

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JESSIE MALATE Y CAÑETE, ACCUSED-APPELLANT.

G.R. No. 185724. June 05, 2009

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

The Case

This is an appeal from the July 8, 2008 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02588 which affirmed the October 27, 2006 Decision[2] in Criminal Case No. 1869-M-2004 of the Regional Trial Court (RTC), Branch 12 in Malolos City, Bulacan.

Accused-appellant Jessie Malate y Cañete stands convicted of one (1) count of rape or violation of paragraph 1(a), Article 266-A of the Revised Penal Code, as amended. He was sentenced to suffer the penalty of reclusion perpetua.

The Facts

The charge against Malate stemmed from the following Information:

That on or about the 18[th] day of June, 2004, at around 7:45 in the evening, more or less, in the municipality of Meycauayan, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously, by means of force and intimidation, with the use of a kitchen knife and with lewd designs, have carnal knowledge with one BBB[3] against her will and without her consent.

Contrary to law.[4]

On July 22, 2004, Malate, with the assistance of his counsel de oficio, was arraigned and entered a plea of "not guilty" to the charge against him. After the pre-trial, trial on the merits ensued.

During the trial, the prosecution offered the testimonies of BBB, the private complainant, and Milo Vanguardia. On the other hand, the defense presented Malate and Michael Luna as its witnesses.

Version of the Prosecution

On June 18, 2004, at around 7:00 o'clock in the evening in Meycauayan, Bulacan, BBB was on her way home when she heard someone say, "Pssst! Pssst!" Ignoring the sounds, BBB continued to walk. Suddenly, a man, who was later identified as Malate, appeared holding a knife and blocked BBB's way. Malate grabbed her shirt from behind and poked his knife on her neck. She tried to struggle free and this caused Malate to cut his finger. She then tried to run away, but Malate ran after her and again grabbed her by her shirt. She also tried to shout for help but no help came.

Malate then dragged BBB to a ricefield, all the while pointing the knife at her. There, he made her remove her clothes and his pants. Afterwards, he made her lie on the ground and kissed her all over her body. Malate then

placed himself on top of her and made her hold his penis and guide it into her vagina. BBB, frightened, followed every word he said. After penetration of BBB's sex organ, Malate succeeded in having sexual intercourse with her.

When it was all over, BBB sat up and noticed blood on her hair. She thought it came from a cut in her head but Malate told her that the blood came from the cut of his left hand's middle finger. She then asked him to let her go home to her daughter, but he refused saying that he wanted her to go with him to his province in Samar because he loved her. She replied she could not love him back because she did not know him. He said that he had been watching her for a long time and had come to love her, without her knowing it.

Pretending to accede to his request, BBB asked Malate to let her look for her bag and shoes first at the place where she was blocked. He agreed and they proceeded to the place. While she was getting her bag and shoes, Malate was also looking for his slippers. Two barangay tanods then arrived with their flashlights beaming on both of them. BBB told them that Malate raped her and this caused him to run away. The three of them ran after him in pursuit until they lost him in the dark.

They all looked for him around Barangay CCC where they stumbled upon a group of men playing native chess (dama), one of whom was Milo Vanguardia, a friend of BBB's estranged husband. BBB told Milo that they were looking for a man with curly hair and a wound on his hand, who raped her. When they still could not find Malate, BBB went to the barangay hall of DDD with her mother to report the incident. Later, her husband's friend, Milo, and some barangay tanods brought Malate to the barangay hall and later proceeded to the police station where she pointed to Malate as her rapist.

Version of the Defense

Malate's defense, on the other hand, was confined to his denial of the accusation and an alibi, to wit:

Sometime around 9:00 o'clock in the evening of June 18, 2004 in CCC, Meycauayan, Bulacan, Malate arrived in a jeepney coming from Marikina and had some refreshments at a store nearby. Next, he rode a pedicab to the residence of Edmond Glab, his former Officer-in-Charge (OIC), to inquire about a job vacancy in the security agency where he was previously employed.

While on his way to his former boss' place, Malate chanced upon a certain person named Nilo playing tong-its with several other people. Thinking that Edmond was with them, he asked the pedicab to stop but he did not see Edmond there. Instead, Nilo saw him and started cursing because of a previous quarrel they had. To avoid a confrontation, he ordered the pedicab to proceed to their destination.

Upon reaching a narrow alley leading toward the house of his former OIC, Malate ordered the pedicab to stop and he got off from the vehicle. Upon alighting, he immediately noticed three armed men behind him. Suddenly, one of the men hit him with the butt of his firearm. He tried to turn around to face them but the three ganged up on him and repeatedly hit him with their rifles. As a result of the incessant beatings, he lost consciousness.

