

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AVELINO REYES, ACCUSED-APPELLANT.

G.R. No. 62387. June 19, 1985

Ponente: CUEVAS, J.

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CUEVAS, J.:

In an INFORMATION (based upon a formal writ-ten complaint signed and sworn to by the complainant) filed by Assistant Fiscal Hilario C. Carpina before the then Court of First Instance of Northern Samar, which was docketed therein as Criminal Case No. A-51, AVELINO REYES, was charged with RAPE for feloniously having carnal knowledge thru force, violence, and intimidation of one Vicky Sevilla Dalangpan, his maid, against the latter's will.

Tried after pleading not guilty upon arraignment, Reyes was convicted as charged and thereafter sentenced to reclusion perpetua; to indemnify the victim in the amount of P12,000.00; and to pay the costs.[1]

Assailing the judgment of conviction against him, accused ventilated an appeal therefrom to this Court, contending that the trial court erred:

I

In holding that the narration of the facts of the incident by the offended woman and her version of the incident is credible and worthy of full faith and credence;

II

In holding that the crime of rape had been committed; and

III

In finding the accused guilty of the crime charged.[2]

The prosecution's case against the appellant as summarized by the Hon. Solicitor General in the People's Brief, runs thus —

"The offended girl, Vicky Dalangpan, then a virgin, was a domestic in the employ of the accused Avelino Reyes and his wife, Alice Reyes, at the latter's house in Barangay Alegria, San Isidro, Northern Samar. Vicky was just taken by Mrs. Alice Reyes to be their maid since last July 7, 1979 or almost a month before the rape incident in question (pp. 3-4, tsn, October 8, 1980; p. 3, tsn, July 9, 1981).

"In the evening of August 10, 1979, Vicky did her usual domestic chores at the Reyes residence like cooking their evening meal and preparing their beddings. After taking their evening meal, the Reyes family and Vicky went to sleep. Vicky laid a mat on the rattan bed, located on one side of the sala where she slept. The rattan bed was her usual place to sleep since she became a maid of the Reyes family. The accused and his wife and their three children slept on the other side of the sala, which was separated by a curtain of sack cloth (pp. 5-6, tsn, October 8, 1980; pp. 11-12, 14, 20, 25, tsn, July 9, 1981). The accused had arrived late that evening, after attending a drinking party in San Juan, where he had a drink too many (pp. 14, 18, tan, July 21, 1982).

In the middle of the night, that same day, August 10, 1979, Vicky was awakened upon noticing the accused on top of her, and he was trying to pull off her panty. She noticed that the accused had already removed his pants. Vicky reacted by kicking him and struggling, and she shouted to awaken Mrs. Reyes who, however, was in deep slumber. Alarmed, the accused covered her mouth with his hands, preventing her from further calling his wife. At the same time, he threatened to kill her with a knife if she continued to shout. Seized with fear, the offended girl no longer shouted, and she stopped resisting as he proceeded to remove her panty, and thereafter, he moved her thighs apart (pp. 6-7, tsn, October 8, 1980; pp. 7, 13-14, 27-28, tsn, July 9, 1981).

"The accused had a 'hard time' to effect sexual coitus; hence, 'he took hold of his penis and helped it insert inside her vagina', as she was then a virgin. As the accused forcibly penetrated her, she shouted as it was painful, and she continued shouting to call the attention of Mrs. Reyes. But the accused placed his palm on her mouth, and told her not to shout, warning her that if his wife will be awakened, he will kill her with a knife. She stopped shouting and she almost fainted with fear, and she left him alone to do whatever he wanted (pp. 8-9, tsn, October 8, 1980; pp. 28-29, tsn, July 9, 1981). The accused continued to push his penis inside her vaginal orifice, and then 'pushed and pulled it out', thus succeeding in having sexual intercourse with the victim against her will (p. 8, tsn, October 8, 1980; pp. 27-28, tsn, July 9, 1981).

