

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MICHAEL MURO, APPELLANT.

G.R. No. 176263. December 24, 2008

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Michael Muro (appellant) was, by Information filed on July 4, 2000 before the Regional Trial Court (RTC) of Mandaluyong City, charged for "rape in relation to violation of Republic Act 7610 [sic]"[1] as follows:

That on or about the 29[th] day of June 2000, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, and by force and intimidation lie and have carnal knowledge with one [AAA], a girl under thirteen (13) years of age against her will and consent, acts which are prejudicial to her normal growth and development.[2]

The private complainant AAA, a deaf-mute, gave the following account with the assistance of a sign language interpreter[3] at the witness stand:

At around 10:30 in the evening of June 29, 2000, while she, then of 13 summers and a Grade III pupil, was outside her house in Barangay Hulo, Mandaluyong City watching people pass by, appellant, whom she identified in open court[4] and who was 22 years old at the time,[5] tapped her and wrote something on his hand which she could not understand. He then gestured to her to go with him, but she refused. He thereupon grabbed her and despite her resistance, he brought her to a vacant lot along J. Rizal Street in Mandaluyong that had a lot of trees and water. She accidentally tripped and fell to the ground. He at once undressed himself and then undressed her. While she resisted, appellant got mad at her and then inserted his penis into her vagina. He thereafter put on his clothes and left.

She did not go home immediately as she was afraid. She spent the night sleeping at a "stranger's" house. The following day, she was picked up by a person on board a motorcycle who brought her to the barangay hall. Soon after, her mother BBB arrived together with appellant. She then informed the police what had happened to her and pointed to appellant as the culprit.

AAA underwent physical examination a day after the alleged commission of rape or on June 30, 2000 by Dr. Felimon Porciuncula who arrived at the following[6]

FINDINGS:

GENERAL AND EXTRAGENITAL:

Fairly developed, fairly nourished, light built and coherent female subject. Breasts are conical with pinkish brown areola and nipples from which no secretions could be pressed out. Abdomen is flat and soft.

GENITAL:

There is scanty growth of public hair. Labia majora are full, convex, and coaptated with pinkish brown labia

minora presenting in between. On separating the same disclosed an elastic, fleshy-type hymen with deep healed lacerations at 3, 6, and 9 o'clock positions. External vaginal orifice offers strong resistance to the introduction of the examining index finger. Vaginal canal is narrow with prominent rugosities. Cervix is firm and closed.

CONCLUSION:

Subject is in non-virgin state physically.

There are no external signs of application of any form of physical trauma.

REMARKS:

Vaginal and peri-urethral smears are NEGATIVE for gram-negative diplococci and for spermatozoa.[7]
(Underscoring supplied)

At the witness stand, the doctor opined that the first laceration occurred two weeks earlier, and while he found no fresh laceration, he opined that if the object inserted into the sex organ of AAA was of the same size as that inserted previously, no fresh laceration would occur[8] even if the insertion occurred recently.

AAA's mother BBB gave the following account:[9] At 1:30 in the morning of June 30, 2000, appellant went to her house and informed her that AAA was at the barangay hall of Vergara. BBB thus went to the barangay hall, along with appellant and another companion, and upon arrival thereat, AAA was crying. When she asked her why, AAA answered that she was raped. When asked how that happened as she was supposedly sleeping in the house, AAA answered that when she went out of the house, appellant forced her to go with him. She thereupon asked appellant whom she trusted why he did that to AAA, he being AAA's friend, but appellant denied having done anything to her.

Pedro Berme (Berme), head of the Bantay-Bayan in barangay Vergara gave the following account:[10] At 1:30 in the morning of June 30, 2000, two Bantay-Bayans brought AAA to the Vergara barangay hall for violation of curfew hours. He was informed that she was causing a stir in the place ("pinagkakaguluhan")[11] and that she was "binubugaw by a certain male person." [12] On learning that AAA is a deaf-mute, he called for a sign language interpreter who elicited from her that she was raped. Soon BBB and appellant arrived and AAA pointed to appellant as the malefactor.

