

PEOPLE OF THE PHILIPPINES, PLAINTIFF:APPELLEE, VS. EDUARDO ANTONIO Y VILLAPANA, ACCUSED-APPELLANT.

G.R. No. 53984. May 05, 1988

Ponente: CORTES, J.

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CORTES, J.:

Eduardo Antonio interposes this appeal from a decision of the Court of First Instance of Rizal (Caloocan City) which convicted him of rape as charged by Maria Timajo Macaranas in a complaint which reads:

That on or about the 16th day of April 1976 in Caloocan City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with lewd designs and by means of force, threats and intimidation employed on the person of the undersigned complainant, did then and there wilfully, unlawfully and feloniously lie and have sexual intercourse with complainant Maria Timajo Macaranas, widow, 35 years of age, against her will and without her consent.

CONTRARY TO LAW.

Macaranas' version is that on April 16, 1976, at around 11 o'clock p.m., she was in her room sleeping with her seven-year old daughter. She was awakened by a notice coming from her window. She sat up on her bed and saw her door being opened. Then she saw Antonio enter her room. (The fluorescent lamp was lighted.) He grabbed her left hand and poked a knife at her breast. She did not shout as she was afraid. He then dragged her to the kitchen where she was made to lie on a wooden bed. He boxed her thighs and breast until she felt weak. Antonio took off Maria's pajamas and panty. He laid on top of her with his knees against her thighs, her left hand underneath her back and her upstretched right hand above her head held by Antonio. He then inserted his finger and penis into Maria's private parts. She shouted, "Aray ko po, nanay ko po, tulungan ninyo ako" but appellant succeeded in ravishing her. After raping complainant, accused went to his room in the upper floor of the house. After dressing up, Maria rested for a while then went to her Comadre Miling, Antonio's "aunt" (only because she carried the same family name, Villapana, as Antonio's mother), to show what he did to her.

On April 22, 1976, Macaranas went to the Barangay Captain to report the incident. The following day, the Barangay Captain accompanied her to the police where she lodged a complaint. That afternoon, Maria was examined by Dr. Ampil at the National Bureau of Investigation.

At this point, it may be stated that Dr. Ampil never took the witness stand. Neither was any medico-legal report presented as evidence in court.

On the other hand, Antonio denied all the allegations of the complaint. Even as he admits having performed the sexual act with Macaranas, he claims that, contrary to her assertions, there was no force or intimidation employed. His story is that he and Macaranas were sweethearts. Prior to April 16, 1976, they had been going out on dates, seeing movies together and eating out. On April 16, 1976 at 11 o'clock, he was invited by Macaranas to her room. While in the room, he sat down and she seated herself beside him. Then she started kissing him. She asked him to go to the kitchen with her so they would not wake up her seven year old child. In the kitchen she lay on the

wooden bed. He removed his pants and lay down beside her. They had sexual intercourse twice.

At the time of the incident, accused-appellant Eduardo Antonio was still single, in his 20's. On the other hand, complainant Maria Timajo Vda. de Macaranas was already a middle-aged widow. She had four children by her late husband who died in 1969.

Arraigned on April 20, 1977, Antonio pleaded "not guilty." Thereupon the case proceeded to trial. On October 26, 1979, the CFI-Caloocan convicted the accused of the crime of rape, sentencing him to life imprisonment and ordering him to indemnify Macaranas in the sum of P12,000. From the judgment of conviction, Antonio brought this appeal assigning the following as errors:

- THAT THE TRIAL COURT ERRED IN BASING ITS DECISION OF CONVICTION OF APPELLANT ON THE UNCORROBORATED TESTIMONY OF THE COMPLAINANT.
- THAT THE TRIAL COURT ERRED IN NOT BELIEVING THE TESTIMONY OF THE APPELLANT AS CORROBORATED BY HIS WITNESSES.
- THAT THE TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT NOTWITHSTANDING THE FACT THAT THE TESTIMONY OF THE COMPLAINANT IS NOT ONLY UNCORROBORATED BUT IS INCONSISTENT WITH HUMAN EXPERIENCE AND BEHAVIOR.
- THAT THE COURT ERRED IN NOT TAKING INTO CONSIDERATION THE DEMEANOR OF COMPLAINANT ON THE WITNESS STAND.

There is no question that there was sexual union between Antonio and Macaranas on April 16, 1976. But did Antonio employ force to consummate the act? Or, as he claims, was there mutual consent?