When Malate regained consciousness, he noticed that he was inside a bodega-like building with his attackers. There and then, he was again beaten and forced to admit that he was Jim Boy despite his protestation about not knowing who Jim Boy was. At around 12:00 o'clock midnight, they brought him to the Meycauayan police station.

It was only the following day, in the early morning of June 19, 2004, that Malate came to know about the rape accusation. He denied having any knowledge of the imputed charge. He also maintained that it was his first time to meet BBB at the police station.

The Ruling of the RTC

After trial, the RTC convicted Malate. The dispositive portion of the Decision reads:

WHEREFORE, finding herein accused Jessie Malate y Cañete guilty as principal beyond reasonable doubt of the crime of rape as charged, he committed with the use of a knife, a deadly weapon, in forcing, threatening and intimidating his victim into having sexual intercourse with him against her will, there being, however, no circumstance, aggravating or mitigating, found attendant in its commission, he is hereby sentenced to suffer the penalty of reclusion perpetua, to indemnify the victim, BBB, in the amount of P75,000.00, to pay her the further amount of P50,000.00 as moral damages subject to the corresponding filing fees as a first lien, and to pay the costs of the proceedings.

In the service of his sentence, the said accused, being a detention prisoner, shall be credited with the full time during which he had undergone preventive imprisonment, pursuant to Art. 29 of the Revised Penal Code.

SO ORDERED.[5]

The Ruling of the CA

On July 8, 2008, the CA affirmed the judgment of the RTC. The dispositive portion of the CA Decision reads:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DISMISSING the appeal filed in this case and AFFIRMING in toto the assailed Decision dated October 27, 2006 of the court a quo in Criminal Case No. 1869-M-2004.

SO ORDERED.[6]

The Issues

Malate contends in his Brief that:

- The trial court gravely erred in giving full weight and credence to the prosecution witness' materially inconsistent and unreliable testimony;
- The trial court gravely erred in convicting the accused-appellant of the crime of rape despite the prosecution's failure to prove his guilt beyond reasonable doubt.[7]

The Court's Ruling

We sustain appellant's conviction.

After a careful examination of the records of this case, we are satisfied that the prosecution's evidence, including BBB's testimony, established Malate's guilt with moral certainty.

Testimony of Victim is Credible

In his Brief, Malate argues that the trial court erred in giving full credence and reliance on the narration of the private complainant who gave implausible statements and whose testimony was full of inconsistencies, thus rendering the entire charge incredible. He asserts that BBB's varied versions of the incident demonstrate her lack of credibility.

In support of his position, Malate draws attention to the fact that during direct examination, BBB testified that her path was allegedly blocked by him and, then and there, she was forcibly assaulted. But during her cross-examination, she stated that Malate passed by her and then suddenly grabbed her from behind. Likewise, he points out that BBB was positive of the rapist's identity because of a light emanating from the houses nearby; but again, during her cross-examination, she stated that the light came from the brightness of the moon and a lamp post. To him, the foregoing inconsistencies and discrepancies in the testimony should suffice to support a judgment of acquittal.

Contrary to Malate's contentions, this Court finds no cogent reason to doubt the veracity of BBB's testimony.

In determining the guilt or innocence of the accused in rape cases, the Court is 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 person accused, though innocent, to disprove the charge; (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 of the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[8]

Moreover, in cases involving the prosecution for forcible rape, the courts have consistently held that, as a general rule, corroboration of the victim's testimony is not a necessary condition to a conviction for rape where the victim's testimony is credible, or clear and convincing or sufficient to prove the elements of the offense beyond a reasonable doubt. The weight and sufficiency of evidence are determined by the credibility, nature, and quality of the testimony.[9]

The Court finds no reason to deviate from the time-honored doctrine that the assessment of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its unique opportunity to observe the witnesses firsthand and note their demeanor, conduct, and attitude under grilling examination.[10] Moreover, the issue on which witness to believe is one that is best addressed by the trial court, for the findings of fact of a trial judge are accorded great respect and are seldom disturbed on appeal for having the opportunity to directly observe the witnesses, and to determine by their demeanor on the stand the probative value of their testimonies.[11]

This rule admits of exceptions, however, such as when the trial court's findings of facts and conclusions are not supported by the evidence on record, or when certain facts of substance and value that would likely change the outcome of the case have been overlooked by the trial court, or when the assailed decision is based on a misapprehension of facts.[12] None of these exceptions exists in this case.

