

PEPITO SIBUYO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 145217. December 10, 2003

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court, as amended, of the decision of the Court of Appeals[1] in CA-G.R. CR No. 18998 affirming the decision of the Regional Trial Court, Pasig City, Branch 167,[2] finding petitioner Pepito Sibuyo guilty of acts of lasciviousness, sentencing him to an indeterminate penalty and to suffer all the accessory penalties provided for by law, and to pay the costs. The trial court failed to award moral damages in favor of the private complainant Jocelyn Junio.

The Indictment

The petitioner was charged with acts of lasciviousness in a criminal complaint, the accusatory portion of which reads:

The undersigned complainant, under oath, accuses PEPITO SIBUYO of the crime of Acts of Lasciviousness, committed as follows:

That on or about the 21[st] day of May 1993, in the Municipality of Pasig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force, violence and intimidation, did, then and there willfully, unlawfully and feloniously commit acts of lasciviousness upon the person of one Jocelyn Junio, by then and there kissing kissing (sic) her neck and touching her breast against the latter's will and consent.

Contrary to law.[3]

On his arraignment, the petitioner, assisted by counsel, entered a plea of not guilty.

The Case for the Prosecution

Jocelyn Junio and petitioner Pepito Sibuyo were co-workers at the Philusa Corporation located in Capitol Drive, Pasig, Metro Manila. She was a labeler in the non-liquid section of the company while petitioner is a warehouseman assigned in the salvaging section. The "salvage room" where the petitioner held office was where returned items of the company including disposable items were stocked. The petitioner had a folding bed in the room where he held office and installed a partition made of cartons, the "size of one plywood," to serve as his resting area which was accessible to anyone in the company who may want to take a rest or a nap during breaktime, although the management discouraged such practice of hanging around the salvage room. Sometimes, Jocelyn would take a nap in the salvage room, together with other co-workers.

For the more than ten (10) years that Jocelyn and Pepito had known each other, they became friends, comfortable with each other, and sometimes invited by other friends and co-workers to stand as godparents of their children.

On May 21, 1993, at around 10:30 a.m., Jocelyn experienced stomach pains while working. As breaktime was then approaching, she asked permission from her superior, Jaime Lim, to take a rest which the latter granted.[4] On her way out of the non-liquid section, Jocelyn told Olivia Rañola, a co-worker, that she was taking a rest at the salvage room which was only four rooms away. She was wary of resting in the company clinic as it was located outside their building and she had to take a long walk or ride a tricycle to reach the same.[5]

When Jocelyn was in the hallway going to the salvage room, she met the petitioner who was then carrying some samples out of the said room. She greeted him by nodding, and signaled her intention of using the bed in the salvage room.[6]

Jocelyn prepared the folding bed and the electric fan. She then applied some liniment on her stomach to relieve the pain, and laid down. She managed to get some sleep. However, she was flustered when she felt that someone was on top of her, kissing her, and mashing her right breast. She was shocked when he saw the petitioner kissing her neck, his left hand mashing her right breast, and his right hand on the folding bed. Infuriated, Jocelyn started to struggle to fend off his assault. She kicked him and tried to free herself of his hold. Undeterred, the petitioner whispered, "Tayo lang dalawa, pagbigyan mo na ako." Incensed at the effrontery, she warned the petitioner that if she will not be allowed to stand up, she will kick him. The petitioner stood up and let go of Jocelyn. She forthwith ran towards the front door but it was locked. She tried to exit through the back door but it was also locked. She loosened some nails on the lock. The petitioner went back to his working table and told Jocelyn to calm down and take her rest as he will not bother her anymore. When she succeeded unlocking the door, Jocelyn bolted out from the salvage room and went to their locker room where she met a co-worker, Hilaria Franco. Still trembling from her experience, Jocelyn narrated to Hilaria what the petitioner had done to her inside the salvage room.[7] Hilaria tried to calm her down and comfort Jocelyn and advised her to rest a while in the locker room. Thereafter, Jocelyn went back to her place of work, and there, she silently cried as she mulled over what had just happened. One of her co-workers, Olivia Rañola, noticed Jocelyn. She tried to calm her down, while Jocelyn also confided to Olivia about her misfortune. Jocelyn showed the marks on her arms when she fended off the petitioner's assault on her person.[8]

