

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CONRADO MERCADO Y LAMPANO, DEFENDANT-APPELLANT.*G.R. No. 61223. May 28, 1988*

Ponente: CRUZ, J.

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Was this a case of illicit sweethearts lost in the transport of violent love or of an unwelcome suitor forcing his lust upon his resisting victim?

Carmelita Martinez was 42 years old and a spinster on March 8, 1981, when she claims to have been raped by Conrado Mercado. According to her, she had finished her daily stint of selling rice cakes in the Arayat public market in Pampanga and had boarded Mercado's tricycle to go home as usual. That was about 2 o'clock in the morning. Mercado did not take her directly home, however, but upon reaching the highway drove to a ricefield over her protests, dragged her from the vehicle, took her to the thresh grounds, and pushed her down as she resisted and shouted for help. None came for they were about 250 meters from the nearest house. As she continued to fight his advances, Mercado hit her in the thigh and that was when she lost consciousness. When she recovered, Mercado was on top of her and kissing her. He had already raped her. She found herself completely naked, as so was her attacker, and blood was oozing from her loins. Mercado helped her up and after they had dressed took her home in the tricycle.[1]

Taking up the story, Victoriana Yabut, the complainant's mother, testified that when Carmelita arrived home that morning, "she was dirty, her hair in disarray, and her physical appearance was unusual." [2] Carmelita said she had been raped by Mercado in the ricefield. Victoriana immediately went to the police to report the matter and inquire what steps to take against Mercado.[3] That same morning she and her daughter were taken by the police to the Arayat Emergency Hospital where Carmelita was medically examined.[4] The examination was conducted by Dr. Geminiano Gertes, a resident physician of the hospital, who later issued a written medical report,[5] which he amplified when he testified as a witness for the prosecution. According to him, he found the subject with multiple abrasions and hematoma at the back, right and left elbows, buttocks, the right inguinal area, and both inner thighs, and had an abrasion in the forchette and a contusion in the vulvar area. The vaginal smear showed the presence of spermatozoa.[6]

Asked to explain, he said an abrasion was caused by contact of the skin with a rough object; a hematoma was a local swelling or accumulation of blood that could be produced by external force; and a contusion was a wound under the skin. He described the vulvar area as the front portion of the genital, the inguinal area as the "singit" and the forchette as part of the female organ where the two labia minora join. The witness also declared that Carmelita was no longer a virgin and when asked if he found hymeneal lacerations answered there was no hymen.[7]

The lone witness for the defense was the accused-appellant himself, who readily admitted he had sexual intercourse with Carmelita on the night in question but denied that he had raped her.[8] His version of the incident was that he and Carmelita had been sweethearts since three months earlier and they had gone to the ricefield

voluntarily, to make love again as they had done on three previous occasions in the same place.[9] He disclaimed the injuries he was alleged to have committed and insisted that the complainant undressed herself and willingly submitted to him that night.[10]

In convicting the accused-appellant, the trial court completely disregarded the glaring inconsistency between the repeated declarations of the complainant about her bleeding vagina and the testimony of the doctor that he found no hymenal lacerations when he examined her on the morning of March 8, 1981. He had also testified that Carmelita was not menstruating at the time of her examination, thus removing any other possible reason for the woman's alleged bleeding. Even Carmelita's mother merely said that Carmelita's appearance was unusual when she returned home that morning but she never mentioned in her testimony that "blood was trickling down" her daughter's feet, as Carmelita had testified[11] The decision made no finding at all that the complainant was obviously lying about her ruptured hymen in the face of the physical and testimonial evidence offered by the prosecution itself.

On the other hand, there are the other injuries reported by the medical examiner which the defense for its part has not been able to explain. The defense argues that in her testimony, Carmelita spoke of having been boxed only once in the thigh and made no mention of the other injuries supposedly caused by Mercado. The fact though is that the injuries were there, and apparently freshly caused at the time she was examined, and cannot be any less damning than Carmelita's testimony.

If it is true that the sexual encounter was consensual, what is the reason for the multiple abrasions, hematoma and contusions found on Carmelita during the medical examination conducted on her that very same morning? In the brief for the defense, counsel picturesquely argues that the injuries were sustained when "during the culmination of sexual desire . . . accused and complainant forgot that they were in the ricefield and thought that they were in heaven"[12] where, the Court wryly observes, ecstasy must be painful. The suggestion, in less hyperbolic terms, is that the complainant sustained the abrasions and swelling when she rubbed her back and elbows on the rough terrain in the frenzy of love-making with the accused-appellant.

