

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ISAGANI ROYERAS AND ERIC CUMPIO, ACCUSED, ISAGANI ROYERAS, ACCUSED-APPELLANT.

G.R. No. 64849, June 29, 1984

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the Regional Trial Court of Leyte, Eighth Judicial District, Branch VII convicting Isagani Royeras of the crime of rape. The dispositive portion of the decision reads:

WHEREFORE, finding him guilty beyond reasonable doubt of the crime of aggravated rape committed by two persons defined and penalized in Art. 335 of the Revised Penal Code, the court hereby sentences the accused Isagani Royeras to reclusion perpetua, to indemnify the complainant Merelyn Cerena in the amount of P12,000, without subsidiary imprisonment in case of insolvency, and to one-half of the costs.

The information dated February 12, 1981 charged the accused-appellant and one Eric Cumpio with the crime of rape as follows:

That on or about the 3rd day of April, 1980 in the Municipality of Tanauan, Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused who are still at large and whose whereabouts are unknown conspiring, confederating and acting in concert with one another with deliberate intent and by means of force and intimidation did, then and there wilfully, unlawfully and feloniously have carnal knowledge with Merelyn Cerena, a girl 15 years of age, against her will and without her consent and to her damage and prejudice.

It was only on April 23, 1981 that accused-appellant Isagani Royeras was arrested when he came back from Manila to attend the burial of his father. Eric Cumpio evaded arrest and was still at large at the time of the trial.

When arraigned, accused-appellant Isagani Royeras entered a plea of not guilty.

The evidence for the prosecution, accepted by the trial court as basis for the judgment of conviction is summarized as follows:

According to the complainant, she was dragged from her house to the Sto. Niño Health Center about 30 meters away and there raped by Isagani Royeras with the help of Eric Cumpio. The evidence for the prosecution tends to show the following facts: In 1980 Merelyn Cerena then 15 years old was living with her father and brother in Barangay Sto. Niño Tanauan, Leyte. At about 11 o'clock in the morning of April 3, 1980, Isagani Royeras, Eric Cumpio, a brother of Eric by the name of Dick Cumpio and two other young men went to their house and had a tuba drinking session with Domingo Cerena, complainant's father. The visitors brought tuba and chicken. The drinking spree which started at eleven in the morning lasted until 10 o'clock in the evening. As he had drunk enough Domingo Cerena rested and slept at 7 o'clock. Merelyn went to bed at 8 o'clock. Drinking continued. At about 10 o'clock in the evening Merelyn was awakened by someone lying down with her and kissing her. She

recognized the man to be Isagani Royeras. Merelyn tried to free herself from Isagani's hold and succeeded in getting away. She shouted for help from her father but her father was sound asleep. Isagani with the help of Eric Cumpio dragged her to the Sto. Niño Health Center about 30 meters away. Once inside the health center, Eric Cumpio closed the door. She tried to get out but she could not because Isagani held her. Pinning her to the wall of the health center Isagani pulled down and tore her clothes and removed her panties. Naked, she shouted for help but Eric Cumpio silenced her by cuffing her mouth with his hands. Isagani then kissed her, held her breast and then placed his fingers inside her vagina. He then pulled down his pants up to the knee. After forcing her to lie down on a sandy portion of the health center Isagani spread her legs apart and inserted his penis inside her vagina. She felt pain in her vagina. While Isagani was having sexual intercourse with her Eric Cumpio told Isagani to make it faster and finish it because he wanted to take over. Awakened by his son, Domingo Cerena went to the health center to look for his daughter. Upon noticing the arrival of complainant's father Isagani and Eric jumped out through a window of the health center. Finding his daughter naked Domingo Cerena looked for her clothes which was placed by Isagani and Eric below the roof of the health center. The girl went home naked. Isagani returned to complainant's house and when Domingo saw him he berated Isagani. Isagani kept silent. Domingo angrily told him to leave his house.

