

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ESTEBAN CANTILA, JR. ACCUSED-APPELLANT.

G.R. No. 139458. December 27, 2002

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On appeal is the decision[1] in Criminal Case No. 95-535 of the Regional Trial Court of Cagayan de Oro City, Branch 23, finding accused-appellant ESTEBAN CANTILA, JR. guilty of the crime of rape and sentencing him to suffer the penalty of reclusion perpetua.

Appellant was charged in an Information dated August 30, 1995, as follows:

That on or about August 25, 1995 at about 10:30 o'clock in the evening, more or less, at Patag, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the said accused did then and there wilfully, unlawfully and feloniously and by means of force, violence and intimidation, and with threats of killing her if the latter would shout, did lie and succeed in having carnal knowledge of said offended party, AAA, a 16 years old (sic), against her will and consent.

Contrary to Article 335 of the Revised Penal Code, as amended.[2]

Upon arraignment on September 22, 1995, appellant pleaded not guilty to the charge and thereafter trial ensued.[3]

For the prosecution, private complainant AAA[4] testified that on August 25, 1995, at about 7:00 in the evening, she was playing “chiki-cha”, a local game, with appellant and her employer, Engineer Raul Ramos, at the latter’s house at Gaboa St., Patag, 6th Division, Cagayan de Oro City.[5] At about 10:30 in the evening their game ended, and they retreated to their respective rooms.

Complainant’s room was adjacent to appellant’s. They were separated only by a wall made of plywood.[6] On entering her room, she said, she was surprised to see a towel and a bottle of rubbing alcohol. Appellant, who was already inside his room, asked her to hand them over to him. When she went to his room to hand him both, she said, he immediately closed the door. Then appellant pulled and pushed her towards his bed. At that time, he had only a towel wrapped around him. He pressed her down with his body and pointed a knife at her telling her that if she shouted, he would kill her.[7] Because his hand covered her mouth, while the other held the knife, he used his foot to remove her shorts and panty. He then made push and pull movements until he was able to insert his penis into her vagina.[8] Complainant tried to struggle by boxing the sides of appellant’s body,[9] to no avail. After satisfying his lust, according to complainant, appellant told her to get out of his room. She went back to her room and cried.[10]

The following morning, on August 26, 1995, she narrated to Engr. Ramos what happened to her. He advised her to report the matter to the police. Thus, at about 8:00 that morning, she went to the police station at Carmen, Cagayan de Oro, to file her complaint. Appellant was subsequently arrested by the police, according to her. In the

meantime, she was accompanied by a policeman to the Northern Mindanao Hospital, where she underwent medical examination.[11]

DR. AMADO PIIT, Medical Specialist III of Northern Mindanao Hospital, testified that he conducted the medical examination of complainant on August 28, 1995. He found four lacerations of her hymen at 1:00, 6:00, 9:00 and 11:00 o'clock positions. According to him, the lacerations in her genitals were caused by sexual intercourse, and were compatible with the time when the alleged rape was committed.[12]

ENGR. RAUL RAMOS corroborated the testimony of private complainant. He testified that at about 6:00 in the morning on August 26, 1995, he was awakened by one Donald Montreal, who informed him that complainant was raped by appellant. After inquiring from complainant details of what happened to her, he advised her to report the matter to the authorities. She immediately went to the police station.[13]

For the defense, witnesses Editha Cenas, Agueda Cantila, Engineer Paquito Palamine, and appellant Esteban Cantila, Jr. himself testified.

EDITHA CENAS, a resident of Gaboa St., 6th Division, Patag, Cagayan de Oro City, testified that she knew complainant because the latter was then the helper of her neighbor, one Jean Quirol,[14] for about six months. According to the witness, she used to see appellant and complainant talking inside the vehicle of Engr. Ramos. When going to the movies, they passed by her house. Sometime in the early part of July 1995, when she asked appellant if he and complainant were lovers, appellant answered yes.[15]

AGUEDA CANTILA, the mother of appellant, testified that on August 30, 1995, she went to Cagayan de Oro City to visit her son in jail. According to her, a person named Donald asked her for P50,000, so that "the girl" would no longer testify against the appellant.[16] The witness, however, could not give the full name of Donald and only identified him as a friend of Engr. Ramos. According to the witness, the incident took place in the house of Mrs. Editha Cenas.

