

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDDIE S. FERNANDEZ, ACCUSED-APPELLANT.

G.R. No. 140203. January 31, 2002

Ponente: PARDO, J.

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PARDO, J.:

The Case

The case before the Court is an appeal from the decision[1] of the Regional Trial Court, Branch 79, xxx, finding accused, Eddie S. Fernandez (hereafter, Eddie Fernandez), guilty beyond reasonable doubt of rape, sentencing him to reclusion perpetua, ordering him to pay the victim, AAA (hereafter, AAA) fifty thousand pesos (P50,000.00) as civil indemnity, and to pay the costs.

The Facts

At the time of the commission of the crime, AAA was only nine (9) years old. The accused, Eddie Fernandez is her uncle, the cousin of her father.[2] At the time of the incident, AAA lived in the house of her aunt, BBB.[3] Although Eddie Fernandez had a house of his own, he would from time to time go to the house of BBB.

Sometime in November 1997, while Eddie Fernandez was in Marylyn's house, BBB went to wash clothes at the nearby brook or "bukal." Eddie Fernandez sent AAA's brothers and sister[4] to the house of their aunt CCC some seventy-five (75) meters away. When AAA's brothers and sisters left, Eddie Fernandez raped AAA.[5]

Thereafter, while boiling water in her house, BBB saw AAA and her sister with Eddie Fernandez. They were playing with his penis. When asked what happened to her, AAA answered that Eddie Fernandez raped her several times.[6] Marilyn and Fely informed AAA's father of AAA's narration. So, he lodged a complaint with the police against Eddie Fernandez.[7]

On December 16, 1997, a doctor conducted a medical examination on AAA.[8] The medico legal report confirmed that nine year old AAA was no longer a virgin and essentially corroborated her story. It states:[9]

"PURPOSE OF LABORATORY EXAMINATION:

"To determine the physical signs of sexual abuse.

"FINDINGS:

"GENERAL AND EXTRAGENITAL:

"Fairly developed, fairly nourished and coherent female child. Breasts are undeveloped. Abdomen is flat and soft.

"GENITAL:

"There is absence of pubic hair. Labia majora are full, convex and slightly gaping with the pinkish brown labia

minora presenting in between. On separating the same disclosed an elastic fleshy-type hymen with deep healed laceration at 5 o'clock position.

"xxx xxx xxx

"CONCLUSION

"Subject is in non-virgin state physically.

"There are no external signs of application of any form of violence."

On the same day, AAA subscribed to a complaint for rape against Eddie Fernandez and filed the complaint with the Municipal Trial Court, xxx.[10] The municipal judge conducted a preliminary investigation.

On March 2, 1998, the Provincial Prosecutor of Rizal filed with the Regional Trial Court, xxx, an information for rape[11] against Eddie Fernandez. We quote:[12]

"That sometime during the month of November, 1997, in the Municipality of Tanay, Province of xxx, Philippines and within the Jurisdiction of this Honorable Court, the above-named accused, while taking advantage of his superior strength and moral authority over AAA, a nine (9) year old girl, did, then and there willfully, unlawfully and feloniously engage in sexual intercourse with her, against her will and without her consent.

"CONTRARY TO LAW."

On June 2, 1998, the trial court arraigned accused Eddie Fernandez. He entered a plea of "not guilty." [13] Trial ensued.[14]

On August 9, 1999, the trial court rendered a decision convicting accused Eddie Fernandez, the decretal portion of which reads:[15]

"WHEREFORE, judgment is hereby rendered convicting the accused of the crime of rape defined and penalized under Article 266-A, Par. 1 and Article 266-B 1st paragraph of the Revised Penal Code as amended by R. A. 8353 in relation to Section 5 (b) of R. A. 7610 and is sentenced to suffer the penalty of reclusion perpetua. The accused is also ordered to pay the complainant the amount of P50,000.00 as Civil indemnity and to pay the costs.

"SO ORDERED."

Hence, this appeal.[16]

The Issues

The issue is whether the prosecution has proved the guilt of accused Eddie Fernandez beyond reasonable doubt and this would depend on the credibility of witnesses as against the accused's defense of alibi and denial.

The Court's Ruling

We affirm the trial court's decision.

We reiterate the time-honored maxim that the trial court's assessment of the credibility of witnesses is entitled to great respect.[17] It was the trial court that had the opportunity to observe their manner of testifying, their furtive glances, calmness, sighs and the scant or full realization of their oath.[18] In *People v. Antonio*, [19] we held that the testimony of a young rape victim impressed as it is with immaturity, bears the badges of truth and sincerity. This considered, we rule that AAA came forward, allowed the examination of her private parts and underwent a public trial because of her sincere desire to have accused Eddie Fernandez apprehended and punished.[20]

The defense did not submit any possible ill-will that the family of AAA may have had to falsely accuse Eddie Fernandez. No motive other than the desire to tell the truth and see justice done could have compelled AAA and her family to lodge a complaint against him.[21]

AAA's testimony was clear and unequivocal. We quote:[22]

"Q

After your brothers and sisters left, what happened?

"A

He raped me.

"Q

Who raped you?

"A

Uncle Boy, sir.

"Q

How did he proceed in raping you?

"A

He undressed me.

"Q

What clothes were you wearing at that time?

"A

T-shirt and short(s), sir.

"Q

Did he remove both your shirt and short(s), sir.

"A

He removed my short(s).

"Q

After he removed your short(s)...What about him what was he wearing at that time (sic)?

"A

He was wearing shirt.

