PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ARDEL CANUTO, APPELLANT.

G.R. No. 169083. August 07, 2006

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before the Court on appeal is the Decision[1] of the Court of Appeals in CA-G.R. CR No. 00705 affirming the ruling[2] of the Regional Trial Court (RTC) of Iriga City in Criminal Case No. IR-5813, convicting appellant Ardel Canuto of rape.

The Case for the People

Efren Bayrante and his wife Teresita Bolo had three (3) children. One of them, Emily, was born on April 19, 1984.[3] The family resided in Barangay Carangay, Baao, Camarines Sur. Efren passed away sometime later.

In 1991, Teresita began living with Ardel Canuto, an ex-convict. Teresita's mother, Carmen, objected to the relationship. Carmen insisted that Emily and her siblings reside with her. Carmen's house[4] was about 80 to 100 meters away from where Teresita and Ardel lived.[5] Teresita complied and had Emily brought to her mother's house where her cousins, nine-year old Jennifer, seven-year old Rose-Ann and three-year old Jennilyn, all surnamed Gonzales, also resided.[6]

On June 26, 1999, Carmen left her house to go to the poblacion to assist someone who was delivering a child. Emily and her cousins were left at the house. At about 9:00 p.m., while Emily was sleeping in a room illuminated by a gas lamp and about a meter away from where her cousins were sleeping,[7] she was suddenly awakened by something sharp, poking on the left side of her neck. She was shocked to see that it was Ardel, holding the ice pick with his right hand. He warned her not to make any noise, otherwise, she would be killed. Emily was powerless as Ardel removed her shorts and panty. He then removed his shorts and mounted her, placed his legs between hers and had his way with her. Emily felt pain. After a minute or two, Ardel dismounted. Before he left the house, he warned the petrified girl not to tell anyone what he had done, or else, he would kill her.[8]

When her grandmother arrived home the next day, June 27, 1999, Emily did not tell her that Ardel had raped her the night before. Remembering his threats to kill her, Emily likewise did not reveal her ordeal to her mother.

At about 11:00 p.m. on June 28, 1999, Ardel raped Emily again.[9] She once more kept the incident to herself for fear that she would be killed.

Sometime in August 1999, Emily was raped anew, this time, by Ricardo Brisenio. As a result, she became pregnant. When she learned that her niece was pregnant, Irma Boncayao, a businesswoman, fetched her and brought her to her home in Agos, Bato, Camarines Sur. Irma intended to adopt the baby because she was childless. At that time, Irma did not know who the father of Emily's baby was. It was only later that she learned that Ricardo Brisenio had impregnated Emily.[10]

However, Irma noticed that Emily was sad and restless. At about 6:00 p.m. on January 10, 2000, Irma brought Emily to Naga City and bought clothes for her. Worried, Irma asked what was bothering her, and it was then that Emily revealed that she had been raped by Ardel and Ricardo. Emily was trembling with fear and crying as she related how Ardel and Ricardo had raped her.[11] Emily embraced Irma and pleaded for help.[12]

Irma forthwith fetched Teresita and Carmen and brought them to her house where Emily recounted how she had been taken advantage of by Ardel and Ricardo. The three then brought Emily to Dr. Catherine O. Buban who examined the girl on January 11, 2000. The doctor found hymenal lacerations at 4, 7, 8, 9, and 12 o'clock positions, and declared that Emily was about 5 to 6 months pregnant,[13] scheduled to deliver the baby by May 2000.[14]

On January 13, 2000, Emily filed a criminal complaint for rape against Ardel Canuto with the Office of the Public Prosecutor of Camarines Sur. Her mother, Teresita signed the complaint and executed an affidavit before the public prosecutor on the same day. She alleged, inter alia, the following:

> Na noong ika-11 ng Enero 2000, dinala namin ang aking anak na si Emily sa [doctor] upang patingnan kung positibong buntis ito at nang kami ay umuwi na, sinabi sa akin ng aking bayaw na si Erma (sic)Boncayao, na kasama naming sa pagpunta sa doctor, na nagtapat sa kanya si Emily na ito raw ay ginahasa din ng aking pangalawang asawa na si ARDEL CANUTO noong buwan ng Hunyo 1999 at ito rin ang nakabuntis kay Emily.[15]

Emily also filed a criminal complaint for rape against Ricardo Brisenio with the Office of the Public Prosecutor.

