

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARCHIBALD PATOSA Y LASTIMADO, ACCUSED-APPELLANT.

G.R. No. 137759. September 03, 2002

Ponente: PUNO, J.

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PUNO, J.:

The accused's home was for a long time a haven to the victim, Chanil, as she was treated there like family and given the opportunity to study. But in a single night that the accused was subdued by his lustful desires and he unleashed his bestiality, Chanil lost not only home and family, but also her innocence and self-respect.

On February 18, 1997, an information was filed against the accused Patosa, viz:

“That on or about the 28th day of April 1996, in the Municipality of Bacoor, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threat and intimidation, did then and there, willfully, unlawfully and feloniously have sexual intercourse of (sic) one CHANIL ESCOSAIS y BAYANG, a sixteen (16) year old minor, against the latter's will and consent, to the damage and prejudice of the said offended party.”[1]

The accused pleaded not guilty. Trial ensued.

The prosecution evidence shows that Chanil Escosais is a relative of the accused, Archibald Patosa. The latter's wife, Leticia, is a cousin of Chanil's mother. She called the accused “Uncle.” Chanil lived with the accused's family in Bayanan, Bacoor, Cavite for several years. The couple treated her as their eldest daughter. Their six children called her “Ate” and whatever the couple gave their other children, they also gave her. The accused and his wife sent her to school as they pitied her. With their help, she finished elementary school. She, in turn, took care of the couple's children, especially their five-year old child, Aldridge. The accused never scolded Chanil.

April 28, 1996 in the house of the accused will be forever etched in Chanil's memory. At around 2:30 a.m. that day, only the accused, his three children - Archilous, Archille and Aldwin - and Chanil were home. Leticia and the three other children, Altiffany, Altea and Aldridge were on a vacation in Surigao. Chanil and Archille were in the girls' room. Chanil was in bed while Archille slept on the floor. All of a sudden, Chanil noticed that the accused was behind her. She moved and the accused noticed it and went out. The accused came back. To let him know that she was awake, she cleared her throat and said “ahem.” The accused seemed to be looking for something. When the accused left, Chanil switched on the light and locked the door. Then came a knock on the door and when she opened it, the accused asked her how they were and she answered that they were fine. He woke Archille up and asked her to transfer to the master's bedroom. She complied. He asked Chanil for the keys to the bathroom because according to him, it was locked. The keys to the bathroom and Chanil's bedroom were in one bunch. After getting the keys from Chanil, Archibald left. Chanil locked the door and went back to bed. When she was half asleep, she noticed the accused enter the room, switch off the light, and lie down beside her. At this juncture of the victim's testimony, she started crying.

Sensing the harm that was about to befall her, Chanil pleaded with the accused, “Tiong, huwag po.” The accused

told her to keep quiet. She moved to the far side of the bed and was able to stand up and run to the side of the room near the door. She opened the door, but the accused grabbed her left hand. Chanil shouted, “Archille, tulungan mo ako!” but the accused pulled and punched her twice in the stomach. She crumpled on the floor. The accused took off her pajamas and kissed her on her breast with her shirt still on. Afterwards, he took off her shirt, bra and panty. He kissed her all over her neck, on her breast and even sucked her breast and remarked, “wala ka pa palang gatas.” He kissed her all over including her private part and bit her pubic area, causing her pain. All this time, Chanil was crying and pleading with the accused “parang awa niyo na Tiong, huwag po” and struggling by moving both arms. The accused paid no attention to her pleas and cursed her, “putang ina mo, papatayin kita.” Chanil also repeatedly shouted for Archille to help her, but the accused scolded her, “putang ina mo, huwag kang maingay.” The accused then picked her up from the floor and laid her body on the bed while her feet were on the floor. He continued to kiss her on the neck and fingered her. She pleaded with him to have pity on her and stop what he was doing, but he replied that they still had plenty of time and said, “hindi ko titigilan ito hangga’t hindi ko ito naipasok.” By this time the accused had already removed his short pants. He inserted his organ into her private part, did the push and pull movement, and penetrated her. It was painful. Chanil kept on pleading with him to stop, but her pleas fell on deaf ears. Finally, after some time, he stopped and stood up, put on his clothes and told her to dress up. He warned her not to tell anyone about what happened or else he would kill her. But he promised that he would continue to take care of her studies. Chanil did not answer and kept on crying. She cowered in fear as she was afraid that he would kill her. The accused left the room with Chanil still crying until morning.

