

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EDGAR MOLLEDA Y PONTANES @ MEDY, APPELLANT.

G.R. No. 153219. December 01, 2003

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This is an appeal from the decision[1] of the Regional Trial Court of Sta. Cruz, Laguna, Branch 28, in Criminal Case No. SC-7259, finding appellant Edgar Molleda y Pontanes guilty beyond reasonable doubt of the crime of Rape, and sentenced him to suffer the penalty of reclusion perpetua, and ordered him to pay the offended party the amounts of P50,000.00 as civil indemnity and P50,000.00 as moral damages.

On May 2, 1999, appellant Edgar Molleda y Pontanes was charged with rape in an Information which reads:

That on or about January 25, 1999, in the municipality of xxxxxx, Province of xxxxxx and within the jurisdiction of this Honorable Court, the above named accused, with lewd design and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of AAA against her will and consent and to her damage and prejudice.

CONTRARY TO LAW.[2]

The victim, AAA, has ten children by her deceased husband, xxxxxx. At the time of the incident, she was living with her common-law husband, xxxxxx.

On January 25, 1999, at around 7:30 p.m., appellant Edgar "Medy" Molleda arrived at their house in the mountainous area of xxxxxxxxxxxx. He told xxxxxx that a member of the New People's Army (NPA) wanted to talk to him by the creek some 1,000 meters away from the house. xxxxxx noticed a bulge in appellant's waist. After xxxxxx left the house, appellant told AAA that he wanted to talk to her at the camoteplantation 12 meters away from their house, but she insisted that they talk inside their house. However, appellant dragged her to the camote plantation. When they got there, appellant pointed a gun at AAA and ordered her to undress. She removed her shorts and panties and sat on the ground. Appellant then took off his clothes, lay on top of her and inserted his penis into her vagina. He made thrusting motions that lasted for two minutes. When he was done, appellant warned AAA not to reveal the incident to anybody, otherwise he would kill her. He got up, put on his short pants and briefs, and left.

Meanwhile, xxxxxx found nobody by the creek and returned to the house. Moments later, AAA arrived and told him that appellant had raped her. xxxxxx got angry and looked for appellant outside, but did not find him. AAA went to the house of Marites Oco, xxxxxx's daughter by a previous relationship. She cried as she recounted her ordeal. She told Marites that she felt so ashamed of herself.

The next morning, xxxxxx accompanied AAA to the police station to report the incident. She executed a written statement wherein she positively identified appellant as her rapist.

Dr. Olivia Jo Ann C. Tobias, Medical Officer III of the Provincial Health Office of Sta. Cruz, Laguna, conducted the examination on the victim and found the following:

Vaginal exam: labia majora gaping
Vagina admits two fingers with ease
Hymen-old healed laceration at 3 o'clock, 6 o'clock, 10 o'clock and 12 o'clock position
Internal exam: cervix closed, firm, non tender
xxx
Specimen taken for sperm analysis- result-Negative[3]

Appellant was arrested on January 29, 1999 and formally charged in court.

In his defense, appellant denied the accusation. He claimed that at 6:00 p.m. of January 25, 1999, he was in the house of his best friend's son, Norman Delos Reyes, at Barangayxxxxxxxxxxxxxx. Norman's father had asked appellant to watch over his children since he had to leave for Bicol that afternoon. Appellant stayed in Norman's house the whole night until 8:00 the following morning.

On August 24, 2001, the trial court rendered judgment, the decretal portion of which reads:

WHEREFORE, IN THE LIGHT OF ALL THE FOREGOING CONSIDERATIONS, the Court finds the accused Edgar Molleda y Pontanes guilty beyond reasonable doubt as principal of the offense of rape under Art. 335 of the Revised Penal Code and as charged in the information and hereby sentences him to suffer the penalty of RECLUSION PERPETUA and to pay the offended party AAA the sum of P50,000.00 as civil indemnity and P50,000.00 as moral damages.

SO ORDERED.[4]

Hence, this appeal based on the following assignment of errors:

I

THE COURT A QUO GRAVELY ERRED IN GIVING CREDENCE TO THE INCREDIBLE TESTIMONY OF THE PRIVATE COMPLAINANT.

II

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED. [5]

The appeal lacks merit.

Rape is essentially an offense of secrecy, not generally attempted except in dark or deserted and secluded places away from prying eyes, and the crime usually commences solely upon the word of the offended woman herself and conviction invariably turns upon her credibility, as the prosecution's single witness of the actual occurrence.[6]

In the review of rape cases, therefore, we are guided by the following principles: (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 it; (2) in view of the intrinsic nature of the crime of rape where 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.[7]

The determination of the guilt of the appellant depends primarily on the credibility of the victim, AAA. Her testimony alone, if credible, would render the appellant's conviction inevitable.

