

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE SAN BUENAVENTURA, DEFENDANT-APPELLANT.

G.R. No. 50386. August 08, 1988

Ponente: CORTES, J.

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CORTES, J.:

Article 335 (3) of the Revised Penal Code defines and penalizes statutory rape. "The gravamen of the offense is the carnal knowledge of a woman below 12 years old" [People v. Villegas, Jr., G.R. No. 60386, January 30, 1984, 127 SCRA 195, 200.] Thus the issue of force or intimidation employed by the offender, or whether or not the woman is deprived of reason or otherwise unconscious at the time a man had carnal knowledge of her becomes immaterial.

The above provision is applied in this case, the facts of which are as follows:

On June 24, 1975 Remedios Ragasa filed a criminal complaint before the Municipal Court of Jose Panganiban, Camarines Norte charging Jose San Buenaventura with the rape of her daughter, Julita San Buenaventura.

Thereafter an information was filed by the provincial fiscal accusing Jose San Buenaventura of the crime of rape the commission of which was aggravated by the circumstance of relationship, the accused being a half-brother of the complainant.

The accused represented by his counsel pleaded not guilty to the crime charged.

After trial the then Court of First Instance of Camarines Norte rendered a decision convicting the accused the dispositive portion of which reads:

WHEREFORE, the Court finds the accused Jose San Buenaventura guilty, beyond reasonable doubt, of the crime of Rape, defined and penalized under Article 335 (3) of the Revised Penal Code, with the aggravating circumstance of relationship and is hereby sentenced to suffer the penalty of Reclusion Perpetua, with the accessory penalties provided for by law, to indemnify the offended party Julita San Buenaventura in the amount of P6,000.00, as moral damages and to pay the costs. [CFI Decision, p. 8, Rollo, p. 16.]

The accused interposed an appeal certified to this Tribunal by the Court of Appeals in view of the penalty of reclusion perpetua imposed by the trial court.

Defendant-appellant Jose San Buenaventura is the son of Constancio San Buenaventura with his legal wife Ciriaca Cardoso. The accused is married, twenty-five (25) years of age at the time of the commission of the offense, and formerly employed as a security guard.

On the other hand the victim San Buenaventura is his half-sister she being the daughter of Constancio San Buenaventura with his common-law wife Remedios Ragasa. She was less than twelve (12) years of age when the alleged rape occurred on June 14, 1975 having been born on October 17, 1963.

It appears from the records of the case that sometime in October; 1974 defendant-appellant went to Barrio San Jose, Jose Panganiban, Camarines Norte to look for his father and to demand his share in the conjugal properties of his parents. He found his father to be living with Remedios Ragasa and their eleven (11) children one of whom is Julita. Defendant-appellant stayed in Camarines Norte with his father and the latter's family until February, 1975 when failing in his purpose he went to Iriga City to live with his mother Ciriaca Cardoso.

Sometime in May, 1975 defendant-appellant returned to Camarines Norte upon: the prodding of his mother to press his demand He again stayed in his father's house until he was incarcerated on June 16, 1975 for the offense of which he is now charged.

The prosecution and defense give different accounts of what occurred on Saturday, June 14, 1975, the date of the alleged crime. According to the prosecution in the morning of said date Remedios Ragasa went to Barrio Mambulao on an errand leaving behind three (3) of her children, namely, Julita, Julio, five (5) years old, and Jimmy, four (4).

In mid-afternoon, particularly at around three o'clock, while Julita was sweeping their yard she was told by her "Kuya" Jose to go upstairs to get the clothes of her mother. While inside the house defendant-appellant ordered her to lie down on the mat and remove her panty. Thereafter Jose Buenaventura placed himself on top of Julita, held her hands, and forcibly inserted his penis into her vagina thus succeeding in having carnal knowledge of her.

In the evening of the same day when her parents arrived she never told them what happened to her because of defendant-appellant's threat to kill her and her family. The following day her father noticed blood flowing down her legs and Julita was immediately brought to Dr. Conrado Zantua, the Municipal Health Officer, for examination. Later that same day she was transferred to a hospital in Larap upon the suggestion of Dr. Zantua for a thorough medical examination and treatment where she stayed for ten (10) days.

It was during her stay in the hospital, specifically on June 15, 1975, when police investigators led by Sgt. Jose Bulalacao came to ask her questions and she pointed at a certain Mario Bamba as the culprit. It should be noted that this investigation was not reduced into writing nor were any notes taken down by the investigating police officer because according to him he felt that Julita could not stand the long investigation [TSN, May 18, 1978, p. 8.] It was on the following day, June 16, 1975, when Julita was interrogated anew, this time by Sgt. Roberto Rosales, wherein she pointed at Jose San Buenaventura as the culprit. This investigation was reduced into writing.

