

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELIPE ROBLES, ACCUSED-APPELLANT.

G.R. No. 53569. February 23, 1989

Ponente: PARAS, J.

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PARAS, J.:

Ocita Nunez is the common-law wife of the accused Felipe Robles. The two, together with Nunez' twelve year-old daughter by her estranged husband, Arlene Macadat, lived at Barangay Tugbo, Municipality of Masbate, Province of Masbate. They had thus been living together since Arlene was a small child, hence the latter regarded Felipe Robles her second father (pp. 2-3, and 15, *tsn*, Nov. 28, 1979).

At about 7:30 o'clock in the evening of May 27, 1979, accused Robles told Arlene to help him get some coconuts from a copra drier, 150 meters away from their house. There were no houses near the said place.

When they reached the copra drier, Robles held the hands of Arlene and forced her to lie down. She resisted and tried to shout but Robles covered her mouth and proved to be superior. He removed her panty, and succeeded in having sexual intercourse with her. Robles warned her not to tell her mother anything about the incident, otherwise he would kill her. Robles had a bolo with him then. Thereafter, they went home but Arlene did not tell her mother because she was afraid of Robles. (pp. 4-8, and 16, Nov. 28, 1979; Exhibits "B" and "B-1")

In the morning of May 29, 1979, at around 8:00 o'clock, Arlene went to a nearby river bank to take a bath. Accused succeeded in pulling her to the bank of the river near a coconut tree where he again abused her. Arlene was not able to shout because accused poked an arrow at her. Robles later again abused her for the third time. (pp. 9-11, *tsn*, Nov. 28, 1979).

Finally, Arlene reported the matter to her mother. At first, Arlene's mother did nothing because she had just delivered a child. But when she recovered, Nunez went and reported to the Barrio Captain who brought them to the Station Commander of Masbate. (pp. 6, 12, *tsn*, Nov. 28, 1979)

Upon complaint by Arlene, Robles was charged with the crime of rape under an information which reads as follows:

"That on or about May 27, 1979, in the evening thereof, at Barangay Tugbo, Municipality of Masbate, Province of Masbate, Philippines, within the jurisdiction of this Court, the said accused with lewd design and by means of violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one Arlene Macadat, a 12 year old girl, against the latter's will.

"Contary to law."

(p. 1, Decision; p. 5, Rollo)

Upon arraignment, accused Felipe Robles entered a plea of not guilty after which, trial on the merits ensued and on December 7, 1979, the court a quo rendered a decision, the dispositive portion of which reads as follows:

"WHEREFORE, in view of the foregoing, the Court finds the accused FELIPE ROBLES, GUILTY beyond reasonable doubt of the crime of Rape and he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA (Life Imprisonment) pay the costs and to suffer accessories of the law.

"It appearing that the accused is a detention prisoner, the preventive imprisonment he had undergone shall be taken into consideration in the computation of his sentence.

"SO ORDERED."

(p. 2, Appellant's Brief; p. 29, Rollo)

Not satisfied therewith, the appellant interposed this appeal alleging that the trial court committed the following errors:

I

"THAT THE COURT A QUO GRAVELY ERRED IN HOLDING THAT THE ACCUSED-APPELLANT EMPLOYED FORCE AND INTIMIDATION IN HAVING SEXUAL RELATIONS WITH ARLENE MACADAT.

II

"THAT THE COURT A QUO GRAVELY ERRED IN HOLDING AS UNBELIEVABLE THE CLAIM OF THE ACCUSED-APPELLANT THAT HIS SEXUAL RELATION WITH ARLENE MACADAT WERE WITH HER ASSENT AS A RESULT OF HIS COURTSHIP.

III

"THAT THE COURT A QUO GRAVELY ERRED IN NOT HOLDING THAT THE REASON WHY ACCUSED-APPELLANT WAS CHARGED WITH RAPE WAS BECAUSE HE WAS CAUGHT BY THE MOTHER OF ARLENE MACADAT WHILE HE WAS KISSING HER.

IV

"AND FINALLY THAT THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE." (pp. 1-2, Appellant's Brief; pp. 28-29, Rollo)

Anent the first assigned error, that the offended party offered to resistance, has no merit. As shown in the records of this case, when they reached the copra drier appellant held Arlene by the hands and forced her to lie down. Arlene resisted and shouted for help for which reason appellant covered her mouth. Appellant then forcibly took off her panty and succeeded in sexually abusing her. (pp. 5-6, tsn., Nov. 28, 1979; Exhibit "B"). Moral ascendancy and influence by the accused, stepfather of the 12 year-old complainant, and threat of bodily harm rendered complainant subservient to appellant's lustful desires. (People vs. Alcid, 135 SCRA 280) Actual force or intimidation need not even be employed for rape to be committed where the overpowering influence of a father over his daughter suffices. (People vs. Erardo, 127 SCRA 250).

With regard to the second assigned error, if it were true that accused Robles had carnal knowledge with complainant's consent because he courted her, it will be inconceivable that Arlene would report to her mother and consequently to the authorities the fact that she was the victim of rape. If complainant had consented to the sexual intercourse, her natural reaction is 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. Villanueva, G.R. 50299, 20 June 88) It is hard to believe that a twelve-year old unmarried girl like her would publicly disclose that she had been raped and thus sully her honor and reputation in the community, would allow an examination of her private parts, and would undergo the trouble and humiliation of a trial if her motive was not to bring to justice the

person who had grievously wronged her. (People v. Canastre, 82 Phil. 480, 483; People v. Savellano, 57 SCRA 320, 328).

In appellant's third assigned error, it is maintained that the reason why accused appellant was charged with rape was because he was caught by Arlene Macadat's mother while he was kissing her.

To begin with, this version is inherently incredible. It is clear from the evidence that Ocita Nunez, mother of the offended party and appellant's common-law-wife, had lived with him for a long time and even bore him a child. (p. 12, tsn., Nov. 28, 1979) She, her child by the appellant, and her own daughter, Arlene, depended upon him for support. She would not have consented that he be haled to court charged with the serious offense of rape if she was not convinced of his guilt. Appellant's claim is too flimsy to be convincing.

In rape, the prosecution need not present testimonies of people other than the testimony of the offended party herself if the same is accurate and credible.

While the evidence herein shows three acts of forcible intercourse, there can be prosecution for only one, because the Information charges only one offense (People vs. Coral, Matilde, Jr. vs. Jabson, 68 SCRA 456, 461 [1975]).

WHEREFORE, the judgment of the trial court rendered on December 7, 1979, being in accord with the facts and the law is AFFIRMED with the modification ordering appellant to pay Arlene Macadat P20,000.00 as indemnity.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

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