

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELIPE PADILLA, ACCUSED-APPELLANT.*G.R. No. 145460. July 03, 2002*

Ponente: MENDOZA, J.

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This is an automatic review of the decision[1] of the Regional Trial Court, Branch 11, Sindangan, Zamboanga del Norte, finding accused-appellant Felipe Padilla guilty of qualified rape and sentencing him to suffer the death penalty and to pay the victim, Gemma Tadas, the amount of P75,000.00 as civil indemnity and P50,000.00 as moral damages.

The complaint in this case was filed on December 10, 1996 by the offended party, Gemma Tadas, on the basis of which the provincial prosecutor filed an information alleging —

That, in the afternoon, on or about the 24th day of November, 1996, in the municipality of Sindangan, Zamboanga del Norte, within the jurisdiction of this Honorable Court, the said accused, moved by lewd and unchaste desire and by means of force, violence and intimidation, did then and there, willfully, unlawfully and feloniously succeed in having sexual intercourse with one GEMMA L. TADAS, his 13-year old stepdaughter, against her will and without her consent.

CONTRARY TO LAW (Viol. of Art. 335, Revised Penal Code).[2]

Upon arraignment, accused-appellant pleaded not guilty to the crime charged,[3] whereupon his trial ensued.

The prosecution presented three witnesses: complainant Gemma Tadas, Dr. Ellen Carabaña, and Mely Indig. The gist of their testimonies is as follows:

Gemma was born on July 4, 1983, the eldest of two children of Soterio and Erlita Tadas, both of the Subanen tribe. Soterio died when Gemma was nine years old. One year later, Erlita lived in common law relation with accused-appellant Felipe Padilla. Gemma lived with her mother Erlita and accused-appellant Felipe Padilla in a house in Bato, Sindangan, Zamboanga del Norte. She calls accused-appellant Papa.[4]

In the morning of Sunday, November 24, 1996, Gemma, then 13 year old, was left alone in their residence at Bato, Sindangan, Zamboanga del Norte, taking care of her one-year old brother. Her mother Erlita had gone to the tabuan, or market place, while accused-appellant had gone to the field below the hill on which they lived to weed grass. Her other siblings, children of her mother and accused-appellant, had gone up the hill.

At 4 o'clock in the afternoon, accused-appellant returned home. Finding Gemma alone, he grappled with her and, after overpowering her, tied both her legs to the bamboo floor with the use of the rope from the baby's cradle. The baby whom Gemma was carrying was thrown to the floor, but accused-appellant did not heed the same. He tore off Gemma's dress and panties, took off his clothes and underwear, and forced himself upon her. He made several push-and-pull movements, after which he ejaculated. Then, after two minutes, he again had sexual intercourse with Gemma. Still not satisfied, accused-appellant, after two minutes, again had sexual intercourse

with her. The assault lasted for about an hour. Accused-appellant then left, but not before warning Gemma not to tell anyone about the incident or he would kill her. Gemma suffered pain in her private parts and, as she was untying herself, she saw blood coming out of her vagina.[5]

At about 5 o'clock in the afternoon, Erlita arrived. Gemma told her mother what had happened and the latter advised her to leave the house.[6] Gemma did as she was told. The next day, she went to Dapaon, Sindangan, Zamboanga del Norte to her maternal aunt, Mely Indig, who took her to the barangay captain.[7]

Two weeks later, on December 9, 1996, complainant was examined by Dr. Ellen[8] Carabaña, Medical Officer III of the Sindangan District Hospital. Dr. Carabaña's findings, contained in her medical report,[9] are as follows:

Skin - No external physical injury
Breast - Conical, areola and nipple light brown
Pubic Hair - Very scarce
Labia Majora and Minora - in close apposition
Hymen - No laceration
Fourchet[te] - Not lax
I.E.

Nulliparous
Admits small finger

Sperm Analysis - Negative

The next day, Gemma, assisted by her aunt and the barangay captain, filed a complaint before Sindangan Municipal Circuit Trial Judge Paciano B. Gallefoso and gave a sworn statement before the Office of the Chief of Police of Sindangan.[10]

The defense presented two witnesses: accused-appellant Felipe Padilla and Erlita Tadas, the mother of the complainant.[11]

Accused-appellant denied the allegations against him. He claimed that on November 24, 1996, he was at their residence in Bato, Sindangan, Zamboanga del Norte, attending to his wife Erlita because she had given birth just the previous day. From 8 o'clock in the morning until 3 o'clock in the afternoon of the same day, he was shelling and husking corn together with his son by a previous marriage. He rested at about 4 o'clock in the afternoon, after which he fetched water and prepared food for his wife. He contends that it was impossible for him to have raped Gemma, whom he loved as his own daughter, because his wife was in the house.[12]

