

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARCELO VALDEZ Y MANZON, ACCUSED-APPELLANT.

G.R. No. 51034. May 29, 1987

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

In an information filed before the Court of First Instance of Pangasinan and docketed therein as Criminal Case No. A-51, Marcelo Valdez was charged with rape for willfully, unlawfully and feloniously having sexual knowledge, through force, threats and intimidation, of Lolita Baliton, against the latter's will.

On May 11, 1979, the said Court rendered its decision convicting accused as charged, with the following dispositive portion:

"WHEREFORE, this Court finds the accused MARCELO VALDEZ y MANZON guilty beyond reasonable doubt of the crime of RAPE, and there being no mitigating or aggravating circumstance, sentences him to suffer the penalty of RECLUSION PERPETUA, to indemnify Lolita Baliton in the amount of P12,000.00 (People vs. Rapada, 80 SCRA 63) and to pay the costs.

Let the accused be credited with the full period of his preventive detention under Republic Act 6127."

The case is now before Us on appeal, with the accused-appellant raising the following assignments of error:

I

THE TRIAL COURT ERRED IN BELIEVING THE TESTIMONIES OF THE COMPLAINANT AND HER WITNESSES WHICH ARE REplete OF INCONSISTENCIES AND INHERENT IMPROBABILITIES, AND LACKING IN CANDOR AND CREDIBILITY.

II

THE TRIAL COURT ERRED IN HOLDING THAT THE TESTIMONY OF THE PROSECUTION'S WITNESSES ARE "VERY CONVINCING, FRANK, STRAIGHT-FORWARD AND SINCERE" IGNORING THE DULY RECORDED OBSERVATIONS OF THE COURT ON THE DEPARTMENT OF COMPLAINING WITNESS WHICH REVEALS HER LACK OF SINCERITY.

III

THE TRIAL COURT MISAPPRECIATED THE WHOLE CONTEXT OF THE TESTIMONY OF THE ACCUSED BY HOLDING THAT COMPLAINANT ASKED ACCUSED TO MAKE LOVE TO HER EVEN BEFORE THE LATTER HAD COURTED HER.

IV

THE TRIAL COURT ERRED IN NOT ACQUITTING THE ACCUSED AT LEAST ON REASONABLE DOUBT.

The facts of the case are as follows:

Appellant of Urdaneta, Pangasinan, who was then 20 years of age, left his hometown in 1976 for San Quintin, Pangasinan, in order to harvest palay. During each harvest season, he stayed with the Baliton family where he was given free board and lodging. Whenever he was there, he slept in the camarin near the Baliton house.

At about 10:30 in the morning of December 21, 1977, while Lolita, a 13 year old barrio lass, was alone fold-ing clothes with her 12-year old friend Victoria Flores, appellant suddenly entered the house holding a balisong. He threatened the two girls that he would kill them and their families if they screamed or told anyone about what would happen. Thereafter, he pulled Lolita towards him, twisted her hands and put them at her back. He made her lie down, lowered her panty, opened the zipper of his pants, put out his sexual organ, went on top of her, inserted his organ in her private part and then went through with the push and pull movement. At this instance Lolita cried in pain.

All throughout this sexual abuse, the two girls were not able to do anything because of the continuing threats of appellant who did not stop brandishing his balisong. After appellant left, Lolita's tears did not stop flowing until her mother arrived. When asked for an explanation, both girls kept silent having in mind the threat made by appellant that if they talk, he will kill them.

Lolita testified that this heinous act was repeated in January 1978 with appellant repeating the same threats on her. Sometime in February, while appellant was away, Lolita finally narrated to her mother the gruelling experience she had. Mrs. Baliton immediately reported the matter to the Barangay Captain and on February 26, 1978, had her daughter undergo a physical examination. The medical findings included the following - "presence of old lacerations at 3:00 o'clock, 6:00 o'clock, and 9:00 o'clock positions".