“Q

How about undies?

“A

None, sir.

“Q

So, you can see his private organ?

“A

Yes, sir.

“Q

Will you describe what you saw?

“A

I saw his pennies (sic).

“Q

After removing your clothes, what did he do to you?

“A

‘Dinapaan po niya ako’.

“Q

While he was on top of you what did he do?

“A

He inserted his pennie (sic) into mine.

“Q

What do you feel when he inserted his organ into your private organ?

“A

It hurts me, sir.

“Q

What did you say if any to Eddie Fernandez when he was inserting his private organ into your organ?

“A

I said, ‘huwag po, huwag po’ and I even kicked him.

“Q

Were you crying at that time?

“A

No, sir.

“Q

Now, what was his reaction to your repeated plea?

“A

None, sir, he continued.

“Q

Did you notice if something was expelled from his private organ?

“A

Yes sir there was.

“Q

What do you notice about that?

“A

A water like color white.

xxx

“Q

Will you tell this Honorable Court whether that rape was repeated?

“A

Yes, sir.

“Q

How many times?

“A

Many times, sir.”

The fact that AAA could not remember the exact date when she was raped would not warrant a reversal of the conviction. The matter is insignificant as her testimony established all the elements of rape.

The fact that the doctor who conducted the medical examination was not presented to testify in court would not save the day for Fernandez. This is its own undoing. The defense could have compelled the doctor’s testimony in court. Furthermore, it is well-established that a medical examination of the victim can be dispensed with in a prosecution for rape since the victim’s testimony alone, if credible, is sufficient to convict the accused of the crime.[23]

Alibi and denial are the weakest of all defenses[24] and will not prevail as against the straightforward, candid and positive testimony of the prosecution witness.[25]

Under Article 335, Revised Penal Code, rape is punishable by reclusion perpetua in the absence of mitigating or aggravating circumstances.

However, we rule that an additional award of moral damages in the amount of fifty thousand pesos (P50,000.00) is in order. While civil indemnity ex-delicto in favor of the offended party in the amount of fifty thousand pesos (P50,000.00) is mandatory upon a finding of rape,[26] we must award moral damages in the amount of fifty thousand pesos (P50,000.00) without further need of proof of mental and physical suffering.[27]

The Fallo

WHEREFORE, we AFFIRM the decision of the Regional Trial Court, Branch 79, xxx with MODIFICATION. We find accused-appellant Eddie S. Fernandez guilty beyond reasonable doubt of RAPE, defined and penalized under Art. 335, Revised Penal Code, and in the absence of aggravating and mitigating circumstances, and hereby sentence him to reclusion perpetua, and to pay complainant AAA, moral damages in the amount of fifty thousand pesos (P50,000.00) in addition to civil indemnity in the same amount.

Costs against accused-appellant.

SO ORDERED.

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

[1] In Criminal Case No. 2936, dated August 9, 1999, Judge Reynaldo G. Ros, presiding.

[2] Renato Frias (TSN, July 7, 1998, p. 2).

[3] Pre-trial Order, Stipulation of Facts, Records of the Trial Court, p. 32.

[4] Aged 5, 6 and two respectively (TSN, July 7, 1998, p. 5).

[5] TSN, July 7, 1998, pp. 5-7.

[6] TSN, July 21, 1998, pp. 3-4, 6.

- [7] TSN, July 21, 1998, pp. 2-3.
- [8] By Police Senior Inspector (Medico-Legal Officer) Dennis G. Bellin, M. D.
- [9] Medico Legal Report No. M-3896-97, Records of the Trial Court, p. 11.
- [10] Complaint, Records of the Regional Trial Court, p. 8.
- [11] By 3[rd] Asst. Provincial Prosecutor Jison D. Julian.
- [12] Information, Rollo, pp. 1-2.
- [13] Order, Records of the Regional Trial Court, p. 25; Certificate of Arraignment, Records of the Trial Court, p. 27.
- [14] Pre-Trial Order, Records of the Regional Trial Court, p. 32.
- [15] Decision, Rollo, pp. 17-20, p. 20.
- [16] Notice of Appeal was filed on August 12, 1999 (Notice of Appeal, Rollo, p. 21). The Court accepted the appeal on June 21, 2000 (Resolution, Rollo, p. 22).
- [17] *People v. Juntilla*, 314 SCRA 568 (1990); *People v. Lomerio*, 326 SCRA 530 (2000); *People v. Antonio*, 336 SCRA 366 (2000).
- [18] *People v. Diaz*, 331 Phil. 240 (1996); *People v. Verano*, 332 Phil. 599 (1996); *People v. Gonzales*, 338 SCRA 371 (2000).
- [19] *Supra*, Note 17.
- [20] *Supra*, Note 17, citing *People v. Juntilla*, 314 SCRA 583 (1999); *People v. Lomerio*, *supra*, Note 17.
- [21] TSN, October 6, 1998, p. 11.
- [22] TSN, July 7, 1998, pp. 5-7.
- [23] *People v. Agunos*, 316 SCRA 836 (1999).
- [24] *People v. Gonzales*, 338 SCRA 371 (2000); *People v. Bracamonte*, 327 Phil. 160 (1996).
- [25] *People v. Sarabia*, 334 Phil. 432 (1997).
- [26] *People v. Mendiona*, 326 SCRA 122 (2000).
- [27] *People v. Mangila*, 325 SCRA 586 (2000); *People v. Omar*, 327 SCRA 221 (2000); *People v. Alicante*, 332 SCRA 440 (2000).

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