On April 4, 1980, complainant Merelyn Cerena was examined by Dr. Virginia E. Chan, a resident physician of the Speaker Daniel Z. Romualdez Hospital. Dr. Chan issued a medical certificate (Exh. "A") with the following findings:

= No gross P.E. findings.

1.E. & Speculum Findings:

= External genitalia - sparse pubic hair.

= Vaginal orifice - admits 2 fingers with ease, healed laceration at 9 o'clock.

= Cervix - firm, smooth, small, not tender.

= uterus - small

= adnexae - negative

Cervical smear taken - negative.

Royeras on the other hand denied that he had sexual intercourse with the complainant on April 3, 1980. His story is:

The evidence for the defense tends to show that on April 3, 1980, in the afternoon, Isagani Royeras was in the house of his parents at Barangay Sto. Niño, Tanauan, Leyte, sitting down. While sitting down, Eric Cumpio, his friend arrived and invited him to drink with Domingo Cerena at the latter's house. The reason why Eric Cumpio invited Isagani Royeras to a drinking spree at the house of Domingo Cerena is because Eric Cumpio was courting Merelyn Cerena as Eric and Merelyn had been seen by Isagani Royeras going together. Eric and Merlyn had been, likewise, seen by Isagani inside the health center for three times. (t.s.n., pp. 3-5, November 18, 1982 by Aticia C. Portez). The people present at the house of Domingo Cerena for the drinking spree were Abing, Dick, Canoy, Domingo Cerena, Jr., Domingo Cerena, Sr. and Merelyn Cerena. They started their drinking spree at about 3:30 o'clock in the afternoon and ended at 10:00 o'clock in the evening. Before 10:00 o'clock in the evening Domingo Cerena went to sleep. After which Abing, Dick and Canoy went home. Eric Cumpio and Merelyn Cerena went down the house to the health center arm on each of their shoulders. Tired of sitting down in the house of Domingo Cerena, Isagani Royeras and Domingo Cerena, Jr. went to the Health Center as Isagani was intending to ask

permission from Eric to go home ahead of the latter. Upon reaching the health center Domingo Cerena, Jr. pushed the door, there they saw Merelyn Cerena naked. They also saw Merelyn Cerena trying to remove the clothes of Eric Cumpio. Upon seeing Isagani Royeras and Domingo Cerena, Jr., Merelyn Cerena said, "Do not tell my father." Domingo Cerena, Jr. asked P5.00 from Eric Cumpio for his silence. But since Eric Cumpio did give Domingo Cerena, Jr. the P5.00 he was asking, the latter told his father what happened. (t.s.n., pp. 6-9, Nov. 18, 1982 by Aticia C. Portez) Domingo Cerena arrived at the Health Center carrying a bolo. Sensing what Domingo Cerena was carrying, Eric Cumpio ran away. Merelyn Cerena was already putting on her clothes. When Domingo Cerena brought Merelyn to his house, Isagani Royeras was told to go with them and was asked by Domingo Cerena why Isagani did this to his daughter. Isagani Royeras answered that he did not know about it. (t.s.n. pp. 9-10, Nov. 18, 1982 by Aticia C. Portez). Isagani Royeras did not elude arrest. He only went to Manila to study. He was arrested when he returned home to Leyte when his father died on April 1981. (t.s.n. pp. 12-13, Nov. 18, 1982) The reason why Isagani was implicated as one of the perpetrators of the crime charged is that Domingo Cerena, Sr. wants this case amicably settled as Domingo Cerena, Sr. was exacting money from him because the father of Isagani Royeras, Vicente Royeras was, during his lifetime, a recipient of U.S. Veterans pension, (t.s.n., pp. 15-17, Nov. 18, 1982 by Aticia C. Portez).

The accused-appellant raises the following assignments of errors in his brief:

I

THE COURT A QUO GRAVELY ERRED IN GIVING CREDENCE TO THE TESTIMONY OF THE PROSECUTION WHICH IS INCONSISTENT AND CONTRADICTORY; AND

II

THE COURT A QUO GRAVELY ERRED IN NOT ACQUITTING ACCUSED ISAGANI ROYERAS.