Two Informations for rape were filed against Ardel Canuto with the RTC of Iriga City, docketed as Criminal Cases Nos. 5814 (raffled to Branch 37) and 5813 (raffled to Branch 35). The Information in the latter case reads:

> That on or about the 26th day of June 1999, in [B]arangay Caranday, Municipality of Baao, Province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then her stepfather, with lewd design, by means of force and intimidation, while armed with an ice pick, did then and there willfully, unlawfuly and feloniously have carnal knowledge with his stepdaughter Emily Bayrante y Bolo, a 15-year-old girl, against her will and consent, to the damage and prejudice of the offended party in such amount as may be proven in court.
>
> ACTS CONTRARY TO LAW.[16]

The Case for the Appellant

Ardel interposed the defenses of denial and alibi. He testified that he was a farmer by profession. On June 26, 1999, he planted corn from 7:00 a.m. to 5:00 p.m. in their farm near their house as he usually did. When he arrived home, his wife, Teresita, and their four children were in the house. They had dinner at 6:30 p.m. and rested at 7:00 p.m. He woke up at 8:00 a.m. the next day.[17] He denied having raped Emily. His wife Teresita told him that Ricardo Brisenio had raped Emily.[18] He was so incensed when he learned this that he and his wife rushed to the house of Ricardo and confronted him. Ardel admitted that he and Emily had no ill-feelings against each other before June 26, 1999.[19]

Teresita corroborated the testimony of Ardel. She declared that she and Ardel had four children: Arnold, 11 years old; Mary Jane, 9 years old; Jason, 7 years old; and Aileen, 5 years old. On the night in question, they had dinner in their house at 6:00 p.m. and went to bed afterwards.[20] When she woke up at 4:00 a.m. to answer the call of nature,[21] Ardel was in the house, still sleeping. She declared that her Affidavit dated January 13, 2000 was not explained to her. She only finished Grade IV and could not read or write except her name and family name.[22] She also admitted that she and Emily had a good relationship before June 26, 1999.[23]

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Emily testified on rebuttal and declared that her mother, Teresita, signed her Affidavit on January 13, 2000. Her mother testified for Ardel because according to her mother, it was better to lose a child than to lose a husband.[24] She delivered her baby on May 4, 2000.[25]

The Ruling of the Trial Court

On April 1, 2003, the trial court rendered judgment convicting Ardel of rape. The fallo of the decision reads:

> WHEREFORE, in view of all the foregoing, the prosecution having successfully proved the guilt, of accused Ardel Canuto beyond reasonable doubt, he is hereby sentenced to suffer the penalty of Reclusion Perpetua and is hereby ordered to indemnify Emily Bayrante in the amount of Fifty Thousand (P50,000.00) Pesos and Fifty Thousand (P50,000.00) Pesos as moral damages.
>
> SO ORDERED.[26]

The RTC rejected Ardel's defenses of denial and alibi, and gave credence and full probative weight to Emily's testimony that she had been raped by Ardel. It also declared that the prosecution failed to prove that Ardel had been lawfully married to Teresita, hence, was merely the latter's common-law husband.[27] Consequently, the court sentenced Ardel to reclusion perpetua.

Ardel appealed the decision to this Court, which, however, transferred the case to the Court of Appeals (CA) in deference to the ruling in People v. Efren Mateo.[28]

The Ruling of the Appellate Court

Ardel averred in his Brief before the CA that the trial court erred in giving credence to the testimony of the prosecution witnesses and, consequently, erred in convicting him of rape.[29] He insisted that his guilt was not proven beyond reasonable doubt and that he adduced clear and convincing evidence to prove his alibi. His testimony was corroborated by Teresita Bolo who is the mother of Emily. He averred that he should not be charged and convicted of the crime committed by Ricardo Brisenio.

