

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JIMMY VILLANUEVA, DEFENDANT-APPELLANT.

G.R. No. 50299. June 20, 1988

Ponente: CORTES, J.

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CORTES, J.:

In the then Court of First Instance of Laguna and San Pablo City, 8th Judicial District, Branch III, an information for rape was filed on December 21, 1976, to wit:

At the instance of Arceli C. Flores who filed a verified complaint of Rape in the Municipal Court of Alaminos, Laguna, the undersigned Assistant Provincial Fiscal of Laguna accuses JIMMY VILLANUEVA of the crime of "Rape," committed as follows:

That on or about October 22, 1976. in the Municipality of Alaminos, Province of Laguna, Republic of the Philippines, and within the territorial jurisdiction of the Honorable Court, the above-named accused with lewd design and by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously, have carnal knowledge of Arceli C. Flores, against the latter's will.

All contrary to law with the aggravating circumstance of nighttime purposely sought to facilitate the commission of the crime, (p. 3, Rollo.)

Accused Jimmy Villanueva, with the assistance of his counsel, pleaded not guilty upon his arraignment on March 22, 1977.

After due trial the court rendered the following judgment:

WHEREFORE, the Court finds the accused Jimmy Villanueva guilty beyond reasonable doubt of the crime of rape and there being no circumstance to appreciate either for or against the accused, hereby sentences said accused to reclusion perpetua to indemnify the offended party in the sum of P12,000.00 without subsidiary imprisonment in case of insolvency and to pay the costs, (p. 10. Rollo.)

From the judgment of conviction, appeal was interposed to the Court of Appeals but the latter, finding that the penalty imposed by the trial court is reclusion perpetua, elevated the records of the case for review by this Court. Appellant alleges that the trial court committed the following errors:

I

... IN TAKING COGNIZANCE AND/OR GIVING CREDIT TO THE SOLE TESTIMONY OF COMPLAINANT, DESPITE PATENT AND GROSS SELF-CONTRADICTIONS. INCREDIBILITIES, INCONSISTENCIES OR INFIRMITIES IN HER TESTIMONY AND DESPITE CERTAIN ADMISSIONS MADE BY HER VERSION OF FACTS LEANING FAVORABLY TO APPELLANT'S INNOCENCE.

II

... IN NOT GIVING EVEN AN IOTA OF CREDIT OR MERIT TO THE FAITHFUL AND TRUTHFUL VERSION OF APPELLANT, OR HIS WITNESS PATROLMAN JOSE SATERA. AND HIS FATHER PEDRO VILLANUEVA.

III

... IN HOLDING THAT THE GUILT OF THE APPELLANT WAS PROVED BEYOND REASONABLE DOUBT AND IN NOT ACQUITTING APPELLANT OR THE OFFENSE CHARGED WITH COSTS DE OFICIO.

The evidence for the prosecution is summarized in the trial court's decision as follows:

At about 8:00 o'clock on the night of October 22, 1976 while the complaining witness Arceli C. Flores was living with her two (2) children, Wilson, 9, and Ricky, 4 in the house of her uncle Coronado, she was awakened by the voice of the accused Jimmy Villanueva calling her name. The complaining witness Arceli C. Flores was living alone in said house with her two children since June, 1974 when her husband Librado Flores left her. After getting a lamp Arceli went to the stairway and asked the accused why he was there. The accused answered that her husband has arrived and wanted to see her at the back of her house. Arceli countered why her husband could not come to the house where they could talk and the accused said that her husband was afraid of his parents. It appears that the parents of complaining witness' husband had to pay certain debts incurred by Librado. Upon insistence of Arceli Flores, Jimmy Villanueva went to the back of the house but returned shortly saying that her husband does not want to go in the house. Placing the lamp on the table Arceli Flores followed the accused to the rear of the toilet which was situated some 15 meters to the rear of the house. She hurriedly went out to see her husband, calling out his name as she proceeded to the rear of the toilet which was pointed by the accused. When she had her back turned the accused took hold of her hand and with the other hand placed on her mouth, he dragged complaining witness to a place near the "daan ng kariton" about 70 meters from the toilet. She was shouting for help as she was being dragged to the place but her voice was weak as she had just recovered from an illness and besides the accused had his hand placed on her mouth. Upon reaching the place near the "daan ng kariton" the accused tripped Arceli causing her to fall to the ground. After Arceli had fallen to the ground the accused started to mash her breast and private part. Arceli fought the accused by kicking and pushing his face away from her. When the accused pulled up her blouse or T-shirt, she bit the blouse so that the accused was not able to completely remove the same but remain at the level of her neck. The accused then pulled her skirt (short pants) down to her feet. All the while complaining witness Arceli was fighting the accused. Even when she still had her panty on; the accused placing himself on top of Arceli made thrusting movement (kinakanyog). The accused then pulled down her panty tearing it in the process. The accused with his pants on but the front unzipped brought out his penis and despite the resistance put up by Arceli was able to insert the same into her private part. All along Arceli was putting up a fight by boxing and kicking the accused. Because Arceli kept on struggling and moving her buttock, the accused's penis was pulled out and the seminal fluid fell on her thigh. When the accused stood up to pull down his pants, she stood up, felt for her short and finding the same picked it up, put them on and ran barefooted to the house of her mother which was situated across her house. She had lost her footwear or "bakya" earlier when she was being dragged by the accused from the rear of the toilet to the place where she was assaulted.