We find the two assignments of errors meritorious.

The rule is, a judgment of conviction for the crime of rape cannot be based on the testimony of the offended party alone unless such testimony is clear, positive, and convincing, or supported by other undisputed facts and strong circumstantial evidence disclosed by the record. (People v. Poblador, 76 SCRA 634). In People v. Lacuna (87 SCRA 364), we held that:

x x x The issue, therefore, is one of credibility. In a rape case, the uncorroborated testimony of the offended party may be sufficient under certain circumstances to warrant conviction. But for this rule to obtain, the lone testimony of the woman victim must be clear and free from any serious contradiction, her story must be impeccable and must ring throughout or bear the stamp of absolute truth and candor. In any event, the testimony of the alleged injured woman should not be received with precipitate credulity. It is imperative that such testimony should be scrutinized with the greatest caution; and when the conviction depends at any vital point upon her uncorroborated testimony, it should not be accepted unless her sincerity and candor are free from suspicion.

We have carefully analyzed the record and we find the prosecution's evidence to be insufficient to sustain a judgment of conviction.

While it is established that appellate courts will not generally disturb the factual findings of the trial court, considering that it is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial, (People v. Jose Marzan alias Carling, G.R. No. L-63265, March 13, 1984), this does not apply in the case at bar where the lower court overlooked certain

facts of substance and value that if considered, would affect the result of the case.

We agree with the accused-appellant and the Solicitor General that the contradictions in the statements and testimonies of the complainant and her witnesses as to the details of the commission of the alleged rape do not refer to minor and collateral matters.

In his manifestation in lieu of appellee's brief, the Solicitor General recommends that appellant Isagani Royeras be acquitted from the charge. We cite some inconsistencies in the complainant's testimony outlined by the People's counsel that greatly affect her credibility:

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2. Complainant testified that after appellant Royeras kissed her, she struggled to get free, succeeded, and shouted to her father to help her (p. 8, id.). Awakened by her brother, his father came to her rescue (p. 9, id.).

Realizing that this testimony was not consistent with what she stated in her affidavit, complainant backtracked and declared that despite the attempts of her brother to wake up her father, her father did not wake up (p. 9, id.).

3. Later, complainant also declared that she shouted to her father for help and herself tried to wake him up but her efforts were frustrated by the accused who dragged her back to the sala (p. 10, id.; p. 10, t.s.n., November 10, 1981).

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9. Complainant declared that her father found her naked in the Health Center, dressed her, and took her home (p. 14, id.). But she later contradicted herself by saying that on the way home, she was still naked (p. 15, id.).

10. Complainant declared that before they went home, her father got her clothes from the rooftop of the Health Center where appellant Royeras and Cumpio put them (p. 14, id.). However, she was contradicted by her father who first said that he saw her dress on the wall (p. 20, t.s.n., November 10, 1982), then on the floor (p. 20, t.s.n., March 10, 1982), then back of the wall (p. 20, id.).

11. Complainant declared that her father dressed her with different clothes (pp. 14-15, t.s.n., September 16, 1981). But her father contradicted her by saying that he told her to put on her dress before they went home (p. 20, t.s.n., November 10, 1981).

12. Complainant declared that her father's visitors drank tuba until 12:00 o'clock in the evening (p. 5, t.s.n., September 16, 1981). Yet, according to her, she was raped at 10:00 o'clock in the evening (p. 13, id.). And when pressed if she really knew what time the drinking spree was finished, she finally admitted she did not know (pp. 6-7, id.).

13. Complainant declared that both appellant Royeras and Cumpio returned to their house immediately after the rape (p. 12, id.). According to her father, only Royeras returned to the house (p. 23, t.s.n., November 10, 1981).

