

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUDY SALIDAGA Y QUINTANO, ACCUSED-APPELLANT.

G.R. NO. 172323. January 29, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For review is the Decision[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 01332 which affirmed in toto the Decision[2] of the Regional Trial Court of Pasig City, Branch 166, finding accused-appellant Judy Salidaga y Quintano guilty of the crime of rape and sentencing him to suffer the penalty of reclusion perpetua and to pay his victim, AAA,[3] the amounts of P50,000.00, as civil indemnity, and P50,000.00, as moral damages. He was also ordered to pay the costs of suit.

The factual antecedents are as follows:

An Information dated 20 December 2002 was filed against appellant charging him with rape committed as follows:

On or about December 16, 2002, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, armed with a knife, and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with the complainant, AAA, against her will and consent.[4]

Upon arraignment on 6 February 2003, appellant entered a plea of not guilty[5] and shortly thereafter, trial ensued.

The prosecution presented, as its lone witness, the victim herself. In her testimony, she stated that at the time of the incident, she was alone and asleep at their house located in Bolante, Pasig City when appellant placed himself on top of her and poked a knife at her neck. She then claimed that she lost consciousness as she was overcome by fear for her life. Appellant then inserted his sex organ into her vagina. She was not able to put up a fight because she was afraid that appellant would kill her. After appellant had satisfied his lust, he stood up and left the victim's house. A few hours lapsed before AAA went to see her live-in partner at his place of work and narrated to him what transpired earlier that afternoon. Her live-in partner was enraged and asked her how the rape took place. Eventually, he instructed AAA to return to their house. On 20 December 2002, she reported the incident to the police.[6]

The prosecution likewise presented the Sworn Statement of AAA[7] and the Initial Medico-Legal Report issued by the crime laboratory of the Philippine National Police.[8] The report was signed by a certain P/Sr. Insp. Daileg who conducted the physical examination on AAA. It bears the following information:

FINDINGS: Hymen: Carunculae myrtiformis

CONCLUSION: Subject is non-virgin state physically (sic)[9]

The defense presented appellant as its sole witness. He testified that on 11 June 2002, he and AAA commenced living together as lovers. However, their relationship was short-lived as he was instructed by his parents to go back home to Taguig. Apart from this, the two of them were having disagreements with respect to their finances and there was talk going around in their neighborhood that AAA was seeing somebody else. He disclosed that, while they were still living together, he caught AAA with another man. He added that during one of their altercations, AAA allegedly threatened to send him to jail. Not long after, AAA decided to terminate their relationship.

Appellant also stated that during the time when the supposed rape took place, he was installing the flooring of the house belonging to “Lando” and “Ate Aling” in Bolante, Pasig City.

The defense did not present any documentary evidence.

On 26 November 2003, the trial court rendered its decision, the dispositive portion of which states:

WHEREFORE, the Court finds accused Judy Salidaga y Quintano Guilty beyond reasonable doubt, as principal, of the crime of Rape, as charged in the Information, and there being neither mitigating nor aggravating circumstance, he is hereby sentenced to suffer the penalty of Reclusion Perpetua and pay AAA P50,000.00, as civil indemnity and P50,000.00, as moral damages, plus the costs of suit.[10]

In adjudging appellant guilty, the trial court declared that –

(a)fter a thorough examination and full evaluation of the evidence on record, the Court finds that the following relevant facts have been adequately established:

- On December 16, 2002, at about 1:00 o'clock in the afternoon at Bolante II, Pinagbuhatan, Pasig City, while private complainant AAA was alone and asleep in their house, accused (appellant herein) Judy Salidaga entered the house.

- Accused went on top of AAA, poked a knife at her neck, removed her shorts and inserted his penis inside her vagina.

- AAA was gripped with fear. She could not fight and resist the sexual assault because of the knife poked at her neck and she was afraid accused would kill her.

- Accused immediately left and disappeared after satisfying his bestial lust.

The crime of rape is committed by a man who has carnal knowledge of a woman through force, threat or intimidation and is punishable by Reclusion Perpetua (Articles 266-A and 266-B, Revised Penal Code, as amended by R.A. 8353, known as the Anti-Rape Law of 1997).

Considering the established relevant facts and the law applicable, the Court is convinced that the accused committed the crime of Rape as charged in the Information.

