

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SPO2 ANTONIO B. BENOZA, ACCUSED-APPELLANT.*G.R. No. 139470. November 29, 2001*

Ponente: BELLOSILLO, J.

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SPO2 ANTONIO B. BENOZA was charged before the Regional Trial Court of Quezon City with the complex crime of Forcible Abduction with Rape. He was found guilty, sentenced to reclusion perpetua and ordered to indemnify the complaining witness P50,000.00 as moral damages and P50,000.00 as compensatory damages.[1]

As narrated by Marife Buta, private complainant, on 22 June 1997, at around 8:30 in the evening, she was having supper in her house at No. 44 Lumot Cabalata Street, Tatalon, Quezon City, with her mother Procesa Buta and two (2) younger siblings when accused SPO2 Antonio B. Benozza suddenly barged into their house and poked a gun at them. He then pulled Marife from the dining table and uttered in a loud voice the words "bastusan kung bastusan" to her mother.[2] Procesa Buta was stunned; she was not able to help her daughter. SPO2 Benozza then dragged at gunpoint a "surprised and shocked"[3] Marife out of the house through a pathway to the street and forced her to board his owner-type jeep which he earlier parked in front of the barangay hall. He drove her to a beer house somewhere in Araneta Avenue where he ate and drank for three (3) hours with three (3) other male companions who arrived there ahead of them.

From the beer house, Benozza brought Marife to the Town and Country Motel in Sta. Mesa, Manila, where after entering the garage they alighted from the jeep and took a flight of stairs leading to the room assigned to them. The accused then removed his clothes and forced her to lie down on the bed by threatening her with his gun and saying "P - - tang ina mo humiga ka na." [4] He succeeded in removing her clothes despite her efforts to resist him by kicking him and pushing him away. He went on top of her. When she shouted for help, he held his shirt against her mouth. He tried to insert his private organ into her vagina but failed to do so completely because of her continued resistance. He kissed the different parts of her body and then went to the comfort room, presumably to relieve himself. Marife seized this opportunity to escape. She hurriedly put on her clothes and attempted to escape, but as she tried to, he placed a piece of jewelry and money on the bed and told her that should she escape he would tell the guard that she tried to rob him. Subsequently, he brought her home by dropping her off at the market near her house. She waited for her mother who had gone to Camp Crame to report her abduction, but after thirty (30) minutes a neighbor who was also a friend of the accused, arrived and forced her to go to the barangay hall where the accused called her inside where nobody was around and forced her to sign in the barangay logbook, afterwhich, she went home.

At dawn of the following day, 23 June 1997, her mother arrived. Marife was then brought by her mother to the Galas Police Station where Marife gave her written account of what happened to her and filed the corresponding complaint.[5] In the afternoon of the same day, they went to the NBI where mother and daughter also executed written statements.[6] Marife was examined by the medico-legal officer of the NBI. The findings of the physical examination revealed "no evident sign of extragenital physical injuries" on the body of Marife and her hymen was

"intact and its orifice small (1.0 cm. in diameter) as to preclude complete penetration by an average-sized adult Filipino male organ in full erection without producing genital injury." [7]

The accused admitted taking Marife out on the night of 22 June 1997 but denied having abducted, much less raped, her. He maintained that Marife was his "asset." [8] As a police officer assigned and detailed at the Caloocan City Narcotics Division, he claimed he met Marife for the first time sometime in March 1997. She knew that he was also a resident of Barangay Tatalon and volunteered to give him information regarding drug activities in the area. Antonio then gave her his beeper and cell phone number so she could get in touch with him. Marife was able to give him information related to drug activities in Tatalon twice since their first meeting.

He testified that in the morning of that day, Marife phoned him and asked him to pick her up at her house as she had some information on a certain drug pusher. When he fetched her, she went willingly and her mother did not object to her going with him. He was not in uniform then and he did not have his gun with him because it was the day for registration of voters in the barangay and a gun ban was in effect. They rode his jeep and proceeded to Rhea Disco Restaurant along Araneta Avenue in Quezon City where they met some of his friends among whom were officials of Barangay Tatalon, Kagawad Benedict Bañega and Rolando Suico, a member of the Lupon Tagapamayapa. The meeting was pre-arranged by him and the barangay officials so that they could discuss the drug activities in the vicinity of Barangay Tatalon. He and Marife left the restaurant three (3) hours later and headed for Chow King Restaurant along Banawe Street in Quezon City where they ate and talked. Afterwards, he brought her home.