On April 22, 2005, the CA rendered judgment affirming the decision of the trial court;[30] hence, the instant appeal, where Ardel, as appellant, adopted his Brief in the CA as his Supplemental Brief in this Court.[31]

The Ruling of the Court

The appeal has no merit.

We have reviewed the evidence on record and find that, indeed, the prosecution adduced evidence to prove beyond reasonable doubt that the appellant raped Emily at about 9:00 p.m. on June 26, 1999 in the house of Carmen Bolo. The victim narrated in a spontaneous and straightforward manner how she was defiled by the appellant, thus:

> Q
>
> Do you know the accused in this case, Ardel Canuto?
>
> A
>
> Yes, Sir.
>
> Q
>
> If he is in court, kindly point to him.
>
> INTERPRETER:

Witness pointed to a man inside the courtroom who answered to the name (sic) Ardel Canuto.

PROS. RAMOS:

Q

Why do you know him?

WITNESS:

A

Because he is my mother's husband.

Q

But who is your real father by blood?

A

My father's name is Efren Bayrante and he is already dead.

Q

And can you still remember when was that that the accused became your stepfather?

A

Yes, Sir.

Q

How old were you then when the accused became your stepfather?

A

Seven years old.

Q

And (sic) the accused became your stepfather, you, your mother and the accused lived together as a family?

A

Yes, Sir.

Q

Right. On June 26, 1999 at around 9:00 in the evening, where were you?

A

I was at our residence.

Q

And where is your residence located?

A

Caranday, Baao.

Q

And (sic) that date June 26, 1999, who were staying in your house?

A

My cousins.

Q

How about your mother and stepfather? Who else are staying there, if any?

A

There are only four who are staying there.

Q

Who are they?

A

Jennifer, Jenny, Rose-Ann and Jennilyn.

Q

And who are (sic) the actual or real owner[s] of that house where you were staying?

A

My grandmother.

Q

What is her name?

A

Carmen Bolo.

Q

And where was your grandmother then on June 26, 1999?

A

She was not around. She went to the poblacion.

Q

Right. While you were there at your residence on June 26, 1999 at around 9:00 p.m., what happened, if any?

A

He suddenly entered the house.

Q

You are referring to the accused you just pointed a while ago as the person who suddenly entered your house?

A

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Yes, Sir.

Q

And what happened next when the accused suddenly entered your house?

A

He pointed an icepick at me.

Q

In what part of [your] body did the accused point you?

A

Here. (Witness pointing to her neck)

Q

After the accused poked his icepick to your neck, what happened next?

A

He was already undressing.

Q

And by the way, what did he say, if any, to you?

A

He told me that if I will (sic) tell anybody, he will (sic) kill me.

Q

What else, if any, did he tell you?

A

He will (sic) kill us with the icepick.

Q

Right. What else happened when you said that the accused was removing or he was undressing?

A

He also undressed me.

Q

And what did you do when the accused undressed you?

A

I was struggling.

Q

And why were you struggling?

A

Because I was in great fear.

Q

Right. What happened next after the accused undressed himself and also undressed you?

A

He placed himself on top of me.

Q

And when he placed himself on top of you, what happened next?

A

He was making a pumping motion.

Q

And when he was making a pumping motion, what did you feel?

A

It was painful.

Q

What part of your body was painful, according to you?

A

(Witness answered by pointing to her vagina).

COURT:

There must be a categorical answer.

WITNESS:

A

My vagina was painful.

PROS. RAMOS:

Q

Why was your vagina painful when there was a pumping motion?

A

Because he inserted his penis into my vagina.

Q

After the accused inserted his penis into your vagina, what happened next?

A

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He told me that if I would tell anybody he would kill us.

Q

And (sic) he was saying that threat that he will (sic) kill your family if you report the matter, what was the accused holding, if any?

ATTY. SE:

Leading. No basis.

COURT:

If any.

WITNESS:

A

He was holding an icepick.

