

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ERNESTO DEUS, DEFENDANT-APPELLANT.

G.R. No. 63729. May 31, 1985

Ponente: CUEVAS, J.

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CUEVAS, J.:

Indicted for RAPE before the then Court of First Instance of Ilocos Norte, for having sexual intercourse with Editha Malaqui through force and intimidation, accused ERNESTO DEUS was, after arraignment and trial, convicted as charged and thereafter sentenced to reclusion perpetua: to indemnify the offended party by way of moral damages in the amount of P5,000.00; and to pay the costs.

From the aforesaid judgment, defendant ventilated an appeal to this Court, contending that the trial court erred:

I

In holding that carnal knowledge of the complainant Editha Malaqui was sufficiently corroborated by the testimony and findings of Dr. Jovencio Castro:

II

Assuming arguendo that there really was sexual intercourse, in holding that it was due to force and intimidation perpetrated by the accused;

III

In giving credence to the testimony of Editha Malaqui, her mother Vicenta Malaqui, and the alleged eyewitness Celestino Gaoaten; and

IV

In holding that the evidence of the prosecution established the guilt of the accused beyond reasonable doubt."

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

"Private complainant, Editha Malaqui, then 13 years of age, worked as a housemaid for appellant's (Ernesto Deus) family at their residence in Sarrat, Ilocos Norte, i., he same neighborhood where Editha's parents also lived. Appellant's wife, Pacita, and Editha are first cousins, their parents being brother and sister, respectively. (TSN, September 25, 1980, pp. 34-35)

Among others, Editha's tasks included wrapping noodles manufactured at the backhouse camarin-factory owned by appellant himself. (Id., pp. 34-43)

On the first day of March, 1980, at about 2:00 o'clock in the afternoon, appellant, while alone with Editha at his residence, ordered the latter to wrap noodles at the camarin-factory. Appellant's workers were then off-duty until 4:00 o'clock in the afternoon. (Id., pp. 44-45)

In the camarin, while Editha was wrapping noodles, appellant also came and asked her this time to clean the floor. As she was sweeping the floor, appellant suddenly pulled her up from behind, then kissed and embraced her. Editha, though frightened, struggled to free herself. Appellant, however, tightened his grip all the more

until she was finally pinned down. Thereupon, appellant, unceremoniously went on top of the girl, hastily raised her skirt and forcibly lowered her shorts and panties. At this point, Editha cried aloud still helplessly wrenching herself away. Appellant however slapped her and covered her mouth with one hand, threatening to kill her. He then lowered his pants and thrust his penis into her vagina. Private complainant continued to struggle but appellant's body weighed on her, his strength weakened her, thus ramming her to exasperation. Editha could only then cry in silence, suffering the extreme pain of the first sexual intercourse being perpetrated on her. (Id., pp. 45-50)

Meantime, one Celestino Gaoaten, appellant's worker and neighbor, entered the camarin to fetch his dog which was then sleeping at the west corner. As he was about to pick it, Celestino glanced towards the east side and saw appellant lying on top of the prostrate Editha. Celestino got so hopelessly confused that before he knew it, he was already out of the premises. (TSN, July 13, 1981, pp. 34-35)

Back in the camarin, appellant had finally consummated the heinous act but not its painful aftermath on Editha, as he reiterated his threats to keep the girl mum about the incident. (TSN, September 25, 1980, pp. 50-55)

For days indeed, Editha painstakingly endured her ghastly experience in solitude her parents being then out of town for several days. She could not do any better but continue serving appellant's family. (Id., pp. 55-63)

On the other hand, Celestino reported as usual to the factory. He neither hinted nor told anyone about the incident. (TSN, July 13, 1981)

Nevertheless, on March 9, 1980, when Editha's parents returned to Sarrat, Celestino finally disclosed their daughter's tragic fate. (Id., pp. 36-40)

Consequently, Editha's mother, Vicenta hurriedly fetched her daughter and reported the incident to the barangay officers. (TSN, March 9, 1981, pp. 15-18)

On March 13, 1980, Vicenta and Editha along with some barangay officials went to the Rural Health Clinic for the girl's physical examination. However, Dr. Jovencio Castro, the Municipal Health Officer of Sarrat told them to bring her instead to the Ilocos Norte Provincial Hospital for brighter illumination and better facilities. Thus, on March 16, 1980, Editha was brought there and underwent a thorough physical examination. Dr. Castro issued the corresponding medical examination (Exhibit "A") finding two (2) hymenal lacerations one at 3:00 o'clock and the other at 9:00 o'clock. (Id., pp. 18-25)

On the same day, Vicenta and Editha reported the incident to the police Department and Municipal Judge of Sarrat. (Id.)"

Accused-appellant's attack against the appealed judgment of conviction and his plea for acquittal is predicated, first on alibi; second, on insufficiency of evidence establishing sexual intercourse had by him with the offended party; and third, even if there was, it was voluntary.

The sexual act complained of took place at about 5:00 o'clock in the afternoon of March 1, 1980. Appellant testified that at about 10:00 o'clock in the morning of that date, he was preparing sacks which he needed for the rice husks he was intending to buy in San Nicolas; that after loading the sacks in his freight truck, he left his house at about 10:00 a.m.; that upon reaching San Nicolas, he proceeded to a ricemill in the said place where he left the sacks with the instructions to the workers therein to fill the sacks with rice husks and would pick them up later upon his return from Laoag City where he will fetch Eufracio Buted, the brother of the owner of the ricemill; that upon reaching Laoag City and arriving at the house of this Buted, the latter invited him to take lunch with him before returning to San Nicolas, which he did; that thereafter, they returned to San Nicolas where it took them about four hours to fill up the 200 sacks with rice husks; that at about 5:00 o'clock in the afternoon of the said date, he returned to Laoag City to bring back Eufracio Buted; that thereafter, he proceeded on his way back home

to Barangay 22, Cabuluan. Sarrat, Ilocos Norte, reaching the place at about 6:00 o'clock in the evening; and that when he returned that evening, complainant Editha Malaqui was not at the factory since she does not work in that place.