On his way home from Marife's residence, he met a man who informed him that the mother of Marife claimed that he (SPO2 Benoza) abducted her daughter. He requested that person to fetch Marife from her house to meet him in front of the barangay hall. When Marife arrived, she and accused went to the house of the barangay captain and there Marife belied her mother's claims. SPO2 Benoza and Marife were advised to have her statement blotted at the barangay hall. After they did what they were told, they both went home.

At 7:00 o'clock the following morning, SPO2 Benoza was invited to the Galas Police Station and told that he was being accused of rape. He immediately fetched Kagawad Bañega and they proceeded to the police station. At about 9:00 o'clock, they were joined by Marife and her mother. Upon the intercession of Kagawad Bañega, Marife executed a statement of desistance in the presence of her mother and Kagawad Bañega on the alleged promise of Benoza to marry her, to wit: "Ako si Marife Buta, complainant sa abduction laban kay SPO2 Antonio Benoza, ay pansamantalang iurong ang demanda dahil sa pangako niya na ako ay kanyang pakakasalan sa lalong (ma)daling panahon." [9] The statement was signed by Marife and Kagawad Bañega. SPO2 Benoza however, denied that he ever agreed to marry Marife because he never touched her and he was already married.

The defense presented Rene Mengote, the barangay tanod of Barangay Tatalon who was on duty the morning of 23 June 1997. He testified that at 1:30 a.m. he received a call from the barangay captain through his two (2)-way radio instructing him to take down the statement of Marife and place it in the barangay logbook. He prepared the blotter report dictated by Marife which refuted any accusation of abduction or mistreatment by SPO2 Benoza, especially by her mother. [10] Barangay Kagawad Benedict Bañega also took the witness stand and confirmed SPO2 Benoza's account of their meeting at the Rhea restaurant.

The trial court, in convicting the accused, relied heavily on the testimony of Marife which it found credible and believable, [11] while it was entirely unconvinced with SPO2 Benoza's version of the events relevant to this case.

Accused-appellant now insists that the court a quo erred in convicting him of forcible abduction with rape when his guilt had not been proved beyond reasonable doubt. He claims that the evidence of the prosecution is weak and insufficient to overcome the constitutional presumption of innocence. He primarily assails the credibility of

Marife's story. He argues that Marife's testimony was awash with inconsistencies and incongruities. He contends that the evidence of the prosecution for the charges of forcible abduction is inconsistent and inherently improbable. Accused-appellant also claims that he should be acquitted of rape. He argues that Marife's "conduct immediately after was not consistent with human experience"[12] and the manner by which the rape took place as narrated by her "defies imagination." [13] Moreover, he claims that Marife was ill-motivated in filing the case against him, theorizing that it was her mother who pushed her into doing it.

We have repeatedly held that the evaluation of testimonies of witnesses by the trial court is binding upon the appellate court in the absence of a clear showing that it was reached arbitrarily or that the trial court had plainly overlooked certain circumstances of substance or value which, if considered, might affect the result of the case.[14] Verily, a thorough review of the records and transcripts of this case discloses certain circumstances which to our minds render doubtful the commission of the crime charged.

First. While the private complainant insists that she went with Antonio against her will, the Court notes that no one other than private complainant's mother corroborated the claim of abduction. It is hard to believe that none of her neighbors noticed a man armed with a gun dragging Marife along the pathway leading out into the street where his owner-type jeep was parked when the pathway was less than a meter wide and they had to pass by clusters of houses.[15] The vehicle of accused-appellant was also parked along the main road before the barangay hall which Marife also admitted was open twenty-four (24) hours a day.[16]

It was quite odd that no one among the neighbors heard the commotion when accused-appellant supposedly uttered "bastusan kung bastusan" to Marife's mother in a loud voice and Marife also shouted "Mama" to Procesa as she was being dragged out of her house by accused-appellant.[17] More so when they were not the only occupants of the house but were actually just renting a room and the same was separated by light materials from the adjoining room occupied by the owner of the house and a child.[18]

Marife also insists that she was taken without her consent to a beer house where she and accused tarried for three (3) hours. The story indeed sounds absurd. It runs counter to human nature and experience for a person who just abducted a woman with the intention of raping her to first enjoy a few rounds of drinks with several friends and openly expose his victim to public view. It is even more foolish and foolhardy that she be taken to a public place such as a beer house where she could be seen with her abductor and thus increase the possibility of his being seen and apprehended for his criminal act.

