

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROBERTO PADRIGONE A.K.A. “ROBERTO SAN MIGUEL”, ACCUSED-APPELLANT.

G.R. No. 137664. May 09, 2002

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Roberto Padrigone a.k.a. Roberto San Miguel, Michael San Antonio, Jocel Ibaneta and Abelardo Triumpante were charged with rape in an amended information which reads:

That on or about the 3rd day of January, 1995, in Salvacion, Buhi, Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping each other and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with (sic) Rowena Contridas against her will, to her damage and prejudice in the amount that may be proven in court.

Acts contrary to law.[1]

All the accused pleaded “not guilty.” Trial on the merits thereafter ensued.

The antecedent facts are as follows:

It appears that at 3:00 in the morning of January 3, 1995, appellant Roberto Padrigone and the other accused broke into the house of Rowena Contridas, then 16 years old, situated in San Benito, Salvacion, Buhi, Camarines Sur. Appellant Roberto Padrigone and accused Jocel Ibaneta poked a knife at Rowena and her fourteen year-old sister, Nimfa,[2] and threatened to kill them if they reported the incident to others. They gagged Rowena with a handkerchief and Nimfa with a handtowel. Then, appellant undressed Rowena, forced her to lie down and sexually violated her while his co-accused watched with glee. Accused Jocel Ibanita tried to rape Nimfa but failed because she was able to elude him.

After appellant satisfied his lust on Rowena, the other accused took their turns. Every one of the accused raped Rowena. Before they left, they warned the sisters not to report the incident or else they will kill them.

Despite the threats, Rowena and Nimfa reported the incident to the police and identified appellant and his co-accused as the perpetrators. However, based on the police blotter, Rowena stated that it was only appellant who raped her.

Dr. Damiana Claveria, Municipal Health Officer, conducted a medical examination on Rowena and found the following:

patient – very talkative, incoherent as to questions asked.

PE – no signs of external injury

IE – hymenal tear, recent 6”, 9” don’t bleed on manipulation, but complained of tenderness upon insertion of 1 finger, copious vaginal discharge.[3]

According to Dr. Claveria, there is a possibility that the fluids found inside Rowena's vagina may be semen. She added that it was possible for Rowena to have only two hymenal tears even if four men had sexual intercourse with her.

Dr. Chona C. Belmonte, a psychiatrist of Cadlan Mental Hospital in Pili, Camarines Sur, testified that while she interviewed Rowena, the latter was crying, incoherent and had shouting episodes. She was confined at the Cadlan Mental Hospital for further treatment. Upon further medical consultation, Dr. Belmonte observed thus:

Rowena was in a depressed mood and at the same time overactive. She was combative, violent, and was experiencing auditory hallucination, meaning, she heard things that only she could hear. She was also grandiosely deluded, falsely believing that she could do things others could not do. By that time, according to Dr. Belmonte, Rowena had already lost touch with reality.[4]

Dr. Belmonte diagnosed her illness as "Acute Psychotic Depressive Condition." [5] She found that her mental disorder was not hereditary because before the incident took place, she did not exhibit any unusual behavior. She concluded that her mental illness was strongly related to a traumatic experience. She noted that at one point in the treatment, Rowena confided to her that "she was raped." [6]

All the accused, including appellant Roberto Padrigone, interposed the defense of denial and alibi. Appellant claimed that in the evening of January 2, 1995, he and his companions, Jocel Ibanita and Michael San Antonio, visited Rowena at her house. According to him, Rowena was crying when they arrived. When appellant asked her what was wrong, she told him that she wanted to elope with him. He replied that he was not ready as he was still studying. Rowena snapped, "it's up to him but he might regret it." [7] While appellant and Rowena were talking, Jocel Ibanita and Michael San Antonio were in the kitchen cooking noodles. Later, a certain Ismeraldo Quirante, in the presence of several barangay watchmen patrolling the area, passed by the Contridas' house and advised the accused to go home because it was getting late. They heeded the advice and left the Contridas' house at around 11:30 p.m.

