

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VENANCIO RAMILO Y SANGALANG, ACCUSED-APPELLANT.

G.R. No. 52230. December 15, 1986

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the then Court of First Instance of Batangas, Branch IV finding appellant Venancio Ramilo y Sangalang guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of reclusion perpetua and to indemnify the offended party, Hilaria V. Sangalang, the sum of P12,000.00.

The information filed against the appellant alleged:

"That on or about the 11th day of October, 1975 at about 1:30 o'clock in the early morning, in Barrio Quiling, Municipality of Talisay, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a short firearm, by using force, threats and intimidation, did then, and there, willfully, unlawfully and feloniously lie with and have carnal knowledge of the said Hilaria V. Sangalang, against her will and consent."

The prosecution evidence upon which the lower court based its finding of guilt beyond reasonable doubt is narrated by the said court as follows:

"As first witness for the prosecution, Hilaria V. Sangalang, 18, single, testified that on October 11, 1975, she went to bed at 8:00 o'clock in the evening in their house situated in Barrio Quiling, Talisay, Batangas. At about 1:30 o'clock the following morning, she woke up and surprisingly felt that somebody, whom she recognized later to be the accused Venancio Ramilo thru the latter's voice and mustache which she chanced to touch, was on top of her (nakadapa sa akin) and was trying to ravish her. She then attempted to shout, but was able to utter the word "ATE" only once, because Venancio gagged her mouth with piece of cloth, thereby preventing her from shouting. On that fateful occasion, Venancio poked a gun at her forehead and she got scared. All that she could do then to resist the lustful advances of Venancio was to struggle and push the latter away from her body, but in the process, Venancio, who was persistently trying to insert his sex organ into her own, threatened to kill her if she would continue resisting. Nevertheless she continued to resist by closing her thighs to prevent Venancio's sex organ from penetrating her sex organ, but after some time he succeeded in having carnal knowledge of her against her will. After Venancio had deflowered her and while leaving their house, he threatened her not to tell anybody of what he did to her, or lest he would kill her. Because of what Venancio did to her and his threats, she could not help but weep until late that morning. She did not inform her older sister, Rufina, nor her younger brother, Silvestre, right away of what Venancio did to her because she was afraid that Venancio might carry out his threats against her. It was only at about 6:30 o'clock that same morning, while she was taking her breakfast with her sister, Rufina, that she finally reported to Rufina what Venancio had done to her. Then Venancio arrived and interrupted their breakfast by warning her "Helen ang bunganga mo, hindi ako natatakot mamatay." Such threat was uttered by Venancio against her in the presence of her sister, Rufina, and her brother, Silvestre, but being alone in their house because their parents and the husband of his sister, Rufina were then in Bataan harvesting palay, they could do nothing but weep, as

Venancio loitered around the premises of their house. Venancio Ramilo left the premises of their house when two (2) young kids fetched him later that morning. At about 11:00 o'clock that same morning, complainant went to her uncle, Eleuterio Villanueva, a brother of her mother whose house is 150 meters away, and informed him of what Venancio Ramilo had done to her. Forthwith her uncle accompanied her to the Barrio Captain of Quiling, Talisay, Batangas, who in turn advised them to report the matter to the police authorities.

On October 12, 1975, she and her uncle went again to the said Barrio Captain to seek his company in reporting the matter to the police authorities, but because the Barrio Captain allegedly had a previous engagement, he was not able to go with them. Nevertheless, in the evening of the same date, October 12, 1975, she, and her uncle proceeded to the Police Station of Talisay, Batangas, and reported the matter to the Chief of Police. She was then investigated, in the course of which she executed a sworn statement, Exhibit B (p. 7, record). Then one (1) week after the date of the incident, she had herself examined by a doctor at the National Bureau of Investigation, and for which examination a document (p. 6, record), entitled "LIVING CASE NO. MC-75-773", signed by Alberto M. Reyes, Medico legal Officer, National Bureau of Investigation, was issued.

