

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JULIO CABANLIG, ACCUSED-APPELLANT.

G.R. No. 48746. March 15, 1984

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

The appellant, JULIO CABANLIG, was accused of rape before the defunct Court of First Instance of Pangasinan. The complainant is Isabel Distor who claimed that the appellant forcibly had coitus with her on October 30, 1975, in Barangay San Felipe, Binalonan, Pangasinan.

In a decision dated June 20, 1978, the trial court rendered the following judgment:

"The prosecution having established the guilt of the accused beyond reasonable doubt and there being no aggravating or mitigating circumstances attending the commission of the crime, the accused is hereby sentenced to suffer the penalty of reclusion perpetua and to indemnify the complainant in the sum of P6,000.00 and to pay the costs." (Expediente, p. 247.)

The People's statement of the facts adopted that of the trial court but added the page references to the transcript of the stenographic notes and documentary evidence as required by Rule 124, Sec. 7, in relation to Rule 47, Sec. 17, of the Revised Rules of Court. The statement reads as follows:

"The complainant, Isabel Distor, x x x testified that on or about October 30, 1975 there was a girl scout camping at the school campus of San Felipe, Binalonan, Pangasinan; that the complainant was a member of the girl scout of the school; that there were skits and an induction program in the afternoon and a campus fire in the evening; that the day's celebration was climaxed by a night camping at the school building where several scouts took their supper and slept. (pp. 6-7, tsn, Oct. 7, 1976; Exhibit "B"; pp. 17-18, tsn, July 8, 1977)

"Isabel Distor claims that she was one of those slated to sleep in the school building that night of October 30, 1975 and that while she and others were preparing to spend the night in said school building, she was invited by Myrna Tadena and Paulina Bugaoan to urinate at the school campus toilet; that she joined the two but instead of proceeding to the toilet, Myrna Tadena suggested that they drop at the house of Julio Cabanlig only a few meters away from the school campus; that the three guided by Myrna Tadena pro-ceeded to a camarin owned by the accused where there was a bamboo bed (papag) on which they sat and engaged in conversations; (pp. 8-12, 55-56, 58-61, tsn, Oct. 6, 1976; Exhibit "B"; pp. 3, 28-30, tsn, Jan. 28, 1977; pp. 17-20, 35-37, tsn, July 8, 1977) that not long after, Myrna Tadena and Paulina Bugaoan told the complainant to wait in the camarin because they were going to urinate but after a few minutes and because she could no longer wait for them, she started to go back to the school, when the accused Julio Cabanlig arrived and took hold of her and after embracing and kissing her, he pushed her on the bamboo bed. She tried to stand and run away but the accused pushed her down, pointed a knife to her neck and warned that if she shouted for help he would kill her. (pp. 12-14, 31, 63-64, tsn, Oct. 6, 1976; Exhibit "B"; pp. 3-6, 8, 29-30, tsn, Jan. 28, 1977) After removing his pants and the panty of the complainant, he went on top of her, inserted his penis in her private parts, and she felt pain as his penis penetrated her." (pp. 14-18, 31, tsn, Oct. 6, 1976; Exhibit "B"; pp. 9-10, tsn, Jan. 28, 1977) After the first sexual intercourse, the complainant sat on the papag and cried. She explained that she

could not have run away after the first intercourse because the accused was holding her and threatened to kill if she made any attempt to run away. (pp. 19-20, tsn, Oct. 6, 1976; Exhibit "B"; pp. 13, 15, tsn, Jan. 28, 1977) That night, the accused had sexual intercourse with the complainant, Isabel Distor, two times. On the second attempt to ravish the complainant, the latter cried and pleaded with him not to do it again but the accused ignored her pleas for mercy and instead boxed her breast and pushed her again on the bed and had sexual intercourse with her. (pp. 18-19, tsn, October 6, 1976; Exhibit "B"; pp. 10, 15, 18, 28, tsn, Jan. 28, 1977)

"At about 4:00 o'clock in the morning of October 31, 1975, the accused finally released Isabel Distor when the latter went back to the school campus and the accused accompanied her. She proceeded to the school where the girl scouts slept and she saw some of them already preparing to go home. She too went home but she did not report the matter to her parents because she was afraid. In the school campus, however, where she saw Clara Apelado, she wanted to tell her what Julio Cabanlig did to her. But she was apprehensive Julio Cabanlig might carry out his threat to kill her and the members of her family if she revealed what happened to her. (pp. 20-24, 25-26, 28, 50, tsn, Oct. 6, 1976; Exhibit "B"; pp. 18-24, tsn, Jan. 28, 1977).

