PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SILVERIO AGUERO, JR. Y BUENA, ACCUSED-APPELLANT.

G.R. No. 139410. September 20, 2001

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

This is an appeal from the decision dated June 28, 1999 of the Regional Trial Court of Naga City, Branch 25, in Criminal Case No. 99-7387, finding herein accused-appellant Silverio Aguero, Jr. guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of reclusion perpetua and to indemnify complainant Almira Ava Aguinillo in the amount of P50,000.00.

Based on the criminal complaint filed by Almira Ava Aguinillo on October 13, 1998, an Information was filed by the Assistant Provincial Prosecutor of Camarines Sur[1] on March 4, 1999, charging herein accused-appellant with the crime of rape. The Information reads:

> The undersigned 2nd Assistant Provincial Prosecutor of Camarines Sur upon sworn complaint originally filed by the offended party accuses SILVERIO AGUERO, JR. Y BUENA of the crime of RAPE, defined and penalized under Article 335 of the Revised Penal Code as amended by Republic Act No. 7659, committed as follows:
>
> That on or about the 5th day of September, 1996, at about midnight at Barangay Balagbag, Municipality of Milaor, Province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a knife, a "balisong", with lewd and unchaste design, by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of Almira Ava Aguinillo y Apongol, a fifteen year old against the latter's will, to her damage and prejudice.
>
> ACTS CONTRARY TO LAW.[2]

Accused-appellant pleaded "Not Guilty" upon arraignment and the case proceeded to trial.

The prosecution presented the complainant Almira Ava Aguinillo who testified that she is an only child and when her parents separated in 1982, she began residing in the house of her grandmother, Carmen Apongol, at 567 Barangay Balagbag, Milaor, Camarines Sur. Accused-appellant Silverio Aguero, Jr. was also residing in the house of her grandmother which had five bedrooms - the first room was occupied by her grandmother, the second room was occupied by her, the third room was occupied by her grandfather, the fourth room by her uncle Noel and the fifth by her uncle Ely. Accused-appellant was assigned to sleep in the sala which was about eight meters away from her room. Her room had a door but its lock was destroyed. On the night of September 4, 1996, she went to sleep at 12:00 o'clock midnight after reviewing for her exams. At around 2:00 o'clock in the morning, she was awakened and found accused-appellant Aguero, Jr. already on top of her inside the mosquito net. Using his left hand, accused-appellant poked a knife to her neck, while his right hand covered her mouth. He threatened to kill her if she tried to make any noise. Accused-appellant then removed her shorts and panty, spread her legs, inserted his penis into her vagina, and made push and pull movements. Complainant fought back but accused-appellant

was strong. When he finished, accused-appellant left and went back to the sala. Although she wanted to, complainant did not report the incident to her grandmother because accused-appellant threatened to kill her grandparents if she did. Complainant finally revealed what accused-appellant did to her to her bestfriend, Mercedes Cano, who disclosed the matter to complainant's grandmother on October 11, 1998. Complainant was then brought by her grandmother to the police station to report the incident. She was also brought to the Rural Health Office of Milaor, Camarines Sur where she was physically examined by Dr. Linda Llaguno.[3]

The foregoing testimony of the complainant was corroborated by her grandmother, Carmen Apongol and her bestfriend Mercedes Cano.

Carmen Apongol, grandmother of complainant, testified that complainant Almira Ava Aguinillo is her granddaughter by her daughter Evelyn Apongol married to Santiago Aguinillo. When complainant was only two years old, her parents separated so complainant started living with her in Balagbag, Milaor, Camarines Sur. Accused-appellant Silverio Aguero, Jr., who was their farm helper, had been staying with them and living in their house for almost 14 years. He was helping them with farm work without pay, but his food, lodging and other basic necessities were provided by Apongol. When accused-appellant was still staying with them, he was assigned to sleep in the sala. Sometime in October 1998, she was summoned by complainant's bestfriend, Mercedes Cano, to go to their house in Bagumbayan, Naga City for a very important matter. It was only then that she learned about the rape incident. Mercedes told Apongol that complainant confided to her that she was raped by accused-appellant. When Apongol confronted her granddaughter, she admitted that she was indeed raped by accused-appellant. They reported the matter to the police and complainant was brought to the Health Center at Milaor for examination by Dra. Llaguno. She did not confront accused-appellant for fear that her sons, complainant's uncles, might try to kill him. Due to the incident, complainant was constantly worried and restless which resulted to her dropping out of school for that semester in 1998.[4]