On February 27, 1978, the matter was brought to the police of San Quintin, Pangasinan, and this led to the filing of the information charging appellant of rape.

The first and second assigned errors will be taken up together as they revolve around the same issue of credibility. Appellant insists that the lower court should not have given the testimonies of the prosecution witnesses much weight as said witnesses were not sincere, lacked candor, seriousness and integrity. To discredit the testimony of the victim, appellant maintains that both of them were in fact sweethearts who before December 21, 1978 have had sexual intercourse on several occasions in the camarin.[1] To support this allegation, he presented as evidence a ring supposedly given to him by the victim.[2] He further adds that he even proposed marriage to the girl.[3]

Next, appellant contends that the victim was obviously lying in Court because of her testimony that her panty was only lowered up to her thighs. His claim is that if this is true, then rape could not have been committed because of the impossibility of insertion of the penis into the victim's vagina.[4]

Also, according to the appellant the delay of the victim in telling her mother and making a complaint only proves that there really was no rape.

We do not agree. Upon a consideration of the whole record, We find the testimony of the victim aside from being sufficiently corroborated by the other witness and by medical findings, credible to any reasonable person. It is true that there were a few inconsistencies but they are too minor to affect the girl's credibility. Such inconsistencies are well-expected to come from an un-exposed barrio lass not used to the rigours of a public trial. Next, appellant

failed to show Us a good reason for the girl's alleged disposition to lie in court and the complicity of her family thereto. As he admitted, he was treated very well just like any member of the Baliton family.[5] Indeed, it is very doubtful that the victim and her young friend would make up a story of rape for no motive at all. Needless to say, Lolita, a girl of such tender age, will not expose herself to public shame and humiliation by having to undergo a physical examination and testify in open court if her rape charge is not true.

The Court cannot believe that the appellant and Lolita were in fact sweethearts. The ring presented in evidence could not have belonged to the victim because, as has been successfully proven by the prosecution, it was too small for her.[6] It should also be noted that no other substantial evidence to support appellant's claim, like love letters, notes or other tokens was shown in Court.

The offer of marriage, instead of helping him in his defense, betrays the appellant's culpability. It was made in the presence of the Barangay Captain at the time when an investigation was already being conducted.[7] This could only be taken as an admission of guilt.[8] Further-more, if the appellant and Lolita were really sweethearts, the latter would have readily accepted the proposal of marriage. Had there been love between the two, the girl would not have jeopardized their relationship by exposing everything to her mother and to the authorities, much less filing a complaint for rape against him.

Regarding the appellant's claim that in line with Lolita's testimony that her panty was only pulled down to her thighs, there could have been no sexual inter-course, We find this incorrect because said testimony did not stop there. The girl went on to say that her panty was eventually torn, allowing the consummation of the sexual act. Thus:

"Q. When you were sexually abused by Marcelo Valdez on December 21, 1977, you said on cross examination that your pantie was just lowered 6 inches above the knee, will you please tell the Court what happened to that pantie when Marcelo Valdez sexually abused you?

"A. It was torn, sir.

"Q. Where is that pantie now?

"A. No more, sir."[9]

The delay on the part of the victim in telling her mother and making a complaint should not be taken against her. The cause of this delay was well-explained in the lower court and that is, the girl feared for her own life and the lives of her friend and their families.[10] This Court has already recognized that concealments by young girls of rape against them are not uncommon because of threats on their lives.[11] We have also repeatedly held that delay in reporting a rape incident due to death threats is justified.

On the third assignment of error, We agree with the lower court that the following testimony of the accused?appellant is not only unreliable but hard to believe:

"Q. The fact is your activities while in the house is eating during lunch time, help the parents of Lolita Valetton till the fields, also in the harvest and at night time sleep in the camarin is it not?

"A. At harvest time, we all harvest in the field and when the afternoon comes I go to the camarin and sleep there, sir.

"Q. And you never had any occasion to be very close to Lolita Valetton because of her age and because of your relationship to the family because you are the 'kasugpong', is that right?

