

RENATO BALEROS, JR., PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 138033. January 30, 2007

Ponente: GARCIA, J.

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GARCIA, J.:

In this Motion for Partial Reconsideration,[1] petitioner-movant Renato Baleros, Jr., through counsel, seeks reconsideration of our Decision of February 22, 2006, acquitting him of the crime of attempted rape, thereby reversing an earlier decision of the Court of Appeals, but adjudging him guilty of light coercion and sentencing him to 30 days of *arresto menor* and to pay a fine of P200.00, with the accessory penalties thereof and to pay the costs.

It is petitioner's submission that his conviction for light coercion under an Information for attempted rape, runs counter to the en banc ruling of the Court in *People v. Contreras*[2] where the Court held:

The Solicitor General contends that accused-appellant should be held liable for unjust vexation under Art. 287(2) of the Revised Penal Code. However, the elements of unjust vexation do not form part of the crime of rape as defined in Art. 335 of the Revised Penal Code. Moreover, the circumstances stated in the information do not constitute the elements of the said crime. Accused-appellant, therefore, cannot be convicted of unjust vexation.

Petitioner's reliance on *Contreras* is misplaced. There, the 12 identical Informations[3] substantially alleged:

The undersigned State Prosecutor accuses IAN CONTRERAS Y EROY, based on the sworn declaration of one ANGELIC OCRENAS y CONTRERAS assisted by NELENE DIAZ y OCRENAS of the crime of "STATUTORY RAPE IN RELATION TO R.A. 7610," committed as follows:

That between the period from May to June 1996 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused with lewd design, did then and there willfully, unlawfully and feloniously have sexual intercourse with one ANGELIC OCRENAS y CONTRERAS, age 6 years old.

Contrary to law.

Unlike the 12 separate Informations in *Contreras*, the indicting Information for attempted rape against the petitioner in the instant case contains averments constituting and thus justifying his conviction for unjust vexation, a form of light coercion, under Article 287 of the Revised Penal Code. Here, the Information reads:

That about 1:50 in the morning or sometime thereafter of 13 December 1991 in Manila and within the jurisdiction of this Honorable Court, the above-named accused, by forcefully covering the face of Martina Lourdes T. Albano with a piece of cloth soaked in chemical with dizzying effects, did then and there willfully, unlawfully and feloniously commenced the commission of rape by lying on top of her with the intention to have carnal knowledge with her but was unable to perform all the acts of execution by reason of some cause or accident other than his own spontaneous desistance, said acts being committed against her will and consent to her damage and prejudice. (*Italics ours.*)

Contrary to law.

The aforequoted Information states all the facts and ingredients that fully apprised the petitioner of the nature and cause of the accusation against him, in compliance with his constitutional right to be informed of the nature of the charges against him.

Petitioner argues, however, that the Information, as quoted above, does not allege that the complained act of covering the face of the victim (Malou) with a piece of cloth soaked in chemical caused her annoyance, irritation, torment, distress and disturbance. We wish to stress that malice, compulsion or restraint need not be alleged in an Information for unjust vexation. Unjust vexation exists even without the element of restraint or compulsion for the reason that the term is broad enough to include any human conduct which, although not productive of some physical or material harm, would unjustly annoy or irritate an innocent person.[4] As pointed out in the Decision sought to be reconsidered:

The paramount question [in a prosecution for unjust vexation] is whether the offender's act causes annoyance, irritation, torment, distress, or disturbance to the mind of the person to whom it is directed. That Malou, after the incident in question, cried while relating to her classmates what she perceived to be a sexual attack and the fact that she filed a case for attempted rape proved beyond cavil that she was disturbed, if not distressed, by the acts of the petitioner.

For being a mere rehash of those already passed upon and found to be without merit in the Decision sought to be reconsidered, the other grounds relied upon by the petitioner in his Motion for Partial Reconsideration in support of his plea for a complete acquittal need not be belabored anew.

WHEREFORE, the motion under consideration is DENIED with FINALITY.

SO ORDERED.

Puno C.J., (Chairperson), Sandoval-Gutierrez, Corona, and Azcuna, JJ., concur.

[1] Rollo, pp. 374-399.

[2] G.R. Nos. 137123-24, August 23, 2000, 338 SCRA 622.

[3] All the 12 Informations read substantially the same, except for the names of the persons who executed the different sworn declarations and the persons who assisted them.

[4] Aquino, Revised Penal Code, 1997 ed., Vol. III, p. 81.

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