Mercedes Cano, also testifying for the prosecution, stated that she and complainant Almira Ava Aguinillo had been bestfriends since third year high school. On September 12, 1998, complainant went to see her at around 4:00 o'clock in the afternoon in Bagumbayan Sur, Naga City inviting her to go to Balagbag, Milaor, Camarines Sur with her, because it was complainant's birthday. She accepted the invitation and went with complainant to Balagbag. After eating dinner together with the cousins of complainant, she and complainant proceeded to the latter's room to sleep. It was then that complainant confided to her that she was raped by accused-appellant whom she calls "Paniki." Complainant cried while narrating what happened and she told Mercedes that she wanted to see a psychiatrist because she could no longer bear the matter. Mercedes advised complainant to inform her parents about the incident, but complainant said she did not have the courage to do so. Complainant also revealed to her that accused-appellant had been raping her since she was only 7 years old. Mercedes disclosed the matter to her mother, Marilyn Cano, who called up complainant's grandmother and asked her to go to Naga to discuss an important matter. When complainant's grandmother went to see them on October 11, 1998, Mercedes and her mother related the rape incident to her.[5]

The prosecution also presented Dra. Ma. Linda B. Llaguno, the Municipal Health Officer of Milaor, Camarines Sur, who physically examined complainant. Dr. Llaguno declared that on October 12, 1998, she conducted a physical and vaginal examination of a certain Almira Ava Aguinillo who was alleged to be a rape victim. Her findings showed deep lacerations in her hymen which could have been caused by an erect penis during a sexual intercourse. Since the lacerations were old and healed, Dr. Llaguno inferred that such laceration could have happened two years prior to examination of the patient. She, however, found no signs of physical injury on complainant.[6]

On the other hand, the evidence for the defense consisted of the lone testimony of accused-appellant Silverio

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Aguero, Jr. who denied the charge against him. He averred that it is not true that he raped complainant on September 5, 1996, because aside from the fact that he had respect for complainant's grandparents, he is also afraid of complainant's uncles who were big in built. Accused-appellant maintained that he could not have raped complainant and poked a knife at her neck for around 30-40 minutes because his left hand is smaller than his right hand as it was afflicted with polio when he was 5 years old. Accused-appellant claimed that his left hand could not hold an object for more than two minutes because it would start to shake and he would get numb from his left fingers all the way up to his left shoulder. When working in the farm, he would use his right hand but his left hand is useful in washing dishes and holding a spoon. Although his left hand could carry one kilo of rice, he could not carry it continuously for five minutes. Accused-appellant claimed that in the evening of September 4, 1996 until early morning of the following day, September 5, he attended to the irrigation in the farm which was two kilometers away from the house of Carmen Apongol and it would take him 30 minutes to walk from the house to the farm. He could not leave the farm that evening because the pump continued to operate and the source of water depended on the water rise in the river so he had to take advantage of the high tide in the evening.[7]

On June 28, 1996, the Regional Trial Court rendered judgment convicting accused-appellant and sentencing him as follows:

> WHEREFORE, premises considered, this court finds the accused SILVERIO AGUERO, JR. Y BUENA GUILTY beyond reasonable doubt of the crime of RAPE, defined and penalized under Article 355 of the Revised Penal Code as amended by Republic Act 7659 and hereby sentences the accused to suffer the penalty of reclusion perpetua, to indemnify the private complainant Almira Ava A. Aguinillo the amount of P50,000.00 and to pay the costs.
>
> SO ORDERED.[8]

Accused-appellant now appeals before this Court and pleads for the reversal of the trial court's decision pointing out the following errors:

> THE COURT A QUO ERRED IN CONVICTING THE ACCUSED OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.
>
> THE COURT A QUO ERRED IN GIVING WEIGHT AND CREDENCE TO THE CONFLICTING AND INCREDIBLE TESTIMONY OF THE PROSECUTION WITNESS ALMIRA AVA A. AGUINILLO.