We find Procesa Buta's testimony of little help either. In fact, her recollection of what transpired differed significantly from that of her daughter. While Marife claims her mother was not able to come to her rescue because the latter was shocked (natulala),[19] her mother claims that she immediately lost consciousness.[20]

Whether a gun was used by the accused in intimidating Marife into submission is crucial to the prosecution's cause as it is essential to show that Marife was taken against her will. But there is sufficient reason to doubt its veracity. Again, other than the testimony of Marife, its existence was not corroborated by other witnesses, not even by her mother. Procesa never mentioned that the accused had a gun when he entered their house uninvited.[21] This bolsters the belief that he had no gun at all as it would be unlikely that one would forget to mention such a thing since it is not an everyday experience that a man would barge into one's residence and snatch a family member without being armed.

We note with interest one peculiar incident immediately after the alleged abduction. Upon reporting the misdeed of the accused to the barangay captain at around 9:00 o'clock in the evening, Procesa was only advised to wait for her daughter at home because her daughter and the accused just went to a motel (Ah ganoon ba ho Misis, hayaan mo Misis ibabalik naman yong anak mo ng buo pumunta lang yon sa motel hintayin mo na lang sa bahay

niyo).[22]

Procesa testified that she did as she was told and did not demand an explanation for the barangay official's snide remark nor insist that he give her assistance.[23] Such a reaction appears irreconcilable with a mother supposedly distressed with the abduction of her daughter. Nor can we understand why she waited for three (3) hours before going to Camp Crame to report the abduction after failing to get any help from the barangay captain. In fact, she went to Camp Crame only at 12:00 o'clock midnight.[24] It was highly unusual, if not unnatural, that a mother would wait for several hours before taking any positive action to look for her daughter who was supposedly taken against her will and whose very life was already in imminent danger.

Second. There were material contradictions in the complaining witness' testimony which greatly diminished her credibility. She gave varying accounts of how she was forcibly undressed and the location of the gun during the process. Thus, on direct examination, she said -

ATTY. SIBAL (to the witness): While you were lying down, what happened next after that?

A:

He first laid the gun beside and forcibly removed my pants and my shirt, sir x x x x

Q:

While he was removing your pants and shirt, what were you doing?

A:

I was still resisting and I was able to crawl and he was able to remove my pants and panty, sir.

COURT (to the witness): So he was able to remove your pants and panty at the same time?

A:

Yes, Your Honor.

ATTY. SIBAL (to the witness): What happened next after that?

A:

He again told me to lie on the bed, sir.

Q:

Did you lie down?

A:

When I was crawling, he was able to remove my shirt, pants and panty. I was crawling with my face down. But he held my body in order that I could face him and when I was already facing him, he went on top of me, sir.[25]

But on cross-examination less than a month later -

Q:

At that time that he was removing your panty, were you lying down on the bed?

A:

Yes, ma'am.

Q:

You were lying on the bed and where was the accused. Was he at the end of the bed or beside you in the bed?

A:

He was in front of me and he was sitting on my knees while he was pulling down my panty.

Q:

You are impressing this Honorable Court that he was sittid (sic) on your knees while removing your panty?

A:

Yes, ma'am.

Q:

On top of your knees.

A:

Yes, ma'am.

Q:

How could you have kicked him if he was sittid (sic) on top of your knees?

A:

At first I was pushing him and if there was a chance to extricate myself from him a little bit at that time I kicked him.

Q:

Were you using both your hands when you were resisting?

A:

Yes, ma'am.

Q:

And one of his hand is (sic) still holding his gun, is that correct?

