

PEOPLE OF THE PHILIPPINE, PLAINTIFF-APPELLEE, VS. MELECIO BIAGO, ACCUSED-APPELLANT.

G.R. No. 54411. February 21, 1990

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the Court of First Instance of Sorsogon, Branch III, the dispositive portion of which reads:

"WHEREFORE, in view of all the foregoing, the Court finds the accused Melecio Biago guilty beyond reasonable doubt of the crime of rape with physical injuries, defined and penalized under Article 335 of the Revised Penal Code, as amended and there being no aggravating circumstance nor any mitigating circumstance attendant in the commission of the offense, hereby sentences him to suffer a penalty of Reclusion Perpetua; to indemnify the victim, Angelita Gratuito the amount of P12,000.000 as moral damages, and to pay the costs." (Rollo, p. 17)

The appellant was charged in Criminal Case No. 407, the information of which reads:

"That on or about the 4th day of March, 1977, in the Municipality of Juban, Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused armed with a knife and with lewd-design, did then and there willfully, unlawfully and feloniously attack and use personal violence upon the person of Angelita Gratuito by stabbing her with a knife thereby inflicting upon her stab wounds penetrating the left arm reaching her interior axillary region which injuries have required and will require medical attendance for a period of 12 days and will incapacitate her for the same period in performing her customary labor, and on the same occasion the said accused did then and there, willfully, unlawfully and feloniously thru force and intimidation succeed in having sexual intercourse with said Angelita Gratuito against her will and consent, to her damage and prejudice." (Rollo, p.10).

The prosecution evidence upon which the trial court based its finding of guilt beyond reasonable doubt is summarized as follows:

"Angelita Gratuito, 35 years of age, married, housekeeper and resident of Mombon, Irosin, Sorsogon, declared that on March 3, 1977, she, together with her father Pedro Espayos and her six year old son Noel went to the farm of her father situated at sitio Dayhag in the hill of Putingsapa, Juban, Sorsogon to gather tubers locally known as namo. After gathering namo at around 4:00 o'clock in the afternoon of that day they brought is to the hut of her father and thereafter, removed its peels, after which commence (sic) slicing them. At around 6:00 o'clock in the evening her father left for home to Barrio Bacolod, Juban, Sorsogon. She continued slicing the namo while her son Noel slept in one corner of the hut. At around 1:00 o'clock in the early morning of March 4, 1977 as she was still slicing the namo she heard a sound coming from behind and when she turned her back she saw her brother-in-law Melecio Biago (accused) who abruptly held her by the wrist saying: 'I am after you because I will kill you.' (tsn. June 6,1978, page 20) at the same time demanded from her some money. To this demand, she answered that she has none at the moment. Accused dragged her outside of the hut. In that place, accused again demanded for money from her. It was at this moment that her son Noel arrived crying and

calling her "Mama." With the use of a dagger accused in the presence of Noel stabbed her inflicting an injury on left arm just below the armpit. Accused ordered the boy to go back to the hut and admonished him that he will behead him should he not obey his command. After Noel left for the hut, accused Melecio Biago ordered Angelita to submit herself to sexual intercourse. As this moment, she was already very weak due to the loss of blood coming from her injuries coupled with the pain she suffers. In spite of her resistance as she could no longer effectively put up a powerful resistance because she was already physically weak due to the loss of blood and pain coming from her injuries, accused succeeded in pinning her down separate her crossed legs pulled her pants and have carnal knowledge with her. In about five minutes, the carnal communication was over. Accused put on his pants and went back to the hut to retrieve his polo shirt where he left it before. After a while, Angelita also followed and while there at the hut got a blanket and wrapped it around her shoulders. In the hut, accused again admonished her to keep this incident from the knowledge of anybody, otherwise he will kill her. At around 2:00.o'clock in the morning after the accused left the place. Angelita and her son likewise left and walked until they reached the house of one Pablo Belon a distance of around one and a half (1 1/2) kilometers from the place of the incident. She called up Pablo Belon and when he woke up she begged of him to accompany them to the house of her father in barrio Bacolod because she was already very weak and not feeling well. Belon and his wife willingly accompanied Angelita and her son to barrio Bacolod. They arrived in her father's house at around 3:00 o'clock in the morning and when asked by her father about what happened to her, she refused at first to reveal that which was done to her by the accused. Due to the insistence of her father, she relented only on condition that he secure first the assistance of police authorities before she reveals the disgrace that had befallen upon her. The father left and after sometime returned. In the presence of police authorities, namely; Patrolman Ricardo Belasa and Antonio Altarejos, she narrated the whole incident, after which she was accompanied to the Irosin Emergency Hospital at Irosin, Sorsogon where she was examined, thereafter she was treated with her wounds (sic). She was confined in the hospital for a period of 24 days. After her release from the hospital she stayed with her brother-in-law (not the accused) at Cogon, Juban, Sorsogon but after some time went home to their house at Mombon, Irosin, Sorsogon.