"Julio Cabanlig thereafter was bragging about what he did to the complainant, and the news spread like wild fire in the school. The teachers in the San Felipe High School where the complainant was a sophomore student decided to call the father of Isabel Distor and informed him of what happened to his daughter. This was already Tuesday or five or six days after the incident happened. Upon returning home, Julian Distor, father of the complainant, asked the latter if what the teacher told him was true and the complainant told everything to him. (pp. 29-31, 52, tsn, Oct. 6, 1976; Exhibit "B"; pp. 25-26, tsn, Jan. 28, 1977) So, the father reported the matter to the barrio captain, Felipe Palma, and he summoned the complainant and Julio Cabanlig, and the accused admitted before the barrio captain what he did to Isabel. Then councilmen Pablo Meliton, Jesus Malinab and the parents of the accused went to the house of the complainant for a settlement. This was repeated on the following day, Sunday, and it was agreed upon the accused and the complainant would marry on December 20, 1975. But before the wedding day set by the parties arrived, the accused married another woman. (pp. 31-34, 42-43, 52-54, tsn, Oct. 6, 1976; Exhibit "B"; pp. 23-31, tsn, Jan. 28, 1977; pp. 32, 42-47, 49, tsn, July 8, 1977) The complainant and her parents then decided to file the present action against the accused. (pp. 35-37, 40-44, tsn, Oct. 6, 1976; Exhibit "B"; pp. 24-25, tsn, Jan. 28, 1977)

"The complainant was subjected to physical examination on December 19, 1975, and as a result thereof, Exhibit "C", medico-legal certificate of Dr. Tomas Cornel, was issued. (pp. 34-35, tsn, Oct. 6, 1976; pp. 2-5, 8-9, 11-14, tsn, July 8, 1977)" (Brief, pp. 3-7.)

Additionally, according to the trial court, "The following facts are uncontroverted: (1) that the accused had sexual intercourse with the complainant; (2) that the complainant Isabel Distor was, at the time of the incident on October 30, 1975, only 14 years old; (3) that both complainant and accused were single on October 30, 1975; (4) that after the incident, an attempt, with the intercession of barrio officials, was made to settle the case and an agreement was forged between the parents of the accused and the complainant to have the accused marry the complainant but this agreement did not materialize because the accused married another woman." (Expediente, p. 237.)

In his appeal, the appellant makes only one assignment of error, to wit: "THE TRIAL COURT ERRED IN FINDING THE APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE." (Brief, p. 4.) And because rape is usually committed in sites far removed from prying eyes, We have the classic situation in this case where the sole issue is who to believe - the complainant or the accused. As the trial court well stated, "The issue in this case boils down to credibility of witnesses." (Expediente, p. 237.)

Obviously the trial court gave credence to the testimony of Isabel because it "observed that the complainant testified freely and in a manner that inspires belief." (Idem, p. 239.) Also, "the Court is convinced that the declaration of the complainant reveals the truth considering her demeanor in testifying and the innocent way she

answered questions regarding the incident." (Idem, p. 246.) Accordingly, it dismissed "The claim of the defense that the complainant was the sweetheart of the accused and that she voluntarily submitted herself to him on several occasions in the house of the accused should be considered with extreme caution. On October 30, 1975, the complainant was then only 14 years old and the accused 27. Considering her tender age, it is not likely that she would even go to the very house of the accused in order to have sexual intercourse with him. The accused testified that on June 2, 1975 the complainant accepted his love and three days thereafter, that is, on June 5, 1975, they had their first sexual intercourse which was followed in July, August, September and October all in the house of the accused. There is no evidence to show that the complainant is a woman of loose morals. On the contrary, she was then only an innocent young girl who was studying in the community high school of her barrio like all other girls." (Idem, pp. 237-238.)

