

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE VS.
ERNESTO T. SUÑGA ALIAS "MANNING";
DEFENDANT-APPELLANT.**

G.R. No. 57875. July 05, 1983

Ponente: RELOVA, J.

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RELOVA, J.:

About eight o'clock in the evening of November 3, 1979, Leonora Deang, 39 years old, a laundry woman, married to Francisco Deang with whom she has seven (7) children, the oldest being 20 years and the youngest 3 years old, went to the house of Patricia Suñga, sister of herein accused Ernesto Suñga, at barangay San Francisco, Macabebe, Pampanga to return a collection of All-Saints Day songs. After having given them back to Patricia, Leonora proceeded home to barangay San Vicente, Macabebe which was then her place of residence. While walking along the barangay road, the accused Ernesto Suñga suddenly held her by the neck and covered her mouth to prevent her from shouting. Leonora resisted and fought back by pushing the accused away, but then Ernesto boxed and threatened to kill her if she would report him to her husband. Leonora answered "vulva of your mother; and it is you." Ernesto boxed her again on the chest, and held her neck with his left hand until Leonora lost consciousness and fell on the ground. When she regained consciousness she then realized that the accused was already having carnal knowledge of her. She wanted to shout for help but was unable to do so because Ernesto was holding her tightly by the neck and she could not even move.

In the meantime, Salome Perez was in her house about fifteen (15) meters away from the place of incident and she was talking with her neighbors, Corsino Hernandez and Bonifacio Batac. As the dog was barking outside, Salome went out with a flashlight to see what was happening. She noticed some movements in her backyard and so she summoned Hernandez and Batac and together they went to the place. They saw Ernesto Suñga having carnal knowledge with a woman they could not recognize because his head was covering her face. The accused shouted at the person with a flashlight to leave or else he would kill him. Upon hearing this, the three—Salome, Corsino and Bonifacio—went back to the house of Perez. Thereafter, the accused stood up and left also. Leonora Deang proceeded home, reported the matter to her husband and together, they went to the barangay and police authorities that same evening. The following day, Leonora was examined by Dr. Danilo Yumul of the Central Luzon General Hospital and had found "abrasion in the right upper chest about 1 peso coin size." (Exhibit "A")

A complaint for rape was filed by Leonora Deang on the basis of which the Provincial Fiscal of Pampanga filed an information against Ernesto T. Suñga, as follows:

"That on or about the 3rd day of November 1979, at about 8:00 in the evening, in barangay San Francisco, municipality of Macabebe, province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused ERNESTO T. SUÑGA alias "MANNING," with lewd designs, and by means of force, threats or intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of Leonora Deang y Tolemino against her will and without her consent."

In his defense, Ernesto Suñga admitted having carnal knowledge of a woman in the evening of November 3, 1979 at the backyard of Mrs. Salome Perez but the woman was not Leonora Deang but Letty Legaspi, his girlfriend. He testified that between one and two that afternoon, he met Letty Legaspi outside the movie house in Masantol, Pampanga and he invited her for a snack. They went to a restaurant where he took beer while Letty ordered soft drink and sandwich. They talked about themselves and Letty told him that she was going home to Bicol the following day. They parted but then in the early evening of the same day, he saw Letty again in front of the house of one Conching. He noticed her to be a bit intoxicated. He went to talk with Letty and at that juncture, complainant Leonora Deang arrived on a Honda motorcycle. He tried to ignore Leonora and invited Letty to go with him at the backyard of Salome Perez but then Leonora followed and refused to leave unless Ernesto would give her money. The accused gave her a two-peso bill but told her that it was a ten-peso bill. She left but, after a while, returned to ask for more as the amount given her was only two pesos. When Leonora refused to leave, Suñga chased her with a bamboo pole and, overtaking her, hit Leonora at the head causing her to fall. Finally, the complainant left, following which he was able to have sexual intercourse with Letty Legaspi. It was at that juncture when Corsino came with a flashlight, together with Bonifacio Batac. He told them to leave and the two left the place laughing. Thereafter, Letty Legaspi also left. The following day, November 4, 1979, he was invited by a policeman to the municipal building of Macabebe, Pampanga for investigation.

After trial, the court rendered judgment finding the accused guilty beyond reasonable doubt of the crime of rape and imposed upon him the "penalty of reclusion perpetua (life imprisonment) with the accessory penalty of the law."

Suñga appealed to this Court claiming that the prosecution failed to prove the guilt of the accused beyond reasonable doubt.

Crimes against chastity by their very nature usually involve only two persons—the complainant and the offender. Seldom if ever, is there an eyewitness to the commission of the offense. As a consequence, conviction or acquittal of the accused depends almost entirely on the credibility of the complainant's testimony. There is therefore every reason for courts to examine with the greatest care the complainant's story and subject it to a thorough scrutiny to determine its veracity in the light of human nature and experience. Luckily, for the appellant in the instant case there were three witnesses who saw the complainant with the accused Ernesto Suñga while they were having carnal knowledge. Hereunder is the testimony of prosecution witness Corsino Hernandez with respect to what he saw that evening of November 3, 1979.

"Q

While you and Mrs. Perez were at a distance of 7 meters from the place where the accused Manning and the woman having sexual intercourse did you hear the woman say anything or not?

A

None, sir.

Q

At that distance Mr. witness while according to you the flashlight was focused towards the place where Manning was, did you notice where the face of the woman facing?