The trial court gave credence to the prosecution evidence and rendered a decision, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing considerations, this Court finds the accused, ROBERTO PADRIGONE a.k.a. ROBERTO SAN MIGUEL, GUILTY of the crime of Rape, under Article 335 of the Revised Penal Code (as amended by Section 11, R.A. 7659) and hereby sentences him to suffer imprisonment of RECLUSION PERPETUA, considering the mitigating circumstance of voluntary surrender. He is likewise directed to indemnify the offended party, Rowena Contridas, the amount of Fifty thousand Pesos (P50,000.00) as moral damages and to pay the costs of this suit. Accused JOCEL IBANITA, MICHAEL SAN ANTONIO and ABELARDO TRIUMPANTE are ACQUITTED for insufficiency of evidence. It being shown that the three accused are presently detained at the Municipal Jail at PNP, Buhi, Camarines Sur, their immediate release is hereby ordered.

SO ORDERED.[8]

Appellant interposed the instant appeal based on the following arguments:

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME OF RAPE INSPITE OF THE INHERENT WEAKNESSES AND INSUFFICIENCY OF PROSECUTION'S EVIDENCE.

II

THE TRIAL COURT GRAVELY ERRED IN DECIDING THE INSTANT CASE NOT IN ACCORDANCE WITH THE ESTABLISHED PRINCIPLE IN CRIMINAL LAW THAT THE PROSECUTION MUST RELY ON THE STRENGTH OF ITS EVIDENCE AND NOT ON THE WEAKNESS OF THAT OF THE DEFENSE.

Appellant contends that the prosecution evidence was insufficient to prove his guilt beyond reasonable doubt.

Appellant argues that according to the prosecution witness, Nimfa, he and his co-accused Michael San Antonio, Abelardo Triumpante and Jocel Ibanita, took turns in raping Rowena while Jocel Ibanita also attempted to rape her. However, after preliminary investigation, the Municipal Trial Court of Buhi, Camarines Sur, dismissed Nimfa's complaint for attempted rape against Jocel Ibanita because of its findings that the latter committed only acts of lasciviousness, considering his voluntary and spontaneous desistance from continuing to perform the acts leading to carnal knowledge. Furthermore, the investigating Judge entertained doubts about the truth of her story, which was uncorroborated.[9]

We agree with the following observation of the Solicitor General:

[T]he dismissal of the complaint for attempted rape filed by Nimfa against one of the accused, Jocel Ibanita, during the preliminary investigation stage should not detract from the credibility of her testimony. Even if the prosecution wanted to, the merits of the dismissal of Nimfa's complaint for attempted rape could not be properly challenged in the criminal proceedings below since the said proceedings involved only the culpability of the four accused for the crime of rape committed against Rowena, the sister of Nimfa.[10]

Appellant further claims that Nimfa's lack of credibility was underscored when the trial court acquitted appellant's co-accused. Appellant's claim is not well taken. Evidence shows that the trial court acquitted appellant's co-accused because of doubt engendered on the extent of their participation in the sexual assault committed against Rowena in light of Rowena's own statement as recorded in the police blotter.[11]

Appellant alleges that Nimfa's reactions after the rape of her sister are "unnatural, unexpected and mind-boggling,"[12] specifically when she resumed her sleep after having been raped and even reported for work the following day. The contention deserves scant consideration. It is an accepted maxim that different people react differently to a given situation or type of situation and there is no standard form of behavioral response when one is confronted with a strange or startling experience.[13]

Further, appellant argues that Nimfa admitted before the police that she did not recognize the rapists of Rowena. In this connection, we quote with approval the observation of the Solicitor General, to wit:

Anent the portion of Nimfa's testimony wherein she admitted to the defense counsel that she told the Chief of Police that she was not able to recognize the persons who raped her sister Rowena, the same is capable of explanation. Accused-appellant Roberto Padrigone was present when Nimfa uttered the statement. Hence, she was afraid to tell the truth because of the earlier threat to her and sister Rowena's lives by accused-appellant Padrigone.[14]

We find that Nimfa's credibility has not been impaired despite rigorous cross-examination. In fact, defense counsel was not able to point to any inconsistency in Nimfa's testimony. A perusal of the transcripts of stenographic notes reveals that she was steadfast in narrating the circumstances of the rape and in pointing to appellant as one of the perpetrators.