The complaining witness was accompanied by her mother to her cousin Ricardo Dionglay who in turn sent for the barrio captain Gregorio Guevarra. Accompanied by barrio captain Gregorio Guevarra and Ricardo Dionglay, Arceli Flores reported the matter to the town proper of Alaminos arriving thereat at about 10:00 o'clock that night.

She identified the striped (sic) T-shirt she was wearing that night which had a tear on the left armpit measuring about 6 inches, marked Exhibit "A" and the denim shorts which was torn from the waist down to the hemline at

its left side, marked Exhibit "B", which was brought to the court by Patrolman Lazaro Arida of the Alaminos Police Station. On cross-examination (Sess. Sept 20, 1977) she identified the statement that she gave to the Alaminos Police Investigator on October 23, 1976, marked Exhibit "1". She was wearing the same blouse and denim shorts when she went to the police station of Alaminos that same night. She was not wearing any parity because she did not know what happened to her panty when she ran but she put or wrapped around a "tapis" around her waist when she went to the police station that night. [Decision, Rollo, pp. 4-6.]

On the other hand, the defense, relying principally on the testimony of appellant Jimmy Villanueva, gave the following version:

It is true on October 22, 1976 at about 8:00 o'clock in the evening he went to the house of complainant Arceli Flores and called out her name but denied all the imputations of force allegedly employed by him on the person of Arceli, saying that he and the complaining witness have been sweethearts for five(5) months prior to the incident in question and have had sexual contacts three (3) times prior to the incident in question. These intercourses took place in the lanzones orchard and once in the house of complaining witness (Sess. May 11, 1978). They went to a place in a coconut plantation about 500 meters from the place of complaining witness and there had sexual intercourse. He escorted Arceli back to her place. When they were near the doorway someone coughed and Arceli became frightened and she ran towards the direction of the road. He did not recognize the one who coughed. He hid himself near a chico tree and after spending sometime sensing ("nakikiramdam") went home and slept. The following morning when he woke up he found his wife up in arms telling the accused she heard from the neighbors that he is being charged and that the woman involved is his "kabit" for a long time. He went to stay in a friend's house for a while. When he returned to his house, his wife sent him away; so he went to his "kaingin" in the mountain. Reasons why the complaining witness filed this case against him are (1) the complaining witness became angry with him because he could not give her the money she was asking to cover the cost of her denture. He had given her earlier P10.00 but he was not able to produce the P100.00 the complaining witness was asking; (2) on the way back to the house, complainant was telling him of the rumor already spreading regarding their relationship and he answered that he does not know anything about it; (3) on their way back to the house when they were nearing her house, someone coughed. [Decision, Rollo, pp. 6-7.]

The principal question as in most criminal cases is the credibility of witnesses. A review of the records of the case shows that the evidence undoubtedly supports the findings and conclusions of the trial court in its judgment of conviction. This Court finds the assignment of errors not well taken.

Appellant assails the decision of the trial court for having disregarded his testimony and the supporting testimonies of his father, Pedro Villanueva and Patrolman Jose Satera.

An examination of appellant's testimony on the stand reveals that he himself admitted having sexual intercourse with complainant but categorically denied raping her. He claims that their meeting on that night was by mutual agreement as they were sweethearts. To buttress this claim, appellant advanced three reasons why complainant had to file this case against him: (1) the complainant needed money for her denture which appellant failed to give her; (2) that complainant told him that rumors were spreading about their illicit relationship and that she became mad when he answered that he did not know anything about it; and (3) that when they were on their way home, somebody coughed which made complainant fear that somebody might have seen them.