In the morning, Chanil went out of her room and saw Archille drinking milk. She asked her if she heard her shouting the previous night, but she replied that she did not. Chanil stayed outside the house as she was afraid to go inside. After some time though, she went inside her room. At around 11:00 a.m., she heard the voice of her cousin, Carlos Telin. She came out of her bedroom crying but did not tell Carlos anything as the accused was still around. Carlos asked her why she was crying and by this time, the accused’s back was already turned to the two. Chanil pleaded with Carlos not to go, saying, “Kuya, parang awa niyo na huwag muna kayong aalis.” When the accused was already sleeping and the cousins were watching television, Chanil turned up the volume of the television so the accused would not hear them. She then narrated to Carlos the horrendous events the previous night. Carlos advised her to leave the accused’s abode. She heeded his advice and left the day after she was raped. She stayed in her Auntie Jeany’s house. She related to the latter and to Carlos her ordeal with the accused. They cried and advised her to wait for her Aunt Leticia, the wife of the accused, before deciding on what to do.

When Chanil’s Aunt Leticia arrived from Surigao, Chanil told her that the accused ravished her. Her Aunt Leticia reacted, “hindi ko akalain na may demonyo sa bahay” and accompanied Chanil to the Bacoor police station. Carlos Telin went with them. At the police station, a policeman interviewed her. Chanil executed a sworn statement.[2] Upon the policeman’s advice, Chanil and her Aunt Leticia went to the National Bureau of Investigation.

The traumatic experience left Chanil ashamed of herself. She was “nanliit sa sarili” because she was not able to fight and prevent the accused from raping her. She thought that by living with the accused’s family, she could pursue her studies and have a better life, but it turned out that the accused destroyed her life. She is very angry at the accused and wants him to be put behind bars, but does not ask for monetary compensation.[3]

SPO1 Felix Malinis corroborated Chanil’s testimony. On May 3, 1996, at around 11:00 p.m., Malinis was on duty at the Bacoor police station. Chanil came and reported that the accused raped her. She was crying. Malinis took her statement and made a request for medico-legal examination.[4] After the examination, Malinis filed the instant case against the accused and arrested him.[5]

Dr. Antonio Vertido, senior medico-legal officer examined Chanil on May 4, 1996. His findings showed healing superficial hymenal lacerations and no evident sign of extragenital physical injuries on her body. According to him, the age of the lacerations which was about four to six days, matched the alleged date of the rape on April 28, 1996. The hymenal orifice admits with moderate resistance a tube 2.5 centimeters in diameter, about the size of an erect male organ.[6]

On the witness stand, the accused claimed that he had amorous relations with Chanil when she was already 16 years old and he was 38 years old. At that time, Chanil had been staying in the accused's house for three years. He spent for her studies. They got along very well and the accused gave her whatever she needed for her studies. Chanil also had good relations with the accused's wife who was her aunt. She respected the accused's family.

He claims that his sexual congress with Chanil on April 28, 1996 was consensual. That day, the accused, his daughter Archille, his two sons, and Chanil were home. His wife was in Surigao. At about 2:30 a.m., he arrived home from work. He knocked and Chanil opened the door. She greeted him "Good morning, Uncle" and the accused, in return, asked her how she was. She replied that she was fine and asked the accused if he wanted to eat. The accused answered in the affirmative and so Chanil went to the kitchen and prepared his meal. The accused went to his bedroom, changed his clothes, and then went to the kitchen where Chanil was waiting for him. The meal was already prepared. He put his hand on her shoulder, but she said, "Tiong huwag po at baka magising si Archille." He ate his meal and she went to her room. When he finished his meal, Chanil came out of her room and fixed the accused's things in the sala where the accused smoked. After smoking, he went up to Chanil's room where Chanil sat on the bed and his daughter Archille slept. He woke the latter up and told her to transfer to another room. As he was saying this, Chanil lay down on the bed. The accused followed Archille to the other room to check if she was already sleeping. When Archille was already asleep, he went back to Chanil's room and sat down on the bed beside her. He touched and kissed her. Afterwards, she removed her shirt. She did not have a bra on. He kissed her breast and removed her jogging pants. He continued kissing her down to her legs and then removed her panty. He kissed and licked her private part for a long time, then had intercourse with her. Before the intercourse, Chanil told him "huwag tiyong," but when they were doing it already, she moaned and put her arms around his head. According to the accused, she enjoyed it. When they were through, the accused went outside the room and fell asleep on the sofa. In the morning, the accused asked Chanil and Archille to go to the market. He then prepared his breakfast. The next day, when the accused came home from work, Chanil had left their house. He did not have any fight with Chanil before she left. At the end of May, the accused's wife found out what happened between her husband and Chanil. She was mad at the accused because Chanil is her niece.

