

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JAIME “JIMBOY” ANTONIO Y MACARIO, APPELLANT.

G.R. No. 157269. June 03, 2004

Ponente: YNARES-SATIAGO, J.

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YNARES-SATIAGO, J.:

This is an appeal from the decision[1] of the Regional Trial Court of Zamboanga City, Branch 15, in Criminal Case No. 17134, finding appellant Jaime Antonio y Macario @ “Jimboy” guilty beyond reasonable doubt of the crime of rape, sentencing him to suffer the penalty of reclusion perpetua with all its accessory penalties, and ordering him to pay the victim P100,000.00 as moral damages and the costs of suit.

The Information against appellant reads:

That on or about September 4, 2000, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force or intimidation, did then and there willfully, unlawfully and feloniously, have carnal knowledge of MARICEL REBOLLOS y CASIMIRO, a 12 year old girl, against her will.

CONTRARY TO LAW.[2]

When arraigned, appellant pleaded not guilty to the crime charged. Thereafter, trial on the merits ensued.

The facts of the case are as follows:

Complainant Maricel Rebollos, a grade four drop out, left her home to work as a household helper with the Balber family at the Fishing Port Complex, Sangali, Zamboanga City. She was born on June 10, 1987 and, at the time of the rape, was only 13 years old. Appellant, the brother of Rowena Balber, was 34 years old. Appellant was visiting at the house of his sister when the alleged rape happened.

On September 4, 2000, at around 7:00 a.m., Maricel and appellant were the only ones left in the house since Rowena Balber and her husband left for work and their children were in school. While Maricel was folding the washed clothes, appellant suddenly shut the door and pushed her towards the bed. He removed her shorts and panties. He took off his clothes and, while pinning down Maricel’s hand on the bed, inserted his penis into her vagina. Maricel felt pain. After satisfying his lust, appellant warned her not to tell anyone and left towards the fishing port.

Maricel went to the house of her friend Sharmaine Salazar, and together they proceeded to the Sangali Police Station to report the incident. Her report was blottered at around 9:20 a.m. Thereafter, she was brought to the Zamboanga City Medical Center for medical examination. Since then, Maricel remained in the custody of the DSWD at the Lingap Center, San Roque, Zamboanga City.[3]

Dr. Ritzi Apiag, a Medico-Legal Officer of Zamboanga City Medical Center, testified that on September 4, 2000, at around 12:45 p.m., she conducted a physical examination on Maricel, which yielded the following results:

Physical Findings: Breasts: Developed with age

Skin: (-) bruises

Mons pubis: Hair sparsely distributed

Labia majora & minora: Slightly gaping

Hymen: (+) healed incomplete lacerations at

8 o'clock position

Introitus: Admits 2 fingers with ease

Sperm Analysis: (+)[4]

For his part, appellant admitted that he had sexual intercourse with Maricel, but claimed it was voluntary and out of mutual consent. He alleged that they were lovers and that they were planning to live together but were waiting for the proper time to tell his sister. On the night before the alleged rape, appellant slept over at the house of his sister with Maricel beside him. They kissed each other while they were together in bed. The following morning, when they were left alone in the house, Maricel asked him to close the door. They both took off their clothes and Maricel lay on the bed. Appellant made love to her while in a standing position. The sexual congress lasted for about 15 minutes. Appellant then left to buy fish. When he returned, Maricel was crying because a neighbor saw what happened. Maricel went out of the house while appellant cooked the fish for breakfast. After eating and washing the dishes, he went back to sleep. Later, policemen arrived and arrested him for the alleged rape of Maricel Rebollos.[5]

On July 11, 2002, the trial court rendered judgment, the dispositive portion of which reads:

WHEREFORE, the Court finds JAIME “JIMBOY” ANTONIO y MACARIO guilty beyond a reasonable doubt of the crime of RAPE, as principal and as charged, and in the absence of any aggravating or mitigating circumstance attendant in the commission of the offense, does hereby sentence him to suffer the penalty of a RECLUSION PERPETUA, with its accessory penalties, to indemnify the offended party the sum of One Hundred Thousand Pesos (P100,000.00), Philippine Currency, in moral damages, and to pay the costs.

