

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RANDOLPH JAQUILMAC, ACCUSED-APPELLANT.*G.R. No. 139787. September 17, 2002*

Ponente: YNARES-SANTIAGO, J.

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On appeal is the decision of the Regional Trial Court of Misamis Oriental, Branch 25, in Criminal Case No. 97-830, finding accused-appellant Randolph Jaquilmac guilty beyond reasonable doubt of the crime of statutory rape, sentencing him to suffer the penalty of reclusion perpetua and ordering him to pay the offended party P75,000.00 in moral damages.

The facts of the case, as established by the prosecution, are as follows:

Complainant Ma. Hazel L. Micabalo, then only seven years old, and her younger brother, Dandan Micabalo, lived in the house of their uncle, accused-appellant Randolph Jaquilmac and his wife, Daylinda, in Patag, Cagayan De Oro City. Their mother, Filomena, was assigned as substitute teacher in Tubod, Lanao Del Norte, while their father, Jamilcar, was a military man attending administrative school at Camp Evangelista, Cagayan De Oro City. Accused-appellant is Jamilcar's brother-in-law.

On August 26, 1981, complainant came home early from school since her teacher was absent. After having lunch with Dandan and accused-appellant, she took a nap at the only room of the rented house, while her brother went to the ground floor to play. While she was asleep, complainant felt someone taking off her underwear. She woke up and saw accused-appellant kneeling in front of her, wearing nothing except an undershirt. Accused-appellant immediately covered complainant's mouth and told her not to shout.[1] She was not able to struggle because accused-appellant was much stronger.

Thereafter, accused-appellant uncovered complainant's mouth. He took her hand and placed it on his penis, then told her to masturbate him. Simultaneously, he placed his knees on top of her legs and held her arms across her stomach with his left hand. Complainant could not shout and had difficulty breathing, as accused-appellant completely pinned her down on the bed. Accused-appellant then spread her legs, inserted his penis into her private part and made a push and pull movement. Complainant felt excruciating pain.

As he was about to ejaculate, accused-appellant withdrew his penis from her vagina and wiped it. Not content, accused-appellant inserted his organ into complainant's mouth which made her almost throw up. Accused-appellant panted as his penis turned flaccid.[2]

Accused-appellant warned complainant not to reveal the incident to anyone, otherwise he would kill her. Complainant kept silent since, in addition to fearing for her own life, she was afraid that her father, a military man, would assault and kill her uncle. Thus, complainant's sordid experience remained a secret for 15 years.

On November 7, 1996, complainant, who was a 22-year old grown woman, finally divulged the unfortunate event to her mother. This was after learning that an 11-year old cousin, Wendy Micabalo, was also entrusted to the care

of accused-appellant and her Aunt Daylinda. Complainant became disturbed and suffered sleepless nights for fear that her young cousin would be subjected to the same sexual ordeal. Thus, she was constrained to tell her story out of concern for a cousin whose future she thought might be ruined.

Complainant's mother, Filomena, cried upon hearing her daughter's revelation. She brought complainant to the local police precinct where they executed separate sworn statements against accused-appellant.[3] Later, complainant was examined by Dr. Tammy Uy, Medico-Legal Officer of the NBI Northeastern Mindanao Office, who made the following findings:

Old, healed hymenal lacerations noted on subject at the time of examination, ages of which are compatible with the alleged dates of commission of rape; however, hymenal orifice is small as to preclude complete penetration by an adult male Filipino organ in full erection.[4]

On the basis of the foregoing, accused-appellant was charged on March 4, 1997 with the crime of statutory rape. The information alleged:

That on or about August 26, 1981 in the afternoon, at Patag, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with lewd design and taking advantage of his relationship with Maria Hazel Micabalo y Lucot, the offended party who was only seven (7) years old then, accused being the uncle of the victim and/or with grave abuse of trust and confidence reposed upon him by the parents of the victim who entrusted her to his custody, with criminal intent and motivated with beastly desire to deflower her, did then and there lay and have sexual intercourse with Maria Hazel Micabalo y Lucot, offended party, against her will.

Contrary to paragraph 3, Article 335, Revised Penal Code.[5]

On June 4, 1997, accused-appellant pleaded not guilty to the charge. Forthwith, trial on the merits ensued.