The rule is well-settled that because the trial court was in a better position to examine the real evidence and to observe the demeanor of the witnesses, its conclusions and findings of fact will not be disturbed unless it appears from the record that it overlooked some fact or circumstance or misinterpreted the significance of the same.

The appellant claims that Isabel's "testimony will readily reveal a series of prevarications, distortions and inconsistencies which render her story unworthy of belief." He points to the following:

1. Isabel testified that she attended the over-night girl scouts camping on October 30, 1975; that all of those who attended signed the list of participants; that "there was a long pad containing the list which we signed." (TSN, p. 173.)

The list is Exhibit 5 which appears on page 211 of the Expediente. Exhibit 5 does not include Isabel's name. Did Isabel lie when she said she signed the list of participants? We believe she did not for she explained the omission thus:

"My name doesn't appear in this pad xerox copy of list of participants because I learned that when they heard about the fact that I was abused the teacher told the students that they were going to have a new lists of the participants and they had that signed and at the time I was not present when they made a new list of participants." (TSN, p. 174.)

Whether or not Isabel signed the list of participants is a minor matter. The fact is that she was in the place where she said she was so much so that the appellant was able to have sex with her.

2. The appellant claims that it taxes one's credibility to believe Isabel's testimony that she was invited by Myrna Tadena and Paulina Bugaoan to urinate at his house and there left by the two to provide opportunity for the rape. It was for this reason, he says, why Myrna and Paulina were accused in the lower court as accomplices.

It is not correct to say that Myrna and Paulina invited Isabel to urinate at the house of the appellant and that the two were accused as accomplices in the Municipal Court of Binalonan. It was Myrna only who suggested that the trio go to the house of the appellant and it was Myrna only who was also accused in the lower court. And there is nothing improbable about Isabel's testimony that the trio went to the house of the appellant considering that Myrna and the appellant are first cousins. The dismissal of the case against Myrna was explained by Provincial Fiscal Rodolfo Rodrigo. He said, "Myrna Tadena was not even present during the alleged commission of the Rape." (Expediente, p. 33.) This was the Fiscal's perception on the role of Myrna which does not, however, render Isabel's story incredible.

3. The appellant questions Isabel's narration on how she was raped. He states that in her sworn statement - Exhibit B - there is no mention of a knife but a knife was mentioned when she testified in court.

This circumstance is not significant. The use of knife was a mere detail for what is significant was the use of

superior force - that of a 27-year old man against a 14-year old who was described by the trial court as "only a frail and young woman."

4. The appellant claims that Isabel's testimony is flawed with respect to the time when the first sexual intercourse took place; his threat to kill her if she revealed the rape; what happened after each sexual intercourse (there were two); her failure to cry for help; why the chickens and pigs nearby were not "disturbed in their nocturnal repose;" the conduct of the two after she was released in the early morning of October 31, 1975; her failure to relate to others on that day what happened to her; and the delay of five days before she admitted the rape to her father.

Suffice it to say that the above circumstances do not negate her story. On the contrary, the People has correctly observed, "these circumstances are concomitant human behaviour and reaction of a determined and heartless rapist and a fearful and helpless victim, thus rendering complainant's testimony more credible and reliable. (Brief, p. 13.)

The appellant also cites "other circumstances of weight which negate rape" such as the delay in reporting it to the police and filing the complaint; the lack of evidence to show external injury; etc. But these so-called circumstances of weight had been duly considered by the trial court and We agree with it that they do not affect the essential credibility of Isabel.

WHEREFORE, the judgment of the trial court being in accord with both the facts and the law, it is hereby affirmed in its entirety. Costs against the appellant.

SO ORDERED.

Aquino, Concepcion, Jr., Guerrero, De Castro and Escolin, JJ., concur.

Makasiar, (Chairman), J., on leave.

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