14. Complainant declared that after Cumpio and Royeras returned, her father boxed them (p. 16, t.s.n., September 16, 1981). According to her father, he did not hurt Royeras but merely told him to go home (p. 23, t.s.n., November 10, 1981).

15. In her affidavit, complainant declared that appellant Royeras tried to remove her panty at the sala (p. 8, t.s.n., November 10, 1981). In her testimony in court, she only stated that appellant Royeras kissed her at the sala (pp. 8-10, t.s.n., September 16, 1981).

16. In her affidavit, complainant declared that after waking up and realizing that appellant Royeras was trying

to take off her panty, she ran outside of the house to ask help from neighbors (pp. 8-10, t.s.n., November 10, 1981). In her testimony, she said that she first tried to awaken her father before going out of the house (p. 10, t.s.n., September 16, 1981).

The Solicitor General also noted the following inconsistencies in the testimony of Domingo Cerena:

1. Domingo Cerena declared that on April 3, 1980, his visitors were Eric Cumpio and appellant Isagani Royeras (p. 17, t.s.n., November 10, 1981). He did not mention any other visitor in his entire testimony.

His testimony is inconsistent with the testimony of his daughter who testified that on April 3, 1980, her father had several visitors, namely, ap-pellant Royeras, the brothers Eric and Dick Cumpio, and two others with whom she was not acquainted. (p. 5, t.s.n., September 16, 1981). It is the testimony of complainant that is true because appellant Royeras also named the same persons as the visitors of Domingo Cerena on April 3, 1980 (p. 6, t.s.n., November 10, 1981).

2. On direct examination, Domingo Cerena declared that when he arrived at the Health Center, he did not see Cumpio and appellant Royeras because they already ran away (p. 19, t.s.n., November 10, 1981).

On Cross-examination, he said that Cumpio and Royeras jumped out of the window (p. 19, t.s.n., March 10, 1982).

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3. On November 10, 1981, Domingo Cerena declared that after looking for the dress of complainant, he found it on the wall of the Health Center (p. 20, t.s.n., November 10, 1981). On March 10, 1982, he changed testimony and said that he saw her dress on the floor of the Health Center (p. 20, t.s.n., March 10, 1982).

Reminded that on direct examination, he testified that he found her dress on the wall, Domingo backtracked and claimed that he found it on the wall (p. 20, id.).

4. On direct examination, Domingo Cerena declared that only appellant Royeras returned to his house after the incident (p. 23, t.s.n., November 10, 1981). On cross-examination, he said that both Cumpio and Royeras returned (p. 21, t.s.n., March 10, 1982).

In contrast, complainant volunteered the information that both Cumpio and Royeras returned to the house to finish their drinking spree (p. 12, t.s.n., September 16, 1981).

5. Domingo Cerena declared that later in the evening, he reported the rape of his daughter to Pat. Arturo Miranda (p. 25, t.s.n., November 10, 1981). On the witness stand, Pat. Miranda denied to Domingo's face, his assertion that he reported the incident to him (p. 35, t.s.n., March 10, 1982).

6. According to Domingo Cerena, after investigating his daughter, he slept (p. 23, t.s.n., November 10, 1981). (This is hardly the behavior of a father whose daughter had just been raped).

The next instant, he claimed that he reported the Incident to the police in the evening of April 3, 1980 (p. 24, id.)

On a frontal confrontation with Pat. Miranda, Domingo backtracked and said that he reported the incident at 3:00 o'clock the following morning (pp. 33-34, t.s.n., March 10, 1982).

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But still, in another portion of his conflicting testimony, Domingo Cerena asserted that he reported the incident at 9:30 in the morning of April 4, 1980 (p. 25, t.s.n., November 10, 1981).

Furthermore, complainant's testimony is far from convincing. The complainant's version is highly improbable and

contrary to human experience. She testified:

Q. Do you recall if your father had visitors in the evening of April 3, 1980?

A. Yes, sir.

Q. Who are they?

A. Isagani Royeras, Eric Cumpio, a brother of Eric Cumpio by the name of Dick Cumpio and two others whom I did not recognize, and my father was the sixth person in the house that evening.