SO ORDERED.[6]

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

- THE LOWER COURT ERRED IN CONCLUDING THAT THE ELEMENTS OF THE CRIME OF RAPE ARE PRESENT.
- THERE WAS NO THREAT OR INTIMIDATION NOR WAS OFFENDED PARTY DEPRIVED OF REASON OR IS OTHERWISE UNCONSCIOUS (sic).
- THERE WAS NO FRAUDULENT MACHINATION OR GRAVE ABUSE OF AUTHORITY.
- THE OFFENDED PARTY IS ABOVE TWELVE (12) YEARS OLD AND IS NOT DEMENTED.
- THAT THE EVIDENCE PRESENTED SHOWED THAT THE ACCUSED MIGHT HAVE COMMITTED ANOTHER CRIME.[7]

A thorough appraisal of the evidence on record sustains the finding of guilt by the trial court. It is at once manifest from the testimonies of both the complainant and the appellant that the latter's “sweetheart theory” cannot persuade.

Once again, we reiterate the rule that findings of fact of the trial court carry great weight and are entitled to respect on appeal absent any strong and cogent reason to the contrary, since it is in a better position to decide the question of credibility of witnesses. In the determination of the veracity of the testimony, the assessment by the trial court is accorded the highest degree of respect and will not be disturbed on appeal unless it is seen to have acted arbitrarily or with evident partiality.[8] None of the exceptions exists in the case at bar.

In rape, the gravamen of the offense is carnal knowledge of a woman against her will or without her consent.[9] In convicting appellant, we agree with the trial court that the evidence on record adequately proves carnal knowledge by force and intimidation. It held:

Under this premise, the court lent credence to the testimony of the offended party that she was pushed to the bed by the accused after the latter closed the door. And on the bed, she was raped by the accused. This act of pushing the offended party to the bed may not be that force that cannot be resisted. However, considering the tender years of the offended party, coupled with the undue influence that the accused exercised over her, the accused being the brother of Rowena Balber who generously took her in after she ran away from her sister, the act of pushing suffices. Force or intimidation is not limited to physical force. As long as it is present and brings the desired result, all consideration of whether it was more or less irresistible is beside the point.

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Repeating for emphasis, the offended party in the case at bar is only a little over thirteen (13) years of age. At that point in time, she was not in the possession and exercise of sufficient mental capacity to make an intelligent decision whether to submit herself to sexual intercourse that will bring dishonor to herself and her family. At that age, the offended party was not in the right mind to balance, with deliberation, the good or evil effect of submitting to such sexual act.[10]

The force or violence that is required in rape cases is relative; when applied, it need not be overpowering or irresistible. That it enables the offender to consummate his purpose is enough. The parties' relative age, size and strength should be taken into account in evaluating the existence of the element of force in the crime of rape.[11] The degree of force which may not suffice when the victim is an adult, may be more than enough if employed against a person of tender age.

In the case at bar, appellant employed that amount of force sufficient to consummate rape. It must be stressed that at the time of the incident, Maricel was only 13 years old. Her size and strength was no match against the appellant, who was already an adult in the prime of his life. She testified that she was pushed to the bed by appellant and her hands were tightly pinned down,[12] making it impossible for her, considering her build, to ward off the sexual assaults of the appellant.

Moreover, appellant's allegation that there was no force because Maricel did not suffer injuries and her clothes were not torn is not well taken. The absence of bruises, scratches or abrasions on Maricel's body or tear in her clothing does not diminish her credibility or rule out rape. The lack of such telltale signs of force is not necessarily inconsistent with Maricel's testimony regarding the manner by which appellant succeeded in satisfying his lust, for proof thereof is not an essential element of the crime of rape.[13]

The conduct of the victim immediately following the alleged assault is of utmost importance in establishing the truth or falsity of the charges of rape.[14] Here, Maricel's actuations immediately after the rape were clear indications of the veracity of her statements. She went to the house of her friend Sharmaine Salazar to ask for help. Together they promptly reported the incident to the police. She was taken thereafter to the Zamboanga City Medical Center to undergo medical examination.