It has been held in a long line of cases that the findings of the trial court on the credibility of witnesses and their

testimonies are accorded great respect. It is the trial judge who sees the behavior and demeanor of the witness in court. The evaluation or assessment made by the trial court acquires greater significance in rape cases because from the nature of the offense, the only evidence that can oftentimes be offered to establish the guilt of the accused is the victim's testimony. It is settled that a person accused of rape can be convicted solely on the testimony of the victim if the trial court finds said testimony to be credible, natural, convincing, and consistent with human nature and the normal course of things.[8]

In the case at bar, the trial court found the testimony of the victim to be credible and convincing. After reviewing the evidence on record of the case, we see no cogent reason to disturb its findings.

Moreover, the victim's acts of immediately narrating the incident to her live-in partner, reporting it to the police authorities and undergoing medical examination bolster her charge of rape.[9] No woman would openly admit that she was raped and consequently subject herself to an examination of her private parts, undergo the trauma and humiliation of a public trial, and embarrass herself with the need to narrate in detail the manner of its commission.[10]

Appellant's defense of alibi cannot hold water because it failed to satisfy the requirements of time and place. For alibi to prosper, appellant must prove not only that he was somewhere else when the crime was committed but also that it was physically impossible for him to be at the locus criminis at the time of the alleged crime.[11]

In the case at bar, it was established that the house of Norman delos Reyes, where appellant claimed he was at the time of commission of the crime, was just a one-hour walk from AAA and xxxxx's house and there were jeepneys plying the area. Furthermore, appellant's defense of alibi cannot prevail over his positive identification by AAA.

Appellant contends that the prosecution failed to prove the element of force in the commission of the crime of rape. He argues that, based on the victim's narration, it appears that she voluntarily went with him to the camote plantation and she did not exhibit any sign of resistance when she was allegedly ordered to take off her clothes.

While there may not have been proof of use of force, we hold that appellant was guilty of rape committed through intimidation. Intimidation must be viewed in light of the victim's perception and judgment at the time of the commission of the crime and not by any hard and fast rule. It is enough that it produces fear – fear that if the victim does not yield to the bestial demands of appellant, something would happen to her at that moment or even thereafter, as when appellant threatened to kill her if she reported the incident.[12]

When appellant threatened the victim with a gun during the sexual intercourse, intimidation, as an element of rape, was present. It is not necessary that force and violence be employed. Intimidation is sufficient, and this includes the moral kind, i.e., threatening the victim with a gun. When this kind of intimidation exists and the victim is cowed into submission as a result thereof, thereby rendering resistance futile, it is unreasonable to expect her to resist with all her might and strength. [13] Such intimidation, in this particular case, was enough to render AAA incapable of offering any resistance because of fear for her life.

Therefore, appellant is guilty beyond reasonable doubt of rape. Under Articles 266-A and 266-B of the Revised Penal Code, where the rape was committed through force, threat or intimidation, the penalty shall be reclusion perpetua. Hence, the penalty imposed by the trial court on appellant is correct.

The trial court was also correct in awarding to the complainant the amount of P50,000.00 as civil indemnity, conformably with prevailing jurisprudence. Civil indemnity is automatically granted once the fact of rape had been established. For her shame, as well as mental anguish, fright, serious anxiety, besmirched reputation, moral shock and social humiliation which rape necessarily brings to the offended party, she is entitled to recover P50,000.00 as moral damages under Article 2219 in relation to Article 2217 of the Civil Code.

WHEREFORE, in view of the foregoing, the Decision of the Regional Trial Court of Sta. Cruz, Laguna, Branch 28, in Criminal Case No. SC-7259, finding appellant Edgar Molleda y Pontanes guilty beyond reasonable doubt of rape, sentencing him to suffer the penalty of reclusion perpetua and ordering him to pay complainant AAA the amounts of P50,000.00 as civil indemnity and P50,000.00 as moral damages, is **AFFIRMED** in toto.

Costs de officio.

SO ORDERED.

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

[1] Penned by Judge Fernando M. Paclibon, Jr.

[2] Records, p. 2.

[3] Rape Case Report, Records, p. 12.

[4] Records, p. 96, Rollo, p. 28.

[5] Rollo, p. 45.

[6] *People v. Domingo*, 226 SCRA 156, 166 (1993).

[7] *People v. Lucas*, 232 SCRA 537, 546 (1994).

[8] *People v. Fabian*, G.R. Nos. 148368-70, 8 July 2003.

[9] *People v. Esperida*, G.R. Nos. 139637-38, 22 January 2003.

[10] *People v. Bagaua*, G.R. No. 147943, 12 December 2003.

[11] *People v. Escaño*, G.R. Nos. 140218-23, 13 February 2002, citing *People v. Hinto*, G.R. Nos. 138146-91, 28 February 2000.

[12] *People v. Pamor*, 237 SCRA 462, 472 (1994).

[13] *People v. Salazar*, G.R. Nos. 98121-22, 5 July 1996.

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