Later that day, petitioner made a phone call to Jocelyn and told her, "Sinayang mo ang pagkakataon nating dalawa." Jocelyn boiled alone and cursed him, threw expletives[9] at him and slammed the receiver down. Since then, Jocelyn avoided the petitioner.[10] The latter tried to talk to her a number of times but failed. He called Jocelyn on the phone several times to no avail. He would call her on the phone using other names but Jocelyn recognized his voice and slammed the phone down.

When the petitioner's repeated attempts to talk to her through the phone proved futile, the petitioner went to the non-liquid section to confront her. Upon seeing her, the petitioner cursed her and gave her the dirty finger. He then asked Jocelyn, "Anong pinagkakalat mong ni-rape kita?"[11] When the petitioner and Jocelyn exchanged heated words, their co-workers tried to pacify them. The commotion that ensued reached the management. The manager, Divina Puyo, required the non-liquid section supervisor to submit his report on the incident. Other three (3) managers were informed about the incident. Management decided to create a committee to investigate Jocelyn's charge of acts of lasciviousness against the petitioner. Jocelyn testified before the investigating committee and narrated how the petitioner committed the crime. Meanwhile, the company ordered the preventive suspension of the petitioner and terminated his employment effective July 27, 1993, on the ground that the investigating committee had found him guilty of acts of indecency against Jocelyn, which was punishable by dismissal under the company's existing policy.

On August 2, 1993, petitioner filed with the Department of Labor and Employment a case for illegal dismissal against Philusa, docketed as NLRC NCR Case No. 00-08-04870-93. The petitioner averred that Jocelyn's charge

of acts of lasciviousness was merely a concoction of Jocelyn. After due proceedings, the Labor Arbiter^[12] rendered a decision^[13] on April 25, 1994, in favor of petitioner. The Labor Arbiter found that the company had not observed the two-notice rule before terminating the employment of the petitioner. Although the Investigating Committee conducted an investigation, the petitioner was not given the opportunity to confront Jocelyn and the witnesses against her, with the assistance of counsel. Thus, no fair hearing was given to the petitioner before the termination of his employment. The company appealed to the NLRC.^[14]

While the appeal was pending, Jocelyn filed a criminal complaint on December 13, 1993 against the petitioner with the prosecutor's office, for acts of lasciviousness and submitted an affidavit in support of the complaint. The case was docketed as Criminal Case No. 105753.^[15] After the requisite preliminary investigation, a criminal complaint was filed against the petitioner with the Regional Trial Court.

In his defense, the petitioner testified that he was a warehouseman at Philusa Corporation, assigned in the salvaging section.^[16] On May 21, 1993, at around 10:30 a.m. and after taking his break, he went to his working place and saw Jocelyn Junio lying on his folding bed.^[17] Jocelyn told him that she was having stomach pains. The petitioner advised her to go to the clinic but Jocelyn just smiled and continued lying in bed. Jocelyn was peeved when the petitioner got the electric fan from her. He went to the comfort room to answer the call of nature, but when he returned to his working place, Jocelyn was no longer around. ^[18] Thereafter, he learned that Jocelyn started spreading rumors that he had made sexual advances to her. He immediately sought the advice of his production manager on what to do, or what the management can do, to stop Jocelyn. However, no action was taken by the manager. He was even being tagged by Jocelyn's boyfriend as a maniac. Thus, he confronted Jocelyn and her boyfriend, which caught the attention of the management.^[19] Next thing he knew, he was charged by Jocelyn of acts of lasciviousness.