It is unbelievable, however, that for such flimsy reasons, complainant will stake her honor in a public trial. If complainant had consented to the sexual intercourse, it would have been her natural reaction to conceal it and keep quiet about it instead of denouncing it immediately as rape and "thus expose herself to wagging tongues of her small rural community" [People v. Bawit, G.R. No. L-48116, February 20, 1981, 102 SCRA 797.] Furthermore, no evidence was presented to corroborate appellant's claim that he and the complainant, his aunt, were sweethearts. This Court had occasion to rule that a barrio woman on whom no suspicion exists that she has a

love affair with appellant and who lost no time in publicly complaining of the wrong suffered by her cannot be deemed to have agreed to the sexual intercourse in question. [People v. Torres, G.R. No. 61705, November 20, 1984, 133 SCRA 303.]

Neither can this Court give weight to the testimony of defense witness Pat. Jose Satera, a police investigator of the Alaminos Police Department. His testimony centered on the clothes worn by complainant on the night of October 22, 1976. Complainant testified that she was wearing a T-shirt and a pair of denim short pants [pp. 12-14, T.S.N., September 7, 1977; Exhibit "A" and "B" for Prosecution.] Pat. Satera however denied this and testified on direct examination that at the time he investigated complainant, she was not wearing her short pants but a skirt. This seeming contradiction is explained by the fact that complainant indicated what she was wearing when she was raped at around 8:00 o'clock in the evening while Pat. Satera referred to what complainant was wearing during the investigation at past 10:00 o'clock in the evening. Complainant had earlier testified that her pair of short pants were torn and removed by appellant during the sexual assault and that When she had the chance to escape, she just grabbed them and ran away. [p. 12, T.S.N., September 30. 1977.] And on cross examination she had the chance to explain further the state of her clothings, thus:

ATTY. BELARMINO —

Q The incident occurred on October 22, 1976 and you went to the police department on that night, is that correct?

ARCELIC.FLORES —

A Yes, sir.

Q And you must be wearing the same clothings on your body?

A Yes, sir.

Q Until you reached San Pablo City to be examined by the doctor?

A Yes, sir.

Q And you are referring to that denim short that was torn with your panty?

A I was not wearing my short and panty and was able to travel around because there was a towel (tapis) around my waist. [Italics supplied].

[pp. 25-26, T.S.N., November 8, 1977.]

Appellant also contends that his father's (Pedro Villanueva) offer to settle this case amicably should not be taken as an indication of his guilt as he did not personally seek the amicable settlement and that he did not even know of these attempts to buy peace. Had appellant himself not solicited his father's help, it would seem very unnatural for the latter to approach his aunt, the complainant's mother and try to settle the case without having first ascertained the truth from his son. The fact that the help of appellant's uncle, his father's brother who was then residing in Manila, was also sought, [p. 14, T.S.N., September 7, 1978] leads to no other conclusion that even the appellant's relatives were convinced that he committed the crime charged against him.

Furthermore, it is unworthy of belief that the reason why appellant went to his "kaingin" in the mountains is to get away from his wife's nagging. It appears that a few days after October 22, 1976, appellant fled to his "kaingin" where he was found and arrested by police elements on November 8, 1976 after a warrant for his arrest was issued by the Municipal Judge of Alaminos, Laguna on October 26, 1976 [Exhibit "C-I", Prosecution.] Appellant's flight which is indicative of his guilt is made manifest by these circumstances. Also, his flight is explained by the fact that he became apprehensive of the consequences of his actions which he admitted on cross-examination:

ATTY. CASTRO —

Q You said that when you left Arceli's house you heard somebody cough and Arceli ran away and you hid yourself under a chico tree, is that correct?

JIMMY VILLANUEVA —

A Yes, sir.

Q How long did you stay there?

A Only for a short while, sir.

Q For that length of time, you did not see any other person in that place, is that correct?

A After reaching home I asked my cumpare to see Arceli.

Q You mean to say you asked your cumpare to go back to the place of Arceli to find out who was that person who coughed?

A I just asked him to sense the surrounding.

Continue.

Q What is the name of your cumpare?

A Romulo Banzuela, sir.

COURT —

Q Precisely, what did you tell this Romulo Banzuela?

A I told him, "pare, tingnan mo nga sa karsada kung anong hindi maganda sa akin."

Q And your cumpare upon hearing those words from you, do you know where he went?

A He returned back to me, sir.

Continue.

ATTY. CASTRO —

Q What happened?

A That I was told that there was a commotion in the house of Arceli (nagkakagulo). [pp. 22-24, T.S.N., June 22, 1978.]

Appellant's own words point to his guilt. There was no need for him to ask another person "to sense the surrounding" and be on the look-out for anything that might prejudice him if he had not done any wrong.