"After consummating his sexual coitus with the frightened girl, the accused left her in her bed, beside his sleeping wife (p. 9, tsn, October 8, 1980; p. 30, tsn, July 9, 1981). Momentarily, the offended girl stood up, put on her panty, and, started crying loudly which caused Mrs. Reyes to awaken. Mrs. Reyes sprung up and went to Vicky and asked her what was the matter. Vicky told Mrs. Reyes what her husband did to her, and that she was shouting while he was forcibly abusing her but that Mrs. Reyes was not awakened. Whereupon, Mrs. Reyes confronted her husband, which resulted in a quarrel between husband and wife (pp. 9-10, tsn, October 8, 1980; pp. 15-16, tsn, July 9, 1981).

"The following morning, August 11, 1979, when she took off her panty she noticed blood in her panty. That same day, she wanted to leave the Reyes house but could not because she was prevented from leaving the place (p. 10, tsn, October 8, 1980; pp. 17-18, 30, tsn, July 9, 1981). However, on the third day, August 12, 1979, which was Sunday, while the accused and his wife went to church, leaving only the mother of Mrs. Reyes with her in the house, Vicky succeeded in leaving the house on the pretext of fetching water (pp. 10,11, tsn, October 8, 1980; pp. 18-19, tsn, July 9, 1981). Instead, Vicky promptly went to the residence of Barangay captain Francisco Diaz in Barangay Balita. She complained to the barrio captain that she was raped by the accused Avelino Reyes in his house in the evening of August 10, 1979 (p.11, tsn, October 8, 1980; pp. 24-25, tsn, July 9, 1981; pp. 2-3, 4-5, tsn, August 5, 1981)."[3]

Appellant's story, on the other hand as cap-sulized by the trial court, goes this way —

"x x x that in the afternoon of August 10, 1979, he went to Barangay San Juan to fetch his wife, Alice, where she is teaching and which she expected to come home late because of a party going on thereat in connection with the inauguration of a new school building for Barangay San Juan; that because he was requested by the teachers to act as security while the party was going on, he was left behind by his wife who left the party for home at about 7:00 o'clock in the evening; that he went home to Barangay Alegria from the party at about 11:00 o'clock in the evening. His wife, according to him, opened the door for him. He observed Vicky was sleeping on the floor where his children and wife were; that after taking off his clothes and shoes, he laid on the rattan bed where Vicky used to sleep situated on one side of the room and slept thereat. He confessed he was quite tipsy because he had a drink too many in the party at San Juan; that at about midnight; he was awakened by his wife because she discovered Vicky was already sleeping with him on the bed and started making fuss about it. But both he and Vicky denied having done anything wrong.

He also told the Court he caught Vicky on two previous occasions lying in bed with her boyfriend in the house of one of his neighbors."[4]

The trial court found the evidence of the prosecution more credible. After a judicious and thorough review of the evidence on hand, We cannot help but affirm the court a quo's findings and conclusions.

As observed by the trial court, complainant is a pretty, charming, attractive, innocent-looking young girl of fifteen at the time of the commission of the offense. She has a lot of suitors in their barrio but have not accepted any one of them being yet unprepared for marriage. She looks decent and responsible such that even without knowing her background and just at first sight, appellant's father (Romulo Reyes) was willing to have her as a wife for his youngest son Eduardo. In fact, this Romulo, per his testimony, had already made formal proposal to that effect right on the very day he first saw the victim.

While the evidence of the prosecution and the defense appeared diametrically opposed to each other on various aspects, they, however seemed to jibe on the "unusual occurrence" that took place on the night (August 10, 1979) of the incident in question. But whereas complainant Vicky appeared positive and categorical on the carnal abuse perpetrated upon her by the appellant, the latter's wife attempted to impress upon Us that the carnal knowledge complained of was the product of an ongoing illicit affair existing between her husband (the herein appellant) and the complainant. She testified that about midnight of August 10, she was awakened by the cry of her baby. She noticed that their light was out. So she got the match then stored in her bag and lighted their lamp. It was at that juncture when she saw complainant Vicky lying in bed with the appellant, her husband. She allegedly saw the two of them embracing and caressing one another.[5] Surprised by the unexpected event she witnessed, her knees buckled and in her madness, she instinctively pinched her husband simultaneously asking him — "When and where did your affair start?" She allegedly likewise confronted the victim but despite several questions regarding the said affair, neither one of the two gave her an answer. In short, the defense was of the theory that even if there really was sexual intercourse between the complainant and appellant, it was upon their mutual desire and consent brought about by the illicit affair existing between them.