Appellant, interposing alibi, gave his side of the case as follows:[13] From 5:00 to 11:00 in the evening of June 29, 2000, he was at a cemetery whiling away the time with two friends. At 11:00 in the evening, barangay officials of Vergara told them to go home otherwise they would be faulted for violation of curfew hours. Appellant thus went with one of his friends to her house in front of Liberty Blumentritt where he stayed until 1:00 in the morning of June 30, 2000. On his way home, he met a barangay tanod who was with AAA. He also met a friend and neighbor, Restituto Aguro (Aguro) whom he asked him to go with him and follow AAA and the barangay tanod because he (appellant) knows her. They ended up at the barangay hall of Vergara where he was asked if he knew AAA to which he answered in the affirmative. He then asked what happened to AAA, and the barangay tanod answered him that eight men took turns in abusing her in Mangahan.

Appellant further related that the people in the barangay told him that if AAA's parents do not fetch her, they would be sued and AAA would be turned over to the Department of Social Welfare Development. He thus offered to fetch AAA's parents. He, together with Aguro, thereupon fetched AAA's mother BBB. Barangay Bantay Bayan head Berme then asked AAA who her male companion was. To his surprise, AAA pointed to him. The barangay tanod then asked him to sign a document which he did not understand and turned him over to the officials of Barangay Hulo.

Appellant furthermore declared: He was asked to sign a document stating that he, his aunt, and AAA's family would meet at the barangay hall of Hulo to settle. At 5:00 in the morning, Bantay Bayan Benjamin Casiver (Casiver) allowed him to go home but was advised to come back at 9:00 that morning to meet AAA's parents. At 7:00 also in the morning, Casiver arrived with four others at his house.[14] He was eventually brought to the Criminal Investigation Division of the Eastern Police District where he saw the tanod of Barangay Vergara, Bantay-Bayan head Berme and his companions, as well as AAA and her mother BBB. It was then that he learned about the complaint filed against him.

Appellant theorizes that AAA's parents filed the case at the instigation of the barangay officials.

Aguro substantially corroborated appellant's tale.[15]

Another defense witness Manuel Jocson (Jocson), a tricycle driver and a tanod of Barangay Vergara, declared[16] that at 1:30 in the morning of June 30, 2000, while he and two companions were walking along Interior Mangahan, they found AAA roaming in the vicinity. They thus brought her to the barangay hall of Vergara, and they asked appellant, who had been following them and had claimed to know AAA, to fetch her parents.

On cross-examination, Jocson, when asked why he and his companions brought AAA to Barangay Vergara and not to Barangay Hulo where Interior Mangahan is located[17] and why they were "patrolling" outside their jurisdiction,[18] replied that they were called because of AAA and that it was his companions who proposed that she be brought to Barangay Vergara.[19] Asked if he knew how appellant learned that they were bringing AAA to Barangay Vergara, he replied that appellant just suddenly showed up at the place where they found AAA.[20]

Still another defense witness, Casiver, a Bantay Bayan of Barangay Hulo, declared[21] that at about midnight of June 30, 2000, a bantay bayan of Barangay Vergara, together with AAA and her mother, visited him at Barangay Hulo and told him that they would file a complaint against appellant. Casiver visited appellant at his house and told him to go to the barangay hall where AAA had pointed to him as having raped her.

By Decision[22] of July 22, 2003, the RTC found appellant guilty of rape, sentencing him to suffer reclusion perpetua and to indemnify AAA in the amount of P50,000 as civil indemnity, P50,000 as moral damages, and to pay the costs.