Q. Merelyn Cerena, do you know what these persons you mentioned were doing and your father too?

A. They were drinking that evening of April 3.

Q. What were they drinking?

A. They were drinking tuba.

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Q. Did this group go home all at once?

A. Yes, sir. They went home.

Q. Now, did you take your supper in the evening of April 3, 1980?

A. No, sir. I did not.

Q. What time did you sleep in that same evening of April 3, 1980?

A. 8 o'clock in the evening.

Q. In what particular place of your house did you sleep?

A. I slept in the sala of our house.

Q. While you were sleeping in the sala of your house in that evening of April 3, 1980, could you remember whether you awoke or not?

A. I remember that I woke up.

Q. Why did you wake up?

A. Isagani Royeras slept with me and kissed me, lips to lips.

Q. Did you consent when he kissed you?

A. I even suffered pain in my mouth after having been kissed.

Q. Why did you suffer pain?

A. Because he kissed me lips to lips that is why I felt pain in my mouth?

Q. Then what did you do since you did not have any agreement?

A. I tried to struggle to free myself from his hold.

As stated by the Solicitor General, the complainant would have this Court believe that appellant Royeras took advantage of her in the sala of her own house, right under the very eyes of her brother who merely watched and

did not do anything under the circumstances while her father was sleeping nearby. This is incredible.

If the complainant really struggled as she claims she did and was dragged by the accused-appellant, surely there must have been someone who heard her cries for help. Complainant herself admits that between their house and the health center, there are two houses belonging to her aunt and a neighbor. It was only 10:00 o'clock in the evening. The appellee also sees no point in the accused-appellant's dragging the complainant to a nearby place in full view of her brother and where her cries could be heard by her father or other relatives.

Complainant's testimony on this point reads:

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Q. How far is this health center to your house?

A. (witness pointing to distance of about 30-meters away).

Q. You mean your house is adjacent to the health center of Tanauan?

A. Our house is very near to the health center.

Q. Are there intervening houses?

A. Yes, sir. There are intervening houses.

Q. Whose house intervene between your house and the health center?

A. Our house is in between the house of my aunt then next to our house is a neighbor and then to our neighbor is the health center.

It is contrary to human behavior for the accused-appellant, after committing the rape and almost being caught by the complainant's father, to immediately return to the victim's house and continue the drinking spree. It is likewise contrary to human experience that Domingo Cerena, Sr., would merely tell Royeras to go home after he had raped the former's daughter and that the father would go to sleep before he reported the incident at 9:30 in the morning of April 4, 1980 to the authorities. The father testified that:

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Q. From the health center did you go home?

A. Yes, sir.

Q. What time did you arrived at your house?

A. It took me only about 15 minutes from the health center to my house.

Q. Who were in your house when you arrived from the health center?

A. My children were in the house.

Q. How about Eric and Isagani did you find them in your house when you returned to your house?

A. Eric Cumpio did not return to the house only Isagani, I do not know what was the purpose in returning to the house. He has already committed an offense against me, why did he have to go back to my house.

Q. Why did you say that Isagani committed an offense against you?

A. His raping my daughter is already a crime against me.

Q. Did you see and talk to Isagani?

A. I asked him why he did that offense to my daughter and she just did not answer it. Because had he answered my question, I would have hurt him.