PROS. RAMOS:

Q

And where was this icepick directed to or pointed to when he said that?

A

It was pointed to the left side of my neck.

Q

And what did you feel when the accused threatened you by pointing his icepick towards your neck?

A

I was very frightened because I learned that he already killed somebody.

Q

From whom did you hear that the accused already killed somebody?

ATTY. SE:

Objection, that is hearsay.

PROS. RAMOS:

At least the tenor, from whom?

COURT:

.

Witness may answer

WITNESS:

A

From my mother.[32]

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On cross-examination, Emily did not waiver. She remained in her testimony that the appellant had raped her:

Q

Do you know where you were on June 26, 1999?

WITNESS:

A

Yes, Sir.

Q

Where were you then?

A

I was at the house of my grandmother at Brgy. Caranday, Baao, Camarines Sur.

Q

Are you living or staying with your grandmother?

A

Yes, Sir.

Q

And who were with you there at your grandmother's house?

A

My cousins.

Q

What about your siblings?

A

They were already married.

Q

Your cousins, how many were they?

A

3.

Q

How old were they?

A

Their ages were 9, 7 and 3.

Q

What are their surnames?

A

Gonzales.

Q

Why were you staying there at your grandmother together with these cousins of yours?

A

I [grew] up there.

Q

Is your grandmother still living?

A

No, Sir.

Q

In the morning of June 26, you were there together with your grandmother and your 3 cousins, is that correct?

A

My grandmother was not around.

Q

You mean to say that the whole day of June 26, your grandmother was not around. Is that correct?

A

Yes, Sir.

Q

Where did she go?

A

She was assisting in a childbirth,

Q

What time did she return?

A

The following day.

Q

Meaning to say, June 27?

A

Yes, Sir.

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Q

What happened then while you were with your cousins while your grandmother was absent?

A

I was raped by him.

Q

Who is this him you are referring to?

A

Ardel Canuto

Q

Why, how did he rape you?

A

He suddenly entered our house.

Q

What time was that?

A

Around 9:00.

Q

At that time, you were already sleeping together with your 3 cousins, am I correct?

A

Yes, Sir.

Q

And you were sleeping in one room?

A

Yes, Sir.

Q

Side by side?

A

I was a little farther from the 3.

Q

How far were you from the 3?

A

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From where I am seated up to the table.

ATTY. SE:

That is one meter and a half.

PROS. RAMOS:

One and a half meter, Your Honor.

ATTY. SE:

Q

In relation to you, which side were your cousins sleeping, right or left?

A

At my right side.

Q

There Ardel Canuto raped you?

A

Yes, Sir.

Q

How did he enter the room, is it not locked?

A

The door has no lock.

Q

How about the room?

A

Just a curtain.

Q

There was no light at that time?

A

There was a gas lamp.

Q

And where was that gas lamp located or placed?

A

It was hanged.

Q

That was hanged outside the room, is that right?

A

Inside the room.

Q

Tell the court how did Ardel Canuto rape you?

A

He poked something on me.

Q

While you were lying down?

A

Yes, Sir.

Q

And so what happened when Canuto was poking you with what something?

A

Icepick.

Q

What happened after that?

A

He undressed me.

Q

While lying down, the accused was able to undress you?

A

I was just wearing panty and skirt. Only the panty was removed.

ATTY. SE:

Q

The panty could not have been removed because you were lying down and the weight of your body is (sic) pressing the panty on the floor?

A

He pulled it down.

Q

Immediately the panty went down up to which part of your legs?

A

He removed it.

Q

So, it was done by force?

A

Yes.Sir.

Q

Was the panty torn?

A

Yes, Sir.

Q

Do you have the torn panty with you to be identified here?

A

No, Sir.

Q

Ms. Witness, you did not struggle, you did not shout while the accused was pulling down your panty, is that correct?

A

Because he was poking an icepick.

Q

What hand was he holding the icepick [with]?

A

His right hand.

Q

And his left hand was the one he used in pulling down your panty, am I correct?

