

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. NELSON GUAMBOR, APPELLANT.

G.R. No. 152183. January 22, 2004

Ponente: YNARES-SATIAGO, J.

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YNARES-SATIAGO, J.:

Appellant Nelson Guambor was charged in Criminal Case No. 13444 before the Regional Trial Court of Dumaguete City, Branch 42 with the crime of rape in an Information[1] which reads:

That on or about the 8[th] day of February, 1998, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force and intimidation, did, then and there willfully, unlawfully and feloniously lie, and succeeded in having carnal knowledge of one CLAUDETH ROMANO, a minor, 9 years of age, against her will.

Appellant pleaded “not guilty”, after which trial on the merits ensued.

Complainant Claudeth Romano testified that her step-father, appellant Nelson Guambor, raped her on February 8, 1998 inside their rented room in Casa Esperanza, Canday-ong, Calindagan, Dumaguete City. At that time, her mother was out working while her younger siblings were sent out of the house by appellant because he would supposedly pick lice from Claudeth’s head. When they were alone together, appellant perpetrated the dastardly act by inserting his penis inside her vagina causing her so much pain that she cried.

Claudeth revealed that she was raped by appellant several times prior to that date but she did not report this to anybody for fear that he would make good his threat to kill her. After the incident on February 8, 1998, however, she finally mustered courage to narrate her ordeal to a neighbor, Evelyn Du, who brought Claudeth to the Criminal Investigation Group of the Philippine National Police in Dumaguete City to file a formal complaint against appellant.

Dr. Erlinda Alfabeto Cabrera, City Health Officer of Dumaguete City, examined the victim and found redness on the labia majora, labia minora, and the vaginal vestibule. She found laxity on the vaginal walls as well as thinning at the right side particularly at the 4:00 o’clock and 5:00 o’clock positions. She also observed that her vaginal canal was open.[2] Dr. Cabrera testified that her findings may have been possibly caused by the insertion of an erect penis.

Appellant denied the charges against him. He insisted that he could not have raped Claudeth on February 8, 1998 considering that she was in Samar on said date. Even assuming that Claudeth was in Dumaguete City on that day, still he could not have raped her as he was then working at ISLACOM on a “pakyaw” basis from 8:00 in the morning up to 4:00 in the afternoon. After work, he would sell balut up to 12:00 midnight.

The trial court, however, gave credence to the prosecution’s evidence and rendered a decision,[3] the dispositive portion of which reads:

WHEREFORE, the guilt of the accused having been proved beyond reasonable doubt as charged in the

Information, without any aggravating or qualifying circumstance, the accused is hereby sentenced to suffer the penalty of reclusion perpetua, to indemnify the private offended party in the amount of P50,000.00 and to pay P50,000.00 as moral damages.

SO ORDERED.

Aggrieved, appellant appeals and assigns the following errors:

- The court a quo gravely erred in finding the accused guilty beyond reasonable doubt of the crime of rape on the basis of the uncorroborated testimony of the alleged victim;
- The trial court gravely erred in finding that the evidence adduced by the prosecution has overcome the constitutional presumption of innocence of the appellant; and
- The court gravely abused its judicial discretion in ensuring the conviction of the accused-appellant by going beyond its role of being an impartial arbiter when it practically took over the presentation of the evidence for the prosecution.

Appellant's submission that Claudeth's testimony was uncorroborated and insufficient to support a finding of guilt is erroneous. While appellant's conviction was primarily based on complainant's testimonial evidence, the same was corroborated by physical evidence, consisting of the medical findings of the examining physician.

Besides, it is not as if the trial court relied on Claudeth's testimony without any critical assessment at all. Plainly, the trial court gave credence to the complaining witness' testimony only after it has satisfied itself that the same was competent and credible as shown by the manner in which she testified and her demeanor on the witness stand. Thus, the trial court observed that "Claudeth Romano made sensible, straightforward and categorical answers to the substantial, relevant and material questions. . ."[4] When a rape victim's account is straightforward and candid, and is corroborated by the medical findings of the examining physician, the same is sufficient to support a conviction for rape.[5]

One may be convicted of rape based solely on the testimony of the victim, as long as the same is competent and credible. This is primarily because the crime of rape is usually committed in a private place where only the aggressor and the rape victim are present.[6]

