

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FREDDIE RENOJO, ACCUSED-APPELLANT.

G.R. No. 64573. September 28, 1984

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 Zambales and Olongapo City finding Freddie Renojo guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of reclusion perpetua. Renojo was also ordered to indemnify the offended party Florita Laguitan the sum of P10,000.00 as moral damages and to pay the costs.

The information charged Freddie Renojo with having carnal knowledge willfully, unlawfully, and feloniously by means of violence and intimidation against the person of Florida Cleofe Laguitan, who was 25 years old and unmarried at the time. The information further alleged craft, nocturnity and commission of the offense in an uninhabited place as aggravating circumstances but these were rejected by the trial court.

We find from the records of the case that the trial court correctly stated the facts of the case as follows:

"Complainant Florida Cleofe Laguitan is a 25 year old unmarried lady from Camarines Sur. She claims to be a second year midwifery student. Her father died in 1955. She is now under the care of her mother, witness Julia Laguitan. Her father has a brother named Esteban Laguitan, a resident of Barangay Burgos, San Marcelino, Zambales. On October 4, 1978, she came for a vacation at Burgos, San Marcelino. While in vacation, she lives in the house of her uncle Esteban.

"Complainant claims that accused Freddie Renojo is her relative. Her father and the mother of accused are third cousins. But she does not know where the house of accused was as of the time the rape complained of took place. His mother is one known to her by the name Maing Renojo.

"While at Burgos, San Marcelino, she used to help tend the store of her uncle Esteban, some 15 to 20 meters away from the house where she lives.

"In the morning of January 2, 1979, she was in the store of her uncle. It was then when accused was introduced to her by his mother. Not long after the introduction, accused ordered three bottles of beer which he, Oscar Ordillas and Roy Soberber drank.

"She went home at 12:00 o'clock noontime to take her lunch. She returned to the store at 2:30 o'clock in the afternoon. In the store, she came upon accused and his companions still having a drinking spree.

"After sunset that afternoon, accused invited her to a party in their house. She at first did not want to go but because accused was insistent and assured her that it will not take long. She agreed. She and accused left the store without her asking permission from her mother. She trusted accused because his mother told her that they are relatives. When they left the store, left behind were Jaime Udan and Amy Cobardo. Amy Cobardo, Jaime Udan, Oscar Ordillas and Roy Soberber were in the store when accused invited her. But it was she alone whom accused invited. It is not true that the reason why she went with accused that night without her first asking

permission from her mother is that she told accused that she was going to elope with him.

"While walking to the supposed party in the residence of accused they were supposed to pass by the San Marcelino Central School. But at the gate of the school, accused suddenly pulled her, held her neck and covered her mouth. Demonstrating how this incident happened, it appears that accused held her from behind, with his right hand covering her mouth and his left hand on top of her breast. (tsn., July 2, 1979, p. 48). At that time there was no light in the school premises. She wanted to shout for help but her mouth was covered. She kicked at him backwards. It was then when accused boxed her stomach and slapped her many times. As a result she lost consciousness.

"When she regained consciousness, she found herself already at the second floor of the School Building some 25 meters away from the school gate. There was no lighting in the school. Accused was then on top of her doing the sexual act upon her. She fought back but she was weak. Accused was able to accomplish what he wanted of her. Her panty was removed. Her private organ was painful. He succeeded raping her even while she scratched and kicked at him.

"After the sexual act, accused dressed up and told her 'not to worry because he is going to marry her anyway'. He told her that he had sexual intercourse with her for three times. The bra complainant was then wearing, appears to have been held in place by two sets of hooks and eyes. The two eyes were detached. (Exh. "F"). The denim skirt wore by her had five buttons in front. Four of the buttons are missing (Exh. "C").

"After having dressed the complainant accused accompanied her home. But complainant claims that they took a different route. While they were about to reach her house, accused ran northward.

