

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NESTOR MUNTA, ACCUSED-APPELLANT.

G.R. No. 142606. November 29, 2001

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision[1] of the Regional Trial Court, Branch 36, Santiago City, Isabela, finding accused-appellant Nestor Munta guilty of rape and sentencing him to suffer the penalty of reclusion perpetua and to indemnify the offended party, Luzviminda Borromeo, in the amount of P50,000.00, without subsidiary imprisonment in case of insolvency, and to pay the costs.

The information against accused-appellant alleged -

That on or about the 9th day of October, 1995, in the municipality of Ramon, Province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force, intimidation and with lewd designs, did then and there, willfully, unlawfully and feloniously, lay with, and have carnal knowledge with one Luzviminda D. Borromeo, against her will and consent.

CONTRARY TO LAW.[2]

Upon arraignment, accused-appellant pleaded not guilty, whereupon he was tried. The prosecution presented evidence showing the following:

On October 9, 1995, at or about 5:30 in the afternoon, Luzviminda Borromeo, then 15 years old, and her classmates were dismissed from class at the La Sallette of Ramon College in Isabela. She went home at Purok No. 2, San Miguel, Municipality of Ramon, in the same province, passing by her sister's house to get an umbrella because it was raining. As she walked towards their house, she noticed accused-appellant Nestor Munta and four others having drinks in a store. She noticed accused-appellant looking at her.

Luzviminda continued to walk. Upon reaching a place near the first electric post,[3] she noticed someone following her. When she looked back, she recognized the person to be accused-appellant Nestor Munta. Sensing danger, Luzviminda ran but accused-appellant chased her. When he caught up with her, he grabbed her left hand and then subjected her to repeated blows in the different parts of her body, including her right eye. She struggled, but she was no match to accused-appellant. Accused-appellant held her by the neck and then dragged her to a grassy portion of the roadside, where he raped her. After removing her shirt and underwear, accused-appellant parted complainant's legs, went on top of her, and inserted his penis into her vagina. Complainant cried in pain. After satisfying his lust, accused-appellant left.

Luzviminda started to walk home, crying. On the way, she met her mother, Cynthia Borromeo, and her brother, Kinjay. When asked what had happened to her, Luzviminda told her mother what accused-appellant had done to her.[4]

Testifying for the prosecution, Cynthia Borromeo said that after she and her son Kinjay learned what happened to

Luzviminda, they took her home. Afterward, they proceeded to the house of the barangay captain to report the incident and were advised to refer the matter to authorities.[5] That same night, accused-appellant was arrested.[6] The following day, on October 10, 1995, Luzviminda was examined by Dr. Victory L. Taruc, whose findings are as follows:

DIAGNOSIS:

Place of Incident - San Miguel Cemetery.

Findings - Reddish sclera left, Multiple abrasions and hematoma in neck, abrasion on left cheek, Hematoma left clavicle (2), Reddish discoloration of epigastrium.

IE - Admits 2 fingers, Old laceration of Hymen 2 - 6 & 10 o'clock, new laceration 5 & 8 o'clock, linear abrasion 1/3 of inch of the perineum.

Lab. Wet Mount - no sperm cells seen
(U S & H)

BY:

(Sgd.) VICTORY L. TARUC M.D.
MHO[7]

Accused-appellant denied the allegations against him. He admitted that on October 9, 1995, at about 5 o'clock in the afternoon, he had drinks in a canteen with his friends, whom he identified as Pidong Parazo,[8] Jose Ruiz, Manning Bibat, and Carlito Simre. He said that before he joined the group, the four had already consumed five bottles of San Miguel gin. Their drinking lasted until 8 o'clock that night. Because he was drunk, accused-appellant was taken home by Ruiz and Parazo. Munta's grandfather and brother were still awake when he arrived home at about 8:30 in the evening. He said he went to bed, but after he had gone to sleep, the police arrived and took him to the police station. He was later charged with rape.