ENGR. PAQUITO PALAMINE testified that on the first week of July 1995, he hired appellant to construct his fence. On the third week of July, appellant came to his house together with two ladies to visit him. Appellant introduced one of them as AAA, his girlfriend. They stayed at his house for about two hours, according to the witness, and he observed that appellant and Rosalejos were "close" to each other.[17]

On the witness stand, appellant ESTEBAN CANTILA, JR., admitted having carnal knowledge of complainant but interposed the defense that the carnal act was consensual. He testified that on the first week of July 1995, while he was on his way to the construction site, he saw complainant inside the vehicle of Engr. Ramos. Complainant was then the baby sitter of his neighbor, Engr. Ramos. On August 13 of the same year, appellant proposed to complainant and the latter replied that she would think about it. According to appellant, on August 21, 1995, complainant left the house of her employer and transferred to Engr. Ramos' house. On the same day, he added, she accepted his offer of love.[18]

On August 24, 1995, at around 9:30 in the evening, after they played cards, according to appellant, they went to their respective rooms. Meanwhile, appellant heard complainant calling him from her room. Complainant told appellant that she wanted to go to his room, and she asked him to massage her head since it was then aching. After massaging her head for about 10 minutes, appellant told her to stay and occupy his bed, while he slept on the floor. However, complainant wanted him to sleep beside her. Something happened between them and according to appellant, he did not force nor intimidate her. Their first sexual intercourse happened at about 11:00 in the evening and the second at 1:00 in the morning. Complainant returned to her room at about 2:00 in the morning.[19]

He further testified that the following night, August 25, 1995, at about 10:00 in the evening, he and complainant had sexual intercourse; and it was only in the morning of the next day, when she left his room. He added that at about 5:00 that morning of August 26, Donald Montreal, a close friend of Engr. Ramos, arrived and appellant saw him talking with complainant. Later while he was already at work, appellant said he was surprised when complainant arrived with policemen who brought him to the Carmen Police Station, where he was detained. While appellant was in jail, he said he was visited by Donald Montreal who told him that for P50,000, he would take charge of bringing complainant to his (Montreal's) place so that she could not attend the hearing. But appellant said he told Montreal that he had no money.[20]

On May 29, 1998, the trial court rendered its judgment, thus:

WHEREFORE, premises considered, this Court is of the opinion and so holds that indeed the private complainant has established and proven the guilt of the accused beyond reasonable doubt. Having found the accused guilty beyond reasonable doubt of the crime of rape, and there being only one mitigating circumstance of voluntary surrender and the crime having been committed prior to the amendment of the law on rape, the accused is hereby sentenced to suffer the imprisonment (sic) of reclusion perpetua. Accused is further ordered to indemnify the victim the sum of P50,000.00 as damages.

SO ORDERED.

Hence, this appeal. Appellant now assigns the following errors:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.

II

THE COURT A QUO GRAVELY ERRED IN NOT GIVING WEIGHT AND CREDENCE TO THE EVIDENCE FOR THE DEFENSE.

The issue before us is whether the trial court erred in convicting appellant of rape, and sentencing him to reclusion perpetua. To resolve this issue, we must inquire into the sufficiency of the prosecution's evidence to sustain the conviction beyond reasonable doubt.

Appellant admits the sexual intercourse between him and complainant. But he denies the charge of rape on the ground that the act was consensual. He denies that force or intimidation was used to consummate the carnal act.

In reviewing rape cases, this Court has three guiding principles: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; (3) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[21]

By the very nature of the crime of rape, the lone testimony of the complainant is enough to sustain a conviction, provided that such testimony must meet the test of credibility, which means, that the testimony should not only come from the mouth of a credible witness, it should likewise be credible and reasonable in itself, candid, straightforward and in accord with human experience.[22] Hence, the exacting standard of proof beyond reasonable doubt acquires more relevance in rape charges which are easy to make but harder to prove and harder still to defend by the party accused who may be innocent. This Court will not condemn a person if there exists the slightest hint of reasonable doubt as to his guilt.[23]

Complainant's claim that she was forced to have sexual intercourse is directly contested by appellant. He contends that, based on the evidence on record, complainant did not exert the slightest resistance. When pulled inside appellant's room and when pushed to the bed, she made no outcry, according to complainant herself. She could have easily shouted for help. Her mouth was not yet covered by appellant's hands. Or she could have kicked appellant since her feet were free.

