

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MOISES MANRIQUE Y BALLENA, ACCUSED-APPELLANT.

G.R. No. 139314. June 06, 2002

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On appeal is the decision[1] in Criminal Case No. 98-7113, promulgated on March 3, 1999, by the Regional Trial Court, of Naga City, Branch 25, finding accused-appellant MOISES MANRIQUE Y BALLENA guilty beyond reasonable doubt of statutory rape, and sentencing him to suffer the penalty of reclusion perpetua.

The Information against him reads as follows:

That sometime in the morning of the 8[th] day of March 1998 at San Jose East, Canaman, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, with lewd design, unlawfully, wilfully and feloniously dragged one LORNA DE BELEN, a ten (10) year-old girl inside his (accused) home at the aforesaid place, and while thereat, by means of force and intimidation, that is- by threatening to kill the victim [if] she will not agree to accused's carnal desire, and thus, succeeded in having sexual intercourse with the aforementioned victim, against her will and without her consent to the damage and prejudice of herein complaining witness.

ACTS CONTRARY TO LAW.[2]

During arraignment appellant, assisted by counsel, pleaded not guilty. Trial on the merits ensued thereafter.

The prosecution presented as its witnesses the victim herself, Lorna de Belen; her parents, Carlos and Lilia de Belen; and Dr. Rhodora Roa-Perez, the municipal health officer who examined her physically.

Private complainant LORNA DE BELEN testified that she was 11 years old. On March 8, 1998, she and her two playmates were playing near a guava tree which was no more than 7 meters away from appellant's house, and 40 meters away from her own home. She was climbing the guava tree while her friends stayed below when appellant came up to them. Her two companions left as she came down the guava tree. Once below, she was held by appellant on both wrists and dragged towards his house. Appellant warned her not to make any noise otherwise he would kill her. Inside the house, appellant made her lie on the floor while he started to kiss her on the face and neck and mash her breasts. Without taking off his shorts, appellant managed to expose his penis and began to lie on top of her. Appellant slid her panty to one side and rubbed his penis against her vagina. Lorna felt pain as appellant began to make the push and pull movement (irad irad). Appellant ejaculated and wiped himself as he ordered Lorna to wear her shorts. Private complainant testified that she was too afraid to shout as appellant threatened to kill her if she did. She then went home. Fearing for her life, she never told anybody about her ordeal. However, on March 15, 1998 while inside their house, her father caught her giving a P20-peso bill to appellant. When asked why, she just said that appellant asked her for some money. Upon further questioning by her mother, she revealed what had happened to her. She was then brought to the doctor for examination.

On cross-examination, Lorna admitted that appellant rubbed his penis on her stomach but she reiterated that his penis touched her vagina. Thereafter, a sticky substance came out from the appellant's penis.[3]

DR. RHODORA ROA-PEREZ, Municipal Health Officer at Canaman, Camarines Sur, testified that on March 18, 1998, she examined Lorna de Belen, then ten years old, upon the request of the municipal police. She noted on the medical certificate that there was no abnormal or external physical injury inflicted on Lorna. Her external examination of the victim yielded the following results: No vaginal laceration noted; Hymen intact; Normal looking vulva; No sign of irritation or bleeding. She explained that the presence or absence of laceration on the vagina depended on the force employed. Mere rubbing, according to her, would not cause laceration.[4]

LILIA DE BELEN, mother of the private complainant, testified that her daughter was born on August 5, 1987, as evidenced by her Certificate of Live Birth. She knew appellant, as they have been neighbors since they were children. Appellant's house was only 60 meters away from theirs. She corroborated the testimony of Lorna on material points. On March 15, 1998, at around 3:00 P.M., she said that her husband told her that he saw Lorna hand a P20-peso bill to appellant. Her husband instructed her to ask Lorna why she would give money to appellant. Upon her inquiry, Lorna narrated what appellant did to her.[5]

CARLOS DE BELEN, father of the victim, testified on rebuttal that there was no pasyon reading held at appellant's house on March 7 and 8. Instead, the said reading happened on March 14 and 15 at the house of appellant's son, Dondon Manrique. He was sure of the dates because on this occasion, appellant borrowed from him some cooking wares, a pasyon book and some benches.[6]

For the defense, the following witnesses testified: appellant himself, Moises Manrique; his son, Moises Manrique, Jr.; appellant's brother, Marciano Manrique; and a barangay tanod, Eutiquio Ballesteros.