The rape complained of took place at about midnight of August 10, 1979. The victim complained to Francisco Diaz, the barangay captain of their barrio, on August 12, 1979. She could not have done so earlier because she was being prevented to leave the premises of the appellant. It was only by pretending that she will fetch water and at a time when only appellant's, mother-in-law was in the house, when she was finally able to escape. Right away she complained to Barangay Captain Francisco Diaz who lost no time in summoning the appellant. Barangay Captain Diaz heard their stories. But convinced, despite appellant's denial, of the validity of the rape charge[6] he asked complainant to see their municipal physician for a physical and medical examination. Thereafter, the complaint for RAPE was filed with the municipal court of San Isidro.

Alicia Reyes, wife of the appellant, is a public school teacher in their place. As such, she is far from being an illiterate. She knew all the while that when her husband was summoned, both by the Barangay Captain and the municipal judge of their town for investigation, it was in connection with the complaint for rape lodged against him by Vicky Dalangpan. Despite this knowledge, and her availability, she has not however chosen to appear before any of the aforementioned authorities in order to deny and contradict complainant's version of the incident. She has consistently shied away from said official inquiry and investigation on the flimsy excuse that she was too busy attending to her job as a teacher in their barrio. If her story is true and considering the predicament of her husband at the time, there is no reason for her not to have appeared in those investigations. On the contrary, she should have welcomed and grabbed the opportunity of appearing before said officials to complain against Vicky instead of the latter complaining against her husband. Her failure to do so casts too heavy a doubt on the veracity of her story and the authenticity of her narration.

Furthermore, we note that complainant's parents are residents of the same barangay with that of the appellant. And yet, despite the alleged uncompromising situation wherein she found Vicky and appellant, she has not chosen to

report her to her parents nor to any member of her family, much less to any of the authorities of their barangay or municipality.

Another decisive factor which militates very heavily against the theory espoused by the defense were the various contusions, swellings and abrasions found by the examining physician, Dr. Jose Clemente Tirona, Municipal Health Officer of San Isidro, on the person of the victim when he examined her, all of which findings are reflected in the medical certificate[7] issued by him for the purpose. Said injuries added credence and lent vivid support to complainant's version that she was forced and intimidated in submitting to appellant's carnal onslaught.

We are in full accord with the trial court's observation, for We find the same sufficiently borne out by the records, that considering the age of the complain-ant, her degree of education, experience and exposure together with those of her parents, it is very unlikely that her revelations were merely fabricated.

As earlier held in *People vs. Fernandez*, 124 SCRA 319, it is unthinkable for an unmarried teenage girl to file a complaint for rape if it were not true. Young girl of that age being still possessed of the traditional modesty would not file a charge of that sort if in truth she was not raped[8] thereby merely exposing herself to shame, embarrassment and humiliation.[9] In the case at bar, we have searched the records in vain for a convincing and sufficient reason that may have driven complainant into filing the instant case. And We have found none except her being aggrieved by the affront against her femininity.

In convicting the appellant, the Court merely imposed upon him an indemnity of P12,000.00. In line with pertinent recent decisions[10] the indemnity should now be increased to P30,000.00

WHEREFORE, and except as thus modified, the judg-ment appealed from is AFFIRMED with costs against appellant.

SO ORDERED.

Makasiar, (Chairman), Aquino, Concepcion, Jr., Abad Santos, and Escolin, JJ., concur.

[1] Decision of September 27, 1982.

[2] Assignment of Errors, Appellant's Brief, pages 4-5.

[3] Appellee's Brief, pages 2-5.

[4] P. 4 of the Decision, p. 11 of the Record.

[5] Page 14, TSN, January 7, 1982.

[6] TSN, January 7, 1982, pp. 25, 26, 27 & 28.

[7] Exhibits "B", "B-1".

[8] *People vs. Oydoc*, 125 SCRA 250.

[9] *People vs. Alcantara*, 126 SCRA 425.

[10] *People vs. Belarmino*, 133 SCRA 461; *People vs. Daing, Jr.*, 133 SCRA 448; *People vs. Resano*, 132 SCRA 711; *People vs. Lor, et al*, 132 SCRA 41.

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