A:

Yes, ma'am.

Q:

And what arm or hand was holding the gun?

A:

I cannot recall.

Q:

And he was only using one hand in undressing you while you were kicking and pushing him?

A:

Yes, ma'am.[26]

There is also the matter of the blotter report which Marife signed in the logbook of the barangay hall after she was supposedly raped. She initially disowned having signed the blotter report. Thus, during her direct examination -

Q:

At the Barangay Hall, what happened there?

A:

They made a blotter, sir.

Q:

Who made a blotter?

A:

Antonio Beñosa, sir.

Q:

What about you, what did you do?

A:

I did not sign the blotter, sir.

Q:

Why is there a document being presented to you to be signed?

A:

Yes sir, the Barangay logbook and Antonio Benosa called me inside the hall where no people were around and talked to me and told me to sign the logbook and he said it would be of help, sir.

Q:

Did he sign the logbook?

A:

Yes, sir x x x x[27]

However, during the initial cross-examination, she testified -

Q:

But you were made to sign a statement which has been marked as exhibit x x x x This is a blotter report dated June 28, 1997. Now, you were asked to sign this blotter report is that not correct?

A:

Yes, ma'am.

Q:

And the Marife Buta referred to here is you?

A:

Yes, ma'am x x x x

Q:

But you read this before you signed it?

A:

I was able to read.

Q:

Did any barangay official read this to you?

A:

There was none.

Q:

You are sure of that?

A:

Yes, ma'am.

Q:

After you signed this, you went home?

A:

Yes, ma'am.[28]

Another evidence of prevarication is an entry in the written statement[29] she gave the police when she first reported the crime at the Galas Police Station. The portion of her statement is quoted as follows -

Question No. 7: Maliban sa pangyayaring iyon, mayroon pa bang namagitan sa inyong dalawa?

Sagot:

Mayroon po noong March 1997, noong niyaya niya rin akong kumain, ay dinala niya rin ako sa isang Motel sa Caloocan City at doon niya ako pinuwersang hinalay pero hindi nga po ako nagreklamo dahilang takot nga po ako sa kanya dahil pulis siya tapos nga po inulit niya ngayon.[30]

On cross-examination, she denied relaying the information to the policeman preparing her statement and claimed that she was still confused (naguguluhan) at the time she read and signed the statement which was why she failed to notice and correct the entry.[31] However, we cannot see how the police could have included it in her written statement other than by the private complainant's own pronouncement. As accused-appellant posits, it would be incredible that another policeman would insert such an accusation which would have no purpose other than to exacerbate accused-appellant's predicament.[32] Indeed, Marife's flimsy excuse could have only been brought about by the subsequent findings of the medico-legal officer of the NBI that she was still a virgin and that made unbelievable any allegation that she had already been raped on a previous occasion.

Third. The medical findings of the medico-legal officer of the NBI who examined Marife cannot substantiate her claim that she was raped. The results showed that her hymen was intact and that she was still a virgin. It is settled that the slightest penetration of the female organ is sufficient to warrant a conviction for consummated rape and, accordingly, Marife asserts that, although SPO2 Benozza's private organ did not completely penetrate her private organ, he was able to penetrate the lips or opening of her private organ. But in her testimony, Dr. Aurea P. Villena categorically stated that she found no indication of even the slightest penetration. Dr. Villena found no abrasion or discoloration in her genital area which precluded any conclusion that physical force had been applied. Thus -

Q:

Now, in your findings reflected in that medico-legal report, it is inconsistent with even the slightest penetration, is that correct?

A:

I cannot say that there was a slightest penetration, Ma'am.

Q:

Because there is no unusual reddening of the labia majora, labia minora or the vestibular mucosa, will you please answer yes or no?

A:

Yes, Ma'am.

Q:

In your examination of the victim, did you see any evidence of semen?