Eleuterio Villanueva, as second witness, testified that the complainant Hilaria V. Sangalang is his niece, she being a daughter of her (sic) sister; that at about 11:00 o'clock a.m. on October 11, 1975, Hilaria went to the Barrio Captain of Quiling, Talisay, Batangas, to report to him what Venancio Ramilo did to Hilaria. The said Barrio Captain, in turn, advised them to report the matter to the police authorities of Talisay, Batangas. In the evening of the following date, October 12, 1975, he and her niece went to the Chief of Police of Talisay, Batangas, to whom they reported the matter. Hilaria Sangalang was then and there investigated by the police, while he waited for her outside the police headquarters."

Appellant Ramilo raised the following assignment of errors in this appeal:

I

THE LOWER COURT ERRED IN CLOSING ITS EYES TO THE INHERENT INCREDIBILITY OF, AND IRRECONCILABLE CONFLICTS IN, THE EVIDENCE OF THE PROSECUTION.

II

THE LOWER COURT ALSO ERRED IN IGNORING THE WELL-ESTABLISHED PRINCIPLES THAT THE PROSECUTION MUST DEPEND FOR CONVICTION UPON THE STRENGTH OF ITS OWN EVIDENCE; THAT IT CANNOT RELY ON THE WEAKNESS OF THE EVIDENCE FOR THE DEFENSE; THAT AN ACCUSED HAS THE ABSOLUTE RIGHT TO REMAIN SILENT, BECAUSE OF THE PRESUMPTION OF HIS INNOCENCE AS ENSHRINED IN THE CONSTITUTION AND AS EXPRESSLY PROVIDED FOR IN THE CORRESPONDING LAWS, RULES AND REGULATION; AND THAT THE DEFENSE OF ALIBI ASSUMES IMPORTANCE WHEN THE EVIDENCE FOR THE PROSECUTION IS WEAK.

III

THE LOWER COURT FINALLY ERRED IN FINDING THE HEREIN ACCUSED GUILTY OF RAPE BEYOND REASONABLE DOUBT, AND IN SENTENCING HIM TO LIFE IMPRISONMENT.

The appellant contends that the lower court erred in its appreciation of the prosecution evidence as the complainant's testimony is incredible being fraught with several inconsistencies.

On the issue of credibility of witnesses, this Court has always accorded a high degree of respect to the findings of the trial court, the latter being in the best position to observe the deportment and demeanor of the witnesses. After a careful review of the records, we find no reason to deviate from this well-settled rule.

The inconsistencies pointed out by the appellant refer to minor details which do not affect credibility.

Complainant Sangalang, after having stated that at the time of the incident her sister had been "more or less two 'dipas' (armstretches) towards her left and her brother had been two 'dipas' towards the right" (tsn, June 8, 1976, pp. 18-20) so that the distance between her brother and her sister was approximately four "dipas", she admitted having stated during the reinvestigation in the Fiscal's Office that the room where she was raped was about four meters in length and two meters in width only. Appellant Ramilo contends that a length of four "dipas" is certainly very much more than four meters.

On the contrary, a meter is approximately as long as a "dipa". And even if there are variances as to measurements, conflicting testimonies on measurements of distances are of minor consequence (*People v. Espinosa*, 141 SCRA 110; *People v. Hilario*, 113 SCRA 291).

Moreover, we note that mere estimations and not exact calculations or measurements were given by Sangalang, as evidenced by the use of the phrase "more or less", thus giving an insight as to the limited knowledgeability of the complainant regarding measurements. This is understandable, as correctly pointed out by the Solicitor General, for she only reached the sixth grade in a barrio school (tsn, May 19, 1976, p. 66).

The next inconsistency pointed out refers to the conflicting statements made by the complainant as to when she first noticed the presence of the accused.

According to her testimony during the reinvestigation of this case in the Fiscal's office on January 6, 1976 (pp. 3-4 of the transcripts of said reinvestigation), she noticed the presence of the accused for the first time "when he was (already) performing sexual intercourse with me." (Exhibit "5-A").