On appellant's appeal to this Court,[23] it referred[24] the case to the Court of Appeals for intermediate review pursuant to *People v. Mateo*. [25]

In his Brief, appellant argued, *inter alia*, as follows, quoted verbatim:

x x x The private complainant, in this case, claimed that the accused-appellant forcibly took her to an area filled with trees where he allegedly sexually abused her. The said place was far from where she was taken and they merely walked the distance but surprisingly, she did not run away from the accused even when the latter was walking ahead of her. Likewise intriguing is the private complainant's statement that she was with some friends when she was watching people pass by at Hulo and yet nobody saw the accused appellant grabbed her. Her well-chosen time to look at passer[s] by is also worth noting. It was already late at night and her mother was already asleep. Then after her alleged ordeal, she did not go home because she was allegedly afraid and decided to sleep in a stranger's house. Her physical appearance also did not match her claim that she was ravaged in a wet place. Despite her allegation that the accused pulled her, there was no manifestation of any physical abuse. Had the accused really pulled her, her hands should have incurred hematomas.[26]

x x x x

The accused-appellant interposed the defense of alibi and denial. He has been able to account for his whereabouts at the alleged time and date. When the accused puts up the defense of alibi, the courts should not

at once have a mental prejudice against him, as there are situations where an accused can have no possible defense but alibi, as that could really be the truths as to his whereabouts at the time in question. The oft-cited truism that alibi is one of the weakest defenses has never been intended to dispel it altogether. To be sure, there is an equally acceptable doctrine which posits that there are instances when it just happens to be the plain and simple truth. Parenthetically, alibi gains considerable strength in the face of unreliable identification of an accused to be the perpetrator of the crime.[27] (Emphasis and underscoring supplied)

Counter-arguing, the Solicitor General stated:

x x x During her testimony, [AAA] explained that although appellant walked ahead of her, she could not escape because appellant firmly held her by the left hand and her physical defect prevented her from shouting or seeking for help.

With respect to the fact that [AAA] did not go home but instead slept elsewhere that fateful evening, [AAA] explained that she wanted to go home but she was afraid. Thus, she just slept in a stranger's house. Verily, that [AAA] did not immediately go home after the rape does not destroy the credibility of her testimony. After all, there is no standard form of behavior when people, particularly young girls, are confronted by a shocking and frightful incident such as rape.

x x x x

It is settled that the absence of external signs of injuries on the private complainant's body does not negate the commission of rape nor does it signify lack of resistance by private complainant to the sexual act, proof of injury not being an essential element of the crime of rape.

x x x x

The rape was committed in a vacant lot at J. Rizal Street, Barangay Hulo, Mandaluyong City beside the Pasig River. Notably, the places involved were all in the same city. The defense failed to prove that the place where the crime was committed and the places where appellant allegedly was at the time of the commission of the rape (Barangay Vergara and Blumentritt Street, Barangay Hulo) were so situated that it would have been physically impossible for him to have been in the crime scene when the rape was committed.

Moreover, appellant's alibi was not substantiated by evidence. Not one of the two friends who were allegedly with appellant that fateful evening was presented to corroborate his alibi.[28]

By Decision[29] of July 31, 2006, the Court of Appeals affirmed the RTC decision. Hence, the present appeal to this Court.[30]

The uncorroborated testimony of the victim in a rape case may, under certain circumstances, be adequate to warrant conviction. The testimony must, however, be clear, impeccable and ring true throughout or bear the stamp of absolute candor,[31] free from any serious contradictions.[32]

The version of AAA at the witness stand and that given in her complaint-affidavit which she identified in court[33] contain discrepancies.

In her complaint-affidavit, AAA claimed that on appellant's invitation, they walked and conversed until they reached the vacant lot where he suddenly grabbed her, forcefully removed her short pants and panties, slapped her causing her to fall down, raped her, threatened to hurt her should she narrate what happened, and then left.[34]

At the witness stand, she, however, claimed that appellant grabbed her from outside her residence and brought her to the alleged watery vacant lot at J. Rizal Street where she accidentally tripped after which he raped her, put on his clothes, and left.