Dr. Arturo Perdigon, Chief of the Irosin Emergency Hospital where Angelita Grauto was confined for medical treatment, declared that at about 9:20 in the morning of March 4, 1977, he examined and treated Angelita with her wounds his findings were reflected in a medical certificate he issued marked as Exhibit "A". The healing duration of the wounds was twelve (12) days. In the microscopic examination, Angelita was found positive for spermatozoa, meaning that she had a sexual intercourse the time of the intercourse however, could not be determined.

"Pablo Belon testifying for the prosecution substantially corroborated the testimony of the complainant in so far as his assistance in accompanying Angelita from his house to the house Angelita's father is concerned. He declared that when he looked out of the window of his house after having been awakened by his wife, he noticed that a blanket was wrapped around the shoulders of Angelita: that when asked of what happened to her, she simply answered that she was wounded and was not feeling well. Upon reaching barangay Bacolod, he turned over Angelita to her father, Pedro Espayos.

Pedro Espayos, father of the herein victim declared that in the afternoon of March 3, 1977 he in company with his daughter Angelita and grandson Noel, went to his farm in the hill of Putingsapa for the purpose of gathering tubers locally known as namo. After gathering namo since it was already dark, he left Angelita and his grandson Noel in his farmhouse and went home to barrio Bacolod. At about 3:00 o'clock in the morning of March 4, 1977, he was awakened by the complainant who was accompanied by Pedro (should be Pablo) Belon and his wife, and his grandson Noel. Inside the house he asked Angelita what must have happened to her but she refused to tell him of what had happened to her unless in the presence of police officers. Without losing time he immediately proceeded to the house of the barangay captain of barrio Bacolod, one Francisco Belon for the latter's advice and assistance. Moments later, barangay captain Francisco Belon and barangay councilman Antonio Haas, as requested, went to his house who then fetched Patrolman Ricardo Belasa and barangay policeman Antonio Altarejos and in the presence of these public officials, Angelita with tears

narrated the whole incident from the moment she was wounded up to the moment she was sexually abused. After a brief investigation conducted by the policemen, the complainant was accompanied by the wife of councilman Antonio Haas to the Irosin Emergency Hospital for medical treatment. In the same morning of March 4, 1977 Pedro Espayos further declared that he chanced to see the accused Melecio Biago, his son-in-law who is staying with him in his house passed by and when called by him, he just ignored him and then went away. After this incident accused fled and never returned." (Rollo, pp. 12-15).

The accused raises the following assignment of errors in this appeal, to wit:

I

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE DEFENDANT-APPELLANT OF THE CRIME OF RAPE WITH PHYSICAL INJURIES ON THE STRENGTH OF THE TESTIMONY OF THE PROSECUTION WITNESSES.

II

THE COURT A QUO GRAVELY ERRED IN NOT CONSIDERING THE TESTIMONY OF DEFENDANT-APPELLANT POINTING TO HIS INNOCENCE.

III

THE COURT A QUO GRAVELY ERRED IN DECLARING THE DEFENDANT-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE WITH PHYSICAL INJURIES. (Rollo, p. 30)

The appellant contends that the evidence presented, upon which the trial court based its decision, is clearly insufficient to find him guilty of rape beyond reasonable doubt.

The appellant questions the testimony of the complainant. He contends that while she claims she was wounded by the stab wound and could not struggle, she was able to return to the hut and calmly get a blanket. She was even able to travel 1 and 1/2 kilometers to the house of Pablo Belon and another 1 and 1/2 kilometers to her father's house.