"At home, complainant reported what accused did to her to her mother, in the presence of her sister Myrna, her uncle Esteban, and relatives. Because her mother saw her mouth swelling, and private organ bleeding and her breast painful, she cried. After she made her report to her mother, her mother brought her to the police station at San Marcelino where they reported to Policeman Soria. Upon making their report, Soria asked for her panty and told them to return the following day. From the police station, her mother brought her to Dr. Federico Avena, a neighbor.

"Late that evening, at about 11:30, Dr. Avena examined the complainant. His medical examination of the victim revealed the following:

"To whom it may concern:

"This is to certify that Miss Florida Laguitan has been examined by me last Jan. 3, 1979 and found the following:

- "1. Contusion of both sides of the neck with finger tips mark neck swollen.
- "2. Severe contusion of mid inferior mandible with laceration of gums.
- "3. Both mamary glands swollen tender and painful with teeth impression marks.
- "4. Contusion of left upper 2/3 of thigh with the rectus femoris, vastus mediales and vastus lateralis inflamed.
- "5. Vulva
- "Labia menora and majora redish and inflamed with a laceration on the mid mindra outside.
- "6. Hymen freshly lacerated left obliquely making an angle of 60 o/oc.
- "7. Vaginal and cervical smear revealed for spermatozoa and red blood cells.
- "8. Presence of continuous profused bleeding.

"(SGD) DR. FEDERICO D. ALBENA'

"According to Police Sgt. Mauricio Maman, Jr. the police deputy station commander and operations chief of the San Marcelino Police Station, on January 3, 1979, the station commander assigned him to take charge of the investigation of the incident under consideration. After checking on the records of the case, he instructed Pat. Alfredo Lopez and Paje to look for the accused at 10:00 o'clock that morning but the policemen returned with a negative report. He thereafter stood by to wait for complainant to give her statement. But the complainant did not appear.

"At about 3:00 o'clock in the afternoon of the same day, Mr. Alejandro Andres, Principal of the San Marcelino Elementary School, informed him that one of his teachers discovered the presence of sperm fluid and blood stains along the corridor of the second floor of the Fermida Building of the school. He sent Cpl. Layda and Lopez to check on the report. After dispatching Layda and Lopez, he received information that accused was in the public market in San Marcelino. He went to look for the accused. He found the accused not inside the public market but on the side of the national highway about to ride in a tri-cycle in front of the Municipal Building. He told accused he was wanted because of the complaint against him for rape. He invited accused. He came with him to police headquarters with his father. It was then past 5:00 o'clock in the afternoon.

"At the police headquarters, he told accused that blood stains and sperm fluid were seen in the school building. But accused told him that the sexual intercourse he had with complainant took place inside the comfort room near the store where she works. He explained that he cannot talk further because his lawyer advised him to avail of his constitutional rights. The father presented to him a letter addressed to the Provincial Commander from Atty. Peralta to that effect. (Exh. "K").

"Maman claims that at the time, he saw accused to have scratches on his face. When asked, accused told him that the scratches were inflicted upon him by his common-law wife, two or three days earlier because they quarreled. Maman was not satisfied with the explanation because the scratches were fresh. He thereupon told him to take off his jacket. Accused complied. When the jacket was removed, Maman saw scratches on the left arm of accused. He thereupon told accused to stay in the police department while he, Maman, will follow his police investigators. He told accused to have himself examined at the San Marcelino Emergency Hospital.

"At the crime scene at the second floor of the Fermida Building he came upon his two policemen, the school principal, Mr. Alejandro Andres, Estelita Beltran, and many others. He instructed Pat. Lopez to prepare a sketch (Exh. "L") which indicated the place along the corridor where blood stains (Exh. "L-1") and sperm fluid (Exh. "L-2") were found. He also instructed that photographs of the spot be taken. (Exhs. M" and "M-1").