Appellant likewise alleges that it was error for the trial court to have dismissed his "sweetheart" defense by the mere absence of love notes, mementos or pictures.

In *People v. Corea*,[15] we held that:

x x x Moreover, even if such averment is true, it does not necessarily follow that no rape can be committed against one's sweetheart. Such a relationship provides no license to explore and invade that which every virtuous woman holds so dearly and trample upon her honor and dignity. That relationship is held sacred by many x x x. A sweetheart cannot be forced to engage in sexual intercourse against her will. As a matter of fact, proof even of a prior history of a common-law marital relationship will not prevail over clear and positive evidence of copulation by the use of force or intimidation.

Regardless, the most telling indication that would belie appellant's "sweetheart theory" was the fact that he had carnal knowledge of Rowena in the presence of Nimfa and his co-accused. It is most unnatural for lovers to engage in the ultimate expression of their love for each other in the presence of other people.

Appellant assails the procedural irregularities committed by the prosecution and by the trial court. He claims that the prosecution suppressed evidence by not presenting Rowena, the victim, when the latter should have had her sane moments. As a consequence, the trial court deprived appellant of the opportunity to cross-examine her when she allegedly declared before the Chief of Police of Buhi that it was only appellant who raped her which declaration became the basis for the latter's conviction.

Appellant's contention is misplaced if not misleading. The basis of his conviction was not Rowena's declaration before the Chief of Police but rather Nimfa's testimony before the trial court that it was him who raped Rowena, among others.[16] In fact, the trial court found, thus:

x x x The evidence adduced by the parties in this case disclosed that accused Roberto Padrigone, a.k.a. Roberto San Miguel, Jocel Ibanita, Michael San Antonio and Abel Triumpante entered the dwelling of the Contridas sisters at 3:00 a.m. of January 3, 1995, and at knifepoint successively raped Rowena Contridas, a 16 year old lass. The victim became insane after the incident and was not able to testify in Court. Nimfa Contridas, her fourteen year old sister, who was also present that time narrated the incident when her elder sister's innocence was forcibly violated. Accused interposed the defense of denial and alibi. x x x

The prosecution has established beyond reasonable doubt that accused Roberto Padrigone ravished Rowena Contridas against her will and consent, and with the use of a bladed weapon.[17]

Besides, the non-presentation of Rowena on the witness stand cannot be considered as suppression of evidence. Under Rule 131, Section 3(e) of the Rules of Court, the rule that "evidence willfully suppressed would be adverse if produced" does not apply if (a) the evidence is at the disposal of both parties; (b) the suppression was not willful; (c) it is merely corroborative or cumulative; and (d) the suppression is an exercise of a privilege.[18]

Plainly, there was no suppression of evidence in this case. First, the defense had the opportunity to subpoena Rowena even if the prosecution did not present her as a witness. Instead, the defense failed to call her to the witness stand. Second, Rowena was certified to be suffering from "Acute Psychotic Depressive Condition" and thus "cannot stand judicial proceedings yet." [19] The non-presentation, therefore, of Rowena was not willful. Third, in any case, while Rowena was the victim, Nimfa was also present and in fact witnessed the violation committed on her sister.