According to the accused, prior to the April 28 incident, he had made passes at Chanil. Sometime in February 1996, when Chanil was doing the laundry, he made advances, i.e., "paakbay-akbay, pahalik-halik." It was her first time to be treated that way and so she at first avoided, but did not refuse, the accused's advances. In other instances, when Chanil would clean his room and his wife had left the house, he would put his arms around her and kiss her. Chanil did not put up any resistance. She would also enter the accused's room even when he was wearing only his brief. He would flirt with Chanil and wink at her and she was amused. Chanil never told him that she loved him and did not really formalize their relationship, but she was malambing towards him. The accused took interest in Chanil even if he was already married because Chanil would show "motives" like she would not wear bra and wear loose clothes when doing the laundry, thus exposing her breast to him. At first he avoided her, but the temptation was too strong as there were only the two of them at home. Eventually, he gave in.[7]

The trial court upheld the version of the prosecution and convicted the accused, viz:

"ACCORDINGLY, finding accused Archibald Patosa y Lastimado GUILTY beyond reasonable doubt for the crime of Rape, defined and penalized under Article 335 of the Revised Penal Code as amended by Republic

Act. No. 7659, he is hereby sentenced to reclusion perpetua and to indemnify the victim, Chanil Escosais y Bayang the amount of P100,000.00 and to pay the costs.”[8]

Hence, this appeal with the lone assignment of error, viz:

“THE LOWER COURT ERRED IN FINDING THAT RAPE WAS COMMITTED BY THE ACCUSED.”[9]

The appeal fails to impress the Court.

The law applicable to the case at bar is Art. 335 of the Revised Penal Code, as amended by R.A. 7659. It provides in relevant part, viz:

“Art. 335. When and how rape is committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

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

The crime of rape shall be punished by reclusion perpetua.”

The instant case falls under paragraph a, supra. But the accused claims that while it is true that he had sexual congress with Chanil on that fateful night of April 28, 1996, he did not employ force and intimidation as it was consensual. He contends that even prior to that incident, there had been several instances when he and Chanil hugged and kissed each other.

We are not persuaded. Chanil’s testimony shows that the accused used force and threatened Chanil into submission, viz:

“Q: And what happened after you run (sic) towards the door?

A: I was able to open the door and then he grabbed at (sic) my left hand and I was shouting for Archille, saying, ‘Archille, tulungan mo ako,’ and he was able to pull me, sir.

Q: And after he pulled you, what happened?

A: And then, he punched me twice in my stomach, sir.

Q: And what did you feel after he punched you?

A: I felt weak, sir.[10]

xxx

Q: After he kissed your breast, what happened next?

A: He took off my shirt and all the while he was doing the same to me, I kept on pleading (sic) him to stop, saying ‘parang awa niyo na Tiong, huwag po,’ and he replied by saying, ‘putang-ina mo, papatayin kita.’[11]

xxx

Q: After he was able to remove your underwear, what happened next?

A: He removed my shirt and then he kissed me all over in (sic) my neck, in (sic) my breast, and then, all the while I kept pleading (sic) him to stop and I said, ‘tiong, huwag po,’ then he even sucked my breast, sir.[12]

xxx

Q: While all this was happening what were you doing?

A: I was crying, I was struggling by moving my both arms, saying, 'Tiong, parang awa niyo na po.'[13]

xxx

Q: And then after he was able to dress up, what happened next?

A: He told me not to tell on (sic) anyone or else he would kill me, sir.[14]

xxx

Q: But at the time Archibald Patosa laid you on the bed and he laid on top of you, you were not screaming, is that correct?

A: I was no longer shouting. I was so weak at that time and I just kept on pleading (sic) him 'Tiong, parang awa nyo na po.'"[15]

Her sworn statement also shows that she tried to resist the accused with whatever strength she could muster, but to no avail, viz:

"10. T: Ano ang ginawa niya ng sumigaw ka?

S: Sinuntok po niya ako sa sikmura at ako ay nawalan ng lakas.

11. T: Ng mawalan ka ng lakas ano ang ginawa niya?

S: Kanya na po akong hinubaran ng panjama (sic) at panty.

12. T: Ikaw ano ang ginawa mo ng hubarin niya ang panjama (sic) at panty mo?

S: Wala po akong magawa dahil nawalan ako ng lakas ng ako ay kaniyang suntukin sa sikmura.

xxx

17. T: Hindi ka ba lumaban sa kaniya?

S: Lumaban po ako pero wala po akong magawa.

xxx

25. T: Wala ba siyang patalim ng ikaw ay kaniyang hinahalay?

S: Wala po, pero noon una po akong sumigaw ay pinagbantaan niya akong 'PUTANG INA MO, HUWAG KANG MAINGAY PAPATAYIN KITA' kaya po ako ay natakot at hindi na halos makatutol sa ginagawa niya, at matapos nga po na ako ay kaniyang halayin ay muli niya akong pinagbantaan ng 'PAG NAGSUMBONG KA AY PAPATAYIN KITA . . .'[16]

There is no doubt that the accused employed force. He punched Chanil twice in the stomach, causing her to feel weak and unable to repel his advances. He also employed intimidation by repeatedly threatening to kill her if she made any noise and if she told on him.