A

Yes, Sir.

ATTY. SE:

Q

Your hands were free at that time, did you not push or scratch Ardel Canuto?

WITNESS:

A

Because he told me that if I fight him he will (sic) kill me with that icepick.

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Q

And how did he tell you or what [was] his voice when he told you that, is it loud or modified?

A

It was loud.

Q

You did not also kick Ardel Canuto with your feet which was free at that time?

A

I was pinned down.

Q

How were you pinned down, what did he use in pinning you down?

A

He used his feet.

Q

Both feet were used in pinning you down?

A

Yes, Sir.

Q

So, Ardel Canuto was uttering in loud voice but despite this loud voice, your cousins were not awaken, is that correct?

A

They were fast asleep.

Q

Did you not try to, at least, shout or kick your cousins who were near you to be awaken?

A

No, Sir.

Q

You mean to say, at that time, you were immobilized because his feet [were] pinning you down?

A

Yes, Sir.

Q

At the same time, Ardel Canuto was holding the icepick and he was poking it to your neck, is that correct?

A

Yes, Sir.

Q

What about his left hand, how did he use his left hand?

A

After he removed my panty, he also undressed.

Q

You mean to say that Ardel Canuto was able to undress himself while poking his icepick on your neck and at the same time pinning your legs with his feet, is that what you are trying to let us believe you?

A

He lifted one foot followed by the other.

Q

And what else did he remove from his body?

A

His short pants.

Q

Was he wearing short pants or long pants?

A

Short pants.

Q

And naturally, he has to remove also his brief?

A

Yes, Sir.

Q

Was he totally dressed from waist up?

A

Yes, Sir.

Q

So, Ardel Canuto was able to remove his short pants and brief while he was pinning you down and at the same time poking the icepick and you did not struggle when Ardel Canuto was trying to remove his short pants and brief which according to you lifted one foot after another in removing his short pants and brief, is that correct?

A

I was very afraid that is why I was overcame (sic) with fear.

xxx

Q

When Ardel Canuto was already naked, what happened next?

A

He put the weight of his body on me and he inserted his penis into my vagina.

Q

You mean to say that he immediately inserted his penis while he was poking the icepick on you?

A

It took quite sometime.

Q

When you said "quite sometime," more or less, can you approximate how many minutes did it last before the accused was able to insert his penis?

A

One minute.

Q

Even in that one minute, you did not move because you were afraid?

PROS. RAMOS:

It was repeatedly said that she was overcame (sic) with fear.

ATTY. SE:

Q

When you said you were overcame (sic) with fear, you [remained] motionless and you did not struggle?

WITNESS:

A

Yes, Sir.[33]

The trial court gave credence and full probative weight to the testimony of Emily, and declared, that her account was clear, convincing and straightforward:

> It must be noted in this case that the house of Carmen Bolo where Emily was staying on June 26, 1999, is just 80 to 90 meters away from the house of her mother and Ardel Canuto. The latter admitted that it is just two minutes walk (sic) to the house of Carmen from their house. It was not possible (sic) for him to have sneaked out from their house when his wife was already asleep and committed the alleged crime of rape at about 9:00 o'clock in the evening of June 26, 1999. Emily Bayrante testified in a clear, convincing and straightforward manner that in the night of June 26, 1999, the accused suddenly appeared before her, poked an icepick to her neck and succeeded in raping her. She was not able to resist the beastly attack of the accused because she was threatened to be killed and (sic) knowing that the accused was incarcerated for killing a man, she was unable to defend her honor for fear that he might make true his threats.