The petitioner further averred that he had been plaguing the company with requests and demands for his promotion in the office. However, his requests fell on deaf ears. All he got were excuses. When he incurred a considerable number of absences from work, the manager reproached him. He suspected that the company was using Jocelyn to get rid of him, as he had noticed that Jocelyn ingratiated herself to management, to the extent that Jocelyn had been called names like "Tigas" or "Makapal ang mukha." The petitioner testified that Jocelyn has the tendency to fabricate stories and exaggerate them.^[20] He further averred that he and Jocelyn were close friends. There were times that he would fetch a pail of water for Jocelyn upon her request when she needed it while using the comfort room. He would see her sitting on the latrine with her pants down, but never put any malice to it.

On August 31, 1995, the trial court rendered judgment finding the petitioner guilty as charged. The decretal portion of which reads as follows:

WHEREFORE, the Court finds the accused Pepito Sibuyo GUILTY beyond reasonable doubt of the crime of Acts of Lasciviousness and is hereby sentenced to an indeterminate penalty of Six (6) Months, as minimum, to Four (4) years and Two (2) Months, as maximum; to suffer all the accessory penalties provided for by law; and to pay the costs.

For lack of substantiating evidence, a finding on the civil indemnity against the accused in favor of the offended party cannot be reached.

SO ORDERED.^[21]

The petitioner Pepito Sibuyo appealed the decision to the Court of Appeals, which rendered judgment affirming the trial court's decision, giving weight to the findings of the court a quo. It also accorded faith and credence to the testimony of the private complainant Jocelyn since the petitioner had failed to prove any nefarious motive on her part to charge him for acts of lasciviousness.

In the present recourse, the petitioner contends that the trial and the appellate courts erred (1) when they found no nefarious motive on the part of Jocelyn when she filed the criminal charge against him; and (2) when they gave credence and full probative weight to the testimony of Jocelyn despite the fact that it took her seven months after the commission of the alleged acts when she charged him with acts of lasciviousness.

The petition is bereft of merit.

The petitioner asserts that contrary to the findings of the trial court and the appellate court, Jocelyn admitted when she testified that she charged him with acts of lasciviousness because the petitioner maligned her in connection with the charge for illegal dismissal against petitioner in the NLRC. The petitioner further asserts that Jocelyn was being used by the company to fend off his charge of illegal dismissal against it. In fact, the company arranged for the company lawyer, Atty. Negre, to help her in the preliminary aspect of the criminal complaint against him for acts of lasciviousness.

The petitioner contends that the deafening silence of Jocelyn, after he allegedly subjected her to lascivious act, for seven months in contrast to his act of immediately confronting Jocelyn when the latter spread nasty rumors that he allegedly raped her belie the charges of Jocelyn and fortify his defense. If it were true that he subjected her to lascivious acts or attempted to rape her, she should have charged him without delay instead of concealing the affront of her honor for a considerable period of time.

The petitioner further contends that it was highly improbable for him to have molested Jocelyn in the salvaging section where employees were at work. No one in his right mind would dare molest another in an open area crawling with people.

The ruminations of the petitioner do not hold water. First. The petitioner himself testified that he was solicitous of Jocelyn when she had a stomachache. According to the petitioner, Jocelyn had been intimate to him. It is incredible that Jocelyn would concoct the charge against the petitioner and allow herself to be used by the company to pillory the petitioner. Second. The petitioner has not adduced any evidence to prove ill-motive on the part of the complainant to pillory him and cause his dismissal from the company and enmesh herself in a litigation before the Labor Arbiter and in the NLRC on appeal. Absent any ill-motive, her testimony is worthy of full faith and credence. Third. That the company provided Jocelyn the services of counsel to help her prepare the criminal charges against the petitioner was not unexpected. In point of fact, the company was obliged to do so if its employees are molested by a co-employee in the company premises. Such acts constitute not only a violation of company rules but also subversive of the morale of the employees in general, and women employees in particular. Moreover, Jocelyn was the principal witness of the company against the petitioner.