Munta admitted having known Luzviminda Borromeo for two years before the rape incident. He likewise admitted being an admirer of her beauty. However, he denied seeing complainant on the date and place alleged.[9]

Jose Ruiz, Jr. corroborated Munta's testimony. Upon cross-examination, however, Ruiz, Jr. admitted that, while drinking, their group was singing plaintive songs, such as the song "I Can't Stop Loving You," and he talked of the girls they secretly admired. He, however, denied hearing accused-appellant express his (Munta's) sentiments of love for Luzviminda, as he also denied seeing Luzviminda pass by the canteen at 5 o'clock in the afternoon of October 9, 1995.

Alfredo "Pidong" Parazo was the last to testify to corroborate the claim of accused-appellant. However, while claiming that he finished only the third grade in school and that he could not understand English, he answered the questions propounded to him in English without waiting for the questions to be translated into the dialect.

On September 28, 1999, the trial court rendered its decision, the dispositive portion of which reads -

AS A CONSEQUENCE OF ALL THE FOREGOING, the Court finds the accused guilty beyond reasonable doubt of the crime of rape provided for and penalized under Article 335 of the Revised Penal Code, as amended, and hereby sentences him to suffer the penalty of reclusion perpetua, to pay the victim the sum of FIFTY THOUSAND PESOS (P50,000.00), without however subsidiary imprisonment in case of insolvency and to pay the cost.

SO ORDERED.[10]

Accused-appellant contends that the trial court erred in finding him guilty despite failure of the prosecution to prove beyond reasonable doubt that he is the perpetrator of the crime.[11]

Accused-appellant's claim fails to persuade us for the following reasons:

First. It must be noted that Luzviminda was only 15 years old at the time of the rape[12] and only 16 years old when she testified.[13] Despite her youth and the pressure of testifying in an unfamiliar environment, she gave a simple and direct narrative of her ordeal. She said:

Q:

And what time did you have your dismissal in the afternoon of October 9, 1995, in your school?

A:

We dismissed at 5:30 p.m., sir.

Q:

After being dismissed at 5:30 classes, where did you go if you still remember?

A:

(No answer from the witness).

COURT:

Put on record that the witness is speechless.

FISCAL PALOMARES:

We will try some other day, Your Honor, because the witness is speechless and now crying.

COURT:

Alright.[14]

On further direct examination, Luzviminda testified:

FISCAL PALOMARES:

The last time you testify you stated that you were dismissed from your class at 5:30 o'clock in the afternoon. After being dismissed from your class, where did you go?

A:

I rode in a vehicle going to our barrio, sir.

Q:

What barrio?

A:

San Miguel is the name of our barrio, sir.

. . . .

A:

I first went to the house of my sister and then I went home, sir.

....

Q:

And why did you [go] to the house of your sister on that afternoon?

A:

I went to get my umbrella in the house of my sister, sir.

Q:

After getting your umbrella from the house of your sister, where did you go next?

A:

I was already on my way home, sir.

Q:

And how did you negotiate going home were you walking or did you take a ride?

A:

I walk, sir.

Q:

Kindly tell the court the road you travel from the house of your sister?

A:

First in going home you pass through a number of house (sic) and then along the way there were no more houses, sir.

....

Q:

You also stated that you were not able to reach your house, why?

A:

When I was already on my way home, sir ...

COURT:

Make it of record that the Social Worker Ms. Vanessa Agustin is extending compassion to the distressed victim in this case.

(The session stopped for a moment)

Make it of record that the wife of the accused is required to [leave] the Courtroom.

A:

After passing by the house, and when I am already in the place where there were no more houses, I turned my back and saw a man, sir.

Q:

Who was that man?

A:

(Witness pointing to the accused).

COURT:

What is your name?

A:

Nestor Munta, sir.

....

A:

He was a little bit far when I turned back and the next time when I turned my back, he was already at my back and then I run away and then he chased me and grabbed me, sir.

....

Q:

And when he [overtook] you and grabbed you, what part of your body did he grab?

A:

He took hold of my left hand and he repeatedly boxed me, sir.

Q:

How many times did he box you?

