

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AMADEO TRELLES, ACCUSED-APPELLANT.

G.R. No. 137659. September 19, 2000

Ponente: VITUG, J.

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VITUG, J.:

The outrage done to Nobelita Trelles, a 22-year old retardate, would have remained hidden were it not for the mute testimony of her steadily growing stomach. By December of 1996, its growth had undeniably reached such noticeable proportions that her mother, Azucena Trelles, suspecting the obvious, finally took her daughter to Dr. Mario Banal for medical examination. The good doctor confirmed that, indeed, Nobelita was with child and, on 09 March 1997, she eventually delivered a baby boy. Azucena pressed her daughter for the identity of the man who impregnated her. As it so sadly turned out, Azucena later recounted in open court, Nobelita had resolutely pointed to her own father, Amadeo Trelles, as having been responsible for it. Indignant at the injustice committed against her daughter, Azucena filed a case for rape against Amadeo Trelles.

The information, later charging Amadeo Trelles with rape, instituted by the Assistant Provincial Prosecutor of Camarines Sur, read:

"INFORMATION

"The undersigned Assistant Provincial Prosecutor of Camarines Sur upon a complaint under oath by the offended party accuses AMADEO TRELLES, a resident of Bgy. Luluasan, Balatan, Camarines Sur and presently detained at the Municipal Jail of Balatan, Camarines Sur, for the crime of RAPE defined and penalized under Art. 335 of the Revised Penal Code, as amended by RA 7659, committed as follows:

"That sometime in the month of June, 1996 or thereabouts, at Bgy. Luluasan, Balatan, Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, with lewd designs and by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with his full-blood 18 year old feeble-minded legitimate daughter Nobelita Trelles y Silvano against her will, as a result of which said victim was impregnated and subsequently delivered an incestuous child, to the damage and prejudice of the same offended party.

"ACT CONTRARY TO LAW."[1]

Nobelita Trelles, one of the six children of Azucena and her common-law husband Amadeo Trelles, was born on 15 February 1974. A retardate or feeble-minded, Nobelita never went to school and would often be left alone in the house with her father while her other siblings attended their classes and her mother, a fish peddler, traveled from place to place failing, a few times, to spend the night with her family. It was on one of those occasions when Amadeo Trelles vented his lust upon his imbecile daughter.

Amadeo Trelles testified that he was not legally married to Azucena. At the time of the incident in question, he already had a new mistress who was living with him. Nevertheless, he did not completely abandon his family with Azucena, and he somehow managed to divide his time between Azucena in Barangay Luluasan, Balatan,

Camarines Sur, and the other woman at Laganac of the same municipality. The two barangays were to him a two-hour walk or about five kilometers from each other. Amadeo asseverated that Azucena also had a paramour, a certain Marcial, who was the former common-law husband of his sister. The affair which started in 1994, however, abruptly ended in 1995. Amadeo insisted that he could not have impregnated Nobelita because as early as January 1996, Azucena, together with Nobelita and Amelia, a younger daughter, had left their house and returned only in August that year, which was when he first noticed the protruding stomach of Nobelita. When he asked his wife about it, Azucena answered that Nobelita's condition was merely caused by too much "kaliputan" (cold). In December, Nobelita started to vomit blood, prompting him to tell his wife to stop from further ministering herbal concoctions and to instead bring her daughter to a physician. The medical examination on Nobelita by the doctor confirmed her pregnancy. When interrogated what could have motivated Azucena to accuse him of rape, Amadeo replied that his wife had always blamed him for everything that went wrong.

Evaluating the evidence proffered by both parties, the trial court, giving full credence to the testimony of Nobelita, saw the case for the prosecution; it concluded:

"WHEREFORE, in view of all the foregoing premises, judgment is hereby rendered finding the herein accused AMADEO TRELLES, guilty beyond reasonable doubt of the offense of RAPE defined and penalized by Article 335 of the Revised Penal Code as amended by Republic Act No. 7659, hereby imposing upon him the penalty of imprisonment of RECLUSION PERPETUA with all the accessory penalties provided therefor and to pay the costs hereof.