In fact, the trial court found BBB's testimony clear, convincing, and credible. The trial court reasoned:

x x x And there is also no reason not to believe her that out of fear threatened with a knife, she had to submit herself to the carnal desire of her ravisher against her will. She was helpless alone with the knife-wielding man. Her passive submission may have saved her from any physical injuries, both external and internal, but still the medical examination she allowed herself to go through says that 'genital findings do not exclude sexual abuse.' (Exh. 'B-1'). After all 'when a victim says she has been raped, she says in effect all that is necessary to show that rape has been committed and if her testimony meets the test of credibility, the accused may be convicted on the basis thereof.' (People v. Balacano, G.R. no. 127156, July 31, 2000.)

x x x Her positive identification of the accused as the very same man who had sexual intercourse with her and with whom she was alone for about three (3) hours in that place which was not pitch-dark as not to see totally his face, cannot taint her word with unavoidable inaccuracy on the identity of accused as her real tormentor in those agonizing hours. She was so certain of him as that man from the time she pointed him to the police to the time she was asked to identify him at his trial. Strangers to each other, BBB would not announce to all that herein accused Jessie was her rapist, if she was not sure. His wound on his left middle finger, the scar it left he even showed while he was on the witness stand, is a tell-tale sign that it was really he who BBB said was the man with the knife who cut himself when she struggled to get away from his clutches as he threatened her with that knife. In face, it was because of that knife that she fearfully surrendered her body to him and did in submission what he wanted her to do during all that time she was helplessly alone with him.[13] (Emphasis supplied.)

Evidently, the trial court had ascertained the truthfulness and credibility of BBB's testimony and ruled that it was

sufficient to convict Malate.

Additionally, Malate was unable to prove any ill motive on the part of BBB. The fact that he testified not knowing the complainant and that he first met her when he was brought to the police station the day after the incident argues against the idea of BBB harboring ill will against him.[14] Thus, where there is no evidence to show any questionable reason or improper motive why a prosecution witness should testify falsely against, or falsely implicate, the accused in a heinous crime, the witness' testimony is worthy of full faith and credit.[15]

Furthermore, accused-appellant cannot plausibly bank on the minor inconsistencies in the testimony of the complainant to discredit her account of the incident. Even if they do exist, minor and insignificant inconsistencies tend to bolster, rather than weaken, the credibility of the witness for they show that his testimony was not contrived or rehearsed.[16] Trivial inconsistencies do not rock the pedestal upon which the credibility of the witness rests, but enhances credibility as they manifest spontaneity and lack of scheming.[17] As aptly held in the American case of *State v. Erikson*, the rule that a victim's testimony in sexual assault cases must be corroborated "does not apply where the inconsistency or contradiction bears upon proof not essential to the case." [18] Well to point, even the most truthful witnesses can sometimes make mistakes, but such minor lapses do not necessarily affect their credibility.[19]

Undoubtedly, the complainant's testimony has been found to be credible by the trial court and this Court finds no reason to disturb such determination. Further, it is worth noting that no married woman in her right mind would subject herself to public scrutiny and humiliation in order to perpetuate a falsehood.[20]

Defenses of Denial and Alibi Are Weak

Malate submits that although as a general rule denial and alibi are weak defenses, they are, taken in light of the aforementioned inconsistencies in the complainant's testimony, sufficient to acquit him.[21] The Court is not persuaded. Since, as previously discussed, such inconsistencies do not pierce the complainant's credibility, this argument therefore has no leg to stand on.

This Court has been consistent in declaring that for alibi to prosper, the defense must establish the physical impossibility for the accused to be present at the scene of the crime at the time of its commission.[22] The facts in this case illustrate that there was no physical impossibility for Malate to be at the scene of the crime, considering that Barangays CCC and DDD are both within the municipality of Meycauayan, Bulacan and are walking distance from each other.

What is more, both denial and alibi are considered as the weakest defenses not only due to their inherent weakness and unreliability, but also because they are easy to fabricate.[23] Nothing is more settled in criminal law jurisprudence that alibi and denial cannot prevail over the positive and categorical testimony and identification of the accused by the complainant.[24] Such is the situation in the instant case. Malate was positively and categorically identified by the complainant. As has been consistently ruled by this Court, an affirmative testimony is far stronger than a negative testimony especially when it comes from the mouth of a credible witness. And both alibi and denial, if not substantiated by clear and convincing evidence, are negative and self-serving evidence undeserving of weight in law.[25]

In conclusion, in criminal cases such as the one on hand, the prosecution is not required to show the guilt of the accused with absolute certainty. Only moral certainty is demanded, or that degree of proof which, to an unprejudiced mind, produces conviction.[26] We find that the prosecution has discharged its burden of proving the guilt of the accused with moral certainty.