A:

He boxed me several times then he boxed me right in my right eye, sir.

....

Q:

How about you what did you do when he was holding your left hand and continuously boxing you on [the] different parts of your body including your eye?

A:

I struggled against him but my strength is not enough because he is strong, sir.

Q:

And after that what happened next if any?

A:

He took hold of my neck and strangled me, sir.

COURT:

What hand did he [use] in holding your neck?

A:

Left hand, sir.

COURT:

Against your throat?

A:

Yes, sir, against my throat.

COURT:

Proceed.

Q:

And after he boxed you and h[e]ld your neck with his left arm, what did he do next if any?

A:

He pulled me towards the grassy place, sir.

Q:

And when he pulled you to the grassy place, what happened next if any?

....

A:

He laid me down (pinaiddanak, sir).

Q:

And after that, what did he do next if any?

A:

He raised my skirt and . . .

COURT:

Make it of record that the witness is sobbing as she relates the horrible experience she had with the accused.

A:

He raised my skirt and pulled my panty, sir.

COURT:

Did he go over you or not?

A:

He went on top of me, sir.

COURT:

And he did what he wanted to do to you?

A:

No answer (Witness is crying).[15]

....

Q:

When you said he wanted to rape you, was he able to enter his penis towards your vagina?

A:

(Note: The witness nodded only signifying her answer in the affirmative.)

Q:

And when he inserted his penis to your private organ, what did you do, if any?

A:

I cried in pain, sir.

Q:

Is that all that you did?

A:

I struggled, sir.

Q:

And how long, if you know, did he stay on top of you and while being his penis inserted to your private part?

A:

It stayed quite long, sir.

Q:

When you said it stayed quite long, could it be two (2) minutes, four (4) minutes, five (5) minutes or ten (10) minutes?

A:

It stayed about two (2) minutes, sir.

Q:

And after that, what, if any, happened next?

A:

He went away, sir.

Q:

And how about you, what did you do after he left you alone?

A:

I cried and cried, sir.[16]

Courts usually lend credence to the testimony of a young girl especially where the facts point to her having been a victim of sexual assault.[17] For, indeed, it is unbelievable that a young barrio girl like Luzviminda would concoct a tale of defloration, publicly admit having been ravished, allow the examination of her private parts, and undergo the trouble and inconvenience, not to mention the trauma and the scandal, of a public trial, had she not in fact been raped.[18] Many times during her testimony, Luzviminda broke down, forcing the hearings to be cancelled and reset to other days,[19] a fact which strengthens her credibility.

Nor is there any question that complainant was subjected to sexual abuse. Dr. Victory L. Taruc, who examined complainant, testified:

Q:

You stated, Doctor, that you examined the body. What was your findings at the head of the patient Luzviminda Borromeo?

A:

I saw multiple abrasions at the left cheek. On the neck, abrasion and hematoma. Hematoma shows on the left clavicle and reddish spot of the epigastrium, and reddish [sclera] left, sir.

Q:

Will you explain, Doctor, your report, this reddish [sclera] left?

A:

This may be due to a trauma, sir.

Q:

What caused the trauma?

A:

Hard object, sir. Maybe due to . . . struggle, there might be force inflicted in the left eye, sir.

Q:

How about those multiple abrasion, what might have caused those abrasions?

A:

Maybe, the patient was resistant and during the resistance there are signs of abrasions and hematoma, sir.

Q:

How about that reddish at the [epigastrium]?

A:

The same, sir, it might be due to trauma.

Q:

And what caused that trauma?

A:

A force by hand, sir.

Q:

Could it be a fist blow or a hit by a hard object?

A:

It might be a fist blow, sir.

Q:

About your other findings in the private part, could you tell the Court what was your finding?

A:

Upon internal examination on the vagina, I examined with my two (2) fingers inserted at the entroitus and it admits two fingers (Witness demonstrating with her two (2) fingers). And I saw an old laceration at the hymen at about 2:00, 6:00 and 10:00 o'clock. But there are new lacerations about 5:00 o'clock and 8:00 o'clock, sir. There was also a linear abrasion, 1/3 of an inch at the perineum in the opening, sir.