"The said accused is further ordered to pay the amount of FIFTY THOUSAND (P50,000.00) Philippine Currency to Nobelita S. Trelles as civil liability without however subsidiary imprisonment in case of insolvency and finally he is declared to be the father of the child born to Nobelita Trelles on March 9, 1997 and therefore fully liable for all the obligations inherent thereto.

"SO ORDERED."[2]

The tale of infidelity raises no doubt about the fact that there has been mutual animosity between Azucena and Amadeo that effectively leaves us with the lone testimony of private complainant which, although consisting of monosyllables and vacillations between lucidity and ambiguity, nonetheless, is positive in pointing to and implicating Amadeo Trelles as the person who has so pitilessly abused her innocence.

The young Nobelita Trelles recounted in her testimony before the trial court the unfortunate incident that had befallen her.

" Q.

In June 1996, what happened to you?

"A.

`Babaw' (On top).

"ATTY. SE:

Your honor, `babaw' means shallow.

"COURT:

The court understands the Bicol dialect. `Babaw' means two things. It means `shallow' and the other meaning is `on top.' Continue.

"PROSECUTOR BORROMEIO:

"Q.

What do you mean by the word `babaw'?

"A.

`Babaw, mabata.' (which means on top, bad smell)

"Q.

Who has bad smell?

"A.

Papa

"Q.

Why do you say that your father is `mabata' or has a bad smell?

"A.

`Amo-an' (In English, `that is the one.')

"x x x x x x x x

"Q.

Your mother was holding a baby. Whose baby is that?

"A.

Mine, sir.

"Q.

You are single, is that correct?

"A.

None, sir.

"Q.

How did you come to have a baby?

"A.

None.

"Q.

That baby which your mother was holding, belongs to you, is that correct?

"A.

Yes, sir.

"Q.

How did you come to have a baby?

"A.

I fell. (nahulog).

"Q.

Do you know the father of your baby?

"A.

Amadeo Trelles.

"Q.

Who is this Amadeo Trelles?

"A.

That one (Witness pointing to the accused Amadeo Trelles.)

"Q.

You said and you pointed to your father as the father of your baby, why? How did it happen?

"A.

`Mabata.' (meaning foul smell)

"PROSECUTOR BORROMEO:

"Q.

Tell the Honorable Court, what do you mean by `babaw'?

"A.

Sexually assaulted (kinado)."[3]

When categorically asked who made "babaw" to her, Nobelita confirmed in no uncertain way that it was indeed Amadeo Trelles who had ravished her.

"PROS. BORROMEO:

"Q.

May I ask additional direct, Your Honor. Will you point to the man who made `babaw' to you?

"(The witness gets down from the witness stand to go near the father. Witness refuses to go near the father.)

"COURT:

Let the accused stand.

"Q.

Is he the one?

"A.

(Witness points to the accused).

COURT:

The man in black T-shirt, let him stand.

"Q.

Is he the one who made `babaw' on you?

"A.

No, sir.

"COURT:

So, it is clear now that it is the accused who was pointed by the witness who made `babaw' to her."[4]

Accused-appellant harps on the inconsistencies, referring to the incoherent answers of Nobelita Trelles on cross-examination -

"COURT:

"Q.

Who was that person who made "babaw" to you?

"A.

None, sir.

"X X X X X X X X

"ATTY. SE:

"Q.

Where was this `babaw' on you happened on June 1996?

"A.

In the mountain, sir.

"Q.

Where?

"A.

In Balatan, Camarines, Sur.

"Q.

Who made `babaw' on you?

"A.

None, sir.

"Q.

On the month of June 1996, nobody made `babaw' on you?

"A.

None, sir.

"x x x x x x x x

"PROSECUTOR BORROMEIO:

You declared when asked by Atty. Se that in the month of June 1996, nobody made `babaw' to you. My question is, in the month of June 1996, did your father, the accused made `babaw' to you?

"A.

It was January, sir.

"COURT:

"Q.

Do you know the months of the year?

"A.