Accused's defense of denial and alibi cannot outweigh or overcome the positive and unequivocal narration of AAA on how she was ravished by the accused. The record is bereft of any proof that AAA is actuated by ill-motive in charging accused of a very serious crime. Accused's asseveration that he and AAA were live-in partners from June to November, 2002, even if true, cannot weaken the clear, candid and categorical statement of AAA that accused sexually abused her on December 16, 2002.[11]

A Notice of Appeal[12] was seasonably filed by appellant and the trial court ordered the transmittal of the entire records of the case to this Court. Subsequently, we ordered the referral of the case to the Court of Appeals conformably with our decision in the case of *People v. Mateo*. [13]

On 16 November 2005, the Court of Appeals promulgated its Decision affirming the judgment of the trial court.

The decretal portion of the decision reads:

UPON THE VIEW WE TAKE OF THIS CASE, THUS, the decision appealed from must be, as it is hereby, AFFIRMED in toto. Costs against the accused-appellant.[14]

Appellant is again before us asserting his innocence and impugning the finding of the Court of Appeals on the sole ground that –

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED DESPITE THE FAILURE OF THE PROSECUTION TO ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT.[15]

We find merit in the petition.

In determining the guilt or innocence of the accused in rape cases, the courts are guided by three well-entrenched principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great 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.[16]

The Court of Appeals, in sustaining the trial court, declared that the appellant's defense of denial and alibi cannot outweigh AAA's positive and unequivocal narration as to how the rape was perpetrated by appellant. In the process, the Court of Appeals reiterated the familiar rule that "alibi, like denial, is an intrinsically weak defense which must be supported by strong evidence of lack of culpability." [17]

It must be emphasized that in this case, the prosecution presented only one witness who was none other than the offended party herself. We retrace the lone testimony of AAA as follows:

DIRECT EXAM.

BY FISCAL PAZ:

q AAA, do you recall where were you on December 16, 2002 at 1:00 o'clock in the afternoon?

a Yes, sir.

q Where were you?

a In the house.

q Where were your house located then?

a Bolante, Pasig City, sir.

q What were you doing in your house on said date and time?

a I was sleeping.

q At the time, did you have companions in the house?

a None.

q While you were sleeping on said date and time in your house, do you recall if there was something that happened?

a Yes.

q What was that?

a He went on top me and poked a knife at my neck, sir.

q You said “he,” who was that person you are referring to?

a Judy.

q If he is inside the court room, please went (sic) down and tap his shoulder.

a I cannot do it.

q Will you point to him?

COURT:

Witness pointing to a person who when asked gave his name as Judy Salidaga.

PROSEC. PAZ;

After the accused went on top of you and poked a knife at your neck, what happened next?

a I was not conscious when it happened.

q Why were you not conscious?

a I was scared.

q Scared of what?

a Because of the knife poked at my neck and I am afraid he might kill me.

q What did the accused do when he went on top of you?

a He put his sex organ inside.

q Where did he put his sex organ.

a Mine.

q In your sex organ?

a Yes.

q What did you do when he did that?

a None.

q Why did you not do anything?

a Because I was afraid.

q Why were you afraid?

a Because of the knife poked at my neck and he might kill me.

q About how long was his sex organ inside yours?

a I cannot recall.

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

a He stood up.

q Where did he go?

a He went out. (Emphasis supplied.)[18]

As admitted by AAA, she immediately lost consciousness after appellant went on top of her. Yet, in the next breath, she was able to vividly recall the events that occurred while in a state of unconsciousness. To our mind, this inconsistency in AAA's testimony is simply too glaring to be brushed aside for it goes into the integrity and viability of the criminal complaint she initiated against appellant. If it were true, as she claimed in the witness stand, that she immediately fainted, how could she then remember, in detail, how appellant was able to rape her. Her testimony on this material point is simply unconvincing. As we reiterated in the case of *People v. Mole*,^[19] a woman raped in a state of unconsciousness would not be able to narrate her defloration during that state, and her violation may be proved indirectly by other evidence.