> The court is morally certain that the accused committed the crime of rape as charged and is found to be guilty of the same.[34]

The appellate court affirmed the findings of the trial court. The rule is that, unless the trial court ignored, misinterpreted or misunderstood facts and circumstances of substance which, if considered, would reverse or modify the outcome of the case,[35] the findings of the trial court on the credibility of witnesses will not be disturbed:

> xxx Time-honored is the doctrine that no young and decent woman would publicly admit that she was ravished and her virtue defiled, unless such was true, for it would be instinctive for her to protect her honor. No woman would concoct a story of defloration, allow an examination of her private parts and submit herself to public humiliation and scrutiny via an open trial, if her sordid tale was not true and her sole motivation was not to have the culprit apprehended and punished.
>
> It bears emphasis that the victim was barely thirteen when she was raped. It is settled jurisprudence that testimonies of child-victims are 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.
>
> Furthermore, as a rule, appellate courts will not disturb the findings of the trial court on the credibility of witnesses, for the trial court is in a better position to pass upon the same. As succinctly explained in the case of People vs. Atop, the trial court has the valuable edge of observing the witness' deportment and manner of testifying, her "furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath" - all of which are useful aids for an accurate determination of a witness' honesty and sincerity.[36]

Indeed, the rule is that when a rape victim's testimony is straightforward and candid, unshaken by rigid cross-examination and unflawed inconsistencies, or contradictions in its material points, the same must be given full faith and credit.[37]

The appellant has not adduced any evidence of ill-motive on the part of Emily to falsely charge him of the heinous crime of rape. On the other hand, the appellant testified that, before June 26, 1999, Emily had no ill-feelings or grudge against him.[38]

Absent any ill-motive on the part of Emily to falsely charge the appellant of rape, the presumption is that, she is telling the truth; hence, her testimony is entitled to full probative weight. It would run counter to the natural order of events and of human nature, and contrary to the presumption of good faith, for a prosecution witness to falsely testify if the appellant is truly innocent.[39]

It must be stressed that the appellant's defense of denial and alibi was rejected by the trial court. The appellate court ruled as follows:

> Contrary to the defense's posturing, the accused-appellant's alibi and denial cannot prevail over the positive identification by the private complainant as regards her rapist (People vs. Remoto, 244 SCRA 506). Moreover, for alibi to qualify as a valid defense, it must first be shown that it was physically impossible for the accused to have been present in the locus criminis at the supposed time of commission of the crime (People vs. Caguioa, Sr., 259 SCRA 403). In this case, the accused-appellant cannot cavil at the fact that the house of Carmen Bolo where the private complainant was staying was only a few minutes walk from the house of the accused-appellant.[40]

The appellant's denial of the crime charged constitutes negative self-serving evidence which cannot prevail over the positive testimony of Emily that the appellant had defiled her.[41] Moreover, alibi as a defense is inherently

weak because it is easy to concoct and difficult to disprove. The appellant must prove, with clear and convincing evidence at the trial that he was in a place other than the situs of the crime, such that it was physically impossible for him to have committed the same.[42] The requirement of time and place must be strictly followed.[43]

In this case, the house of Carmen Bolo where Emily resided was just 80 to 100 meters away from the house of the appellant, and there was a trail between the two houses:

PROS. RAMOS: Q We go to another point. You said that on June 26, 1999, you were then staying at your house sleeping with your husband, the accused in this case, and your children, particularly the private complainant your daughter Emily Bayrante, was residing with your mother. Now, kindly estimate the distance, for example, this is your house together with your husband, and the house of your mother where the private offended party is staying. You look for an object outside as the distance? (sic)

PROS. RAMOS:

Q

We go to another point. You said that on June 26, 1999, you were then staying at your house sleeping with your husband, the accused in this case, and your children, particularly the private complainant your daughter Emily Bayrante, was residing with your mother. Now, kindly estimate the distance, for example, this is your house together with your husband, and the house of your mother where the private offended party is staying. You look for an object outside as the distance? (sic)

A

More than (sic) that road.

PROS. RAMOS

80 to 100 meters, Your Honor.

ATTY. SE:

Yes, Your Honor.

PROS. RAMOS

Q

Of course, there is a trail in going from your house to the house of your mother?

WITNESS:

A

Yes, Sir.[44]

The only evidence to corroborate appellant's claim that he was sleeping in their house when Emily was raped is the testimony of Teresita. However, Teresita declared that she awoke at 4:00 a.m. on June 27, 1999 when she answered the call of nature. It was thus entirely possible that the appellant had gone out of the house while she was asleep and committed the dastardly act. Teresita's testimony on the matter reads:

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Q

You said that after eating you [slept]. Am I correct to say that at around 6:30 you and your husband were already asleep?