"A. I used to sleep in the camarin of Lolita and Lolita voluntarily came to the place where I was, sir.

"Q. When was that?

"A. In 1977, sir.

"Q. What date or month?

"A. I already forgot it, sir.

"Q. But you are sure that it was in 1977?

"A. Yes, sir.

"Q. At what time when she went to you without asking her to come?

"A. 3:00 o'clock in the afternoon, sir.

"Q. What happened there at 3:00 o'clock?

"A. She went to the place where I was and laid down and told me how she felt, sir.

"Q. What did she tell you as her feeling at the time?

"A. Lolita said to me, 'I am waiting for you to tell me how you feel but I think you are ashamed.'

"Q. With that statement of Lolita Valetton, what did you do?

"A. I kissed her, sir.

"Q. Only?

"A. She told me that we would have sexual intercourse, so we did it, sir.

"Q. It was Lolita Valetton who told you that?

"A. Yes, sir.

"Q. And you had the sexual act with her?

"A. Yes, sir." [12]

Appellant's story appears incredible from every angle. It is unbelievable that young Lolita, fresh from her elementary grades, would lure a much older man to have sex with her when the latter has not even told her about his feelings towards her. It is even more difficult to believe that this girl would suggest sex in a place very near her house, stay there for a long period of time to have more sex, knowing the danger of being caught by any member of her family or her neighbors.

At this point, it is apt to consider the lower court's observation that not only was appellant's testimony incredible but that appellant did not appear as a credible witness. Thus:

"Considering the testimony of the accused and the evidence he adduced, this Court, try as it would, (sic) could not give any credence to the testimony of the accused in view of the very unstable, nervous, shuffling and hesitant manner in which it was given on the witness stand. Accused testified on three occasions. On the first occasion, it was claimed that he was sick and the court granted the motion to reset. On the succeeding times he testified, he did so in the same nervous, excited, tense, shuffling and hesitant manner, breathing heavily, frequently clearing his throat, sweating profusely indicating not only unreliability but a troubled conscience as well. But far more unreliable is his testimony itself that Baliton, a young girl of 13 years would go up to him unsolicited and seek him in the afternoon when the possibility of detection was great and ask him who was not courting her to tell her that he loved her and without his saying anything to her she kissed him and then

openly invited him to have sexual intercourse with her in a manner which would even put courtesans or women of loose morals or easy virtue to shame. The narration of the accused is difficult to believe. Baliton was a barrio girl only 13 years old, of an age when one is still a child barely entering the stage of puberty and residing in a barrio which is shielded from the corroding influence of social and sexual mores and practices of highly advanced societies. What is ascribed to her by the accused betrays it as a figment of a fecund imagination. Being so, it fails to impress this Court for evidence to be credible must not only proceed from a credible witness but must be also credible in itself (People vs. Dayag, 56 SCRA 439)."[13]

In view of the foregoing, We hold that the lower court did not err in finding appellant guilty beyond reasonable doubt.

WHEREFORE, the judgment appealed from should be, as it is hereby **AFFIRMED** with the modification that the amount of indemnity to be paid the complainant by the appellant is increased to P20,000.00. Costs against appellant.

SO ORDERED.

Yap, (Chairman), Narvasa, Melencio-Herrera, Cruz, Feliciano, and Sarmiento, JJ., concur.

[1] Appellee's Brief, page 4.

[2] Exhibit I.

[3] Page 97, Rollo.

[4] Appellee's Brief, page 12.

[5] Page 98, Rollo.

[6] Page 144, Rollo; p. 35, TSN, March 25, 1979.

[7] Page 98, Rollo.

[8] Section 24, Rule 130, Rules of Court.

[9] TSN, page 40, August 10, 1978.

[10] Page 47, Rollo.

[11] People vs. Alcid, 135 SCRA 280.

[12] TSN, pp. 6-7, February 7, 1979.

[13] Page 61, Rollo; Decision, page 4.

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