One of the peculiarities of rape is that it is one offense to which, oftentimes, only two people — the accused and the complainant — can testify. Inasmuch as it is the bounden duty of this Court to convict only if the guilt of the accused has been proved beyond reasonable doubt, it behooves us to exert the most painstaking effort to weigh and appraise the conflicting testimonies if only to satisfy judicial conscience that the appellant committed the criminal act imputed against him.

There are three (3) settled principles to guide an appellate court in reviewing the evidence in rape cases: (1) An accusation for rape can be made with facility; it is difficult to prove it but more difficult for the person accused, though innocent, to disprove it; (2) In view of the intrinsic nature of the crime of rape where two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) The evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense. (People v. Quintal, G.R. No. L-49656, November 25, 1983, 125 SCRA 734.)

Additionally, we have to take note that in this case, the judge who heard the evidence for the prosecution is not the same judge who decided the case. It was Judge Serafin Salvador who heard the testimonies of complainant and her witness before his retirement. Whereas, it was Judge Romulo Quimbo who decided the case relying solely on the transcripts of stenographic notes in appreciating Macaranas' and her witness' testimonies. Even as this Court has consistently been guided by the precept that findings of trial courts on credibility of witnesses are accorded great weight and must not be disturbed as it was the trial judge who had the opportunity to observe the demeanor of the witnesses while they were testifying, this case should be an exception in view of the fact that the judge who decided the case is NOT the same judge who heard the evidence. [See People v. Escalante, et al., G.R. No. L-371457, August 22, 1984, 131 SCRA 237.] Thus, the Court should all the more exercise utmost care in

evaluating the evidence presented in the instant case so as to render justice not only to the accused, but also to the complainant and the State as well.

To buttress the argument that force was exerted by the accused on the complainant, the Solicitor General relies in part on what is claimed to be a medico-legal report which allegedly states that contusions and hematoma were found by Dr. Ampil on complainant's arms and thighs. [Brief for the Appellee, p. 8]

No evidentiary value can be given the alleged medico-legal report as it was not offered in evidence. "The court shall consider no evidence which has not been formally offered." [Rule 132, Section 35.] The only exhibit presented by the prosecution is the statement of Macaranas before the investigating policeman, and no other. [See TSN, January 4, 1978, p. 13.]

Hence, as the trial court observed, the case for the prosecution rests solely on the uncorroborated testimony of Macaranas. "While we have frequently held that the uncorroborated testimony of the offended party in cases of this kind may be sufficient under certain circumstances to warrant conviction, yet from the very nature of the charge and the ease with which it may be made and the difficulty which surrounds the accused in disproving it where the point is as to whether the cohabitation was with or without the use of force or threats, it is imperative that such testimony should be scrutinized with the greatest caution." [U.S. v. Flores, 26 Phil. 262, 268 (1913).] The evidentiary rule is that "in crimes against chastity, the testimony of the injured woman should not be received with precipitate credulity; and when the conviction depends at any vital point upon her uncorroborated testimony, it should not be accepted unless her sincerity and candor are free from suspicion." [People v. Estacio, G.R. No. 54221, January 30, 1982, 111 SCRA 537; People v. Francisco, 192 Phil. 752 (1981), 105 SCRA 516.]

In the case at bar numerous circumstances detract from the credibility of Macaranas' version of what happened on the night of April 16, 1976. Thus, the Court has no option but to declare that the prosecution has failed to meet the exacting test of moral certainty and proof of guilt of the accused beyond reasonable doubt. A reversal of the trial court's guilty verdict is inevitable.

The conduct of complainant immediately before, during, and subsequent to the alleged rape are not those which might be reasonably expected of the victim under the circumstances. [See U.S. v. Flores. *supra*.]

She claims that while she was sleeping with her seven-year old daughter, she was awakened when a person was trying to pry open her window. That person failed in his attempt to open the window, so he forced open the door to her room, which is one of three, small rooms on the ground floor of a two-storey apartment. [TSN, September 6, 1977, pp. 4-6.] The normal reaction of any person under such circumstances would have been to call for help or make an outcry to awaken her neighbors and/or call their attention, or do something to repel the intruder, and protect her home, herself and her daughter from any harm.