Appellant MOISES MANRIQUE testified that on March 8, 1998, a pasyon reading was held at his house. He invited several people to participate in the reading. They included Eutiquio Ballesteros, Marciano Manrique and Moises Manrique, Jr., appellant's son who also lives in the same house. He narrated that the reading started at 8:00 A.M. on March 8, 1998 and ended at 8:30 A.M. the following day. There were around thirty people in his house. Hence, appellant claimed it would have been impossible for him to rape Lorna de Belen. He also said that he suffers from high blood pressure and heart ailment that greatly lessened his sexual desire. He further testified that in their younger days, he got Lorna's aunt, a sister of Lorna's father, pregnant but he did not marry her because the woman's father never liked him. He avers that the long-time grudge of Lorna's family motivated the filing of the rape complaint against him.[7]

EUTIQUIO BALLESTEROS, a barangay tanod at San Jose East, Canaman, Camarines Sur, testified that from 7:00 P.M. of March 7, until 8:00 P.M. of March 8, 1998, there was a pasyon reading at appellant's house. He stayed at appellant's house till 12:00 noon because he helped in washing the dishes. He is not related to appellant, but they are neighbors because his house is located about 200 meters away from appellant's own.[8]

MOISES MANRIQUE, JR., appellant's son, belied the accusation against his father. He claimed that Carlos de Belen's testimony was a complete lie. He testified that the pasyon reading was held on March 7 and 8. They never borrowed any utensils from Carlos de Belen as they have their own and the benches were borrowed from the barangay hall.[9]

MARCIANO MANRIQUE, appellant's brother, corroborated the testimony of appellant and appellant's son.[10]

On March 3, 1999, the trial court rendered its judgment, concluding thus:

WHEREFORE, premises considered, this court finds the accused Moises Manrique y Ballena GUILTY beyond reasonable doubt of the crime of Rape, as defined and penalized under Article 335, paragraph (3) of the

Revised Penal Code, as amended by Republic Act No. 7659 in relation to Republic Act 8353 and hereby imposes upon said accused to suffer the penalty of RECLUSION PERPETUA; to pay the victim Lorna de Belen the sum of P50, 000.00 by way of moral damages and to pay the costs.

SO ORDERED.[11]

Appellant filed on March 11, 1999, his notice of appeal, assigning but one error:

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME CHARGE[D] DESPITE THE FAILURE OF THE PROSECUTION TO PROVE THE GUILT OF ACCUSED BEYOND REASONABLE DOUBT.[12]

Principally, the issue is one of credibility of witnesses. Did the trial court commit reversible error in giving full credence to the testimony of the prosecution witnesses, especially that of complaining witness, Lorna de Belen?

The State, through the Office of the Solicitor General, maintains that the prosecution's evidence provides a convincing basis for convicting appellant. The OSG further avers that appellant's erect penis, his penile thrusts, and the pain the complainant felt are decisive indicia that he was able to enter at least the labia majora, indicating consummated rape.[13]

Appellant, in his brief, claims that the testimony of the victim belied carnal knowledge as the penis did not penetrate the vagina. He asserts that it is very possible that the penis has not penetrated the vagina or the labia of the complainant, as her panty was not even removed. Furthermore, he says, it is common knowledge that even if one slides the panty sideways, the panty will go back to its original position so that it would be impossible for the penis to penetrate the vagina or labia, as in the present case.[14]

At the outset, we note that in his brief, appellant now contradicts the basic theory of the defense during the trial. At the trial, he denied ever having taken the victim to his house on the date of the alleged offense, considering that, according to his defense, a pasyon reading was then being held in his house. Now, on appeal, he contends that the alleged rape of private complainant could not have been consummated as it was physically improbable because the offender did not remove the victim's underwear but only slid it sideways. Such a change of theory, from outright denial to physical improbability, merely alerts us to the sophistry and lack of candor on the part of the defense and its witnesses.