We cannot agree with appellant's contention that Maricel's failure to shout for help was tantamount to a

submission to his sexual advances. There is no standard form of reaction for a woman, much more a minor, when facing a shocking and horrifying experience such as a sexual assault. The workings of the human mind placed under emotional stress are unpredictable, and people react differently – some may shout, some may faint, and some may be shocked into insensibility while others may openly welcome the intrusion.[15] Her failure to shout could be attributed to the shock and horror which she felt as a result of appellant's sexual assault.

The "sweetheart theory" appellant proffers is effectively an admission of carnal knowledge of the victim and consequently places on him the burden of proving the supposed relationship by substantial evidence. To be worthy of judicial acceptance, such a defense should be supported by documentary, testimonial or other evidence.[16] The record shows that, other than his self-serving assertions, the appellant had nothing to support his claim. No love letter, memento, or picture was presented to prove that such romantic relationship existed. His story that the night before the incident, he and Maricel slept in the same bed and kissed each other, is highly incredible. There is no other indication that Maricel was of ill repute or loose morals so as to readily consent to have intimate relations with him.

It is culturally instinctive for young and decent Filipinas to protect their honor and obtain justice for the wicked acts committed on them. Thus, it is difficult to believe that rape victims would fabricate a tale of defloration, allow the embarrassing examination of their private parts, reveal the shame to the small rural town where they grew up and permit themselves to be subjected to a humiliating public trial if they had not in fact been really ravished. When the offended parties are young and immature girls from 12 to 16, as in this case, courts are inclined to lend credence to their version of what transpired, considering not only their relative vulnerability but also the public humiliation to which they would be exposed by court trial if their accusation were not true.[17]

Lastly, we are not persuaded by appellant's allegation that he and Maricel were going to live together as he was going to propose marriage to her. Such an illusion, observed by the trial court, was simply unthinkable. Maricel, barely in her teens, is obviously too naive in the ways of the world to be confronted with a complicated situation like marriage with the appellant who was three times her age.

All told, appellant is guilty beyond reasonable doubt of the crime of rape through force or intimidation. The trial court, therefore, correctly imposed on him the penalty of reclusion perpetua, pursuant to Articles 266-A and 266-B of the Revised Penal Code, as amended. A slight modification in the award of damages however is in order. The trial court did not award civil indemnity in favor of the complainant. 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.[18] Thus, complainant should be awarded P50,000.00 as civil indemnity.

The award of moral damages is 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 award. However, it must be reduced from P100,000.00 to P50,000.00 based on prevailing jurisprudence.[19] Moral damages are separate and distinct from civil indemnity.[20]

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Zamboanga City, Branch 15, in Criminal Case No. 17134, finding the appellant guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of reclusion perpetua is **AFFIRMED** with the **MODIFICATION** that appellant is ordered to pay the complainant the amounts of P50,000.00 as civil indemnity and P50,000.00 as moral damages.

Costs de officio.

SO ORDERED.

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

- [1] Penned by Judge Vicente L. Cabatingan, Rollo, pp. 23-28.
- [2] Rollo, p. 9.
- [3] TSN, November 28, 2000, pp. 2-12.
- [4] Records, p. 7.
- [5] TSN, September 26, 2001, pp. 11-23.
- [6] Rollo, p. 28.
- [7] Rollo, pp. 40-48.
- [8] *People v. Gregorio*, G.R. No. 153781, 24 September 2003.
- [9] *People v. Gabawa*, G.R. No. 139833, 28 February 2003.
- [10] Rollo, p. 27.
- [11] *People v. Del Ayre*, G.R. Nos. 139788 & 139827, 3 October 2002.
- [12] TSN, November 28, 2000, pp. 5-6.
- [13] *People v. Balleno*, G.R. No. 149075, 7 August 2003.
- [14] *People v. Torres*, G.R. No. 134766, 16 January 2004.
- [15] *People v. Pastorete*, G.R. No. 133827, 27 November 2002.
- [16] *People v. Sinoro*, G.R. Nos. 138650-58, 22 April 2003.
- [17] *People v. Pascua*, G.R. Nos. 128159-62, 14 July 2003.
- [18] *People v. Talavera*, G.R. Nos. 150983-84, 21 November 2003.
- [19] *People v. Guambor*, G.R. No. 152183, 22 January 2004.
- [20] *People v. David*, G.R. Nos. 121731-33, 12 November 2003.

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