified that accused-appellant poked a knife at her, to wit:

FISCAL:

Q:

On Question No. 21, and I quote: "Maikuwento mo ba sa akin kung paano ka pinagsamantalahan ni Rodolfo Villadares?" "Sagot: Opo, noon pong January 20, 1996, 2:30 po ng hapon, niyaya po ako ni Margarita na makipaglaro kay Melvin. Nagpunta po kami sa bahay nila Rodolfo kasi po anak niya si Margarita at Melvin. Naglaro po kami pero nakatulog po kami. May naramdaman po ako na hinuhubaran ako ng shorts at saka panty. Hinipuan po ako sa puke at dede po at nilamas ang dede ko. Tapos po pinatungan na po niya ako. Tapos pinasok po niya iyong titi niya sa kiki ko." Do you affirm this statement, Miss Elisa?

A: Yes, sir.

FISCAL:

May I request that the questions and answer No. 17 be marked as exhibit A-6, and also Question and Answer No. 21 be bracketed and marked as Exhibit A-7.

Q: Now, you said that the accused inserted his penis into your private part, thereafter, what happened?

A: I felt pain. (May naramdaman akong masakit.)

Q:

Now, when the accused put himself on top of you, did the accused do anything?

A: I struggled.

Q: What happened after that?

A: He poked a knife at me.

Q: What else did the accused do?

A:

He told me not to report the matter to my parents otherwise he would kill me.[9]

During cross-examination, she mentioned that the accused-appellant covered her mouth with his left hand and undressed her with the other:

Q:

Now, you were saying Miss Witness that you were trying to struggle in the process that you were being sexually abused, did it not occur to you to shout?

A:

No, ma'am.

Q:

Why?

A:

Because he was covering my mouth.

Q:

And the covering of the mouth Miss Witness took place, you said that you were undressed by the accused, in this case, which came first, the undressing or the putting of the covering of the mouth?

A:

The covering of the mouth.

Q:

So, you are trying to tell this court what hand was used in covering your mouth?

A:

Left hand.

Q:

And you are trying to say that he undressed you using just one hand.

A:

Yes, ma'am.

Q:

Are you saying that during the actual act of allegedly sexually molesting you, he continuously placed his left hand in your mouth?

A:

Yes, ma'am.[10]

From the foregoing testimony, it cannot be inferred, as accused-appellant would have this Court do, that the covering of the mouth, undressing and poking with a knife were all happening at the same time which renders Eliza's testimony as highly incredible. We agree with the Office of the Solicitor General's explanation that "it appears that appellant used a knife to threaten private complainant to submission. She did not state that he continuously held the knife during the rape." She also did not state nor imply that he was using the other hand to undress her the entire time that she was being raped. Indeed, Eliza only testified that accused-appellant did not remove his left hand from her mouth during the rape, and that obviously the other hand was free after he had already undressed her. Focusing on this argument of accused-appellant, we cannot discern any basis for deviating from the settled rule that testimonies of rape victims who are young and immature are credible.[11] Likewise, we cannot depart from the oft-repeated rule that no young girl of decent repute would allow an examination of her private parts or subject herself to the shame, embarrassment and humiliation of a public trial, if she has not in fact been raped.[12]

Second. The alleged inconsistency between the testimony of Eliza and Emma, that is, that the latter testified that Eliza shouted, is trivial and cannot affect the veracity of their testimonies. Inconsistencies in the testimonies of witnesses which refer to minor and insignificant details do not destroy their credibility. Such minor inconsistencies even manifest truthfulness and candor and erase any suspicion of rehearsed testimony.[13]

Third. The inconsistencies in Emma's statement before the police authorities and her testimony in open court cannot detract from Eliza's testimony that she was raped on July 20, 1996 by accused-appellant. Discrepancies and/or inconsistencies between a witness' affidavit and testimony in open court do not impair credibility as affidavits are taken ex parte and are often incomplete or inaccurate for lack of or absence of searching inquiries by the investigating officer.[14] In any event, we find that Emma's testimony in court sufficiently corroborates that of Eliza on material points. She testified that she was home on January 20, 1996, at around 1:30 p.m., she saw Eliza in the house of accused-appellant, which is adjacent to theirs, sleeping. She saw accused-appellant approach her sister and remove her panty. He then fondled her breast and went on top of her.[15] True, the testimony of Emma on cross-examination was not without any inconsistency. She stated that on the date of the incident she only saw accused-appellant board a jeepney at 2:30 p.m. Nevertheless, this inconsistency should not be taken as a badge of dishonesty nor of fabrication. When Emma testified, she was only ten (10) years old, and we have said that ample margin of error and understanding should be accorded to young witnesses who, much more than adults, would be gripped with tension due to the novelty of the experience of testifying before a court.[16] Be that as it may, Emma's testimony is merely corroborative in character, and it must be emphasized that in rape cases, the accused may be convicted solely on the testimony of the complaining witness provided such testimony is credible, natural, convincing and otherwise consistent with human nature and the course of things,[17] as it is in the case at bar.