We held in the case of *People v. Niebres* (G.R. No. 69190, September 29, 1989):

"The working of human minds when placed under emotional stress, however, are unpredictable and people reacts differently. In this given situation, some may shout; some may faint; and some may be shocked into insensibility; while some may openly welcome the intrusion."

Trying hard to resist the appellant, the complainant could no longer do so as the emotional stress coupled by the injuries she sustained overcame her. Besides, he had already stabbed her and could just as easily kill her.

It was only after the appellant was apparently through with her that the victim went back to the hut and covered herself with a blanket. Inside the hut, the appellant again threatened her. This was what convinced her to go to Pablo Belon's house. The complainant admitted that she was weak and was not feeling well when she reached Pablo Belon's house. It was only the complainant's sheer courage and determination that made her travel that far inspite of her wound. The complainant was also with her six-year old son in an isolated place, thus, she was afraid for herself and her son as the appellant could have easily returned to carry out his threats.

The failure of the complainant to immediately tell Pablo Belon and her father that she was raped is justified. She had ever reason to be afraid of the appellant. Even her son was threatened by the appellant. She did not doubt that the appellant could carry out his threats as he had already physically injured her. She even asked her father to get the police authorities first before she told her story. She felt that the presence of the police authorities would give

her the security she needed while she was narrating the heinous crime that was committed on her.

The appellant contends that his primary purpose in going to the place was to confront her about the alleged unsavory rumors being spread against him and not to rape the complainant.

Verifying the primary purpose of the appellant in visiting the complainant at that unholy hour of the night is not needed in establishing the crime of rape.

According to Article 335 of the Revised Penal Code which defines the crime of rape and provides for its penalty, the elements of rape pertinent to this case are: (1) that the offender had carnal knowledge of a woman and (2) that such act is accomplished by using force or intimidation. (People v. David, G.R. Nos. 72355-59, September 15, 1989) This Court finds, based on the records, that all the elements of rape were indeed present.

The appellant admits stabbing the complainant but he emphatically denies raping her.

The appellant's mere denial constitutes self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters. Moreover, as between a positive and categorical testimony which has a ring of truth on one hand and a bare denial on the other, the former is generally held to prevail. (People v. Abonada, G.R. No. 50041, January 27, 1989)

We note that an examination by microscope yielded spermatozoa from the victim's vaginal canal. There is nowhere from the records where these would come from except from the rape.

As in most rape cases, the trial court's evaluation of the relative credibility of complainant upon the one hand and accused upon the other, is critical. (People v. Villaflores, G.R. No. 66039, June 8, 1989). The trial court stated:

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"Aware of the seriousness of this case which calls for a capital punishment in the event of conviction, the Court, aside from the impression it got from the manner and demeanor of the witnesses for the prosecution, as well as that of the accused during the taking of their respective testimonies, have (sic) carefully scrutinized their respective contentions. We cannot think of any reason within the realm of human apprehensions why the private offended party should relate a false story against the accused if she was not really abused by him. The Court does not see its way clear why the version of the offended party should be disbelieved. The complainant Angelita Grauto in spite of a rigid cross-examination and in a straight forward manner candidly testified that it was the accused Melecio Biago who has inflicted injuries upon her and raped her." (Rollo, p. 16)

We have time and again applied the well-established principle that findings of fact of trial courts are accorded great weight and respect considering that they had the opportunity to observe the deportment and behavior of the witnesses. (People v. Espinosa, G.R. No. 72883, December 20, 1989; People v. Maghanoy, G.R. Nos. 67170-72, December 15, 1989; and People v. Guevarra, G.R. No. 66437, December 4, 1989) We see no reason to reverse the factual findings in this case.

Also, this Court finds it unreal to suppose that the complainant, a married woman with a six-year old son, would tell a story of forcible violation to the police authorities and her father, allow the examination of her private parts and thereafter subject herself to the grave humiliation of a public trial, if indeed she had not been raped by the appellant and if she had not been moved simply by the understandable desire to bring her attacker to justice (See People v. Villaflores, supra) In this case, the accused was the victim's own brother-in-law.

WHEREFORE, the decision appealed from is **AFFIRMED** in toto with the modification that the indemnity to the offended party is increased to **THIRTY THOUSAND PESOS (P30,000.00)**.

SO ORDERED.

Fernan, C.J., (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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