Maybe so; but hardly. In the view of the Court, that kind of sexual thrashing cannot produce the external force mentioned by the doctor as necessary to cause the hematoma suffered by Carmelita. It may be conceded that the abrasions in the woman's back could have resulted from friction from contact with the rough surface of the ground as she presumably writhed in uncontrolled rapture. But that too will raise some questions.

If it is true that the two had gone to the ricefield to once again affirm their love, why did they not choose a softer spot to heighten their enjoyment of each other or at least lessen their discomfort? As this was their fourth tryst, according to the accused-appellant, would they not have been more familiar with the terrain and so could have picked a more comfortable, or less uncomfortable place in all that wide and empty ricefield? Better still, this being an accustomed assignation, would it not have occurred to both of them, or to Carmelita at least, to bring a blanket or some other material to protect her from the hardness and dirt of the surface of the field as she received her lover's embrace? Finally, it is significant that although the defense claims that this was the fourth time the two had made love in the ricefield, Carmelita did not return home disheveled or injured following their first three encounters but only after the last (or was it really only the first?) alleged rendezvous.

The defense stresses that Carmelita lost her wallet during that night and was asking the accused-appellant for money but that is irrelevant even if true. It also argues that it was Carmelita's mother who was interested in prosecuting Mercado but that too is irrelevant and untrue as well, for it was Carmelita who signed the complaint[13] and unhesitatingly testified against the accused-appellant at the trial. It is true that during the medical examination she answered the doctor only in monosyllables but that certainly is understandable,

considering the emotional and physical trauma she was at the time undergoing.

There is no question that Carmelita was lying about her supposed defloration and all that resultant bleeding. But the Court is satisfied that except for that obvious lapse her testimony on the whole is more believable than that of the accused-appellant.

We take note of the fact that Mercado made no attempt to escape but after bringing Carmelita home returned to his own house just across the street, staying there until he was arrested at six o'clock of the same morning.[14] This might suggest that this 32-year old married man was really the secret sweetheart of Carmelita and that because of this relationship he did not think Carmelita would prosecute him. However, even assuming that the two were really sweethearts, and also that they had really had previous amorous conjunctions, it has nonetheless been established that the sexual intercourse between the two on March 8, 1981, which the defendant-appellant has admitted, was attended with force and violence as manifested in the injuries sustained by Carmelita. That was rape.

Some authorities have opined that rape cannot be committed by a husband upon his wife except where they are legally separated.[15] But from a mere fiancée, a man definitely cannot demand sexual submission, and worse employ violence upon her for the purpose, on the mere justification that they are in love. Love is not a license for lust, at least upon a sweetheart only who, unlike the wife, has a right to resist the passionate advances of her partner. Hence, even if Carmelita and Mercado were really secret lovers, the accused-appellant nevertheless committed the crime of rape when he dragged her to the rice field over her angry protests, physically overcame her spirited resistance, and sexually took her against her will.

WHEREFORE, the judgment of the lower court sentencing the accused-appellant to reclusion perpetua is AFFIRMED. In accordance with present policy, the award of moral damages is increased from P5,000.00 to P30,000.00. It is so ordered.

SO ORDERED.

Narvasa (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] TSN, pp. 6-14; 16-19. Oct. 29, 1981.

[2] TSN, p. 37. Dec. 9, 1981.

[3] Ibid., p. 35. 38.

[4] Id., p. 35.

[5] Exh. "C". (Original Records, p. 3).

[6] TSN. p. 46; 49-50. Feb. 18, 1982.

[7] Ibid., pp. 47-49.

[8] TSN, p. 64, March 30, 1982.

[9] Ibid., pp. 64-67.

[10] TSN. pp. 86-87. April 27, 1982.

[11] TSN. p. 30. Dec. 9, 1981.

[12] Appellant's Brief, pp. 8-9.

[13] Exh. "A". (Original Records, p. 2).

[14] Appellant's Brief, p. 12.

[15] Justice Ramon Aquino's Revised Penal Code, p. 1682 (19/7 Edition): Justice Luis B. Reyes. Revised Penal Code. p. 830 (1977 Edition).

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