In his defense, accused-appellant denied the accusations against him. He stated that complainant merely fabricated the rape charge because she was jealous of her cousin Wendy, who was to receive a \$200.00 monthly allowance from her father who was working abroad. Complainant allegedly invited Wendy to stay with her family instead of the Jaquilmacs, since she wanted to have access to Wendy's money. However, inasmuch as complainant was not deemed a good influence on Wendy because she is a lesbian, the latter's father decided to let Wendy stay with the Jaquilmacs. Furthermore, complainant's mother, Filomena, harbored ill feelings against him and Daylinda because Filomena suspected that they were spying on her when she applied for an overseas job in Manila.[6]

Accused-appellant's wife, Daylinda, corroborated her husband's assertion and insisted that he could not have done the bestial acts imputed to him. They treated complainant as their own daughter because they had no children of their own at the time she lived with them in 1981. As for the day of the incident, Daylinda recounted that she came home from work to eat lunch in her house that day. She claimed that complainant was at school and that the only people in the house when she arrived at noon were her husband and complainant's brother, Dandan. She did not notice anything unusual and left again for work at 1:30 p.m.[7]

Daylinda stated that she came to know of the rape charge against her husband when Filomena invited her to have dinner with Jamilcar and Danilo, Wendy's father. She could not believe the charges leveled against her husband because their relationship with complainant and the latter's behavior after the alleged rape did not change. The 15 years that lapsed from the commission of the alleged rape and complainant's revelation of the same further reinforced her disbelief. This is aside from the fact that complainant was a known liar and "tomboy".[8]

Epifania Ramos and Wenceslao Balhon testified in favor of accused-appellant. The two witnesses, who are neighbors of the Jaquilmacs, attested to accused-appellant's moral character and integrity. They also expressed

disbelief at the allegations of rape hurled against accused-appellant.[9]

Meanwhile, Filomena Micabalo and complainant's grade one teacher, Mrs. Luisa Labrador, took the stand as rebuttal witnesses. Filomena observed that Daylinda did not usually eat lunch at home because she would bring her lunch to work everyday. She even told Filomena that she brought her lunch to work since the daily jeepney fare to return to her house would be very costly. Filomena denied that she had a grudge on the Jaquilmacs and stated that complainant had no reason to be jealous of Wendy's allowance.[10]

Mrs. Labrador, on the other hand, declared that she was absent from her class on the date that complainant was allegedly raped. She was assigned to man the school's booth and exhibit at the City-Wide Agro-Industrial Fair in connection with the city fiesta. Her students, including complainant, were thus instructed to go home, because no substitute teacher was available for her grade one class that day.[11]

On October 9, 1998, the trial court convicted accused-appellant and disposed:

IN VIEW OF THE FOREGOING, this Court finds the accused RANDOLPH JAQUILMAC, GUILTY BEYOND REASONABLE DOUBT of the crime of RAPE and hereby sentences him to RECLUSION PERPETUA and to pay the amount of Seventy Five Thousand Pesos (P75,000.00) by way of moral damages and to pay the costs, without any subsidiary imprisonment in case of insolvency.

Accused is however credited in the service of his sentence, the full time within which he has undergone preventive imprisonment.

SO ORDERED.[12]

Hence, this appeal, anchored on the following grounds:

A. THE TRIAL COURT A QUO HAS MISERABLY CLOSED ITS EYES AND CENTERS ITS MYOPIC VISION ON THE TESTIMONY OF COMPLAINANT VIS-À-VIS THE ALLEGED RAPE INCIDENT COMMITTED ON AUGUST 26, 1981, IN TOTAL DEROGATION OF ACCUSED DEFENSES AND OTHER MATTERS AND CIRCUMSTANCES OF SUBSTANTIAL VALUE WHICH, IF CONSIDERED, WILL PRODUCE REASONABLE DOUBT IN AN UNPREJUDICED MIND.

B. THE TRIAL COURT A QUO FALLS BELOW LEVEL IN CLEARLY AND CONVINCINGLY OVERCOMING APPELLANT'S CONSTITUTIONAL PRESUMPTION OF INNOCENCE.[13]

Accused-appellant maintains that his guilt was not proved beyond reasonable doubt because the prosecution evidence, consisting mainly of complainant's testimony, is not credible. He claims, among others, that complainant is a consummate liar as shown by inconsistencies and improbabilities in her account. Complainant's unchanged relation with accused-appellant and his wife after the alleged rape further casts doubts regarding the veracity of the charge. In addition, it is inherently incredible that complainant remembered minute details of the rape despite the lapse of a considerable length of time from its commission.

The appeal lacks merit. After a careful examination of the records of the case, we find no reason to depart from the findings of the trial court.

The inconsistencies and improbabilities cited by accused-appellant are nothing but minor lapses, which do not damage the essential integrity of the prosecution evidence nor reflect adversely on the witnesses' credibility.[14] As pointed out by the Solicitor General, the discrepancy between complainant's real age and her age as stated in the affidavit before the police does not necessarily indicate that complainant was lying. It should be noted that on the day she was raped, complainant was but three months short of her seventh birthday. As she explained, she got used to declaring that she was then seven years old because her father made her say so for purposes of entering

school.