Dr. Zantua's findings contained in a medical certificate which he issued on June 20, 1975 are as follows:

Speculum examination:

1. Blood clot and fresh bleeding in the vaginal canal.
- 2 Superficial (sic) laceration on the upper 3rd of the vaginal canal at 2:00 o'clock position.
3. Vaginal canal congested. [Index of Exhibits, p. 1.]

The defense however would negative the occurrence of the rape by setting up the defense of alibi. According to defendant-appellant in the morning of June 14, 1975 he went to work in the field with his father and returned to

the house at noon for lunch. After eating lunch he and his father went back to work again in the field.

In this appeal the accused Jose San Buenaventura assigns two errors committed by the trial court, namely:

I. THE LOWER COURT ERRED IN BASING ITS DECISION SOLELY ON THE TESTIMONY OF JULITA SAN BUENAVENTURA.

II. THE LOWER COURT ERRED IN NOT BELIEVING THE TESTIMONY OF THE ACCUSED-APPELLANT AS CORROBORATED BY THE TESTIMONY OF POLICE INVESTIGATOR JOSE BULALACAO, ACTING CHIEF OF DIVISION OF THE INTEGRATED POLICE FORCE OF JOSE PANGANIBAN, CAMARINES NORTE.

In his brief defendant-appellant alleges the inconsistency in Julita's statements specifically when she pointed at Mario Bamba as the culprit during her initial investigation. According to Jose Buenaventura this she did "in front of her mother who can give moral support and the police authorities who can assure her of full protection." [Brief for Accused-appellant, pp. 5-6.] Subsequently however she retracted her initial statement and named Jose San Buenaventura.

Such conduct of Julita San Buenaventura can be explained not only by the victim's condition but also by the presence of defendant-appellant at the time she was first interrogated in the hospital in Larap. On cross-examination of Sgt. Bulalacao who was presented as a witness for the defense he testified thus:

x x x

Q When you saw the victim in the hospital, what was her condition?

A She was in bed in pain. I pity her because she was suffering so much.

x x x

Q What do you mean by the victim is suffering so much?

A She was in bed; that she cannot talk directly and fluently, she was staggering and in fact she is bleeding.

COURT:

Q From your observation, when you asked her, did she understand your question?

A Perhaps she understood.

Q I want you to be sure. Do you believe she understands, (sic) the question as propounded to her?

A I think she understand because she even answered.

Q Did she give you clear answer to identify the person who made the crime to her?

A Yes, sir.

Q What was the answer.

A She did not answer at once. I even repeated the question and she told me that it was Mario Bamba.

Q How many times did you repeat the question?

A Two times.

Q Who were present when you investigated the child?

A The mother of the victim, the accused and some other people at the time which I could not remember the names.

Q How far was the accused when you asked that question from Julita San Buenaventura?

A Very near.

Q How near?

A Less than one meter. [TSN, May 18, 1978, pp. 5-6.] (Underscoring supplied.)

x x x

Julita herself in the second investigation conducted by Sgt. Rosales clarified why she first pointed at Mario Bamba as her abuser. Thus in her sworn statement she stated:

X X X

T: Kahapon, natatandaan dito may pulis na nagparito, tototo ito?

S: Opo.

T: At tinanong ka kung sino ang nagsalbahe sa iyo, hindi ba?

S: Opo.

T: Sino ang sinabi mong nasalbahe sa iyo kahapon ng tanungin ka ng pulis?

S: Si Boy Bamba po.

T: Bakit, ginahasa ka rin ba ni Boy Bamba?

S: Hindi po.

T: Bakit pangalan niya ang sinabi mo sa pulis?

S: Si Kuya Jose po ang nagsabi sa akin na yon ang isabi ko.

T: Kaylan sinabi sa iyo ni Kuya Jose mo na si Boy Bamba ang ituro?

S: Noong Sabado rin po.

T: Bakit naman sinunod mo ang utos ni kuya mo?

S: Pag siya daw po ang isumbong ko ay papatayin kaming lahat.

T: Magkaaway ba si Kuya Jose mo saka si Boy Bamba?

S: Opo, dahil si Boy Bamba po ay nagputol ng kahoy sa amin. [Index of Exhibits, pp. 6-7.] (Underscoring supplied.)

X X X

The same statements she made when she testified before the trial court, thus:

X X X

Q Was it not that in the record of the police before the investigating officer, the first name you mentioned to them was Mario Bamba and not Jose San Buenaventura, please tell us?

A It is Kuya Jose.

Q But I am asking you whether you mentioned the name of Mario Bamba and then later on Jose San Buenaventura?

A It was Kuya Jose who told me that I must tell the police that it was Mario Bamba. [TSN, August 10, 1976, p. 22.] (Underscoring supplied.)