Accused-appellant's testimony was corroborated by Erlita. In addition, she testified that the day after giving birth on November 23, 1996, she stayed in their residence the whole day because she could not walk. She denied going to the tabuan and leaving Gemma alone in the house. In fact, she claimed that Gemma was the one who left their house at about 5 o'clock in the morning of November 24, 1996 to go to her friends (barkada). She also said that Gemma filed the case against accused-appellant upon the prodding of Erlita's brothers and sisters, who did not approve of her living with accused-appellant because he is a Christian.[13]

On August 25, 2000, the trial court rendered a decision,[14] the dispositive portion of which reads:

WHEREFORE, IN VIEW OF ALL THE FOREGOING FACTS AND CONSIDERATIONS, the Court hereby finds the herein accused, FELIPE PADILLA, guilty beyond reasonable doubt of the crime of QUALIFIED RAPE charged in the above-entitled case as defined and penalized under Article 335 of the Revised Penal Code in relation to and as amended by Republic Act No. 7659 and, accordingly, he is hereby sentenced to suffer the penalty of DEATH and ordered to indemnify the raped victim, Gemma Tadas, in the amount of

P75,000.00 and another sum of P50,000.00 by way of moral damages. (People vs. Bernabe E. Adila, Jr., G.R. No. 133434, March 2[1], 2000)

COSTS de officio.

SO ORDERED.[15]

Hence, this appeal. Accused-appellant assails the judgment of conviction. He contends that—

- THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE ON THE BASIS OF THE INCREDIBLE, INCONSISTENT AND UNCORROBORATED TESTIMONY OF THE ALLEGED VICTIM.

- THE TRIAL COURT ERRED IN NOT GIVING CREDENCE TO THE EVIDENCE FOR THE DEFENSE.

- THE TRIAL COURT GRAVELY ERRED IN IMPOSING THE PENALTY OF DEATH UPON ACCUSED-APPELLANT DESPITE (1) FAILURE OF THE PROSECUTION TO PROVE THE REAL AGE OF THE VICTIM AND (2) FAILURE OF THE PROSECUTION TO PROVE THE MARRIAGE OF THE COMPLAINANT'S MOTHER TO THE ACCUSED-APPELLANT NOR ALLEGE IN THE INFORMATION THEIR COMMON LAW RELATIONSHIP.[16]

In deciding rape cases, this Court has been guided by three principles, to wit: (1) an accusation for rape can be made with facility, it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the nature of the crime in which only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.[17] An accused in a rape case may be convicted even on the sole testimony of the victim, but such testimony must be credible, natural, convincing, and consistent with human nature and the normal course of things.[18]

Applying these principles to the case at bar, we find that the prosecution evidence is on the whole improbable. After a careful examination of the records, we find the evidence to be insufficient to sustain the ruling of the trial court that accused-appellant is guilty of qualified rape.

First. Complainant claims that accused-appellant was able to achieve three ejaculations for a period of one hour[19] when she testified thus:

Q:

So, how many times did your father sexually abuse you?

A:

Three times.

Q:

What do you mean by three times?

A:

After the first intercourse[,] . . . he went back.

Q:

Do you mean to say you felt ejaculation of your father's penis inside your vagina?

A:

Yes, sir.

Q:

After ejaculating he removed his penis?

A:

He was resting. He [took] time after the first intercourse. He was resting, sitting, and after that he went back.

Q:

How many minutes was the interval to the first sexual intercourse of your father?

A:

Maybe two minutes.

Q:

And so after two minutes he again laid on top of you and again inserted his penis into your vagina?

A:

Yes, sir.

Q:

And again for the third time he did the same act to you?

A:

Yes, sir.

Q:

Now, while he was resting, what were you doing?

A:

He was holding me.

Q:

So, do you mean to tell us that everytime he satisf[ied himself,] he sat beside you in between his sexual assault[s]?