A:

None, Ma'am. Semenology is negative.[33]

The absence of physical force is made more apparent by Dr. Villena's testimony that should a woman masturbate, the genital organ would also exhibit a discoloration or reddening that could last for about a week.[34]

Fourth. The narration of Marife as to the manner the rape was perpetrated is not supported by any physical evidence. As Dr. Villena testified, after an examination of Marife's body, she found no physical injury and no basis for her claim of having been raped.[35]

While medical evidence is merely corroborative, and is even dispensable, in proving rape, the private complainant's account of the commission of the crime should lead us to expect some telltale marks of her traumatic experience. According to Marife's narration, when SPO2 Benozza undressed her she vigorously resisted his attempt at removing her clothes by kicking him and pushing him using both hands. This resistance continued when he got on top of her and was forcing his private organ into her vagina. It is amazing that after such an energetic struggle Marife would show no signs of it. Considering the disparity in their sizes, SPO2 Benozza stands five (5) feet ten (10) inches tall while Marife is only five (5) feet tall, she must have employed great resistance indeed to have been able to repel his advances and prevent his private organ from completely invading hers. But Marife did not show any bruise or injury on any part of her body nor present any piece of torn clothing.[36]

The rule is, there can be conviction based on the lone testimony of the rape victim even if there is no physical evidence to corroborate her claim. But this is on the supposition that her testimony was clear and free from serious contradictions and her sincerity and candor beyond suspicion.[37] If the complainant's testimony is not of such

character, convincing corroborative proof is required. Undoubtedly, the conviction of accused-appellant cannot rest on the uncorroborated testimony of Marife which is tainted with material inconsistencies and improbabilities in the absence of any other physical evidence to support her allegations.

Fifth. Marife's behavior in the aftermath of her ordeal casts suspicion on whether she was abused at all. Upon reaching her house, she neither bathed nor washed herself. When a neighbor went to fetch her upon the request of accused-appellant, she willingly went with that person. The barangay tanod on duty also testified seeing the complainant and accused-appellant arrive at the barangay hall "holding hands and laughing." [38]

Marife also executed a statement of provisional desistance ostensibly upon the urging of the policemen present and of Kagawad Bañega. She wrote a statement temporarily withdrawing the case upon the promise of accused-appellant that he would marry her. Again Marife tries to explain that at that time she was confused by the promptings of the policemen, which was why she agreed to withdraw the case. [39]

The excuse is difficult to believe. She knew that accused-appellant was already married and could not possibly marry her. She was also accompanied by her mother at the police station and could have asked for guidance had she really been confused.

Viewed together with the blotter report and the entry in her written statement accusing accused-appellant of having raped her, the desistance creates more questions that severely put into doubt the veracity of Marife's story.

Finally. There is enough evidence to suggest that the complaint was instituted upon the instigation of Marife's mother, Procesa Buta. Although they both denied being sweethearts, Marife acknowledged that accused-appellant was courting her, and he did not also deny that he had visited Marife in her house on several occasions. On one of those visits, his wife arrived looking for him, and upon knowing that he was in Marife's house she shouted in front of the house and created a scene. When Procesa was told of it, she became angry. [40] There is also the humiliating experience of Procesa standing before the barangay captain who summarily brushed aside her complaint with a nasty comment. No other inference can be made from this reaction of the barangay captain than that accused-appellant and Marife were indeed seeing each other and the barangay official knew about it.

Marife testified that her mother became angry after she learned that Marife had executed a provisional desistance without her knowledge while they were at the Galas Police Station early morning of 23 June 1997. [41] That very afternoon, her mother brought her to the NBI to file a complaint and to have her examined to see if she was still a virgin, [42] indicating that it was Procesa who was deadset in pursuing the case. It is more conceivable then that the mother was impelled to fabricate a tale of abduction and rape against accused-appellant in order to punish the latter for taking out her daughter late in the evening when he was a married man.

While it is true that no mother would expose her daughter to the shame and humiliation of a public trial unless motivated by an honest desire to have the culprit punished, in this case, Procesa already experienced embarrassing incidents where aspersions were cast on her daughter's honor. The visit from accused-appellant's wife and the remark made by the barangay captain suggest that there was already a rumor of an affair between Marife and accused-appellant. Hence, the rape charge to save her daughter from being branded a mistress.