On cross-examination, AAA claimed that that was her first time to have sexual intercourse.[35] In her complaint-affidavit, however, AAA claimed that appellant had previously raped her three times, and that a certain Nonoy had been raping her everyday except Sundays from May 3, 1999 to May 30, 1999.[36]

Such inexplicable discrepancies on important details vis a vis the result of her physical examination which bears no indication of the commission of sexual intercourse committed hours earlier nag the Court to entertain serious doubts on whether appellant committed the crime charged. The Court's doubts are reinforced by prosecution witness Berme's following observation, viz:

ATTY. JAO:

Mr. witness, when you saw the victim, [AAA], how [did] she looks [sic]?

A:

Very tired, sir.

Q:

Was she crying?

A:

No, sir.

Q:

How about her clothes?

A:

A bit alright, sir.[37] (Underscoring supplied.),

which do not indicate the commission of rape in a watery area.

That appellant even fetched BBB and accompanied her to the barangay hall where AAA was, a fact attested even by the prosecution witnesses, seals the doubts on whether he had hours earlier raped AAA.

WHEREFORE, the appeal is GRANTED. The Decision of the Court of Appeals dated July 31, 2006 is REVERSED and SET ASIDE. Accused-appellant, Michael Muro is, for failure of the prosecution to prove his guilt beyond reasonable doubt, ACQUITTED.

Let a copy of this Decision be furnished the Director of the Bureau of Corrections, Muntinlupa City who is directed to cause the immediate release of petitioner, unless he is being lawfully held for another cause, and to inform this Court of action taken within ten (10) days from notice hereof.

SO ORDERED.

Quisumbing, (Chairperson), Tinga, Velasco, Jr., and Brion, JJ., concur.

[1] Records, p. 1.

[2] Ibid.

[3] TSN, November 15, 2000, pp. 3-16; TSN, March 6, 2001, pp. 2-8.

- [4] TSN, November 15, 2000, pp. 3-4.
- [5] Records, p. 11.
- [6] TSN, October 25, 2000, pp. 2-9.
- [7] Exhibit "C," records, p. 130.
- [8] TSN, October 25, 2000, p. 5.
- [9] TSN, April 15, 2001, pp. 2-13.
- [10] TSN, October 10, 2001, pp. 2-14; Exhibit "F," records, p. 135.
- [11] *Id.* at 4.
- [12] *Id.* at 7.
- [13] TSN, April 10, 2002, pp. 2-30.
- [14] *Id.* at 20.
- [15] TSN, February 13, 2002, pp. 2-14.
- [16] TSN, April 2, 2002, pp. 2-11.
- [17] *Id.* at 7-8.
- [18] *Id.* at 8.
- [19] *Ibid.*
- [20] *Id.* at 10.
- [21] TSN, September 4, 2002, pp. 2-6.
- [22] Records, pp. 201-211.
- [23] *Id.* at 224.
- [24] CA rollo, p. 114.
- [25] Ruling providing for intermediate review of cases imposing the penalty of death, life imprisonment, or reclusion perpetua. G.R. No. 147678-87, July 7, 2004, 433 SCRA 640, 656-658.
- [26] CA rollo, pp. 59-60.
- [27] *Id.* at 62.
- [28] *Id.* at 108-110.
- [29] Penned by Court of Appeals Associate Justice Edgardo F. Sundiam, with the concurrences of Associate Justices Rodrigo V. Cosico, and Japar B Dimaampao. *Id.* at 123-136.
- [30] *Id.* at 140-144, 157-159.
- [31] *People v. Miñano*, G.R. No. 97609, March 31, 1993, 220 SCRA 681, 289.
- [32] *Ibid.*

[33] TSN, November 15, 2000, pp. 14-16; Exhibit "D," records, pp. 131-132; records, p. 137.

[34] Exhibit "D," id. at 131-132.

[35] TSN, March 6, 2001, p. 6.

[36] Exhibit "D," records, pp. 131-132.

[37] TSN, October 10, 2001, p. 13.

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