A:

Yes, sir.[20]

While accused-appellant, who was 33 years old at the time of the alleged rape,[21] may be presumed to possess the normal virility of any other adult males, we find it improbable that he could have three orgasms within a space of only one hour. Considering the temporary impotence experienced by a man brought about by exhaustion normally resulting from a successful coitus, an interval of two minutes is insufficient before another successful coitus can be had. A famous study on human sexual behavior found that while many pre-adolescent and teenage males are capable of maintaining continuous erections even after two or three ejaculations have occurred with intervals ranging on the average from two to six minutes, middle-aged males (like accused-appellant in the case at bar) are hardly capable of such a performance. The adult male's erection after the first orgasm quickly subsides, and there is a complete disappearance of arousal as soon as orgasm is reached. Any repetition depends upon a new arousal, and that may not be possible for some minutes or hours after the original experience.[22]

Second. Assuming that complainant had been raped three times, it is noteworthy that there was no laceration found in her hymen when her claim is that she in fact bled as a result of the alleged forcible sexual intercourse.[23] It may be that no spermatozoa was found when she was examined because this was done two weeks after the alleged rape. But it is incredible that she did not suffer hymenal lacerations, or even have healed ones, in her private parts, considering her alleged age (13), the size of accused-appellant's penis, which was allegedly more than 2 inches in diameter when erect, the manner of the assault, and the number of times of the penetrations.

To be sure, we have found rape to have been committed despite the fact that the hymen of the victim was intact because a hymenal laceration is not an essential prerequisite to prove rape and medical research even points out that the hymen may not be torn despite repeated coitus.[24] However, the absence of a laceration in this case, vis-à-vis complainant's claim that she bled after the intercourse and that she had been raped three times within the span of one hour, puts in grave doubt her credibility. As Dr. Carabaña testified, the presence of blood signifies a broken hymen. Thus,

Q:

There is no laceration, meaning there was no wound, old wound or fresh wound meaning to say the hymen remain[ed] intact?

A:

Yes, sir.

Q:

But, despite all these findings here you testified in the direct examination that there is possibility that there was sexual intercourse?

A:

Yes, sir.

Q:

Even though there was sexual intercourse there the hymen still intact?

A:

There are cases that the hymen is elastic, sir.

....

Q:

Considering that you have physically examined the victim, in fact, you inserted and you said that only small finger, my question is, supposing 6 inches long erect penis of the man with 2 to 3 centimeter[s] in width could [it] still be possible that the hymen be intact?

A:

Depending upon the elasticity of the hymen, sir.

Q:

But if blood comes out that means that the hymen is broken?

A:

Yes, sir.

Q:

Because during the previous hearing the penis of the accused is 6 inches [in] length and 2 to 3 in diameter inserted in her vagina and she said there was bleeding, but, in your findings there was no blood coming out from her vagina?

A:

I think during the act she was menstruating.

Q:

Do you remember when was that?

A:

November 24, and her first menstruation is November 23.[25]

Indeed, medical experts believe that a bleeding of the vagina proves laceration.[26] Since the hymen has several classifications according to its structure and consistency, the insertion of the penis during the first sexual act would produce bleeding, albeit in varying degrees. If a hymen is firm and with strong connective tissues and plenty of blood vessels, it has more tendency to lacerate during the first sexual act and the laceration may produce

relatively more hemorrhage, compared to a membranous hymen which may lacerate without pain or appreciable bleeding.[27]

Dr. Ellen Carabaña said that the blood was actually menstrual flow from the victim. But this does not appear in the medical report (Exh. C) of Carabaña. It seems to be a mere afterthought of the witness. Indeed, not even complainant said she was having her menstrual period on the date she was allegedly abused.

Third. Complainant claimed that she was forced to lie down on the floor and that her feet were bound to the bamboo floor. No external physical injury was, however, found when she was examined. It has been observed:

A strong evidence of force is the presence of physical injuries found on the person of the victim in the course of medical examination. Contusions may be found on the face, arms and thighs. When a woman has been forcibly made to lie down, she will utilize her elbow as the fulcrum so that abrasions will be observed on both elbows. In the attempt of the victim to stand, she will flex her neck forward. The offender will then push her head backwards, causing hematoma at the region of the occiput. To prevent penetration of the male organ she will try to flex her thighs and knees. The offender will give a strong blow to the inner aspects of both thighs so that the victim will be compelled to straighten them.

The victim may suffer all types of physical injuries depending upon the resistance offered by her and the degree of force applied by the offender.[28]

Fourth. It is in the light of these claims made by complainant that the testimonies of accused-appellant and complainant's mother assume significance. That complainant's mother was at home on November 24, 1996 because she had just given birth the day before has not been refuted by the prosecution. Although it is true that lust is no respecter of time and place, and rape can be committed inside the house where there are other occupants,[29] we find it hard to believe that Erlita would fail to notice what was going on. The baby which complainant claimed had been thrown to the floor because she had been assaulted would have cried loudly and Erlita could not have failed to hear its cry. It taxes credulity even more for complainant to claim that accused-appellant did not pay attention to the fact that the one-day old baby boy had been thrown to the floor. Unless accused-appellant was driven by a maniacal lust, we find it improbable that he ignored what had happened to the baby who after all is his child. The scenario painted by the prosecution is simply unbelievable, unnatural, and contrary to human experience. Not only must a witness be credible in order to be believed; his or her testimony must itself be also credible and believable.[30]