Q:

What is that perineum?

A:

It is the entroitus, the hole at the lower portion of the vagina or where the virginity was [once] intact, sir.

Q:

When you said, madam doctor, that the vagina admits two (2) fingers, will you explain why it admits two fingers?

A:

I inserted my two (2) fingers at the opening and my fingers entered with no resistance, sir.

(COURT TO THE WITNESS)

Q:

Was it as a result of the alleged abuse committed upon the private part of the victim where the private part admits two (2) fingers?

A:

It might be, Your Honor.[20]

It is a settled principle that when the victim's testimony is corroborated by the physician's findings of penetration, there is sufficient foundation to conclude the existence of the essential requisite of carnal knowledge.[21]

Second. Accused-appellant argues that because she was fleeing from her captor, it was not possible for complainant to have recognized her assailant. This contention has no merit. Luzviminda's testimony reveals that accused-appellant was still far from her when she first noticed him. When she sensed that accused-appellant was after her, she instinctively ran, but she was overtaken and then boxed by him in the stomach and in the eyes.[22]

Indeed, Luzviminda knew accused-appellant very well. She often saw him following her whenever she went to school.[23] This made it easy for her to recognize him when the incident happened. Furthermore, as has been

observed, it is the most natural reaction for victims of crimes to strive to remember the faces of their assailants and the manner in which they committed the crime.[24]

It is contended that Luzviminda could not possibly have recognized accused-appellant because, at time of the incident, it was already dark and the weather was stormy. To be sure, there was an electric post in the vicinity, although there is no evidence of how strong the light was. But, as already stated, Luzviminda knew accused-appellant very well, having met him on several occasions. In fact, just before the incident, she saw him drinking in a canteen with some companions. Indeed, she could not have been mistaken as to the identity of accused-appellant as she tried to resist his advances. As has been said, a man and a woman cannot be any closer to each other physically than during the sexual act.[25]

In passing, it may be said that the claim that the nearest electric post was 250 meters away is not correct. The records show that the distance referred to by the defense is the distance between the post and the cemetery.[26]

Third. The defense points out alleged inconsistencies in the testimonies of the witness as to how the rape was committed. The defense contends that a discrepancy exists between Luzviminda's affidavit and her testimony in court. For in her affidavit, Luzviminda stated that she was grabbed, boxed, dragged to the side of the road, and then ravished, but in court, she said that because she was boxed, she was rendered unconscious and only "felt" that she had been raped.

What this Court said in a case[27] is relevant:

The reliance being made by appellants on the affidavit of Catalina in order to discredit her is likewise futile. The Court has consistently ruled that discrepancies between the statement of an affiant in an affidavit and those made on the witness stand do not necessarily downgrade testimonial evidence. Ex parte affidavits are usually incomplete and frequently prepared by an administering officer and cast in the latter's language and understanding of what the affiant has said. Quite frequently, the affiant would simply sign the affidavit after it has been read to him or to her.

In this case, complainant explained that her seemingly inconsistent statements occurred because she was examined thoroughly in court such that she was able to state more fully the events which transpired during that fateful night, but this privilege was not available to her at the time her affidavit was taken.[28]

With respect to accused-appellant's contention that when she met her mother Luzviminda did not know the name of her attacker, suffice it to say that Luzviminda's mother testified that her daughter positively pointed to accused-appellant as her assailant when she asked her on that day who had raped her.[29]

Fourth. Accused-appellant denies the charge against him. Denial is inherently a weak defense which cannot prevail over the positive and credible testimony of the complainant that accused-appellant raped her. It is a self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of a credible witness who testifies on an affirmative matter.[30] For as the trial court well observed:

The place where the crime was committed and the place where the accused was at the time drinking with his co-drinkers was about a stone's throw away from the place she was ravished. It is very possible that he was there at the commission of the crime and that he was the author thereof. Besides, the complainant knows him very well for two years. They used to see each other at that same place where she was deflowered.[31]

For the foregoing reasons, we find no reason to reverse the decision of the trial court. The sentence of the trial court as well as its award of P50,000.00 as civil indemnity should be affirmed as it is in accord with our rulings. However, in accordance with our rulings in other cases,[32] accused-appellant should be ordered to pay complainant the additional amount of P50,000.00 as moral damages without necessity of proof other than the fact

of rape.