Accused-appellant reiterates his defense that it was highly improbable for him to have raped complainant and threatened her with a knife. This is because his left hand was afflicted with polio and could not hold an object longer than two to five minutes as it would start to shake and loosen its grip. He also points out inconsistencies in the testimony of complainant which allegedly detract from her credibility as a witness. According to accused-appellant, while complainant denied that her cousin Rachelle Sumayaw was also residing in her grandmother's house, her grandmother admitted during cross-examination that Rachelle Sumayaw was also a resident at her house and shared a room with complainant. Accused-appellant also claims that complainant was lying on cross-examination when she stated that she did not shout because she was afraid, because later on in her testimony she claimed that she fought and struggled against accused-appellant. Finally, accused-appellant argues that the two-year delay in the filing of the complaint from the time the alleged rape happened detracts from the veracity of the charge.

After a careful review and examination of the records of the case, we find no compelling reason to reverse the assailed decision.

The Court has repeatedly stressed the principle that findings of the trial court as to the credibility of witnesses and the veracity of their testimonies are accorded the highest degree of respect and generally will not be disturbed on

appeal. As often explained by this Court, the trial court judge is in a better position to assess the truth or falsity of a witness' testimony because he is able to personally observe the demeanor of the witness and his manner of testifying.[9] This is especially true in rape cases where the complainant's credibility becomes the single most important issue.[10] As rape is a crime committed in secrecy, often without any other witness except the victim, the judge ultimately has to decide which between the testimony of the complainant and that of the accused is more credible. In the case at bar, the trial court judge properly gave more credence to complainant's testimony.

Accused-appellant denies that he threatened complainant with a knife and raped her. He claims that such allegation was impossible as he was afflicted with polio which rendered the left portion of his body, including his left hand, weak. We find accused-appellant's bare denial and his reliance upon his disability to be futile attempts to disprove the charge against him and escape liability. While it may be true that accused-appellant was afflicted with polio, such fact alone does not sufficiently prove that he could not have committed the crime. It does not make it entirely implausible for him to have threatened complainant with a knife with the use of his left hand. Complainant, in narrating her ordeal on the witness stand, was straightforward and categorical, to wit:

> Q
>
> What time did you wake up if you could recall?
>
> A
>
> At 2:00 o'clock early in the morning.
>
> Q
>
> Of September 5, 1996?
>
> A
>
> Yes sir.
>
> Q
>
> Why were you awaken?
>
> A
>
> Because I saw him inside the mosquito net. (Witness pointing to accused)
>
> Q
>
> When you saw the accused for the first time, what was his position relative to you?
>
> A
>
> He was on top of me.
>
> xxx
>
> PROS. ESCARO:
>
> Q
>
> When you saw Silverio Aguero, Jr. inside your mosquito net, what was he doing, if any, while he was on top of you?
>
> A

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He poke(d) a knife at me.

Q

With what hand did he used in poking the knife at you?

A

Left hand sir.

Q

In what part of your body?

A

At my neck.

Q

And after he pointed the knife on your neck with his left hand, what did he do next, if any?

A

I fought him back but he was so strong and I also tried to shout but he covered my mouth.

Q

What hand did he used in covering your mouth?

A

Right hand.

Q

After the accused covered your mouth with his right hand, what happened next?

A

He removed my shorts and panty.

Q

And what did he used (sic) in removing your shorts and panty?

A

Right hand, sir.

Q

Was he able to remove your shorts and panty?

A

Yes sir.

Q

While he was removing your shorts and panty, what was he doing with the knife he was then holding?

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A

It was pointed on my neck, sir.

Q

After the accused removed your shorts and panty, what did he do next, if any?

A

He spread my legs.

COURT:

Q

Do you remember whether he say (sic) something while the knife was poked on your neck?

A

Yes, your honor.

Q

What did he say?