Chanil's testimony, corroborated by the results of the medical examination conducted upon her, is clear and credible. We find no sufficient reason to disturb the findings of the lower court. Well-settled is the rule that findings of the trial court are generally considered final and accorded great weight, given their advantage of observing the manner and demeanor of the witnesses as they testified in court.[17] The trial court observed that Chanil testified "(i)n a spontaneous and straightforward manner, interspersed with profuse tears and subdued sobs." [18] When a rape victim's testimony is straightforward and candid, unshaken by rigid cross-examination

and unflawed by inconsistencies or contradictions in its material points, it deserves full faith and credit.[19]

With the generosity of the accused towards Chanil whom he treated as his eldest daughter, we cannot see any plausible reason why she would fabricate a baseless charge of rape against the accused. The accused avers that Chanil's motivation for filing the charge against him was to save face and avoid the anger of her Aunt Leticia once the latter confirms her suspicion about the relationship between Chanil and the accused. The averment deserves scant consideration. We have many times held that it is unbelievable that a young barrio lass would concoct a tale of defloration and publicly admit having been ravished and her honor tainted, allow the examination of her private parts and undergo all the trouble and inconvenience, not to mention the trauma and scandal of a public trial, had she not in fact been raped and truly moved to protect and preserve her honor, and obtain justice for the dastardly acts committed against her.[20]

Accused's alternative prayer that should he be found guilty, he should be convicted of the lesser crime of qualified seduction and not rape, lacks merit. The Court has held that where an accused is definitely and squarely charged with rape, he cannot be convicted of qualified seduction. The charge of rape does not include qualified seduction.[21] There is no question that the information in the case at bar charged rape and not qualified seduction as the elements of rape, namely carnal knowledge of a woman and use of force or intimidation to accomplish it, are both alleged in the information. On the other hand, not all the elements of qualified seduction, namely virginity of the offended party and abuse of authority, confidence, or relationship were alleged. The information reads, viz:

"That on or about the 28th day of April 1996, in the Municipality of Bacoar, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threat and intimidation, did then and there, willfully, unlawfully and feloniously have sexual intercourse of (sic) one CHANIL ESCOSAIS y BAYANG, a sixteen (16) year old minor, against the latter's will and consent, to the damage and prejudice of the said offended party." [22]

The trial court ordered the accused to indemnify the victim P100,000.00 and to pay the costs. We affirm the amount awarded, but specify that P50,000.00 of the said amount is awarded as civil indemnity and the other P50,000.00 as moral damages.

IN VIEW OF THE FOREGOING, we AFFIRM the Decision of the trial court finding accused-appellant Archibald Patosa guilty of rape and impose upon him the penalty of reclusion perpetua. The accused-appellant is ordered to pay the victim P50,000.00 as civil indemnity and P50,000.00 as moral damages. Costs against accused-appellant.

SO ORDERED.

Panganiban, and Corona, JJ., concur.

Sandoval-Gutierrez, J., on leave.

[1] Original Records, p. 84.

[2] Exhibit E; Original Records, p. 2.

[3] TSN, Chanil Escosais, September 29, 1997, pp. 4-55; February 9, 1998, pp. 24-25.

[4] Exhibit B; Original Records, p. 4.

[5] TSN, SPO1 Felix Malinis, October 27, 1997, pp. 4-18.

- [6] Living Case No. MG 96-650 Report, Exhibit C, Original Records, p. 31; TSN, Dr. Antonio Vertido, August 18, 1989, pp. 16-29.
- [7] TSN, Archibald Patosa, May 18, 1998, pp. 3-27.
- [8] Original Records, p. 227; Decision, p. 11.
- [9] Rollo, p. 93; Appellant's Brief, p. 11.
- [10] TSN, Chanil Escosais, September 29, 1997, pp. 24-25.
- [11] Id., pp. 27-28.
- [12] Id., p. 29.
- [13] Id., p. 32.
- [14] Id., p. 37.
- [15] TSN, Chanil Escosais, February 9, 1998, p. 25.
- [16] Exhibit E; Original Records, p. 2.
- [17] People v. Gonzaga, et al., G.R. Nos. 135402-03, September 7, 2001.
- [18] Original Records, p. 218; Decision, p. 101.
- [19] People v. Tagun, G.R. No. 137745, February 15, 2002.
- [20] People v. Quinanola, 306 SCRA 710 (1999).
- [21] See People v. Ramirez, 69 SCRA 144 (1976); People v. Manansala, 273 SCRA 502 (1997).
- [22] Original Records, p. 84.

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