In accordance with prevailing jurisprudence, the Court awards PhP 25,000 as exemplary damages to BBB without

need of proof or pleading.[27]

WHEREFORE, the appeal is DENIED. The CA Decision in CA-G.R. CR-H.C. No. 02588 finding accused-appellant Jessie Malate guilty of the crime charged is AFFIRMED with MODIFICATION that he shall pay PhP 25,000 as exemplary damages to BBB.

SO ORDERED.

Quisumbing, (Chairperson), Ynares-Santiago,[*] Leonardo-De Castro,**] and Brion, JJ., concur.

[*] Additional member as per Special Order No. 645 dated May 15, 2009.

[**] Additional member as per Special Order No. 635 dated May 7, 2009.

[1] Rollo, pp. 2-11. Penned by Associate Justice Isaias Dicdican and concurred in by Associate Justices Juan Q. Enriquez, Jr. and Marlene Gonzales-Sison.

[2] CA rollo, pp. 18-23. Penned by Judge Crisanto C. Concepcion.

[3] The real name of the victim is withheld per Republic Act No. 9262. In accordance with People v. Cabalquinto, G.R. No. 167693, September 16, 2006, 502 SCRA 419, the name of the victim, her personal circumstances, and other information which tend to establish or compromise her identity shall not be disclosed to protect her privacy. Fictitious initials are used.

[4] CA rollo, p. 10.

[5] Id. at 22-23.

[6] Rollo, p. 11.

[7] Id. at 48-49.

[8] People v. Ramos, G.R. No. 179030, June 12, 2008, 554 SCRA 423, 430.

[9] People v. Abo, G.R. No. 107235, March 2, 1994, 230 SCRA 612, 619. See 31 A.L.R.4th 120 § 3[a], citing Smith v. State (1992, Ala App) 604 So 2d 434; Sartin v. State (1992, Ala App) 615 So 2d 135.

[10] People v. Bantiling, G.R. No. 136017, November 15, 2001, 369 SCRA 47, 60.

[11] People v. Villanueva, G.R. No. 116610, December 2, 1996, 265 SCRA 216, 224-225; citing People v. Yadao, G.R. Nos. 72991-92, November 26, 1992, 216 SCRA 1.

[12] People v. Burgos, G.R. No. 117451, September 29, 1997, 279 SCRA 697, 705.

[13] CA rollo, pp. 21-22.

[14] TSN, June 13, 2006, p. 8.

[15] People v. Cristobal, G.R. No. 116279, January 29, 1996, 252 SCRA 507, 516; citing People v. Pama, G.R. Nos. 90297-98, December 11, 1992, 516 SCRA 385; and People v. Alvero, G.R. No. 72319, June 30, 1993, 224 SCRA 16.

[16] People v. Sagun, G.R. No. 110554, February 19, 1999, 303 SCRA 382, 397.

[17] Cristobal, supra note 15, at 517.

[18] State v. Erikson, 793 S.W.2d 377, May 8, 1990; citing State v. Ellis, 710 S.W.2d 378, April 7, 1986. See also State v. Salkil, 659 S.W.2d 330 (Mo. App. 1983); State v. Johnson, 595 S.W.2d. 774 (Mo. App. 1980).

[19] Bantiling, supra note 10, at 59-60; citing People v. Reduca, G.R. Nos. 126094-95, January 21, 1999, 301 SCRA 516.

[20] Cristobal, supra note 15.

[21] CA rollo, p. 53.

[22] People v. Guzman, G.R. No. 169246, January 26, 2007, 513 SCRA 156, 171-172; People v. Abes, G.R. No. 138937, January 20, 2004, 420 SCRA 259, 274.

[23] People v. Santiago, G.R. No. 175326, November 28, 2007, 539 SCRA 198, 224; People v. Torres, G.R. No. 176262, September 11, 2007, 532 SCRA 654.

[24] People v. Gingos, G.R. No. 176632, September 11, 2007, 532 SCRA 670, 683.

[25] People v. Tumalak, G.R. No. 177299, November 28, 2007, 539 SCRA 296, 304.

[26] RULES OF COURT, Rule 133, Sec. 2.

[27] People v. Diunsay-Jalandoni, G.R. No. 174277, February 8, 2007, 515 SCRA 227, 240-241; People v. Catubig, G.R. No. 137842, August 23, 2001, 363 SCRA 621, 634-635.

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