Macaranas likewise testified that during the sexual act, the accused covered her mouth with his own lips so that she could not shout, and yet she was able to shout, "Aray ko po, nanay kopo, tulunganpo ninyo ako." [TSN, September 6, 1977, pp. 29-30.] Covering the mouth of another with one's own lips is certainly not an effective way of preventing the former from shouting. Moreover, for a rapist to cover the mouth of his victim with his own lips is to invite the danger of being bitten by the latter. Yet, Macaranas does not seem to have taken the opportunity to ward off her assailant. It has been said that "(a) woman's most precious asset is the purity of her womanhood. She will resist to the last ounce of her strength any attempt to defile it." [People v. Tapao, 195 Phil. 203 (1981), 108 SCRA 351, 356.] It seems more likely that, as appellant claims, they were kissing each other as they were engaged in the sexual act.

Furthermore, her claim that she was able to shout out loud [TSN, September 6, 1977, p. 34.] does not inspire

belief as no one among the tenants of the other rooms (including her very own Comadre Miling who lives in the room almost immediately above complainant's) heard the outcry. In fact, her Comadre Miling testified that when complainant went to her (Miling's) room at 2 'clock in the morning of April 17, 1976, what she (Macaranas) said was that they, meaning complainant and accused, had "lost control of themselves." [TSN, September 6, 1978, p. 4.] To lose control of oneself is definitely not the same as to be raped.

Then too, even after the supposed culprit had turned his back and left, thereby eliminating whatever alleged danger or threat there was on complainant's life or limb, no outcry was heard from the complainant. [See *People v. Estacio*, supra] Instead, she claims that she rested for a while, then went up to her Comadre Miling. [TSN, Sept. 6, 1977, pp. 4-12]

The accused lives on the upper-floor of the same two-storey apartment where complainant lives. It appears from the evidence that accused went to bed after the sexual intercourse. It seems unlikely that if one did an act as bestial and dastardly as raping a woman, one would go to his room in the same building as the situs of the crime, and not take precautions from possible reprisal. It seems all the more unnatural and unbelievable that a woman whose honor had just been outraged would do nothing to immediately bring the culprit to justice. [See *People v. Estacio*, supra.]

In fact, it took six (6) days before complainant decided to bring the matter to the attention of the Barangay Captain. She went to the Barangay Captain only after she first went to Felipe Villapana, uncle of the accused and her own "bilas" (Her late husband was the brother of Felipe's wife.), to ask Felipe to talk to the accused so that the latter would marry her. Complainant has not offered any satisfactory explanation for the delay. In previous occasions, the Court had expressed suspicion when the complainant failed to denounce her assailant at once. [*People v. Jervoso*, G.R. No. L-46530, September 29, 1983, 124 SCRA 765; *People v. Torio*, G.R. No. L-48731, December 21, 1983, 126 SCRA 265.]

Furthermore, complainant's demeanor at the witness stand has also betrayed her insincerity. Her conduct while testifying on what was supposed to have been a most harrowing experience is revealed in this excerpt:

ATTY. MANALO:

May I make of record that while witness is testifying she is smiling, your Honor.

COURT:

Make it of record as a manifestation. [TSN, Sept. 6, 1977, p. 17]

The foregoing circumstances more than suffice to cast doubt on the credibility of Macaranas. The theory of the prosecution does not inspire belief. Conversely, appellant's version gains more credence.

Despite complainant's denials, there is ample proof to show that Antonio and Macaranas were really sweethearts. Aside from the testimony of the accused, both Felipe Villapana and Orotencia Salazar, neighbor of Antonio and Macaranas, testified that the conduct of the accused and complainant revealed the special relationship between them. Complainant herself admitted that at one time, as she was seated by the window of her room, the accused passed by and got the ring she was then wearing and which she inherited from her deceased husband, and that she had to write him a note as the husband's relatives might see the ring on his finger. [TSN, September 6, 1977, pp. 36-40.] The defense claims, however, that the ring was voluntarily given to him by complainant as "prenda" or as a token of their love and affection for each other. [TSN, August 7, 1979, pp. 13-14.]

Granting that accused indeed grabbed the ring from complainant's finger, it can only be that accused had the courage to do so because there was some friendly relationship between them. For a close neighbor does not just

grab a ring from one's finger except for a special reason.

Given their closeness to one another, it is not unlikely that they "lost control of themselves," as complainant herself is said to have put it.

Appellant would not, however, marry the complainant until such time that he has regular employment. [TSN, May 21, 1978, p. 10.] The defense claims that his unwillingness to marry her after she had given him everything prompted the institution of this criminal case.

WHEREFORE, the decision of the trial court is hereby REVERSED. Accused-appellant is hereby ACQUITTED of the charge against him. No costs.

SO ORDERED.

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

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