Besides, no woman, least of all a child, would concoct a story of defloration, allow an examination of her private parts and subject herself to public trial or ridicule if she has not, in truth, been a victim of rape and impelled to seek justice for the wrong done to her.[7] Testimonies of child-victims are normally given full weight and credit, since when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed. Youth and immaturity are generally badges of truth and sincerity.[8]

It is for these reasons that appellant's second submission that Claudeth's testimony was "replete with vagueness and generalities as to how, when and where she was raped"[9] is unmeritorious. Claudeth particularly testified that she was raped on February 8, 1998 inside their rented room in Casa Esperanza, Canday-ong, Calindagan, Dumaguete City. Understandably, Claudeth could not be specific on how she was raped. Being of a very young age, she could not be expected to be knowledgeable and sophisticated in the ways of sex.

Nonetheless, in rape cases, the essential elements to be proved by the prosecution are the sexual congress without the victim's consent; that the sexual assault was committed using force or intimidation, or that it was committed against a woman deprived of reason or otherwise unconscious.[10] In this case, the trial court satisfactorily established that rape was committed using force and intimidation.

Well-settled is the rule that findings of facts and assessment of credibility of witnesses is a matter best left to the

trial court because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying, which opportunity is denied to the appellate courts. For this reason, the trial court's findings are accorded finality, unless there appears in the record some fact or circumstance of weight which the lower court may have overlooked, misunderstood or misappreciated and which, if properly considered, would alter the results of the case.[11] None has been found in this case.

Appellant raised the defense of denial and alibi. Denial is an inherently weak defense vis-à-vis the positive and categorical assertion of prosecution witnesses. Like denial, alibi is not looked upon with favor by the trial court. Not only is it one of the weakest defenses due to its being capable of easy fabrication, it also cannot prevail over witnesses' positive identification of accused-appellant as the perpetrator of the crime. In any event, for the defense of alibi to prosper, it is not enough that the accused can prove his presence at another place at the time of its commission, it is likewise essential that he can show physical impossibility for him to be at the locus delicti.[12] In other words, he must prove not only that he was somewhere else when the offense was committed, but also that it was physically impossible for him to have been at or near the crime scene.[13] In this case, appellant was found to have been in the same house as Claudeth at the time the rape happened.

Not even appellant's suggestion of ill-motive that Claudeth filed this case against him to get back at him for whipping her is deserving of merit. Ill-motive is never an essential element of a crime. It becomes inconsequential in a case where there are affirmative, nay, categorical declarations towards accused-appellant's accountability for the felony.[14] As a whole, said accountability was amply established by the prosecution's testimonial as well as physical evidence.

Still, appellant assails the trial court for allegedly abusing its judicial discretion by asking more than clarificatory questions. He claims that the trial court propounded 132 questions as compared to 26 questions by the public prosecutor and 51 questions by the defense counsel thereby ensuring appellant's conviction by actively pursuing the direct examination itself.

Appellant's contention is unmeritorious. The trial judge is accorded a reasonable leeway in putting such questions to witnesses as may be essential to elicit relevant facts to make the record speak the truth. Trial judges in this jurisdiction are judges of both the law and the facts, and they would be negligent in the performance of their duties if they permitted a miscarriage of justice as a result of a failure to propound a proper question to a witness which might develop some material bearing upon the outcome. In the exercise of sound discretion, he may put such question to the witness as will enable him to formulate a sound opinion as to the ability or the willingness of the witness to tell the truth. A judge may examine or cross-examine a witness. He may propound clarificatory questions to test the credibility of the witness and to extract the truth. He may seek to draw out relevant and material testimony though that testimony may tend to support or rebut the position taken by one or the other party. It cannot be taken against him if the clarificatory questions he propounds happen to reveal certain truths which tend to destroy the theory of one party.[15]

Besides, a perusal of the trial court's questions to Claudeth reveals that they are nothing more than simple clarificatory questions amplifying, specifying and reiterating certain points in Claudeth's testimony. In any case, the prosecutor, by herself, has ably and sufficiently established the prosecution's case.