Q. So, what did you do with him?

A. I told him to go home.

Q. Did he go home?

A. Yes, sir.

Q. So, when Isagani went home what did you do?

A. I investigated my daughter whether or not it was their mutual agreement between her and Isagani and she said, no.

Q. What else did you do that evening?

A. I slept that evening after investigating her.

Q. The next morning, what did you do?

A. In the morning I prepared my daughter in going to Tacloban in order to be examined by a physician.

According to the medical findings, no evidence of external injuries was found around the vulva or any part of the body of the complainant, a fact which is strange considering that the complainant was allegedly dragged and raped. Dr. Chan's medical examination does not indicate any injury on any part of the complainant's body and shows that the lacerations found on her vagina were old lacerations. If indeed complainant was really dragged by the accused to the health center, there could have been indications of some injuries in the medical report of Dr. Chan. The absence of bruises or scratches on any part of the body of the subject is an indication that physical violence was not used on her. We apply the rule laid down in *People v. Bardaje* (99 SCRA 388), that physical evidence is of the highest order and speaks more eloquently than all witnesses put together.

Furthermore, Dr. Chan affirmed on the witness stand that if ever complainant was criminally abused at 10:00 o'clock in the evening of April 3, 1980, the vaginal lacerations resulting from the alleged sexual intercourse could not have healed the following day when she examined the complainant.

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Q. Now, Dra. Chan, the alleged victim of this crime of rape which was supposed to have been committed on April 3, 1980 at 10 P.M. to the time when the patient submitted for examination at 4:50 P.M. there is only a lapse of eighteen hours ordinarily in a crime of rape, the shortest time to heal up requires at least three days, is it not?

A. It depends upon the severity of the laceration.

COURT:

But generally, how many days does a lacerated hymen heal?

A. About seven days.

ATTY. CABAÑERO:

Q. Dra. Chan since you have examined the supposed victim of this crime of rape allegedly committed on April

3, 1980 at ten P.M., could you tell this Honorable Court if the crime of rape which was supposedly committed on April 3, 1980 at 10 could have healed up in eighteen hours?

A. No.

That there was sexual intercourse previous to the incident on April 3, 1980 was affirmed by no less than the complainant herself on the witness stand. This explains the old lacerations on her vagina found by Dr. Chan. She testified:

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COURT:

Where is the girl? May I ask you because the doctor is still here, did you have a previous sexual experience prior to this incident complained of? Tell us honestly.

GIRL: (victim in this case)

I have no previous experience Your Honor.

COURT:

Are you sure?

A. Not with Cumpio. It was only Isagani Royeras.

This admission of the previous sexual intercourse coupled with the fact that the case was filed only at the behest of her father, renders highly dubious the allegation of sexual abuse on the night of April 3, 1980.

Q. Was the filing of the complaint before the Honorable Court of Tanauan made at your own behest or was it made at the behest of your father?

A. I and my father went to Tanauan to file this case.

Q. So you accompanied your father to file this complaint with you at the behest of your father?

FISCAL:

Already answered, I and my father.

ATTY. CABAÑERO:

I am asking at the behest of her father.

COURT:

Answer the question.

A. Yes, sir.

The totality of the foregoing circumstances show an aura of improbability and reasonable doubt as to the allegation that complainant was raped by the accused-appellant. The state of moral certainty as to the guilt of the accused was not reached. *People v. Nazareno*, (80 SCRA 484), stresses the rule that:

Only if the Judge below and the appellate tribunal could arrive at a conclusion that the crime had been committed precisely by the person on trial under such an exacting test should the sentence be one of conviction. It is thus required that every circumstance favoring his innocence be duly taken into account. The proof against him must survive the test of reason; the strongest suspicion must not be permitted to sway judgment. The conscience must

be satisfied that on the defendant could be laid the responsibility for the offense charged; that not only did he perpetuate the act but that it amounted to a crime. What is required then is moral certainty.

Tested by these standards, We have to reject the complainant's claim of having been raped by the accused.

On the basis of the evidence, testimonial and documentary, we find that the guilt of the accused-appellant Isagani Royeras has not been proven beyond reasonable doubt.

WHEREFORE, the judgment of conviction is hereby REVERSED and SET ASIDE and the appellant is ACQUITTED on grounds of reasonable doubt. SO ORDERED.

Teehankee, (Chairman), Plana, Relova, and De La Fuente, JJ., concur.

Melencio-Herrera, J., on official leave.

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