PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANILO REGALA Y MANUOD, ACCUSED-APPELLANT.

G.R. No. 140995. August 30, 2001

Ponente: MELO, J.

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MELO, J.:

In her desire to look good by wearing dental retainers, Sarah Jane Villaluz did not know that it would cost her her womanhood.

The facts are simple.

Accused-appellant was a dental technician and had his clinic at his residence in Merville Subdivision, Dampalit, Malabon. He had a young son and a wife who works in Libya as a nurse. He was 52 years old. Sarah Jane Villaluz, on the other hand, was a 16-year old, second year high school student at the Eliza Esguerra High School in Hulo, Malabon, who, like any other teenager, was conscious of her appearance and wanted to enhance it.

Sarah Jane testified that on February 17, 1997, she and her friend, Marsha, went to accused-appellant's clinic to order dental retainers. Marsha paid P200.00 for her retainers while Sarah Jane was asked to come back the next day to get hers.

At around 5 o' clock in the afternoon of the following day, February 18, 1997, Sarah Jane returned to accused-appellant's clinic. While waiting to get her retainers, accused-appellant approached her and poked a kitchen knife at the right side of her body. He dragged her inside a room and pushed her down on a bed. Then he started to undress her by pulling her dress, her shorts and her underwear. Thereupon, accused-appellant removed his shorts, went on top of her and sexually abused her. Sarah Jane tried to resist the intrusion into her womanhood but accused-appellant was too strong for her and he threatened to kill her and her family if she refused and also if she reports the matter to the authorities.

On the following day, February 19, 1997, Sarah Jane disclosed the incident to Al, a helper in accused-appellant's house, who accompanied her to the barangay to report the sexual assault. An Information for Rape was filed against accused-appellant and Sarah Jane was then examined at the National Bureau of Investigation by Dr. Armie Soreta-Umil.

Dr. Soreta-Umil testified on the NBI Medico-Legal Report which showed that Sarah Jane's hymen was distensible, i.e., it was still intact, elastic and can receive an average-size Filipino male organ in full erection without causing laceration. Dr. Soreta-Umil clarified that an intact hymen does not necessarily prove absence of sexual intercourse.

All that accused-appellant could interpose in defense was denial. He testified that Sarah Jane had to return several times to his clinic because he could not give her her retainers as she had no money to pay for them. He also claimed that on the date when the alleged rape happened, his son and his helper were in his house. He likewise contended that Sarah Jane charged him with rape because, despite her pleas, he would not give her her retainers

without payment.

On October 29, 1999, the trial court rendered judgment finding accused-appellant guilty of the crime of rape. The decretal portion of the decision reads as follows:

> WHEREFORE, in view of the foregoing, the Court finds accused Danilo Regala y Manuod guilty beyond reasonable doubt of the crime of Rape and sentences him to suffer the penalty of reclusion perpetua and to pay Sarah Jane Villaluz the amount of P75,000.00 as moral damages and cost of the suit.
>
> SO ORDERED.
>
> (p. 13, Rollo.)

Aggrieved, accused-appellant elevated the case to us, assigning the following as the errors allegedly committed by the trial court, to wit:

> ASSIGNED ERRORS
>
> - THE TRIAL COURT ERRED IN FINDING THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT.
>
> - THE DECISION OF THE TRIAL COURT DOES NOT STATE THE FACTS AND THE LAW UPON WHICH IT WAS BASED.

Accused-appellant capitalizes on the fact that, based on Sarah Jane's narration of the alleged rape, she did not put up a strong and violent resistance to the rape charged. Instead, it would appear that she allowed accused-appellant to engage in foreplay before he had sexual intercourse with her. It is accused-appellant's contention that the sexual act was, therefore, consensual.

With this argument, accused-appellant admits that he had sexual relations with Sarah Jane, only it was with her consent. We have reviewed the record of the case, especially the testimony of Sarah Jane, and nothing therein supports accused-appellant's contention. In her testimony of August 11, 1998, Sarah Jane described how she was raped by accused-appellant, thusly:

> Q.
>
> Tell us, what happened when you are securing or getting the retainer from the accused?
>
> A.
>
> He dragged me towards the room, sir.
>
> Q.
>
> Where did the accused hold you?
>
> A.
>
> At my both wrist, sir.
>
> Q.
>
> What happened inside the room of the accused?
>
> A.
>
> There he pushed me making me lie to the bed, sir.

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Q.

What happened next after he pushed you lying of the bed?

A.

He forcibly tried to remove my dress, sir.

Q.

Was he forcibly removed your dress?

A.

No, sir, he just raised up.

Q.

What happened next?

A.

He pulled my bra, sir.

Q.

What else did he do after the bra was removed or pulled?

A.

He was also forcibly pulling my shorts and panty down, sir?

Q.

Was he able to remove your shorts and panty?

A.

Yes, sir.

Q.

What else happened while he was able to remove your shorts and panty?

A.

Then he went on top of me, sir.

Q.

Was he wearing clothes?

A.

No, sir.

Q.

How come that he has no clothes?

A.

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While he was removing my dress, he was also removing his clothes, sir.

Q.

What happened next?

A.

He inserted his organ, sir.

Q.

How did you know that it was his organ which was inserted into your vagina?

A.

I was resisting but he was able to insert his organ, sir.

Q.

You said you were resisting, what happened to your resistance?

A.