For the foregoing reasons, although denial and alibi are generally held to be weak and unavailing, these defenses gain commensurate strength when the credibility of the prosecution witnesses is wanting and questionable.[31] The prosecution cannot rely on the weakness of the evidence for the defense but must depend on the strength of its own evidence to prove the guilt of the accused. Alibi cannot be disregarded when the evidence for the prosecution is frail and effete. In the case at bar, the prosecution evidence is insufficient to overcome the presumption of innocence accorded by the Constitution to an accused.

WHEREFORE, the decision of the Regional Trial Court, Branch 11, Sindangan, Zamboanga del Norte, finding accused-appellant Felipe Padilla guilty of qualified rape and sentencing him to suffer the penalty of death and to pay the victim Gemma Tadas the amount of P75,000.00 as civil indemnity and P50,000.00 as moral damages, is REVERSED and SET ASIDE and accused Felipe Padilla is ACQUITTED on the ground of reasonable doubt. The Director of the Bureau of Corrections, Muntinlupa City is directed to forthwith cause the immediate release of accused-appellant, unless the latter is detained for some other lawful cause, and to inform the Court accordingly within ten (10) days from notice of the action taken hereon.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Kapunan, Panganiban, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, and Corona, JJ., concur.

Quisumbing, J., abroad, on leave.

[1] Per Judge Wilfredo G. Ochotorena.

[2] Rollo, p. 8; Records, p. 12.

[3] Records, p. 16.

[4] TSN (Gemma Tadas), pp. 3, 10-11, 14, Jan. 9, 1998.

[5] Id., pp. 4-7, 16-18.

[6] Id., pp. 6-9, 17.

[7] TSN (Mely Indig), pp. 2-3, 5-6, Jan. 8, 1999.

[8] Also known as Ellyn in the records.

[9] Exh. C; Records, p. 43.

[10] TSN (Gemma Tadas), p. 9, Jan. 9, 1998; TSN (Mely Indig), pp. 5-6, Jan. 8, 1999; Records, pp. 1-2.

[11] Also known as Erlita Padilla in the records.

[12] TSN (Felipe Padilla), pp. 3-8, May 26, 2000.

[13] TSN (Erlita Padilla), pp. 2-12, July 23, 1999.

[14] Rollo, pp. 13-31; Records, pp. 78-96.

[15] Id., p. 30-31; id., pp. 95-96.

[16] Accused-Appellant's Brief, p. 1; Rollo, p. 44.

[17] People v. Barela, G.R. Nos. 145163-65, June 5, 2002 citing People v. Gopio, 346 SCRA 408 (2000); People v. Malacura, 346 SCRA 781 (2000); People v. Sala, 345 SCRA 490 (2000); People v. Restoles, 339 SCRA 40 (2000); People v. Watimar, 338 SCRA 173 (2000); People v. Sapinosa, 328 SCRA 649 (2000); People v. Barcelona, 325 SCRA 168 (2000).

[18] People v. Barela, supra, citing People v. Bayona, 327 SCRA 190 (2000).

[19] Id., pp. 11-13; id., pp. 54-56.

[20] TSN (Gemma Tadas), p. 16, Jan. 9, 1998.

[21] Accused-appellant testified on May 26, 2000, or less than four years from the time of the alleged rape on November 24, 1996, that he was 36 years old [TSN, p. 2, May 26, 2000].

[22] ALFRED KINSEY, SEXUAL BEHAVIOR IN THE HUMAN MALE 180, 231, 579 (1948).

[23] Reply Brief, p. 2.

[24] See People v. Gabayron, 278 SCRA 78 (1997).

[25] TSN (Dr. Ellen Carabaña), p. 3, June 19, 1998 (emphasis added).

[26] PEDRO SOLIS, LEGAL MEDICINE 485-496 (1987); HERZOG, MEDICAL JURISPRUDENCE, 833-834 (1931).

[27] PEDRO SOLIS, LEGAL MEDICINE 489-490 (1987).

[28] Id., pp. 501-502.

[29] People v. Paraiso, 349 SCRA 335 (2001).

[30] People v. Alvarado, G.R. No. 145730, March 19, 2002.

[31] See Bartocillo v. Court of Appeals, G.R. No. 125193, Oct. 23, 2001; People v. Cabiles, 341 SCRA 721 (2000); People v. Perucho, 305 SCRA 770 (1999).

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