It is appellant's posture then that the crime having been committed at 5:00 o'clock in the afternoon and he not being at the situs of the crime when it was allegedly committed having returned thereto only at about 6:00 o'clock or later, he could not have possibly committed the crime imputed against him.

We are not impressed with appellant's lame ratiocination. His alibi, which can easily be concocted aside from not being satisfactorily corroborated, cannot stand against the positive declaration of the complainant[1] then being an innocent barrio lass of a little over 13 years of age who categorically pointed to him as the man who had taken advantage of her femininity against her will. The record failed to yield any sufficient motive for her to have levelled so serious a charge against appellant if the same is not true. Besides, rape is an offense which can be consummated in so short a time.[2]

With respect to the carnal act, the same appeared to have been sufficiently established not only by the testimony of the complainant Editha Malaqui, but likewise by Dr. Castro who examined the complainant prior to the institution of the criminal complaint. Appellant capitalizes on the absence of alleged fresh lacerations on complainant's hymen. This condition, however, was sufficiently explained by Dr. Castro who stated that the two hymen lacerations found by him had already been developed into scar tissues because of the considerable lapse of time from the intercourse to the examination. And this is because the examination was conducted only on March 16, 1980 while the intercourse complained of took place on March 1, 1980, or 15 days after the sexual act which explains why the fresh lacerations were already healed.

But more important than that is complainant's straightforward testimony on the subject considering her tender age and the relationship she bears to the herein appellant (who is the husband of her first cousin) aside from the fact that he is her employer, proves beyond moral and legal certainty the commission of the acts imputed against appellant as could be gleaned from this pertinent portion of her testimony:

"Q

After taking down your shorts and your parity as you stated, what transpired next?

A He inserted his penis to (sic) my vagina sir. (TSN, September 15, 1980, p. 50)

Q You said he inserted his penis in your vagina, did you feel it?

A Yes, sir.

Q And what did you do as the penis of the accused was inserted?

A I was struggling and crying, sir.

xxx xxx xxx

Q And after the act was consummated, what happened or what transpired?

A He went home, sir. (Id., pp. 51-52)

xxx xxx xxx

Q Just after the act was it stained with blood, your panty?

A Yes, sir. (Id., p. 55)

xxx xxx xxx

Q Are you sure that it was on March 1, 1980 that for the first time in your life a male organ was inserted to (sic) your female organ?

A Yes, sir." (Id., p. 81)

The record further discloses the existence of a perfectly harmonious and cordial relation existing between the complainant and her employers (appellant and his wife). There is likewise no showing of any existing misunderstanding nor any rift between complainant's and appellant's family. Complainant appears to be a dedicated and industrious housemaid who had conscientiously devoted her time to cleaning the house, washing clothes and dishes, cooking for appellant's family, fetching the latter's children to and from the school, and discharging other household chores. For these, appellant and her family appear to be fully appreciative. On top of that, Pacita Deus, wife of the appellant, is not only complainant's employer but also a cousin of hers, Pacita's father being the brother of Editha's mother. Prior to the incident in question, there appears to be no complaint whatsoever made by the complainant with or against the Deus' family regarding the manner the latter had been dealing with and treating her. In short, both appellant and his wife, together with their children, were in the best of terms with the complainant and vice versa.

Against that backdrop, we find no reason whatsoever for complainant and her family to be running after the neck of the appellant to the extent of filing the instant rape charge, if the facts constituting the same are not true. Appellant's flimsy excuse that complainant and her family filed the instant charge only upon the promptings and instigation of one Celestino Gaoaten, an alleged dissatisfied worker of his whom he had dismissed just a couple of weeks before the incident in question, appears to be but a mere pretense. Complainant and her family bear no relation whatsoever to this Gaoaten. Assuming that Gaoaten has a score to settle with the appellant by reason of the claimed dismissal, still it puzzles Us no end for We find no sufficient evidence on record as to why complainant will pick up the cudgels for him and go to the extent of exposing herself to embarrassment and humiliation plus the trouble of appearing in court just to accommodate Gaoaten. It is rather unthinkable for an innocent barrio lass as the complainant herein, to fabricate charges and concoct circumstances against someone who had not committed any wrong against her merely to help and accommodate a total stranger. We do not believe complainant and her family would risk being exposed to and be the subject of ugly wagging tongues simply because of the manipulation of someone who had no moral ascendancy over them or to whom they owe no favor whatsoever, and whom they are not obliged to please. We are not prepared to believe that the traditional modesty in this young girl of a little over 13 years of age would have been thrown into the wind simply at the behest of and merely to accommodate someone who do not appear to have extended any past favor either to the complainant or her family.

In convicting the appellant, the trial court imposed upon him by way of moral damages only the meager sum of P25,000.00. That amount should now be increased to P25,000.00 to fully compensate complainant for the sufferings and humiliation undergone by her by reason of the sexual affront perpetrated upon her.

WHEREFORE, and except as thus modified, the judgment appealed from is hereby **AFFIRMED** with costs against appellant.

SO ORDERED

Makasiar, Aquino, Abad Santos, and Escolin. JJ., concur.

Concepcion Jr., J., on leave.

[1] People vs. Soriano. 122 SCRA 740.

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