"After his on the spot investigation, he proceeded to the store where victim works with his two policemen. He inspected the CR where accused claims to have been the place where he had sexual intercourse with the victim, some five meters from the store. Inside the toilet he found a waste basket full of papers. He did not find any sign that would show that struggle took place inside. He thereupon proceeded to the house of the victim some 20 to 25 meters away from the store. He interviewed the victim in the presence of her mother and sister but even at that time, the victim was in a state of shock. She could not hear the questions he propounded. With the permission of the mother, they brought the victim to the San Marcelino Emergency Hospital.

It was Resident Physician Dr. Eduardo M. Ciervo who examined complainant a second time and accused in the San Marcelino Emergency Hospital late in the afternoon of January 3, 1979.

"According to Dr. Ciervo, complainant was brought in at 5:45 o'clock in the afternoon of January 3, 1979.

She complained that she was raped. He had complainant stripped naked and examined her fully. His findings are as follows -

"DIAGNOSIS:

- Abrasion with Hematoma-lower lip.
- Abrasion with Hematoma, right and left nipple.
- Contusion, chin.
- Hematoma, all around neck.
- Hematoma, left arm and forearm, right forearm.

"IE Findings:

- Vulva-no abnormal findings.
- Post fourchette and vagina walls-reddish and appears inflamed.
- Hymen-freshly ruptured with recent lacerations on 3, 6, 9 o'clocks.
- Laceration, superficial, fresh, right lateral, wall of vagina.
- About 2 cc. non clotted blood noted on posterior fornix.
- Cervical Smear - (-), for spermatozoa.'

"At about 7:15 o'clock in the evening of January 3, 1979, accused was brought into the hospital by a certain police-man. The policeman requested him to examine accused. He complained. His findings are as follows -

"FINAL DIAGNOSIS:

"Scratch marks-superficial left upper arm up to elbow, lateral aspect, about 7 areas with scab formation.

"Scratch marks-superficial lateral aspect of right upper arm to elbow joint, in about 4 areas, with scab formation.'

"Of the scratches found by him, Dr. Ciervo opined that they could have been caused by sharp object like finger nails. Of the complainant, he claims that she had long finger nails during the examination.

"On January 5, 1979, complainant gave her statement to Patrolman Alfredo F. Lopez. (Exh. "I"). On January 8, 1979, she wrote a letter complaint addressed to the Provincial Fiscal against accused for the crime of rape committed on or about the 2nd day of January 1979 before Judge Leonardo Afafe of the Municipal Circuit Court of Castillejos and San Marcelino, Zambales. (Exh. "H")."

On the other hand, the accused-appellant while admitting having sexual intercourse with the complainant on January 2, 1979, denied that he forced the latter into the act. According to him their sexual intercourse was the act of two consenting adults. His version of the incident is as follows:

"Coming from the public market of San Marcelino in the morning of January 2, 1979, he dropped by the Udan's Sari-Sari Store at about 11:00 o'clock in the morning. In the store, he came upon complainant, Manuel Quiñola and Amy Cobardo. Complainant was talking with Manuel Quiñola. He greeted both of them. After greeting them, complainant requested him to buy her soft drinks. He replied 'you can get anyway you are the one selling.' Complainant took two soft drinks. She and Quiñola drank them. For his part, he bought a bottle of beer. While drinking his beer, Roy Soberber and Oscar Ordillas arrived. He invited the two to drink a bottle of

San Miguel gin with him.

"When his invitation was accepted by Soberber and Ordillas, he bought a bottle of gin, then proceeded behind the store whereat the three of them drunk the gin with coke and ice. They also had pork and beans and peanuts.

"The nearest house to the store is 10 meters away, the houses of Udan and Esteban Laguitan. Behind the store, some five long steps away from where they sat to drink their gin is a public comfort room made of cement for its wall, and GI roofing. It was complainant and Amy Cobardo who filled their orders for peanuts, pork and beans, ice, water, and gin. Complainant joined them every now and then in the place where they were having their drinking spree.