A

He told me that if I make a noise or cry, he will kill me.

xxx[11]

Accused-appellant's claim, thus, cannot stand in the face of such positive assertions by complainant. The act of pointing a knife at complainant's neck was sufficient to cow her to submission and facilitate the consummation of accused-appellant's criminal act. In the case of People vs. Reyes,[12] we ruled that, notwithstanding the absence of force and violence, the act of threatening a victim with a knife is strongly suggestive of force and constitutes sufficient intimidation in rape.[13]

Accused-appellant maintains that it was not true that he threatened complainant with a knife for around 30-40 minutes because his left hand cannot hold an object for longer than two to five minutes. Even assuming for the sake of argument that accused-appellant held and pointed the knife at complainant's neck for not longer than two to five minutes, still, it is not necessary, and neither is it required, that such intimidation or act of threatening with a knife be continuous up to the point when the accused consummated the sexual act. As held in the case of People vs. Maglente,[14] the test is whether the threat or intimidation produces a reasonable fear in the victim that if she resists or does not yield to the desires of the accused, the threat would be carried out. Thus, if at the very first instance, the threat has already created a reasonable fear in the victim, then such threat need not continue to exist until the rape has been consummated. In this case, the mere fact that accused-appellant had a knife and pointed the same towards complainant's neck, coupled with the warning that she would be killed if she makes noise, were enough to intimidate and threaten complainant to submit to accused-appellant's bestial desires.

Accused-appellant's claim is also belied by his own declarations during his cross-examination that he could move his left arm; clench his left hand; do household chores like washing the dishes; wash clothes; hold, lift and carry a sack of palay; and climb a coconut tree.[15] The testimony of Carmen Apongol as to the nature of accused-appellant's work in her farm likewise militates against accused-appellant's assertions:

PROS. ESCARO:

Mrs. Witness, when the accused stayed in your house, what kind of job did he do?

A

All around.

Q

What do you mean by all around?

A

Sometimes he is the water tender of the farm and sometimes repair the roofing of the house.

Q

What particular farm works does he do in your farm?

A

He used to clean the paddies of the farm.

Q

Does he do other jobs there at your farm?

A

During harvest season, he used to carry the palay to the house.

xxx

PROS. ESCARO:

Q

The accused testified that he only use one hand in working at your farm, what can you say to that?

xxx

A

No sir, because he even repair the roofing of the house and sometimes he has to climb the coconut tree.

xxx

Q

What about household works, what particular household work does he do inside your house?

A

Sometimes he used to clean the house, feed the pig and scrub the floor.

Q

What else?

A

Sometimes he used to wash his own clothes.

Q

In washing his clothes, what hand did he used?

A

Both hands.

xxx[16]

Thus, the trial court properly struck down accused-appellant's defense of his alleged disability or physical weakness.

The Court also finds accused-appellant's allegation of inconsistencies in complainant's testimony to be unavailing, aimed merely as a last ditch effort to reverse his conviction. Accused-appellant makes much of the fact that complainant denied that her cousin, Rachelle Sumayaw, also resided in her grandmother's house while complainant's grandmother admitted that said Rachelle Sumayaw shared a room with complainant in her house.

We do not find such testimonies inconsistent. Accused-appellant failed to show that complainant and her grandmother were testifying on facts which happened within the same time frame. While Carmen Apongol admitted that Rachelle Sumayaw also lived with them, she did not state that such person was in her house on the night of the incident on September 5, 1996. Complainant, on the other hand, positively declared that on the night the rape happened, she and her grandmother were the only persons in the house.[17] If at all, we find the alleged inconsistency to be so minor as to warrant a reversal of the trial court's decision. The Court has ruled on numerous occasions that minor inconsistencies in rape cases will not necessarily derail the testimony of the offended party for rape victims cannot be expected to be errorless in the recount of details of a clearly harrowing experience.[18] And far from detracting from the veracity of the rape victim's testimony, such minor inconsistencies in fact tend to bolster it.[19]

Accused-appellant also claims that complainant was lying on cross-examination when she stated that she did not shout out of fear because later on in her testimony she claimed that she fought and struggled against accused-appellant. Again, such argument is bereft of merit. There is no inconsistency between the allegation that complainant fought and struggled against the accused and the claim that she did not shout out of fear. Complainant herself was able to explain such alleged inconsistency during her cross-examination:

xxx

Q

When the accused removed his hand on your mouth, is it not that you did not shout?

A

He already threatened me sir, so I was afraid and I don't want to die.

xxx

Q

When you first saw the accused inside your mosquito net, what was your reaction, if any?

A

I was afraid.

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Q

Since you were afraid, you shouted?

A

I did not sir because the knife was already poked at me.

xxx

Q

So, you also testified that you fought back Silverio, is it not?

A

Yes, sir but he was so strong.

Q

About how many minutes was your struggle?

A

About 30 to 40 minutes struggle.