Allegations of bias on the part of the trial court should be received with caution, especially when the queries by the judge did not prejudice the accused. The propriety of a judge's queries is determined not necessarily by their quantity but by their quality and, in any event, by the test of whether the defendant was prejudiced by such questioning.[16]

Appellant was charged with rape under Article 266-B of the Revised Penal Code, as amended by Republic Act

No. 8353, otherwise known as The Anti-Rape Law of 1997 which reads:

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

1)

When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;

x x x x x x x x.

The circumstances of relationship and minority must be jointly alleged in the Information and proved during trial. In this case, the prosecution failed to allege in the Information the relationship between the offender and the offended party although it was proven and established during the trial that the appellant was the victim's step-father.

On the other hand, although the minority of the victim was alleged in the Information, the same, however, was not satisfactorily established by the prosecution during trial. No birth certificate was presented and Claudeth's mother did not testify. In lieu of a birth certificate, the prosecution presented a certification^[17] from the local civil registrar that Claudeth has no record of birth in the municipality of Guihulngan where the hospital was located and where Claudeth was supposedly born. The prosecution also presented the hospital's copy of Claudeth's certificate of live birth where the date July 26, 1988 was entered. However, defense witness Evangeline Guarin, Claudeth's Grade II teacher, testified that according to her school record, Claudeth was born on June 28, 1988.^[18] Considering the gravity of the penalty imposed, the trial court is always cautioned to make a categorical finding as to the age of the victim.^[19] The failure of the prosecution to satisfactorily establish the age of the victim should be taken in favor of appellant considering that it has the burden of proving its allegations especially in a death penalty case where the life of a human being hangs in the balance.^[20]

Hence, the trial court correctly imposed the penalty of reclusion perpetua for simple rape. The award of P50,000.00 as civil indemnity is proper. Civil indemnity is mandatory upon the finding of the fact of rape. It is automatically imposed upon the accused without need of proof other than the fact of the commission of rape.^[21]

The award of P50,000.00 as moral damages is likewise correct. It is automatically granted in rape cases without need of further proof other than the commission of the crime, because it is assumed that a rape victim has actually suffered moral injuries entitling her to such an award.^[22]

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Negros Oriental, Branch 42, in Criminal Case No. 13444 finding appellant Nelson Guambor guilty beyond reasonable doubt of the crime of rape, sentencing him to suffer the penalty of reclusion perpetua and ordering him to pay P50,000.00 as civil indemnity and P50,000.00 as moral damages, is AFFIRMED.

Costs de officio.

SO ORDERED.

Davide, Jr., C.J., Panganiban, Carpio, and Azcuna, JJ., concur.

[1] Records, p. 2.

- [2] Id., p. 11.
- [3] Penned by Judge Ibarra B. Jaculbe, Jr.
- [4] Decision, Records, p. 353.
- [5] People v. Gabawa, G.R. No. 139833, 28 February 2003.
- [6] People v. Operario, G.R. No. 146590, 17 July 2003.
- [7] People v. Operario, *supra*.
- [8] People v. Aspuria, G.R. Nos. 139240-43, 12 November 2002, 391 SCRA 404, 413.
- [9] Appellant's Brief, Rollo, p. 83.
- [10] People v. Ruales, G.R. No. 149810, 28 August 2003.
- [11] People v. Sorongon, G.R. No. 142416, 11 February 2003.
- [12] People v. Aspuria, *supra*.
- [13] People v. Silvano, G.R. Nos. 141105-11, 8 March 2002, 378 SCRA 672, 682.
- [14] People v. Serado, G.R. No. 138664, 6 August 2002, 386 SCRA 291, 299.
- [15] People v. Zheng Bai Hui, G.R. No. 127580, 22 August 2000, 338 SCRA 420, 460.
- [16] People v. Castillo, G.R. No. 120282, 20 April 1998, 289 SCRA 213, 227.
- [17] Exhibit "D", Records, p. 162.
- [18] TSN, January 18, 2001, p. 18.
- [19] People v. Ilagan, G.R. No. 144595, 6 August 2003.
- [20] People v. Licanda, G.R. No. 134084, 4 May 2000, 331 SCRA 357, 373.
- [21] People v. Ruales, *supra*.
- [22] People v. Ruales, *supra*.

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