A

We were already lying down but we were not yet asleep.

Q

7:00 o'clock you and your husband were already asleep?

A

Yes, Sir.

Q

And you wake (sic) up the following morning?

A

Yes, Sir.

PROS. RAMOS:

That will be all, Your Honor.

COURT:

Any redirect?

ATTY. SE:

Yes, Your Honor.

COURT:

Go on.

- REDIRECT EXAMINATION BY

ATTY. SE:

Q

When you sleep, you sleep side by side with your husband, correct?

WITNESS:

A

Yes, Sir.

ATTY. SE:

Q

When your husband moved or there was a noise, you woke up or you did not?

PROS. RAMOS:

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Your Honor, she woke up the following morning.

ATTY. SE:

Q

Meaning to say, you never woke up until morning?

WITNESS:

A

I also [answered] the call of nature at 4:00 o'clock in the early morning.[45]

IN LIGHT OF ALL THE FOREGOING, the appeal of the appellant is DENIED. The decision appealed from is AFFIRMED. Costs against the appellant.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez, and Chico-Nazario, JJ., concur.

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[1] Penned by Associate Justice Bienvenido L: Reyes, with Associate Justices Godardo A. Jacinto and Rosalinda Asuncion-Vicente, concurring; rollo, pp. 95-102.

[2] Penned by Judge Nilo B. Barsaga; id. at 16-19.

[3] Exhibit "A," records, p. 12.

[4] TSN, November 29, 2002, p. 14.

[5] Id.

[6] TSN, September 5, 2002, p. -5.

[7] Id. at 6-7.

[8] Id. at 7-14.

[9] Exhibit "D," records, pp. 65-73

[10] TSN, September 6, 2002, p. 5.

[11] Id. at 5-7.

[12] Id. at 6.

[13] TSN, October 17, 2002, pp. 5-6.

[14] Id. at 8.

[15] Exhibit "F-2;" records, p. 4.

[16] Records, p. 1.

[17] TSN, December 12, 2002, pp. 4-5.

[18] Id. at 7.

[19] Id. at 10.

[20] TSN, November 29, 2002, pp. 4-5.

[21] Id. at. 16.

[22] Id. at 9.

[23] Id. at 18-19.

[24] TSN, December 12, 2002, p. 12.

[25] Id at 14.

[26] Records, p. 91.

[27] Id.

[28] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

[29] CA rollo, p. 35.

[30] Id. at 95-102.

[31] Rollo, p. 12.

[32] TSN, August 22, 2002, pp. 5-9.

[33] TSN, September 5, 2002, pp. 4-11.

[34] Records, pp. 90-91.

[35] People v. Paraiso, 402 Phil. 372, 388-389 (2001).

[36] People v. De Villa, 403 Phil. 736, 745-746 (2001).

[37] People v. Baway, 402 Phil. 872, 890 (2001).

[38] The appellant's testimony on the matter reads:

Q-And before this incident [of] June 26, 1999, the offended party, Emily Bayrante, and you have no ill-feeling or grudge?

A-None, Sir. (TSN, December 12, 2002, p. 10)

[39] People v. Macaliag, 392 Phil. 284, 297 (2000).

[40] Rollo,p. 101.

[41] People v. Arofo, 430 Phil. 475, 484-485 (2002); People v. Manayan, 420 Phil. 357, 378-379 (2001).

[42] People v. Consejero, G.R. 118334, February 20, 2001, 352 SCRA 276, 290; People v. Martinez, 403 Phil. 465, 475 (2001); People v. Elpedes, 403 Phil. 676, 687 (2001).

[43] People v. Seguis, 402 Phil. 584, 603 (2001).

[44] TSN, November 29, 2002, pp. 14-15.

[45] TSN, November 29, 2002, pp. 15-16.

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