During the trial, however, she stated that she noticed the presence of the accused for the first time when she still had her panties on and that he subsequently took them off and raped her. She said: "At first he had his gun poked on my forehead then while he was removing my panty he placed the gun or he put down the gun and then he pulled down my panty and then raped me". (tsn, p. 13, June 8, 1976).

We agree with the Solicitor General that her statement during the reinvestigation that she became aware of his presence "at the time when he was performing sexual intercourse with me", implies the period covering the entire incident from the time appellant entered until he left the house (tsn, June 8, 1976, p. 40). Besides, it was explained that "lying down is a part of the process of sexual intercourse" (*Id.*, p. 42).

Appellant Ramilo next questions what he describes as inconsistent testimonies regarding his position when the complainant first noticed him. The complainant stated in the reinvestigation by the fiscal that she could not tell because it was dark (*Id.* p. 43). In court, she declared she "suddenly felt that there was somebody on top of me" and answered "yes" to the question whether his position was such that his head was towards her head and his feet towards her feet? (*Id.* p. 44).

The witness misunderstood the question propounded to her when she answered the fiscal's question. However, she understood from the leading question what answer to give at the trial. It would be unfair for the defense to use against the witness such a statement on a point which the latter did not clearly comprehend (*People v. Espinosa*, *supra*).

We agree with the Solicitor General when he made the following observations as to the other inconsistencies:

"Appellant asserts that complainant stated in the reinvestigation that her mouth was gagged 'with a piece of cloth', but in the reinvestigation by the fiscal, she adverted that her mouth was 'covered by his hands'. Reading her testimony in its entirety, this was what took place. When complainant woke up, appellant instantly covered

her mouth with his hands. But she still tried to shout, which explains why appellant gagged her with a piece of cloth (pp. 12, 39, 40, 42, 48, 49, tsn, May 19, 1976; pp. 18, 20, 21, tsn, August 17, 1976).

It is true that complainant stated in the affidavit that her private part bled. It is also true that she testified to not having known if her private part was bleeding because it was dark (p. 26, tsn, June 8, 1976). She explained, however that she discovered the bleeding only the following morning (pp. 28, 29, id).

In the reinvestigation, complainant stated that she did not wake her sister and brother up because she was afraid of appellant's threats (p. 10, appellant's brief). This is not contrary to her testimony during the trial that she did not know if they had been awakened by the incident (pp. 21-26, tsn, June 8, 1976). Clearly, the first would require a positive act on her part; the second was independent of it. In other words, while she did not attempt to wake up her brother and sister, she did not know if in fact they were awakened by the incident.

Complainant was undoubtedly categorical in stating that the incident happened at 1:30 o'clock in the morning of October 11, 1975 (pp. 40-4, tsn, August 17, 1976) although she said at one time that the rape was committed at 5:30 in the morning, which could have been a misunderstanding of the question propounded to her. In any case, she immediately corrected herself (id).

Whether or not complainant reported the incident to the police "immediately" as she stated in the preliminary investigation, or two days after the incident as she testified during the trial, is of no consequence. The fact is that she did report the matter on October 12, 1975, the police authorities investigated her, and her statement was taken.

Whether it was complainant or her sister Rufina who went to their uncle Eleuterio Villanueva to tell him of the incident does not really matter. The fact is that Eleuterio Villanueva knew of the incident and accompanied complainant to the police authorities."

These alleged inconsistencies pertain to minor details. They are of a kind which do not affect the integrity of Sangalang's testimony. It is well settled that inconsistencies on minor details do not affect credibility as they only refer to collateral matters which do not touch upon the commission of the crime itself (*People v. Dondoy*, G.R. No. 63728, September 15, 1986; *People v. Pelias Jones*, 137 SCRA 166; *People v. Balane*, 123 SCRA 614; *People v. Alcantara*, 33 SCRA 812; *People v. Escoltero*, 139 SCRA 218).