A

No, sir.

Q

Where was the face of the woman facing at that time?

A

That the face was facing upward, sir.

Q

And this Manning when he allegedly told you and Mrs. Perez to go away was he at that time standing or was he still having sexual intercourse with the woman?

A

He was still having sexual intercourse with that woman, sir.

Q

The accused did not leave the place as well as the woman even after you left the place?

A

We left ahead of them, sir.

Q

Immediately when you and Mrs. Perez left the place Manning and the other woman continued their sexual intercourse. Is that what you mean?

A

No, sir.

Q

How did you know that they were no longer having sexual intercourse?

A

I returned and made detour in this manner. (Witness demonstrated an act of semi-circle with his right hand) and when I looked at the place they were no longer there.

Q

From the time you and Mrs. Salome Perez left that place up to the time you allegedly returned by making a detour. How many minutes had lapsed?

A

Maybe sir, more or less five minutes.

Q

From your answer it could be more than five minutes?

A

More or less five minutes, sir.

Q

You did not see Manning anymore when you made a detour?

A

We did not see both of them, sir." (tsn., pp. 3-4, February 8, 1980 hearing)

Likewise, there is the testimony of Salome Perez whose house was very near the place where the incident occurred.

"Q

How far were you as you flashed the flashlight from the place where Ernesto Suñga was and having sexual intercourse with a woman at the rear portion of your backyard?

A

Maybe about seven meters or more.

Q

From the place where you were standing and flashing the flashlight How far were you from Corsino whom you asked to verify as to who were the persons at the rear of your backyard?

A

Maybe, sir, he was about two yards more or less from me where I was then.

Q

Do we understand that Corsino as he came near to the place where the two persons were, was two yards more or less in front of you?

A

Yes, sir.

Q

You said that Ernesto Suñga was having sexual intercourse with a woman. Why did you state that?

A

I saw them, sir.

...

Q

You said that you were flashing your flashlight towards the persons at the rear of your backyard. What is the position of this person when you saw him?

A

I saw him on a reclining position in this manner and was making coital movements.

Q

Who was under him?

A

I was not able to recognize her, sir, because after he said that he would kill all of us I left the place to enter my

house because I was frightened.

Q

That person you saw under Ernesto Suñga as you claimed you saw him on top of that person doing coital movement. Was that person a woman or a man?

A

A woman, sir.

Q

Why do you say that that person with whom Ernesto Suñga was having sexual intercourse was a woman?

A

That was what I saw, sir.

Q

Did you notice the hair of the person?

A

Yes, sir.

Q

What about the dress of the woman?

A

The man was wearing white, sir. I did not notice the color of the dress of the woman because the woman was under him.

Q

Was Ernesto Suñga, the person you saw having sexual intercourse with a woman, with his pants on or not?

A

He has no pants, sir.

Q

As you saw Ernesto Suñga having sexual intercourse with that woman tell the court if you know or if you saw what the woman was doing if she was doing something?

A

I saw her hands moving but I do not know what action those hands were doing." (tsn. pp. 29-30; 31-32, Feb. 8, 1980 hearing)

Although the defense of the appellant is weak, still he cannot be convicted because the constitutional presumption of innocence was not overcome. As held in the case of *People vs. Gargoles*, 83 SCRA 282, "We have accorded unswerving fidelity to the constitutional precept that an accused is presumed innocent until the contrary is proven and that, consequently, the burden of proof as to the offense charged lies on the prosecution. Accordingly, an accused should be convicted on the strength of the evidence presented by the prosecution and not on the weakness

of his defense."

In the case before Us, Corsino Hernandez and Salome Perez saw the appellant Suñga having carnal knowledge with a woman and they made no mention of the fact that in so doing there was force and intimidation. Neither did they testify that the woman under him was fighting back or was shouting for help. As the flashlight was focused on the appellant and the woman, the latter must have been aware that there were people around from whom she could ask for help but which she did not. Why? Was it because the intercourse was with her full consent and cooperation?

In her testimony, complainant made mention of the fact that she was given fist blows in chest. Appellant was only 38 years old then and, certainly, the blows she allegedly received must have caused her injury and/or contusions. However, when she was examined the following day by the doctor, no contusions were found on her body. What the doctor reported was an abrasion on the right upper chest about one peso coin size. Said abrasion would not have been the effect of fist blows.

While it is true that complainant reported the matter to her husband and the authorities on the same night the incident happened, her possible reason for so doing was to save face with her husband because there were witnesses who saw them doing the sexual intercourse. And, if really she was forced into the act, why did she not run to the house of Salome Perez after appellant Suñga had left. This is not the normal behavior of a woman who had just been violated if indeed she had. Well-settled is the rule that "evidence to be believed must not only proceed from the mouth of credible witness, but it must be credible in itself-such as the common experience of mankind can approve as probable under the circumstance." (People vs. Macatangay and Cunanan, 107 Phil. 188)

In the case at bar, the People's evidence is not satisfactory and convincing. Appellant is therefore entitled to an acquittal.

ACCORDINGLY, the judgment appealed from is hereby REVERSED and appellant Ernesto Suñga is ACQUITTED of the crime charged.

SO ORDERED.

Teehankee (Chairman), Plana, Escolin, and Gutierrez, Jr., JJ., concur.
Melencio-Herrera, and Vasquez, JJ., are on official leave.

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