In assailing the trial court's reliance on the prosecution's version of the facts, appellant points to alleged inconsistencies in complainant's testimony. First, the defense argues that there was no force and intimidation as shown by the absence of physical injuries on complainant's body despite her claim that she was dragged, pushed to the ground, her clothes torn and that she was sexually assaulted at the point of a knife. This was, however,

easily explained in the appellee's brief which this Court quotes with approval:

xxx We respectfully submit that complainant who was recently sick and was just recuperating, was still weak and she could not have put up a violent defense (p. 36, t.s.n., July 7, 1977) as against the young appellant, who was only 29 years old and a coconut gatherer (p. 2, t.s.n., May 11, 1978). Consequently, appellant's strength could have easily overpowered complainant's futile resistance so that no physical injury on her body need have been inflicted. [Brief for the Appellee, pp. 12-13, Rollo, p. 57.]

Also, the absence of spermatozoa on the victim's body does not negate the commission of rape. The testimony of complainant reveals that in the process of her struggling, appellant's private part was pulled out and the seminal fluid fell on her thigh [p. 10, T.S-N., September 30, 1977-1 Hence, the reason why on medical examination, she was found negative for spermatozoa.

Second, the defense refutes the complainant's testimony that appellant used a bladed weapon to threaten her into submission.

Appellant argues that it was impossible for him to hold the bladed weapon, and at the same time struggle with the complainant, unzip his pants while complainant was fighting him by kicking, pushing, and boxing, and yet she did not suffer any cut or injury. Complainant's story nonetheless shows that appellant did not hold with his hand the bladed weapon all the time. Her answers to the clarificatory questions asked by the trial Judge reveal the following:

COURT —

Q

Now, a while ago you said while the accused was dragging you the accused was holding the weapon on one hand, now you said the accused brought out the bladed weapon when he was about to have carnal knowledge with you, is that correct?

ARCELIC.FLORES —

A

When he opened up that bladed weapon was (when) he was already doing the sexual intercourse with me and he placed that bladed weapon near my nape and he told me that he will kill me if I would run away.

Q When for the first time did you know that the accused had bladed weapon?

A When he dragged me and when he tripped me (that) he was already carrying that bladed weapon.

Q You saw it?

A Yes. sir.

Q Where was it?

A It was with him. sir.

Q Is it tucked on the waistline or carrying with his hand'?

A It was on his back. sir.

[pp. 17-19. T.N.. November 8. 1977.]

Appellant never denied carrying a knife and in the appellant's brief, the defense attempts to explain this point by admitting that "x x x it is only normal among barrio workers and laborers to have one x x x." [Appellant's Brief, p. 41.] The presence of the bladed weapon affirms that the appellant used force and intimidation to have carnal knowledge of the complainant.

Third, the appellant insists that certain details of the complainant's version reveals her consent to the act, i.e., that she did not press her legs together, that she was moving her buttocks. The implication sought to be established by the defense is not however supported by the complainant's testimony.

The details show that she was dragged from the rear of the toilet to a place near the "daang kariton" about seventy meters (70 m.) from the toilet. When appellant threw her on the ground, she fought back but he succeeded in tearing her T-shirt, pulling down her shorts and removing partially her panties. She kept on pushing appellant's face away from her but notwithstanding he succeeded in inserting his private part into her. Because of complainant's struggles, however, appellant's penis was pulled out from her so that his semen emission fell on her thigh. It was when appellant suddenly stood up to remove his pants that complainant had the chance to run [pp. 11-12, T.S.N., September 30, 1977.] In the face of all her futile struggles, it is hard to find consent on the part of complainant.

Fourth, the fact that complainant was just recuperating from sickness does not totally deprive her of the strength to resist appellant's advances considering that it was her honor which was at stake.

Appellant points to other inconsistencies in complainant's testimony which are however of minor significance and do not in any way destroy her credibility as a witness [People v. Ibal, G.R. Nos. 66010-12, July 31, 1986, 143 SCRA 317.]

In his third assignment of error, appellant assails his conviction by the trial court on the ground that no motive was shown as to why he would commit rape against complainant when he was a married man, with an "amiable looking wife" and three children. These circumstances do not detract from the probability of his having committed the crime. Suffice it to say that the lack of motive for committing the crime does not preclude conviction when the crime and the participation of the accused are definitely shown. In this case, this Court is convinced that the guilt of the appellant Jimmy Villanueva has been proven beyond reasonable doubt.

WHEREFORE, the judgment appealed from is hereby AFFIRMED with the modification that the indemnity is increased to P30,000.00.

SO ORDERED.

Fernan (Chairman), Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

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