Unfortunately for the prosecution, other than the vacillating testimony of AAA, the records of this case are bereft of any other evidence sufficient to hold appellant guilty of rape. The Initial Medico-Legal Report it submitted before the trial court fails to persuade us into affirming appellant's conviction. As aptly pointed out by the appellant, "the Medico-Legal Report (Exhibit A) only showed that the private complainant was in a 'non-virgin state physically' which was expected since she herself admitted that she was cohabiting with BBB in December 2002."^[20]

To be sure, there have been instances when this Court convicted an accused of the crime of rape committed while their victims were unconscious for as we held in the case of *People v. Palapal*^[21] –

(i) it is but to be expected that if the sexual assault was committed against the victim while the latter was in a state of unconsciousness, she would not be able to testify on the actual act of sexual intercourse. It is precisely when the sexual intercourse is performed when the victim is unconscious that the act constitutes the statutory offense of rape especially when, as in the instant case, the loss of consciousness was the result of appellant's act of violence. x x x.^[22]

In the subsequent case of *People v. San Pedro*,^[23] our pronouncement was that –

x x x Of course, an unconscious woman will not know who is raping her. If the defense theory were to be adopted, then it would be impossible to convict any person who rapes an unconscious woman, except only where a third person witnesses the crime. Henceforth, the clever rapist would simply knock his potential victim out of her senses before actually raping her, to be later immunized from conviction for insufficient identification.

In a situation like this, the identity of the rapist is determined by the events preceding or following the victim's loss of consciousness. x x x.^[24]

However, there have also been instances when this Court did not hesitate to set aside convictions in rape cases where, after weighing the evidence lodged by the prosecution, we arrived at the inevitable conclusion that the accused must be set free.

In the case of *People v. Tayag*,^[25] the trial court held the accused guilty of forcible abduction with rape. With the use of a bolo, he purportedly brought the nine-year old victim to his house and tied her to the trunk of a nearby coconut tree. He pressed the bolo against her legs then kissed and bit her lips. The accused then proceeded to hit her on the stomach and she lost consciousness. When she regained her senses, she felt pain all over her body but the accused once again hit her in the stomach and she fainted. When she recovered her consciousness, she realized that her panty had been taken off. Her private part likewise ached. Notwithstanding the testimonies of the victim and the medical examiner, we still held that the accused could not be convicted of forcible abduction with rape;

instead, we found him guilty only of forcible abduction –

(s)econd. Although the prosecution has proven that Lazel was sexually abused, the evidence proffered is inadequate to prove she was raped. Evidence of carnal knowledge is necessary in rape. Lazel entertained the belief that she was raped because when she regained consciousness, she felt pain all over her body and her private part. The trial court found that Lazel was sexually abused because of her belief. It then equated sexual abuse with rape x x x.

x x x x

Removal of underwear, a reddening of hymen, an aching private part and blood on the underwear do not prove carnal knowledge. The removal of the victim's underwear is at most a preparation to engage in sexual intercourse. The reddening hymen could have been caused by a male sex organ but that is just a possibility. In the case at bar, considering the age of the victim and the condition of her hymen, there should be laceration if there was penetration by an adult male sex organ. The aching private part could well be part of the over-all effect of her beating. The blood on the panty discovered by Lazel after she woke up could have come from the wound inflicted on her leg. It is easy to speculate that Lazel was raped. But in criminal cases, speculation and probabilities cannot take the place of proof required to establish the guilt of the accused beyond reasonable doubt. Suspicion, no matter how strong, must not sway judgement.[26]

Similarly, in the case of *People v. Daganta*,[27] the accused was charged with the rape of a minor. According to the prosecution, the accused invited the supposed victim to his room and once inside, the accused started kissing her on the cheek and then on her lips. He then sprayed an insect repellant to her face as a result of which she lost consciousness. When she woke up, she found the accused sitting outside his room. The lower portion of her umbilicus was painful and when she urinated, she felt pain in her private parts. The physical examination of the alleged victim revealed that there was hymenal laceration at five o'clock indicative of the entry of a hard object into her private part. Despite these, this Court reversed the decision of the trial court based on reasonable doubt, thus:

All in all, the prosecution's evidence is hazy and contradictory sorely lacking as it is in material details. Admittedly, a conviction can be based on circumstantial evidence. In the present case, however, the chain of circumstances does not show a coherent and consistent story that would give rise to a certitude sufficient to convince this Court to impose on appellant the very grave penalty of reclusion perpetua. His own defense is admittedly weak. But conviction is never founded on the weakness of the defense. Rather, it always rests on the strength of the prosecution's evidence. (Emphasis supplied.)[28]

It is inherent in the crime of rape that the conviction of an accused invariably depends upon the credibility of the victim as she is oftentimes the sole witness to the dastardly act. Thus, the rule is that when a woman claims that she has been raped, she says in effect all that is necessary to show that rape has been committed and that if her testimony meets the crucible test of credibility, the accused may be convicted on the basis thereof.[29] However, the courts are not bound to treat the testimony of the victim as gospel truth. Judges are duty-bound to subject her testimony to the most rigid and careful scrutiny lest vital details which could affect the outcome of the case be overlooked or cast aside.