According to complainant, she was not able to shout because she was bent on getting out of his room. Even if she tried to shout, she says, her employer, Engr. Ramos, could not have heard her because his room was cemented. She adds that the light in Engr. Ramos' room was already off, and his door was locked.

The Office of the Solicitor General, for the appellee, stresses that the lack of adequate resistance and outcry by complainant ought not to be measured by any expected regimen of human behavior. Rape can be committed by employing intimidation. Intimidation must be viewed in the light of the victim's perception and judgment at the time of rape and not by any hard-and-fast rule. Contrary to appellant's claim, adds the OSG, there was no impossibility on the manner by which complainant was undressed. The OSG contends that the short pants of complainant had a garterized strap by which appellant could easily insert his foot in order to remove her shortpants. The OSG also said that in rape cases, the evaluation of the credibility of witnesses is addressed to the sound determination of the trial court whose conclusion deserves much weight and respect.

In rape, the controversy usually boils down to the credibility of the victim's testimony. The trial court's evaluation of the credibility of the victim's statements is accorded great weight because it has the unique opportunity of hearing the witnesses testify and observing their deportment and manner of testifying. The trial court judge is no doubt in the best position to determine the truthfulness of the complainant's testimony. Thus, unless it is shown that the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight or substance that would otherwise affect the result of the case, its findings will not be disturbed on appeal.[24]

The Court adheres to the rule that when the testimony of a woman who states under oath that she has been raped meets the test of credibility, the accused may be convicted on the basis of such testimony. A rape victim who testifies in a categorical, straightforward, spontaneous and frank manner, and who remains consistent, is a credible witness.[25]

We have also held that for evidence to be believed, however, it must not only proceed from the mouth of a credible witness but must be credible in itself such as the common experience and observation of mankind can approve under the circumstances. The test to determine the value of the testimony of a witness is whether such is in conformity with knowledge and consistent with the experience of mankind. Whatever is repugnant to these standards becomes incredible and lies outside of judicial cognizance.[26]

In this case, there is no credible showing that complainant had actually resisted when she was allegedly being raped by appellant. Her testimony does not reveal such physical struggle on her part to signify resistance to the intercourse. There was neither force nor intimidation shown of such character on appellant's part so as to render complainant helpless to resist the alleged assault against her honor. We find the pertinent testimony of complainant instructive on the issue of resistance:

Q: At that time, were your thighs closed or open when he was making a push and pull motion?

A: My legs were open because he was on top of the middle part of my body.

Q: He was on top of you, is it not?

A: Yes.

Q: But your legs were down, how could it be opened?

A: My legs were already separated when he pressed on me, I could no longer move.

Q: So, you mean to say, at that time he pushed to the bed, your legs were separated apart, you never endeavour to close your legs, you just stayed in that position and allowed him to penetrate?

A: While in that position with my legs apart, he immediately pressed me with his body.

Q: But before he could fall on you, you can close your legs, before he could be on top of you, but why did you not do it?

A: Because in my position with my legs separated apart, he immediately rode on top of me.

Q: You testified that your two hands were free at that time, why did you not push him so that you can close your thighs?

A: If I push him I will not be able to overcome him because he is bigger than me.

Q: But you have not struggled. There is no sign at all that you struggled, you have not scratched his face, boxed him or bite him. Why is that so? Why did you not resist on that manner?

A: If I have to pinch him, my nails are short, if I have to bite him, I could not be able to do that because his hand was on my mouth.

Q: At that time he was kissing your lips, why did you not bite his tongue?

A: Because I was already afraid at that moment.

Q: How many times did he make a push and pull motion before he extricated himself?

A: I could not remember anymore.

Q: But you recall that before he ejaculated, he kissed you?

A: Yes.

Q: He was kissing you on your lips?

A: Yes.

Q: And at that time, what were your two hands doing?

A: I was boxing his sides.

Q: Boxing where?

A: On his sides, Your Honor.

Q: Why did you not pull his penis when he made a push a[nd] pull motion, when your two hands are free?

A: Because he already pressed on me, I could not move my legs and body, what I did was to box him.

Q: Why did you not scratch his eyes, boxed his nose or bite his ears?

A: How could I?