Second, it must be stressed that the trial court's assessment of the credibility of a witness is generally entitled to great respect. The trial court had the first-hand opportunity to observe the complainant and other witnesses when they testified. It had the advantage of close proximity to personally scrutinize the witnesses, their conduct and demeanor, including their facial expression and body language. From all these indicators, the trial judge could fairly tell whether a witness is telling the truth or not. Absent any showing that the lower court acted arbitrarily or failed to consider certain facts of substance and value, which would otherwise affect the outcome of the case, its findings of fact should be given great respect or even be deemed conclusive and binding upon us.[15] Here, we agree that its factual findings and conclusions ought to be sustained.

The trial court gave credence to the complainant's testimony, which it described as straightforward and unfaltering, despite the grueling and intensive cross and re-cross examination by the defense.[16] The testimony of complainant is unwavering that there was penile contact with her vagina. The trial court, in contrast, found appellant's testimony self-serving. His denials and contradictory claims could not prevail over the positive testimonies of witnesses for the prosecution, particularly that of the young victim. We have consistently held that the testimonies of rape victims who are of tender age are credible, especially if they are without any motive to testify falsely against the accused.[17] The ill-motive imputed by appellant to complainant's family is specious,

to say the least. Nothing on record corroborates his self-serving claim. It is highly improbable for the parents of a young and innocent girl to subject their daughter to the harrowing travails of a rape trial only to exact revenge on someone for a debt of honor that took place almost thirty years ago. Moreover, if we follow appellant's logic, the present charge of complainant against him would only show his predilection to repeat an abusive and dishonorable act. In that case, he condemns rather than redeems himself by his own words.

Appellant makes an issue of the medical finding that no vaginal laceration was noted. However, the absence of external signs of physical injuries does not necessarily negate rape.[18] Moreover, by itself, the credible, candid, consistent and straightforward testimony of the victim suffices to sustain a conviction for rape beyond reasonable doubt.

However, we note that the trial court awarded P50,000 in the concept of moral damages but failed to award the same amount as civil indemnity. Thus, we should grant another P50,000 as civil indemnity in accord with prevailing case law.[19]

WHEREFORE, the appealed decision of the Regional Trial Court of Naga City, Branch 25, in Criminal Case No. 98-7113 is **AFFIRMED** with **MODIFICATION**. Appellant **MOISES MANRIQUE Y BALLENA** is found guilty beyond reasonable doubt of statutory rape, and sentenced to suffer the penalty of reclusion perpetua. He is also ordered to pay private complainant **LORNA DE BELEN** the sum of P50,000 as civil indemnity and another P50,000 as moral damages, together with the costs.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, De Leon, Jr., and Corona, JJ., concur.

[1] Rollo, pp. 17-29.

[2] Id. at 8.

[3] Id. at 20.

[4] Id. at 18-19.

[5] Id. at 19.

[6] Id. at 21.

[7] Id. at pp. 24-25.

[8] Supra, note 6.

[9] Ibid.

[10] Ibid.

[11] Id. at 29.

[12] Id. at 56.

[13] Id. at 103.

[14] Id. at 57-58.

[15] *People vs. Atop*, G.R. Nos. 124303-05, 286 SCRA 157, 174 (1998).

[16] Rollo, p. 25.

[17] *People vs. Ibalang*, G.R. No. 109763, 286 SCRA 387, 399-400 (1998).

[18] *People vs. Ulzoron*, G.R. No. 121979, 286 SCRA 741, 747 (1998).

[19] *People vs. Panique*, G.R. No. 125763, 316 SCRA 757, 768 (1999).

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