WHEREFORE, the decision of the trial court, finding accused-appellant Nestor Munta guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the prison term of reclusion perpetua, is AFFIRMED with the MODIFICATION that, in addition to the amount of P50,000.00 ordered by the trial court to be paid as civil indemnity, accused-appellant is hereby ordered to pay the amount of P50,000.00 by way of moral damages. Costs against accused-appellant.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, and De Leon, Jr., JJ., concur.
Buena, J., abroad on official business.

[1] Per Acting Presiding Judge Wilfredo Tumaliuan.

[2] Records, p. 1.

[3] TSN, p. 22, Oct. 21, 1996; TSN, pp. 2-5, Oct. 14, 1996; Exh. B (Sketch of the whole stretch from the La Sallete of Ramon College to the scene of the crime and the house of the victim, per ocular inspection conducted by the trial court on October 14, 1996).

[4] TSN, pp. 2-6, Aug. 14, 1996; TSN, pp. 1-10, Sept. 25, 1996; TSN, pp. 19-28, Oct. 9, 1996.

[5] TSN, pp. 2-12, Nov. 27, 1997; TSN, pp. 2-3, Dec. 4, 1996.

[6] TSN, pp. 9-12, Jan. 15, 1997.

[7] Exh. A.

[8] Referred to as Paraso in the transcript of stenographic notes.

[9] TSN, pp. 2-28, Jan. 15, 1997.

[10] Rollo, p. 22; Decision, p. 7; Records, p. 120.

[11] Rollo, p. 53.

[12] TSN, p. 4, Aug. 14, 1996.

[13] TSN, p. 25, Oct. 9, 1996.

[14] TSN, p. 6, Aug. 14, 1996.

[15] TSN, pp. 2-9, Sept. 25, 1996.

[16] TSN, pp. 19-20, Oct. 9, 1996.

[17] *People v. Victor*, 292 SCRA 186 (1998).

[18] *People v. Quiñanola*, 306 SCRA 710 (1999).

[19] TSN, pp. 2-6, Aug. 14, 1996; TSN, pp. 1-10, Sept. 25, 1996; TSN, pp. 19-28, Oct. 9, 1996.

[20] TSN, pp. 4-6, Oct. 9, 1996.

[21] *People v. Rosales*, 313 SCRA 757 (1999).

[22] TSN, pp. 2-6, Aug. 14, 1996; TSN, pp. 1-10, Sept. 25, 1996; TSN, pp. 19-28, Oct. 9, 1996.

[23] TSN, pp. 11-14, Oct. 21, 1997; TSN, p. 21, Oct. 9, 1996.

[24] *People v. Candelario*, 311 SCRA 475 (1999).

[25] *People v. Prades*, 293 SCRA 411 (1998).

[26] TSN, pp. 3-4, Oct. 14, 1996.

[27] *People v. Quiñanola*, 306 SCRA 710, 729 (1999).

[28] TSN, p. 25, Oct. 21, 1996.

[29] TSN, p. 6, Sept. 25, 1996; TSN, pp. 10-13, Oct. 21, 1996; TSN, p. 7, Nov. 27, 1996.

[30] *People v. Parazo*, 272 SCRA 512 (1997).

[31] Rollo, p. 22; Decision, p. 7; Records, p. 120.

[32] *People v. Nubla*, G.R. No. 137164, June 19, 2001; *People v. Queigan*, G.R. No. 133586-603, Feb. 19, 2001; *People v. Belga*, G.R. No. 129769, Jan. 19, 2001; *People v. Garcia*, G.R. No. 117406, Jan. 16, 2001; *People v. Boras*, G.R. No. 127495, Dec. 22, 2000.

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