We find the inconsistency regarding the date when the complainant and her brother were entrusted to accused-appellant's house to be irrelevant. Complainant testified that they stayed with accused-appellant beginning May 1981, while Filomena stated that it was in June of the same year that complainant was left to the care of the Jaquilmacs. Again, the incongruity does not diminish the credibility of complainant and Filomena. At most, the dates were only estimates of the time when complainant moved in with the Jaquilmacs, since Filomena's point of reference was the start of the school year which falls in June of each year.

Neither do we find any material inconsistency between complainant's account of the events during her direct examination and the subsequent cross examination by accused-appellant's counsel. It is true that during cross examination, complainant did not mention that accused-appellant directed her to masturbate him, as she earlier claimed when she was examined by her own counsel. However, we agree with the Solicitor General that this may be attributed to the line of questioning adopted by the counsel for accused-appellant, rather than any attempt on the part of complainant to fabricate her tale.

As for Daylinda's assertion that her husband could not have raped complainant on the day in question because she went home to eat lunch at the time of the alleged rape, we agree with the trial court that Daylinda's recollection of these events is implausible. A wife would naturally be expected to support the story of her husband to help him avoid criminal liability. Unlike complainant, Daylinda had no compelling reason to remember an otherwise unremarkable day fifteen years ago. We, thus, concur with the trial court's conclusion that her testimony is but a futile effort to corroborate accused-appellant's denial in order to absolve the latter from criminal responsibility.

Accused-appellant makes much of the fact that his relation with complainant did not change despite the rape which he allegedly perpetrated upon her. It is accused-appellant's theory that if the charges were true, complainant would refuse to speak to him or join family get-togethers in which he was present. He presented pictures showing complainant dancing with him during her 18th birthday celebration.[15] This indicated that he did not rape or molest complainant.

We are not persuaded.

Concededly, complainant's relationship with accused-appellant and her Aunt Daylinda appeared to be normal during the intervening years before the sexual violation came to light. This, however, should be viewed in connection with complainant's effort to conceal the rape, because of the fear she harbored against accused-appellant. Complainant testified that she was afraid that accused-appellant might make good his threat to kill her if she revealed the incident to anyone. Moreover, she could not imagine the negative effect that the revelation might have on her father who is a military man.

Complainant's hesitation to report the rape is understandable considering her age at the time of its commission. Add to this the moral ascendancy of accused-appellant who, at one time, exercised parental authority over complainant and even referred to him as "Daddy".[16] Under the circumstances, we do not find it unnatural for complainant to display reluctance in coming forward with her travails, considering the repercussions and prospective havoc that the same would bring to the entire Micabalo family.

We also do not find it difficult to believe that complainant would recall every detail of the rape despite the lapse of 15 years. It is not uncommon for victims of dastardly crimes to remember every aspect of the terrible torment to which they were subjected. In this case, there is even more reason for complainant to be reminded of the horrible incident in her life, given the fact that accused-appellant was a constant presence all throughout her

growing years. She would see accused-appellant regularly during family gatherings and this would undoubtedly jog her memory of the sexual abuse she experienced at the hands of accused-appellant.

The fact that complainant was already 22 years old when she bared her fateful experience did not negate her credibility. It is true that the probability of a grown woman fabricating a rape charge may be higher compared to a guileless child of tender years.[17] Nevertheless, as correctly averred by the Solicitor General, probability does not automatically translate to proof, and age by itself does not diminish one's credibility, unless there are other circumstances which point to a different conclusion. In the case at bar, there is no evidence to suggest that complainant merely imagined or concocted the charges. Thus, we have no reason to doubt her story.

Accused-appellant's contention that complainant and her mother were motivated by vengeance in inventing the rape charge rings hollow. It is simply unbelievable that complainant would allow herself to be subjected to the scandal and humiliation of a public trial, only because her Aunt Daylinda scolded her and thought her to be a bad influence on her cousin Wendy. The assertion that complainant was merely interested in Wendy's money is likewise unsubstantiated and self-serving. This is also true of the defense's claim that complainant's mother only wanted to get back at the Jaquilmacs for spying on her private affairs.