"At about 4:00 o'clock that same afternoon, he went to urinate in the toilet nearby. While urinating, complainant entered the toilet. After he has urinated, he zippered his pants then asked complainant why she came in. In reply, complainant said 'I love you.' Without much a do, they kissed each other twice. Complainant asked him to visit her in Manila. Then complainant stepped out and returned to the store. He returned to sit with his drinking companions.

"Twenty minutes later, he returned to the toilet again to urinate.

"While urinating the second time, complainant again entered the toilet. When he asked why she came, she said, 'I really love you.' When he asked 'Is it not a fact that you and Manuel Quiñola are sweethearts,' she replied 'I love you more than him.' His feeling was aroused when she told him that he is like a 'bakla.' He then faced her and embraced her. She returned the embrace. They kissed each other. He took off his pants and his brief. Complainant took off her pants and panty too, then laid on the cement floor of the toilet because he told her that they cannot make it standing. He told her to lie down.

"When complainant was lying down, he went on top of her. Because there was sand on the cement floor, she asked that they exchange position. He will lie down while she will be on top of him. They had sexual intercourse in that position. During the intercourse, they lock the door of the toilet.

"The first intercourse when it was complainant lying down on the floor took about five minutes. In their changed position, their sexual intercourse lasted 15 minutes. After the second intercourse, both of them stood then dressed upon facing each other. Complainant stepped out first upon his instructions. He returned to sit with his drinking companions. She returned to the store.

"From where they were drinking, the door of the CR could be seen. Upon his returning to his companions, when asked what took him so long inside the toilet, he told his companions that he and complainant conversed."

The accused-appellant was 28 years old and jobless at the time of the incident. A high school graduate, he used to be in the service of the Armed Forces of the Philippines until his tour of duty expired. He claimed that he first met the complainant in January, 1977, when he bought cigar-ettes from the Udan's store.

In this appeal the accused-appellant raises three assignments of errors, namely -

I

THE LOWER COURT ERRED IN FINDING THAT THE INJURIES FOUND ON THE BODY OF THE COMPLAINANT WERE FORCIBLY INFLICTED BY THE HEREIN ACCUSED-APPELLANT.

II

THE LOWER COURT ERRED IN DECIDING THE CASE ON THE BASIS OF CONJECTURES.

III

THE LOWER COURT ERRED IN NOT ACQUITTING THE ACCUSED-APPELLANT OF THE OFFENSE CHARGED.

The injuries found in the body of the complainant were abrasion, with hematoma lower lip; abrasion with hematoma right and left nipple; contusion, chin; hematoma, all around neck; hematoma, left arm and forearm, right forearm. The hymen was also freshly ruptured. There were lacerations and inflammation of the walls of the vagina. The appellant insists that he could not have inflicted the foregoing injuries. He states, for instance, that he did not inflict the injuries on the neck of the complainant because she failed to show that he held her neck the time that he was supposed to be forcing her to the school building. The record reveals otherwise.

The complainant positively testified:

"A. From the gate of the school he suddenly pulled me and held my neck and covered my mouth (p. 7, tsn., July 2, 1979).

xxx xxx xxx

"Q. How many times did he box you?

"A. Many times, Sir.

xxx xxx xxx

"Q. Where else?

"A. Neck. He strangled me.

(p. 50, tsn., July 2, 1979)."

The appellant theorizes that the injuries were inflicted by the complainant's mother and uncle. According to him, the complainant's mother and uncle could have been irked by the fact that the complainant did not ask permission before going out with the accused so much so that "x x x Upon entering the house, either the mother or the uncle held the complainant by the arm and started to scold her and when she was trying to reason it out, she was boxed on her mouth and neck was squeezed with force. It was at this point when she can no longer endure the pain that she concocted this rape story to save herself from further punishment." (Appellant's Brief, p. 8).