X X X

Defendant-appellant would likewise insist on his innocence arguing that Remedios Ragasa exerted pressure on her daughter so that Julita would inform the authorities that it was he who committed the crime. Defendant-appellant specifically cites two reasons why Remedios Ragasa would accuse him of a crime he is innocent of, namely: (1) "because he is representing the lawful wife of her common-law husband; and, (2) on account of his persistency in claiming for his legitime in the conjugal properties of his parents" [Brief for Accused-appellant, p. 6.]

Defendant-appellant's claim however is unfounded.

Firstly, Jose San Buenaventura had already prejudged Remedios Ragasa as the main antagonist in his goal of getting his share of his father's property which according to him consists of twenty-one (21) hectares of swamp land, four (4) hectares of which have been converted into fishpond and the rest planted with coconut and other growing trees. [TSN, October 12, 1977, p. 3.]

However, neither the existence of these properties nor the ownership thereof and consequently, whatever right he may have thereto were clearly established by him.

Secondly, granting for the sake of argument that the lands exist, defendant-appellant himself admits that these properties of his father are under the possession and control of Remedios Ragasa. [Brief for Accused-appellant pp. 6-7.] And, to quote the statement of the prosecution with respect to this admission, "there was no reason for Remedios Ragasa to harbor resentment or ill-will towards appellant for she stood in no danger of being deprived of the properties by the appellant." [Brief for Plaintiff-appellee, p. 21.]

Lastly, in a similar case this Court had occasion to state that:

X X X

. . . appellant's pretention that the filing of the case was a mere concoction of his wife, Leonita Patricio, because of his refusal to give her the custody of their daughter, Emilia, is, to say the least, ridiculous. For, why would Leonita initiate this case when at the time it was instituted Emilia was already living with her. It is hard to believe that a mother would sacrifice her own daughter to tell a story of defloration, allow the examination of her private parts, and thereafter present her to be the subject of a public trial, if they (mother and daughter) were not motivated by an honest desire to have the culprit, who is Emilia's own father, punished. [People v. Erardo, G.R. No. L-32861, January 31, 1984, 127 SCRA 250, 259.] (Underscoring supplied.)

X X X

Defendant-appellant would likewise question Julita San Buenaventura's non-disclosure to her parents of the rape until after she was confined in the hospital in Larap. Such behavior could be explained by the threats made by defendant-appellant not only on her life but on the life of her family as well. It is not inconceivable for Julita, a "frail and small school child" [CFI Decision, p. 2, Rollo, p. 10], to be cowed by fear considering not only her tender age but more importantly the moral ascendancy of her elder half-brother who was then living with them.

As this Court had occasion to observe in an earlier case:

One should not expect a fourteen-year old girl to act like an adult or mature and experienced woman who would know what to do under such difficult circumstances and who would have the courage and intelligence to disregard a threat on her life and the members of her family and complain immediately that she had been forcibly deflowered. It is not uncommon for young girls to conceal for sometime the assaults on their virtue because of the rapists' threat on their lives, more so when the rapist is the child's own stepfather living with her. (People v. Oydoc, G.R. No. 61679, October 26, 1983, 125 SCRA 250, 256.) . (Underscoring supplied.)

Finally defendant-appellant would aver that it is not he who abused Julita as it was impossible for him to have been at the scene of the crime at the time the rape occurred. He insists that he was then working in the field with his father. He likewise adds that "before the incident of June 14, 1975, he saw Mario Bamba cutting trees in the land of his father 100 meters away from his father's house at about 4:00 o'clock in the afternoon" [Brief for Accused-appellant, p. 3.]

For alibi however to be an effective defense, ". . . the accused must show that he was at another place for such a period of time that it was impossible for him to have been at the place where the crime was committed at the time

of its commission” [People v. Resayaga, G.R. No. L-23234, December 26, 1973, 54 SCRA 350, 354.]

In the case at bar defendant-appellant himself had testified that the distance between the field where he went to work with his father from the house where the rape occurred is only two hundred (200) meters more or less. [TSN, October 12, 1977, p. 6.] Such a short distance lends no support to his denial that he was not at the scene of the crime at the time it occurred. In other rape cases where this Court dismissed the defense of alibi raised by the defendants and convicted them of the crime, the distance between the place where defendants alleged themselves to be and the place where the crime was committed was much farther: twenty-five (25) kilometers in People v. Terrobias, G.R. No. L-48944, February 26, 1981, 103 SCRA 321, 326; three (3) kilometers in People v. Aragona, G.R. No. L-43752, September 19, 1985, 138 SCRA 569, 579-580; and at least one (1) kilometer in People v. Boado, G.R. No. L-44725, March 31, 1981, 103 SCRA 607, 618.

The weakness of defendant-appellant’s defense of alibi becomes apparent in view of the absence of any corroborative statement or any other evidence to prove his absence from the scene of the crime.

WHEREFORE, the decision of the Court of First Instance of Camarines Norte is hereby affirmed with the modification that the civil indemnity is increased to P30,000.00.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Feliciano and Bidin, JJ., concur.

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