Consequently, accused-appellant was not able to show any serious or dubious motive for complainant and her mother to falsely implicate him in the crime charged. A young girl at the verge of womanhood would not concoct a tale of defloration, allow the examination of her private parts and undergo the expense, trouble and inconvenience, not to mention the trauma, of a public trial, unless she was in fact raped.[18] Furthermore, it is unnatural for a mother to use her offspring as an instrument of malice, even for the purpose of avenging a personal slight, especially if it will subject her daughter to the embarrassment and stigma attendant to a rape trial.[19]

Courts have been exhorted to scrutinize the testimony of the complainant in a rape case with great caution, because conviction may very well rest upon the complainant's narration of the events which transpired. This is in view of the intrinsic nature of the crime of rape where only two persons are usually involved. Although an accusation for rape is difficult to prove, it is even more difficult for a person accused thereof to disprove the charge even if he may truly be innocent. As such, the prosecution evidence must not be allowed to draw strength from the weakness of the evidence for the defense but should stand or fall on its own merits.[20]

In the instant case, we are convinced that the prosecution discharged its burden of proving accused-appellant's guilt beyond reasonable doubt. It has often been held that when a rape victim says that she was violated, she says in effect all that is necessary to show that rape has been inflicted on her, so long as her testimony meets the test of credibility.[21] The trial court gave credence to complainant's account and found the same to be spontaneous, clear, straightforward and honest. Absent any indication, therefore, that the trial court overlooked or misconstrued some significant fact that would change the outcome of the case, its findings on the credibility of witnesses shall be respected by the appellate court, since the trial court had the opportunity to observe, firsthand, the witnesses' demeanor and deportment while testifying.[22]

The trial court awarded complainant P75,000.00 in moral damages. This is not consistent with prevailing jurisprudence, which awards P50,000.00 to the victim as standard indemnity, upon the finding of the fact of rape. This is in addition to moral damages in an amount as the Court deems just, even if there is neither allegation nor evidence presented as basis therefor. Thus, aside from the P50,000.00 indemnity *ex delicto*, moral damages in the amount of P50,000.00 should be given to the complainant.[23]

WHEREFORE, the decision of the Regional Trial Court of Misamis Oriental, Branch 25 in Criminal Case No. 97-830, finding accused-appellant Randolph Jaquilmac guilty beyond reasonable doubt of the crime of statutory

rape and sentencing him to suffer the penalty of reclusion perpetua, is AFFIRMED with the MODIFICATION that accused-appellant is ordered to pay complainant Ma. Hazel Micabalo the amount of P50,000.00 as civil indemnity and P50,000.00 as moral damages.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, and Carpio, JJ., concur.

[1] TSN, July 3, 1997, pp. 4-6.

[2] Ibid., at pp. 28-32.

[3] RTC Records, pp. 9-11.

[4] Ibid., at p. 13.

[5] Rollo, p. 6.

[6] TSN, October 1, 1997, pp. 12-13 & 18-20.

[7] TSN, August 14, 1997, pp. 7-9.

[8] Ibid., at pp. 13-20.

[9] TSN, September 11, 1997, Epifania Ramos p. 10 & Wenceslao Balhon, pp. 8-10.

[10] TSN, November 20, 1997, pp. 5-7.

[11] TSN, October 17, 1997, pp. 10-12.

[12] Op. Cit., note 5, at p. 95.

[13] Ibid., at pp. 55-56.

[14] *People v. Mitra*, 328 SCRA 774, 788 (2000), citing *People v. Sanez*, 320 SCRA 805 (1999).

[15] Op. Cit., note 3, Exhibit 1-B.

[16] TSN, June 4, 1997, p. 24.

[17] *People v. Dando* 325 SCRA 406, 426 (2000), citing *Marco v. Court of Appeals*, 273 SCRA 276 (1997) and *People v. Vitor* 245 SCRA 392 (1995).

[18] *People v. Tanail*, 323 SCRA 667, 676 (2000), citing *People v. Bitoon*, 317 SCRA 545 (1999).

[19] *People v. Torejos*, 326 SCRA 75, 86 (2000), citing *People v. Galleno*, 291 SCRA 761 (1998).

[20] *People v. Sapinosa* 328 SCRA 649, 656 (2000), citing *People v. Abrecinoz* 281 SCRA 59 (1997).

[21] *People v. Loriega* 326 SCRA 675, 690 (2000), citing *People v. Tabion* 317 SCRA 126 (1999).

[22] *People v. Angeles*, 222 SCRA 451, 462-463 (1993), citing *People v. Bacalso*, 210 SCRA 206 (1992) and *People v. Rabanes*, 208 SCRA 768 (1992).

[23] *People v. Maglente* 306 SCRA 546, 578 (1999), citing *People v. Gementiza* 285 SCRA 478 (1998); *People v. Alba* 305 SCRA 811 (1998); *People v. Ramos* 296 SCRA 559 (1998); *People v. Prades* 293 SCRA 411 (1998).

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