Lastly, accused-appellant avers that the court a quo gravely erred when it gave great probative value to the medico-legal report signed by one Dr. Jesus Vergara and a certain P/Chief Supt. Fidel Lahom despite being hearsay evidence for failure of the said signatories to appear and testify in court. The medical certificate stated that Eliza had a healed hymenal laceration and confirmed that she was in a non-virgin state. During the trial, the defense stipulated on the authenticity and due execution of the said medical certificate, hence, the court a quo

admitted the same and appreciated the same as corroborative evidence. But with or without the medical certificate, the testimony of Eliza, as corroborated by her sister Emma is sufficient to convict. It is well-settled that for a conviction of rape, medical findings of injuries in the victim's genitalia are not essential.[18] This Court has ruled that a medical examination of the victim is not indispensable in a prosecution for rape;[19] and that a victim's testimony alone if credible is sufficient to convict the appellant of the crime.[20]

The supposed ill motive of the victim and her family which allegedly impelled them to charge accused-appellant of this crime, that is, that the latter sometimes failed to give them food, is flimsy and unsubstantiated. If the defense fails to prove that the accusation against him is moved by improper motive, the accusation is entitled to full faith and credence.[21] This Court has repeatedly opined that it is unlikely for a young girl like the complainant and her family to impute the crime of rape to another and face social humiliation if not to vindicate the honor of complainant.[22]

The defense of alibi proffered by accused-appellant is unacceptable. Alibi cannot prevail over the positive identification made by the victim of her offender.[23] Moreover, accused-appellant has failed to prove physical impossibility on his part of being present at the time and place of commission of the crime. As has been aptly pointed out by the trial court, "accused failed to prove that it was physically impossible for him to have been at the scene of the crime when it occurred. In fact, accused admitted that in the afternoon, when traffic is heavy, it will take only one hour to travel from his place of work in Pasig City to their house in Tipas, Taguig."

Finally, the trial court noted that the, "accused fled from the scene of the crime and resided in Pasig City until his apprehension on January 21, 1997, or one (1) year from the day Eliza was ravished." The rule is settled that flight of an accused is competent evidence to indicate his guilt, and when unexplained, is a circumstance from which an inference of guilt may be drawn.[24] Accused-appellant did not offer any explanation for his immediate flight after the incident and his actuation is consistent with the court a quo's finding of guilt.

All told, accused-appellant has failed to show any reversible error, and this Court finds no cogent reason to reverse the decision of the court a quo. In accordance with Article 335 of the Revised Penal Code, as amended,[25] the imposable penalty is reclusion perpetua, regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.[26] However in line with current jurisprudence, Eliza Sabanal, is entitled to, in addition to the P50,000.00 as moral damages, civil indemnity of P50,000.00.[27]

WHEREFORE, the appeal is hereby DENIED. The assailed judgment is AFFIRMED with the MODIFICATION that in addition to the P50,000.00 as moral damages, RODOLFO VILLADARES is also ordered to pay Eliza Sabanal P50,000.00 as civil indemnity.

SO ORDERED.

Melo, (Chairman, Third Division), Vitug, Panganiban, and Sandoval-Gutierrez, JJ., concur.

[1] Rollo, pp. 14-19.

[2] Presided by Judge Jesus G. Bersamira.

[3] Rollo, p. 4.

[4] Rollo, pp. 94-96.

[5] TSN dated July 28, 1998, pp. 1-7.

[6] Rollo, p. 19.

[7] Rollo, p. 47.

[8] *People vs. Cortes*, 323 SCRA 131 (2000).

[9] TSN dated May 7, 1997, pp. 3-4.

[10] TSN dated May 7, 1997, p. 7.

[11] *Cortes*, *supra*.

[12] *People vs. Tabion*, 317 SCRA 126 (1999).

[13] *People vs. Gargar*, 300 SCRA 542 (1998).

[14] *People vs. Perez*, 307 SCRA 276 (1999).

[15] TSN dated June 19, 1998, p. 3.

[16] *People vs. Garigadi*, 317 SCRA 399 (1999).

[17] *People vs. Paranzo*, 317 SCRA 367 (1999).

[18] *People vs. Macosta*, 320 SCRA 668 (1999).

[19] *People vs. Salazar*, 258 SCRA 55 (1996).

[20] *Ibid*.

[21] *People vs. Perez*, 307 SCRA 276 (1999).

[22] *People vs. Rosales*, 313 SCRA 757 (1999).

[23] *People vs. Ravanese*, 284 SCRA 634 (1998).

[24] *People vs. Gomez*, 251 SCRA 455; *People vs. Asoy*, 251 SCRA 682 (1995).

[25] ART. 335. When and how rape is committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

- By using force or intimidation;
- When the woman is deprived of reason or otherwise unconscious; and
- When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by reclusion perpetua.

[26] Art. 63, Revised Penal Code.

[27] *Macosta*, *supra*.

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