In highlighting the supposed weakness of appellant's defense of alibi, both the trial court and the Court of Appeals overlooked the basic question of whether the prosecution presented sufficient evidence to support their guilty verdicts for settled is the rule that in every criminal prosecution, the accused is presumed innocent until the contrary is established by the prosecution. Thus, if the prosecution fails, it fails utterly, even if the defense is weak, or indeed, even if there is no defense at all.[30] The prosecution, at all times, bears the burden of establishing an accused's guilt beyond reasonable doubt. No matter how weak the defense may be, it is not and cannot be the sole basis of conviction if, on the other hand, the evidence for the prosecution is even weaker.[31]

The principle has been dinned into the ears of the bench and the bar that in this jurisdiction, accusation is not synonymous with guilt.[32] The proof against him must survive the test of reason; the strongest suspicion must not be permitted to sway judgment.[33] If the evidence is susceptible of two interpretations, one consistent with the innocence of the accused and the other consistent with his guilt, the accused must be acquitted.[34] The overriding consideration is not whether the court doubts the innocence of the accused but whether it entertains a reasonable doubt as to his guilt.[35] If there exists even one iota of doubt, this Court is “under a long standing injunction to resolve the doubt in favor of herein accused-petitioner.”[36] The accused may offer no more than a feeble alibi but we are enjoined to proclaim him innocent in the light of insufficient evidence proving his guilt.

WHEREFORE, premises considered, the Decision of the Court of Appeals dated 16 November 2005 in CA-G.R. CR-H.C. No. 01332, affirming the decision of the Regional Trial Court of Pasig City, Branch 166 in Criminal Case No. 124878-H, is hereby REVERSED and SET ASIDE; appellant is ACQUITTED on ground of reasonable doubt. The Director of the Bureau of Corrections is hereby directed to cause the immediate release of appellant, unless the latter is being lawfully detained for another cause; and to inform the Court of the date of his release, or the reasons for his continued confinement, within ten days from notice. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, and Callejo, Sr., JJ. concur.

[1] Penned by Associate Justice Renato C. Dacudao with Associate Justices Lucas P. Bersamin and Celia C. Librea-Leagogo, concurring; rollo, pp. 3-13.

[2] Records, pp. 67-69.

[3] Under Republic Act No. 9262 also known as “Anti-Violence Against Women and Their Children Act of 2004” and its implementing rules, the real name of the victim and those of her immediate family members are withheld and fictitious initials are instead used to protect the victim’s privacy.

[4] Records, p. 1.

[5] Id. at 10.

[6] Id. at 49; Exhibit “B” for the prosecution.

[7] Id. at 49; Exhibits “B” and “B-1” for the prosecution.

[8] Id. at 48; Exhibit “A” for the prosecution.

[9] Id.

[10] Id. at 69.

[11] Id. at 68-69.

[12] Id. at 70.

[13] G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640; rollo, p. 51.

[14] Rollo, p. 13.

[15] CA rollo, p. 26.

[16] People v. Arsayo, G.R. No. 166546, 26 September 2006.

[17] Rollo, p. 10.

- [18] TSN, 24 April 2003, pp. 3-4.
- [19] 462 Phil. 209, 221 (2003).
- [20] Rollo, p. 27.
- [21] 200 Phil. 267 (1982).
- [22] Id. at 270-271.
- [23] G.R. No. 94128, 3 February 1993, 218 SCRA 384.
- [24] Id. at 388.
- [25] 385 Phil. 1150 (2000).
- [26] Id. at 1157-1159.
- [27] 370 Phil. 751 (1999).
- [28] Id. at 768.
- [29] People v. Tismo, G.R. No. 44773, 4 December 1991, 204 SCRA 535, 553.
- [30] People v. Tempongko, Jr., 228 Phil. 553, 561 (1986).
- [31] People v. Boneo, G.R. No. 74522, 30 June 1989, 174 SCRA 612, 618.
- [32] People v. Batidor, 362 Phil. 673, 685-686 (1999).
- [33] People v. Mejia, 341 Phil. 118, 145 (1997).
- [34] People v. Manambit, 338 Phil. 57, 100 (1997).
- [35] People v. Vasquez, 345 Phil. 380, 400 (1997).
- [36] Rollo, p. 10.

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