The trial court gave credence to the testimony of the complainant. It is well-settled that this Court will not interfere with the trial court's evaluation of the credibility of witnesses, unless there appears in the record some fact or circumstance of weight and influence that has been overlooked or the significance of which has been misapprehended or misinterpreted.[22] As it is, the petitioner failed to sufficiently show any circumstance that might have been overlooked, misapprehended or misinterpreted by the trial court. We agree with the Court of Appeals when it declared that the trial court was in a better position to decide the question of credibility of witnesses having heard them during trial, and that no compelling reason has been presented by the petitioner to disturb such findings.[23]

That Jocelyn took seven months to file her criminal complaint for acts of lasciviousness against the petitioner could enfeeble the credibility of Jocelyn and as verisimilitude of her charge. The evidence on record shows that immediately after the incident, Jocelyn cried her heart out and confided to some co-workers, her way of coping with her horrible experience. She is a woman who felt that she had been violated. While she may have decided not

to report immediately to her superiors, the petitioner, kept on pestering her, calling her on the phone, and confronted her in front of other co-workers, which eventually reached the management of the company. Jocelyn cannot be blamed for failing to charge the petitioner with acts of lasciviousness only seven months after the crime was committed. She knew fully well that if she charged the petitioner she will undergo embarrassment and humiliation of a public trial and during which she will reveal to the public how the petitioner subjected her to acts of lasciviousness. We agree with the ruminations of the trial court:

Similarly, the late filing of the criminal action by the complainant cannot militate against her. As sufficiently explained by her, her honor and reputation was being besmirched in the labor case filed by the accused against their employer, as precisely the accused was contesting his dismissal, claiming that the act of lasciviousness he was administratively charged of was spurious. Complainant is entitled to a personal vindication, apart from the justice and rectification she was seeking from her employer. Nonetheless, the delay in filing the criminal case was not an indication of a fabricated charge.[24]

The fact that the petitioner molested Jocelyn in a place frequented by other co-workers, some of whom use it as a short-cut and a passageway, is not improbable. In a catena of cases, we have ruled that lust is no respecter of time and place. If rape can be committed in places where people congregate, even in the same room where other members of the family are sleeping, there is less reason to believe that other people sleeping in the same room can serve as a deterrent for the commission of lascivious acts.[25] Thus, we find no reversible error in the decision of the Court of Appeals.

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED. The decision of the Court of Appeals is AFFIRMED. Costs against the petitioner.

SO ORDERED.

Puno, (Chairman), Quisumbing, Austria-Martinez, and Tinga, JJ., concur.

[1] Penned by Associate Justice Hector L. Hofileña (Chairman), with Associate Justices Roberto A. Barrios and Eriberto U. Rosario, Jr., concurring.

[2] Penned by Judge Alfredo C. Flores.

[3] Records, p. 1.

[4] TSN, 13 October 1994, p. 3.

[5] TSN, 22 February 1995, p. 37.

[6] TSN, 13 October 1994, p. 4.

[7] TSN, 13 October 1994, pp. 5-6.

[8] Id. at 6-7.

[9] "Gago, putang ina mo!"

[10] TSN, 13 October 1994, p. 7.

[11] Id. at 8.

[12] LA Eduardo J. Carpio.

[13] Exhibit "3-A."

[14] TSN, 22 February 1995, p. 24.

[15] Records, p. 1.

[16] TSN, 22 February 1995, p. 4.

[17] Id. at 12.

[18] Id. at 13-14.

[19] TSN, 22 February 1995, p. 22.

[20] Id. at 15-16.

[21] Records, p. 174.

[22] People vs. Perez, 351 SCRA 549 (2001).

[23] See Rollo, p. 23.

[24] Records, p. 174.

[25] People vs. Jimenez, 356 SCRA 508 (2001).

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