A mere reading of the records, without taking into account the factual findings of the trial judge before whom most of the evidence was adduced, leads us to affirm the decision of the court a quo. The appellant's story is contrary to human experience and normal behaviour. No parent in his right mind could have inflicted the peculiar injuries sustained by the complainant simply because she did not ask permission to stay out a little bit late. In the same manner, no woman in her right senses would concoct a story of rape and subsequently expose her private parts for examination and suffer the inevitable ordeal of a court trial just to escape disciplinary punishment from her parents.

The appellant himself realizes the incredible nature of his defense. Hence, he proposes an "assuming arguendo" theory that the injuries could have been caused "x x x during the passionate intercourse and not prior thereto." (Appellant's Brief, p. 9). The appellant's explanations on how the complainant's injuries happened are completely

negated by the records. They are mere conjectures not supported by the evidence.

To further destroy the complainant's credibility as regards her injuries, the appellant points out that the two physicians who examined her did not find any injury on her stomach although she testified that she was boxed in the stomach strong enough to render her unconscious. The appellant opined that such a strong blow could not have "x x x escaped the searching eyes of the examining physicians. That they found no injury is a strong indication that there was indeed no force at all employed by the accused-appellant in having sexual intercourse with the complainant" (Appellant's Brief, p. 9).

The absence of physical signs of injuries on the complainant's stomach does not rule out the possibility that she was hit on that part of her body. We agree with the Solicitor General that:

"Medical authorities, however, assert that when force is applied on the stomach no marks may be detected. Injury may have been caused inside the internal organs, but does not show external signs, thus:

"Contusion of the abdominal wall may not show external signs but interstitial hemorrhage in the muscle observed in tortures of suspects by peace officers who give series of blows in the abdomen to get confession.' (Solis, Legal Medicine, 1964 ed., p. 224)."

Moreover, the appellant's contention that the trial court's conclusion was based on conjectures is not well-taken. As the Solicitor General said:

"x x x The complainant positively testified that she was forced. The appellant covered her mouth, strangled her, slapped her, boxed her, until she fell unconscious, after which he succeeded in having sexual intercourse with her (pp. 3-4, Decision, Ibid). The complainant's injuries as found by Dr. Ciervo, are compatible with forcible sexual intercourse (pp. 8-10, tsn., July 27, 1979). Sgt. Mauricio Maman found the complainant (after the incident) in a state of shock (p. 27, tsn., October 15, 1979; p. 6, Decision, Ibid). The complainant's bra, set in place by hooks-and-eyes, shows it was forcibly removed as two eyes were detached (Exh. F, p. 3, Decision, Ibid). The complainant's denim skirt was forcibly removed also, four (4) buttons were missing (Exh. C; p. 3, decision, Ibid). These and the complainant's injuries - objective proof - demonstrate beyond cavil that she was forcibly assaulted sexually by the appellant."

These circumstances, borne by the evidence on record necessarily lead to the conclusion that contrary to the allegation of the appellant, the complainant was forced into submitting herself to the sexual intercourse. We are convinced beyond reasonable doubt that the appellant committed the dastardly crime of rape against the complainant.

The appellant's version of the incident is unbelievable. The record established the fact that the incident took place in a corridor of the school building of the San Marcelino Elementary School and not in a comfort room as alleged by the appellant. Moreover, the appellant testified that the comfort room wherein he had sexual intercourse with the complainant through mutual consent was within the view of his two companions with whom he was having a drinking spree and that the complainant followed him two times into the comfort room, professed her love for him leading to their having sexual intercourse on the cement floor inside the toilet. If this is true, it would have been easy for the appellant to have such claim corroborated by his two other companions who must have seen the complainant following the appellant into the comfort room. And yet, he did not present his companions to corroborate his story. Moreover, blood stains and sperm fluid were found on the second floor of the school building, not in the toilet which was carefully scrutinized for evidence.

WHEREFORE, the decision appealed from is hereby **AFFIRMED** except the award of damages which is raised to **TWENTY THOUSAND (P20,000.00) PESOS**. Costs against the appellant.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Plana, Relova, and de la Fuente, JJ., concur.

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