Q: At that time you were kissed by him?

A: I could no longer do because I was already crying.

Q: Suppose I tell you that a woman in order to defend her honor, would do everything, including the scratching of the face?

A: He is big, he did not mind my punches.[27] (*Italics supplied.*)

Well-settled is the rule that in a crime of rape allegedly committed by force, the prosecution must establish that the element of voluntariness on the part of the victim was absolutely lacking.[28] It is indeed strange for a rape victim, who should be preoccupied in overcoming the sexual attack on her person, to be concerned that her nails were short to at least pinch appellant instead of seizing upon every opportunity to escape from the clutches of her attacker. Also, physical evidence to corroborate complainant's claim of resistance is absent. Verily, the law does not impose on the rape victim the burden of proving resistance where force was used on her. However, in this case, where complainant's narration of the incident is open to doubt and does not jibe with human experience, physical evidence of bruises or scratches would have spoken louder than words.[29]

Consequently, appellant merits an acquittal, even if his own evidence is not as persuasive as would otherwise be desired.[30] The "sweetheart theory" interposed by appellant may be weak, but we should not dismiss it with undue haste.[31] Worth noting, the prosecution did not rebut testimony of witnesses for the defense concerning prior dalliance and intimacy between appellant and complainant.

As we have held in several cases, when the guilt of the accused has not been proven with moral certainty, the presumption of innocence of the accused must be favored and his exoneration be granted as a matter of right.[32] For the prosecution's evidence must stand or fall on its own merit and cannot be allowed to draw strength from the weakness of the evidence for the defense.[33]

WHEREFORE, the decision of the Regional Trial Court of Cagayan de Oro City, Branch 23, in Criminal Case No. 95-535, is REVERSED and SET ASIDE, and appellant ESTEBAN CANTILA, JR. is hereby ACQUITTED

on the ground of lack of sufficient evidence to prove the offense beyond reasonable doubt.

The Director of Prisons is directed to immediately RELEASE appellant from custody, unless he is being lawfully held for some other charge and to report to this Court the action taken hereon within 5 days from receipt.

SO ORDERED.

Bellosillo (Chairman), Mendoza, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Rollo, pp. 18-24. [[2]] Id. at 9.

[3] Records, p. 14.

[4] Sometimes spelled as Rosalijos in some parts of the records.

[5] TSN, August 6 1996, p. 3.

[6] TSN, August 7, 1996, p. 26.

[7] Id. at 8-9.

[8] Id. at 42-43.

[9] Id. at 50.

[10] Id. at 10-11.

[11] Id. at 11-12.

[12] TSN, September 26, 1996, pp. 5-6, 8-10.

[13] TSN, April 22, 1997, pp. 5-7.

[14] Also spelled as Querol in some parts of the records.

[15] TSN, September 8, 1997, pp. 6-10.

[16] Id. at 30-33.

[17] TSN, September 11, 1997, pp. 4-8.

[18] TSN, November 24, 1997, pp. 5-15.

[19] Id. at 16-23.

[20] Id. at 24-28.

[21] People vs. Dela Cruz, 356 SCRA 704, 714 (2001).

[22] People vs. Torion, 307 SCRA 169, 175-176 (1999).

[23] People vs. Mariano, 345 SCRA 1, 10 (2000).

[24] People vs. Yaoto, G.R. Nos. 136317-18, November 22, 2001, p. 10; People v. Rebato, 358 SCRA 230, 236 (2001); People vs. Villadares, 354 SCRA 86, 93 (2001); People vs. Saladino, 353 SCRA 819, 826 (2001).

- [25] People vs. Supnad, 362 SCRA 346, 354 (2001).
- [26] People vs. Laurente, 353 SCRA 765, 777 (2001).
- [27] TSN, August 7, 1996, pp. 48-51.
- [28] People vs. Villaflares, G.R. Nos. 135063-64, December 5, 2001, p. 17.
- [29] People vs. Docdoc, 337 SCRA 407, 416 (2000).
- [30] See People vs. Co, 163 SCRA 453, 456 (1988).
- [31] See People vs. Claudio, 326 SCRA 813, 820 (2000).
- [32] People vs. Amogis, G.R. No. 133102, October 25, 2001, p. 17.
- [33] People vs. Castillo, G.R. No. 131200, February 15, 2002, p. 14.

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