Furthermore, a witness who is in a state of fright cannot be expected to recall with accuracy or uniformity matters connected with the main overt act (See *People v. Balane*, supra). Rather than discredit the testimony of such a prosecution witness, these discrepancies on minor details serve to add credence and veracity to her categorical, straightforward, and spontaneous testimony.

The same do not affect the thrust of Sangalang's testimony. What is decisive is her positive identification of the accused.

Thus, the second assigned error is not meritorious as the defense of alibi cannot assume importance in the case at bar.

The defense interposed an alibi through the testimony of two witnesses, namely the accused Venancio Ramilo and his cousin, Domingo Ramilo.

"Testifying in his behalf, Venancio Ramilo, 28, married and a resident of Barrio Quiling, Talisay, Batangas, denied ever having raped complainant Hilaria V. Sangalang, and claimed that he was in Manila at the residence of his cousin, Domingo Ramilo, from October 10, 1975, a Saturday, up to October 13, 1975. That on October 10, 1975, at about 2:00 p.m., his aforesaid cousin, Domingo Ramilo, went to his house at Barrio Quiling, Talisay, Batangas, and requested him (Venancio) to help him (Domingo) carry from the residence of a certain Dennis Hernandez in Tanauan, Batangas, to Manila eight (8) fighting cocks that Domingo bought in the

public market of Tanauan, Batangas; that he acceded to said request and after having fetched the said fighting cocks from the residence of Dennis Hernandez, they left Tanauan for Manila at 3:00 o'clock that same afternoon of October 10, 1975 and stayed there in the house of Domingo up to October 13, 1975, because Domingo would want to buy for him a polo shirt and a pair of pants after Domingo shall have sold the fighting cocks, which were finally sold on October 12, 1975. It was already on October 13, 1975 when he allegedly went home to Barrio Quiling, Talisay, Batangas.

"The other defense witness, Domingo Ramilo, corroborated the testimony of the accused Venancio Ramilo."

Against the positive identification of the accused as in the case at bar, alibi is unavailing (*People v. Ibal*, G.R. Nos. 66010-12, July 13, 1986; and *People v. Bihasa*, 132 SCRA 62).

As stated in the case of *People v. Lumantas* (28 SCRA 764):

"xxx Alibi is one of the weakest defenses that can be resorted to by an accused (*People v. De La Cruz*, 76 Phil. 701). To establish alibi, the accused must show that he was at some other 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 (*U.S. v. Oxiles*, 20 Phil. 587, etc.)."

It was not physically impossible for appellant to come to Manila and return to his barrio on the same day. According to him, he left his house in Barrio Quiling at 3:00 o'clock in the afternoon of October 10, 1975 and arrived in Manila at 6:00 o'clock that same afternoon (tsn, March 1, 1978, pp. 32, 37). The trip took about three hours. Appellant, then, had plenty of time to hasten back to his barrio and rape Sangalang at 1:30 o'clock in the early morning the following day, October 11.

The alibi in this case is made more dubious and weak because it is established mainly by the accused himself and his relative-his cousin, and not by credible persons who would in the natural order of things be best situated to support the tendered alibi (*People v. Cabanit*, 139 SCRA 95; *People v. Briosos*, 37 SCRA 336; *People v. Bagasala*, 39 SCRA 236; and *People v. Cariño*, 55 SCRA 516).

From the records, we find that the complainant has no motive other than to bring to justice the culprit who had grievously wronged her (*People v. Ibal*, supra).

It has long been held that no young Filipina of decent reputation would publicly admit that she had been criminally abused and ravished unless that is the truth. It is her natural instinct to protect her honor (*People v. Alcantara*, 126 SCRA 425; *People v. Gamez*, 124 SCRA 260; *People v. Ilaño*, 109 Phil. 912; and *People v. Gan*, 46 SCRA 667).

WHEREFORE, the JUDGMENT appealed from is AFFIRMED with the modification that the indemnity to be paid is increased to P20,000.00.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Paras, JJ., concur.

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