Q

And while you were struggling for about 30 to 40 minutes, what were you doing to Silverio during your struggle?

A

I was trying to push him, kick him, in order that I could remove himself on top of me but he was very strong sir.

xxx

Q

But it can be that it is more than 5 minutes of struggle after he covered your mouth?

A

Maybe.

Q

So, it is now safe to say that for 40 minutes of your struggle with Silverio Aguero, he was not covering your mouth, is it not?

A

He only covered my mouth sir when I was about to open it to shout.

Q

Is it not that you were able to open your mouth, only after 5 minutes of your struggle?

A

I was not able to shout because I was already feeling tired because of fighting him back.

Q

So, you are saying that when you were not yet tired of fighting Silverio, you did not shout, or you did not ask for help?

A

How could I ask help when the knife was pointed at me sir, and he might strike me with that knife.

Q

Is it not that you testified earlier that for 30 to 40 minutes that you were struggling (with) the accused, the accused was also pointing the knife at you?

A

Yes, sir.[20]

As to the alleged two-year delay in the filing of the complaint, suffice it to say, that complainant's failure to promptly report the incident does not sufficiently detract from her credibility and cannot be taken against her. It has been held that a rape victim's delay or hesitation in reporting the crime does not destroy the truth of the complaint[21] and is not an indication of deceit as it is common for a rape victim to prefer silence for fear of her aggressor and the lack of courage to face the public stigma of having been sexually abused.[22] That complainant reported the incident only after the lapse of two years is reasonably explained by the fact that accused-appellant threatened to kill complainant as well as her grandparents and was living with them. In the case of People vs. Coloma,[23] even a delay of eight (8) years was not taken against the complainant and failed to convince the Court that the charge was merely fabricated. Thus, in the absence of other circumstances which show that the charge was a mere concoction, impelled by some motive, delay in the filing of the complainant is not sufficient to defeat the charge.

Finally, in addition to the civil indemnity, moral damages in the amount of P50,000.00 is likewise imposed on accused-appellant for it has been recognized that the victim's injury is inherently concomitant with, and necessarily resulting from, the odious crime of rape to warrant per se an award for moral damages.[24]

WHEREFORE, the decision of the Regional Trial Court of Naga City, Branch 25, in Criminal Case No. 99-7387, finding accused-appellant Silverio Aguero, Jr. guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of reclusion perpetua and to indemnify complainant Almira Ava Aguinillo in the amount of P50,000.00 is hereby AFFIRMED, with the MODIFICATION that accused-appellant is ordered to pay the additional amount of P50,000.00 as moral damages and P25,000.00 as exemplary damages.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Pardo, and Ynares-Santiago, JJ., concur.

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[1] Second Assistant Provincial Prosecutor Jose G. Dy.

[2] Records, pp. 1-2.

[3] TSN, May 19, 1999, pp. 4-22.

[4] TSN, May 20, 1990, pp. 3-18.

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[5] TSN, May 24, 1999, pp. 3-13.

[6] TSN, May 25, 1999, pp. 3-7.

[7] TSN, June 3, 1999, pp. 3-15.

[8] RTC Decision, p. 10; Rollo, p. 65.

[9] People vs. Manahan, 315 SCRA 476 (1999).

[10] People vs. Akhtar, 308 SCRA 725 (1999).

[11] TSN, May 19, 1999, pp. 14-17.

[12] 315 SCRA 563 (1999).

[13] People vs. Salazar, 258 SCRA 55 (1996).

[14] 306 SCRA 546 (1999).

[15] TSN, June 3, 1999, pp. 15-17; TSN, June 17, 1999, pp. 15-17.

[16] TSN, June 17, 1999, pp. 8-11.

[17] TSN, May 18, 1999, p. 18.

[18] People vs. Renola, 308 SCRA 145 (1999).

[19] People vs. Padilla, 301 SCRA 265 (1999).

[20] TSN, May 19, 1999, pp. 25, 30-34.

[21] People vs. Sagun, 303 SCRA 382 (1999); People vs. Montefalcon, 305 SCRA 169 (1999).

[22] People vs. Perez, 307 SCRA 276 (1999).

[23] 222 SCRA 255, 263 (1993).

[24] People vs. Bolatete, 303 SCRA 709 (1999).

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