I put up resistance but I was not able to do anything because he was strong, sir.

Q.

You said that it was his penis who inserted your vagina, how come, where was his hands?

A.

He was holding my hands while he was inserting his organ, sir.

Q.

After the accused inserted his organ to your vagina, what happened next while he was holding your both hands?

A.

His organ was making a push and pull to my organ then, he told me that he was going to ejaculate. Then, I felt something warm spilled on my organ, sir.

Q.

Did you understand when he said "lalabasan na ko"?

A.

No, sir, he just said "lalabasan na ko".

Q.

When you felt something hot inside your vagina, at this instance, where were the hands of the accused when he ejaculated?

A.

His hands were on my hands, sir.

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(tsn, August 11, 1998, pp. 5-7)

Admittedly, Sarah Jane did not violently resist the attack on her womanhood. Accused-appellant interprets this as consent. It is, however, a well-entrenched rule that the lack of struggle by the victim does not necessarily negate the commission of rape, especially when the victim is intimidated by the offender into submission (People vs. Arenas, 198 SCRA 172 [1991]; People vs. Pasco, 181 SCRA 233 [1990]; People vs. Viray, 164 SCRA 135 [1988]; People vs. Monteverde, 142 SCRA 668 [1986]; People vs. Malbad, 133 SCRA 392 [1984]). In the case at bar, intimidation is shown by the following: a) the incident took place inside accused-appellant's house which also served as his clinic; b) accused-appellant exercised moral ascendancy over Sarah Jane not only because he was much older than her at 52 years old (Sarah Jane was only 16 yeas old), but also because of the dental technician-client relationship that existed between them; and c) accused-appellant threatened to kill Sarah Jane and her family if she refused him. Thus, Sarah Jane's lack of violent struggle was compelled by her genuine fear of accused-appellant who exercised moral authority over her and the genuine fear he instilled in her mind that he will kill her and her family if she refused to accede to his bestial desires and if she reports the matter to the authorities.

It is likewise consistent with human experience that people react differently to a particular situation (People vs. Herrick, 187 SCRA 364 [1990]) given the variance of their background and upbringing and the nature of the crime. In rape cases, for instance, while some victims raise an outcry, others simply weep in helpless protest. Sarah Jane must belong to the latter class.

Accused-appellant harps on the fact that Sarah Jane's hymen was found to be intact even after the alleged rape. However, as explained by the medico-legal officer of the NBI, Dr. Armie Soreta-Umil, an intact hymen does not necessarily prove absence of sexual intercourse. In People vs. Ayo (305 SCRA 543 [1999]), we had occasion to rule that the absence of hymenal laceration does not disprove sexual abuse. Jurisprudence recognizes that the slightest introduction of the male organ into the labia of the pudendum constitutes rape (People vs. Dela Peña, 276 SCRA 558 [1997]; People vs. Borja, 267 SCRA 370 [1997]).

To support a conviction for rape, the court may rely solely on the testimony of the victim, provided such testimony is credible, natural, convincing, and consistent with human nature and the normal course of things (People vs. Velasquez, G.R. No. 137383-84, November 23, 2000). Accused-appellant would have us believe that Sarah Jane is not credible. He charges that her testimony is replete with contradictions and inconsistencies and is thus untrustworthy. Again, a review of the record indicates that the inconsistencies in Sarah Jane's testimony referred to a mix-up of the dates when she reported the crime to the police (was it on the 19[th] or the 20[th] of February 2000?), and the manner how accused-appellant undressed her before the sexual assault. We have held that a rapist should not expect the hapless object of his lechery to have the memory of an elephant and the cold precision of a mathematician (People vs. Mandap, 244 SCRA 457 [1995]). Victims of rape often fall into memory lapses in their desire to forget their dreadful experience. These memory gaps should not necessarily be taken as evidence of false testimony (People vs. Balmoria, G.R. No. 134539, November 15, 2000). Moreover, except for compelling reasons, which we find to be wanting in the case at hand, we cannot disturb the manner the trial courts calibrate the credence of witnesses because of their direct opportunity to observe the witnesses on the stand and to detect if they are telling the truth (People vs. Albao, 287 SCRA 129 [1998]). As trial courts, they can best appreciate the verbal and non-verbal communication made by witnesses which cannot, with precise accuracy, be placed in the record (People vs. Mayorga, G.R. No. 135405, November 29, 2000).

Accused-appellant imputes vengeance on the part of Sarah Jane as the motive for her charging him with rape. He argues that Sarah Jane wants to get even with him because he refused to give her retainers for free. We find the contention incredible. It will take an enormous amount of evil for a young woman like Sarah Jane to accuse a

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person with rape on account of a set of retainers worth P250.00.

IN VIEW OF THE FOREGOING, the conviction of DANILO REGALA Y MANUOD is hereby AFFIRMED with the MODIFICATION that the award of moral damages in the amount of P75,000.00 shall be reduced to P50,000.00 in line with prevailing jurisprudence (People vs. Velasquez, supra; People vs. Tagaylo, G.R. No. 137108-09, November 20, 2000). In addition, accused-appellant is hereby ordered to pay Sarah Jane Villaluz the amount of P50,000.00 as civil indemnity (People vs. Balmoria, G.R. No. 134539, November 15, 2000). With costs.

SO ORDERED.

Vitug, Panganiban, Gonzaga-Reyes, and Sandoval-Gutierrez, JJ., concur.

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