I do not know, sir."[5]

Accused-appellant forgets that Nobelita Trelles is feeble-minded and a mental retardate. She could not very well be expected to consistently impart accurate responses to questions repeatedly propounded to her.

A mental retardate or a feeble-minded person is not, per se, disqualified from being a witness, her mental condition not being a vitiation of her credibility.[6] It is now universally accepted that intellectual weakness, no matter what form it assumes, is not a valid objection to the competency of a witness so long as the latter can still give a fairly intelligent and reasonable narrative of the matter testified to.[7]

In *People vs. Salomon*,[8] the Court sustained the trial court in giving credence to the testimony of a mentally

impaired private complainant. In *People vs. Gerones*,^[9] the narrative of the rape victim who only had the mental capacity of a 10-year old to the effect that "the man who was not blind and the man without eyes helped each other in deflowering her through force and intimidation" was upheld despite its ineptitude. In the instant case despite her monosyllabic responses and her crude language, at times even impertinent answers, Nobelita Trelles nonetheless unwavered in her accusation against Amadeo Trelles and showed that she fully understood the words "papa," "kinado" and "babaw."

It has been held that a trial court judge, whose assessment of the credibility of a witness is generally sustained on appeal, absent any meritorious ground, may choose to believe in part and disbelieve in part the testimony of a witness depending on the corroborative evidence and the probabilities and improbabilities of rape.^[10]

The defense belabored the existence of an affidavit of desistance executed by Azucena and Nobelita before the police authorities, where the affiants initially dropped the charges of rape against the accused supposedly because of a mere misunderstanding between them. As so explained later by Azucena, however, the affidavit was prepared by Amadeo's mistress and her son and that she had signed the document only on account of fear of her common-law husband who, from jail, issued threats to harm her and her family.^[11] Furthermore, an affidavit of desistance, to justify the dismissal of the complaint, should be made prior to the institution of the criminal action.^[12]

Nor would an infirmity on the exact date of the commission of rape be a legal obstacle to conviction. This Court has previously said that the precise date when the complainant has been sexually abused is not an essential element of the offense.^[13]

The Court sustains the trial court in its judgment finding Amadeo Trelles guilty beyond reasonable doubt of the crime of rape committed against his utterly defenseless and demented daughter. Somewhere in the foggy recesses of her mind, Nobelita Trelles would always carry with her the memory of that detestable event in her life, but her handicap would forever render her practically voiceless in her indignation. The decision of the court a quo has given an ear to her silent torment.

Article 335 of the Revised Penal Code, as amended, prescribes the penalty of reclusion perpetua when, among other things, the rape victim is under twelve years of age or is demented. Carnal knowledge of a woman who suffers from mental deficiency or abnormality or one so weak in intellect as to be incapable of giving legal or rational consent constitutes rape within the meaning of the law.

Consistently with prevailing jurisprudence, the victim should be additionally indemnified for moral damages in the amount of P50,000.00.

WHEREFORE, the decision of the Regional Trial Court of Iriga City in Criminal Case No. IR-4345 is AFFIRMED with modification that, aside from the award of P50,000.00 civil indemnity, an additional amount of P50,000.00 by way of moral damages is hereby ordered to be paid to the private complainant by accused-appellant.

Costs against accused-appellant.

SO ORDERED.

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

[1] Records, p. 1.

[2] Rollo, p. 27.

[3] TSN, 25 September 1997, pp. 4-6.

[4] Id., pp. 8-9.

[5] Id., pp. 7-9.

[6] People vs. Salomon, 229 SCRA 403.

[7] Underhills' Criminal Evidence, 5th Edition, p. 611, cited in R.J. Fransisco, Evidence, Rules 123-134, 1993 Edition, p. 122.

[8] Supra.

[9] 193 SCRA 263.

[10] People vs. Julian, 270 SCRA 733.

[11] TSN, Azucena Trelles, 30 September 1998, pp. 18-22.

[12] People vs. Entes, 103 SCRA 162.

[13] People vs. Ocampo, 206 SCRA 223.

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