We acknowledge the implausibility of the story put forth by accused-appellant that the complainant was his informant. Even the trial court expressed puzzlement as to why a police officer of Caloocan City would be interested in drug activities in a barangay in Quezon City and why he needed to take his informant to a beer house in order to get information. [43] Despite the feebleness of his story, we cannot ignore the serious infirmity in the case of the prosecution. With the prosecution still lies the burden of proof to establish the crime and in this it has failed. The constitutional presumption of innocence in favor of accused-appellant was not successfully rebutted.

Hence, he is entitled to an acquittal.

WHEREFORE, the assailed judgment finding accused-appellant SPO2 ANTONIO B. BENOZA guilty of forcible abduction with rape, sentencing him to reclusion perpetua and to pay damages to the offended party is REVERSED and SET ASIDE. Consequently, he is ACQUITTED of the crime charged and ordered released immediately from custody unless he is held for some other lawful cause.

The Director of Prisons is DIRECTED to implement this DECISION forthwith and to INFORM this Court within five (5) days from receipt hereof of the date accused-appellant was actually released from confinement. Costs de oficio.

SO ORDERED.

Mendoza, Quisumbing, and De Leon, Jr., JJ., concur.

Buena, J., on official business.

[1] Decision penned by Judge Diosdado M. Peralta, RTC-Br. 95, Quezon City.

[2] TSN, 13 July 1998, p. 5.

[3] Ibid.

[4] TSN, 13 July 1998. p. 10.

[5] "Malaya at Kusang Loob na Salaysay ni Marife Buta;" Records, p. 48.

[6] "Sinumpaang Salaysay ni Marife Buta y Tambol;" Records, p. 7; "Sinumpaang Salaysay ni Procesa Tambol Vda. de Buta y Camote;" Records, p. 10.

[7] The results of the physical examination conducted by Dr. Aurea P. Villena were reduced into writing in Living Case No. MG997-898; Records, p. 47.

[8] TSN, 17 November 1998, p. 4.

[9] Exh. "1-C-3;" Records, p. 48.

[10] The blotter report dated June 23, 1997 at 1:45 a.m. states: "Ako si Marife Buta 19 na taong gulang at nakatira sa 44 Lumot St. Brgy. Tatalon, Quezon City ay kusang loob na dumulog dito sa barangay hall para pasinungalingan ang bintang nila lalong lalo na nang nanay ko na kinaladkad ako ni Antonio Benozza at lalong di ako pinagbuhatan ng kamay o anumang bagay laban sa aking kalooban;" Records, pp. 18-19.

[11] Decision, p. 8; Rollo, p. 35.

[12] Appellant's Brief, p. 21; id., p. 106.

[13] Id., p. 22.

[14] People v. Mariano, G.R. No. 134309, November 17, 2000.

[15] TSN, 23 July 1998, p. 22.

[16] TSN, 3 August 1998, p. 2.

[17] TSN, 29 October 1998, p. 14.

- [18] TSN, 23 July 1998, p. 21.
- [19] TSN, 13, July, p. 5.
- [20] TSN, 29 October 1998, p. 6,
- [21] Id., pp. 4-5.
- [22] Id., p. 7.
- [23] Id., p. 8.
- [24] Ibid.
- [25] TSN, 13 July 1998, pp. 11-12.
- [26] TSN, 3 August 1998, p. 9.
- [27] TSN, 13 July 1998, p. 18.
- [28] TSN, 7 August 1998, pp. 6-7.
- [29] Malaya at kusang loob na Salaysay ni Marife Buta; Records, p. 48.
- [30] Exh. "1-D;" id., p. 48.
- [31] TSN, 23 July 1998, p. 13.
- [32] Appellant's Brief, p. 15; Rollo, p. 100.
- [33] TSN, 15 March 1999, pp. 11-12.
- [34] TSN, 30 July 1998, p. 14.
- [35] Id., p. 7.
- [36] TSN, 3 August 1998, p. 11.
- [37] People v. Lacuna, No. L-38463, December 29, 1978, 87 SCRA 364.
- [38] TSN, 26 August 1998, p. 13.
- [39] TSN, 26 February 1999, p. 9.
- [40] TSN, 12 February 1999, p. 17.
- [41] TSN, 26 February 1999, p. 12.
- [42] Id., pp. 12-13.
- [43] Id., p. 13; Rollo, p. 40.

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