Appellant cannot claim that the trial court erred in convicting him on the basis of Rowena's statement as recorded in the police blotter. His conviction was based on the trial court's findings of facts and assessment of the witnesses' credibility. Well-settled is the rule that the findings of facts and assessment of credibility of witnesses is a matter best left to the trial court because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying, which opportunity is denied to the appellate courts. Only the trial judge can observe the "furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath," all of which are useful aids

for an accurate determination of a witness' honesty and sincerity. The trial court's findings are accorded finality, unless there appears in the record some fact or circumstance of weight which the lower court may have overlooked, misunderstood or misappreciated and which, if properly considered, would alter the results of the case.[20]

Besides, in rape cases where the offended parties are young and immature girls from the ages of twelve to sixteen, we have consistently held that the victim's version of what transpired deserves credence, considering not only their relative vulnerability but also the shame and embarrassment to which such a grueling experience as a court trial, where they are called upon to lay bare what perhaps should be shrouded in secrecy, exposed them to. This is not to say that an uncritical acceptance should be the rule. It is only to emphasize that skepticism should be kept under control.[21]

Nonetheless, no young and decent Filipina would publicly admit that she was ravished and her honor tainted unless the same were true, for it would be instinctive on her part to protect her honor and obtain justice for the wicked acts committed upon her.[22] Not to be overlooked is the complainant's willingness to face police investigators and to submit to a physical examination which are eloquent and sufficient affirmations of the truth of her charge.[23]

As regards the matter of damages, the trial court ordered accused-appellant "to indemnify the offended party, Rowena Contridas, the amount of Fifty Thousand Pesos (P50,000.00) as moral damages." [24] In *People v. Belga*, [25] it was held that civil indemnity is mandatory upon the finding of the fact of rape; it is distinct from and should not be denominated as moral damages which are based on different jural foundations and assessed by the court in the exercise of sound discretion. Thus, consistently with present case law which treats the imposition of civil indemnity as mandatory upon a finding of rape, accused-appellant is ordered to pay the additional amount of fifty thousand (P50,000.00) pesos as civil indemnity *ex delicto*. [26]

WHEREFORE, based on the foregoing, the assailed Decision, finding accused-appellant Roberto Padrigone a.k.a. Roberto San Miguel guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of reclusion perpetua, is **AFFIRMED** with the **MODIFICATION** that he is ordered to pay Rowena Contridas civil indemnity in the amount of P50,000.00 in addition to moral damages in the amount of P50,000.00. Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Austria-Martinez, JJ., concur.

[1] Rollo, p. 10.

[2] Spelled as Nympha in her Affidavit and in the TSNs.

[3] Exhibit "A", Records, p. 219.

[4] Appellee's Brief, Rollo, pp. 112-113.

[5] Exhibit "B", Records, pp. 220-221.

[6] TSN, June 17, 1997, pp. 7-11.

[7] TSN, January 14, 1998, p. 4.

[8] Decision, Records, p. 283.

- [9] Ibid., pp. 48-69.
- [10] See Note 4, p. 118.
- [11] Supra, p. 117.
- [12] Appellant's Brief, Rollo, p. 77.
- [13] People v. Dy, G.R. Nos. 115236-37, January 29, 2002.
- [14] Appellee's Brief, Rollo, p. 119, citing TSN, May 15, 1996, pp. 11-12.
- [15] 269 SCRA 76 [1997] citing People v. Cabilao, 210 SCRA 326 [1992].
- [16] TSN, January 25, 1996, pp. 3-10.
- [17] Decision, Records, pp. 281-282.
- [18] People v. Andal, 279 SCRA 474 [1997].
- [19] See Note 22, p. 278.
- [20] People v. Mangat, 310 SCRA 101 [1999].
- [21] People v. Castillo, 335 SCRA 100 [2000].
- [22] People v. Palma, 308 SCRA 466 [1999].
- [23] See Note 20.
- [24] Decision, Records, p. 283.
- [25] People v. Belga, G.R. No. 129769, January 19, 2001.
- [26] People v. Antonio, 333 SCRA 211 [2000].

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