

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLLY VILLAFLORES, ACCUSED-APPELLANT.

G.R. No. 66039. June 08, 1989

Ponente: FELICIANO, J.

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FELICIANO, J.:

This is an appeal from the Decision of the Regional Trial Court, Branch 27, Bayombong, Nueva Vizcaya, in Criminal Case No. 485 convicting the accused Rolly Villaflores of the crime of rape.

On 22 April 1976, the following information was filed against the accused:

"That on or about the 2nd day of September, 1975 in Barrio Cappit, Municipality of Kasibu, Province of Nueva Vizcaya, and within the jurisdiction of the Honorable Court, the above-named accused, ROLLY VILLAFLORES, armed with a bolo and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the complainant WILHELMINA RAMEL against her will and to her damage and prejudice.

CONTRARY TO LAW."[1]

On 30 May 1983 after trial, the trial court rendered a decision the dispositive portion of which read as follows:

"WHEREFORE, the Court finds the accused, Rolly Villaflores guilty beyond reasonable doubt of the crime of consummated rape as charged in the information and pursuant to Article 335 of the Revised Penal Code, hereby sentences him to reclusion perpetua and to indemnify the offended party Wilhelmina Ramel, by way of moral damages, in the amount of P10,000.00 and to pay the cost.

SO ORDERED."[2]

From the judgment of conviction, appeal was lodged with the Court of Appeals which, in view of the penalty imposed by the trial court, elevated the record of the case for review to this Court. The appellant interposed a single assignment of errors that there is absent here that quantum of proof which is sufficient to overcome the constitutional presumption of innocence.

The facts, as found by the trial court, may be summarized in the following manner:

On 2 September 1975, at about 11:00 o'clock in the morning, complainant Wilhelmina Ramel, then a twenty-three year old housewife, was alone in their kaingin, while her six-year old son was in a hut about seventy (70) meters away. While she was gathering vegetables, she became aware of someone approaching her from behind and turning her back, saw appellant Rolly Villaflores. The appellant immediately embraced her, covering her mouth with his hand and thereupon forcibly brought her to the ground, sat on her stomach, and grabbed her neck with both hands. With his right hand, he drew his bolo from his waist line and pointed it at her breast, warning her that if she shouted, he would kill her. After threatening her, the appellant laid down his bolo and removed the short pants and the panties of the complainant. He then unzipped his pants, brought out his private organ, positioned himself on top of the complainant, inserted his private organ into the private parts of the complainant and

proceeded to copulate with the complainant until the sexual act was completed. Thereafter, the appellant put on his pants, took his bolo and threatened the complainant again that should she report the incident to her husband, he (appellant) would kill her.

When the appellant left, complainant put in her panties and short pants. Her dress had become muddy. Crying and weeping, she went directly to her husband, Reynaldo Ramel, who was then busy plowing his fields. She reported to him that appellant Rolly Villaflores had taken her by force. Initially, the husband wanted to look for the accused and to confront him but later husband and wife decided to refer the matter to their Barangay Captain. On that same day, complainant and her husband went to the house of the Barangay Captain, Mr. Bernardo Asuncion, but they were unable to see him as he was away at the time. They were told instead to return the next day so that the Barangay Captain could convene a meeting where the dispute could be resolved. This they did, but again, the Barangay Captain was not at home.

Finally, a meeting or confrontation took place at the home of the Barangay Captain on 4 September 1975. Present during the meeting were the Barangay Captain and three (3) Barangay councilmen, the complainant, her husband and her parents, the appellant Villaflores, his wife and parents. The Barangay Captain was unable to effect any "settlement" of the matter, in view of the stout denial by the accused that he had raped the complainant. The Barangay Captain prepared a certification^[3] which was signed by both complainant and appellant, endorsing the complaint to higher authorities.

Before filing a criminal complaint, complainant and her husband proceeded to Bambang, Nueva Vizcaya, where complainant underwent a medical examination at the Magsaysay General Hospital. On 6 September 1975, Dr. Florentino C. Bernardo examined the complainant and issued a medical certification^[4] embodying his findings:

"Physical examination:

1) presence of sticky fluid in the vaginal cavity.

Microscopic examination:

1) presence of non-motile spermatozoa."

According to Dr. Bernardo, the presence of spermatozoa inside the vaginal canal indicated previous sexual intercourse.

The day following the physical and medical examination, complainant and her husband returned to Kasibu and made a formal report of the incident to the police authorities. The statement of the complainant was taken by Police Investigator Aniseto A. Absalon on 9 September 1975. A complaint for rape was then filed with the Municipal Court of Kasibu against appellant Rolly Villaflores. After a preliminary investigation had been conducted, the Provincial Fiscal of Nueva Vizcaya filed the information charging appellant with the crime of rape, in the then Court of First Instance of Nueva Vizcaya.

The defense presented a different version of the events of 2 September 1975. During the trial, appellant Villaflores denied having raped the complainant. He testified that on the morning of 2 September 1975, he was in his farm in Cappit, Kasibu, Nueva Vizcaya, cleaning the rice paddies.^[5] That same morning, according to appellant, complainant Wilhelmina Ramel arrived at his farm and asked him for P3,000.00. The appellant informed her that he had no money and the complainant then went home.^[6] The appellant further claimed that in 1966 or 1967, while he and complainant were still single, he had paid court to her and that eventually they became lovers and continued to be lovers although both of them subsequently married. Out of this illicit relationship, the appellant Villaflores continued, a child named "Yoly" was begotten, but the child fell sick and died. The appellant contended that he knew the child was his because complainant had told him that she had not permitted her

husband to sleep with her during the conception of this child. The appellant went further, testifying that aside from the child named "Yoly," the complainant had conceived twice by him but had both times undergone abortions.[7] The complainant used to give him clothes, pants, and a ring, so the appellant testified, but all the presents were burned by his wife.[8]

The trial court found the foregoing statements of the appellant as "unworthy of rational belief." The trial court noted that:

"this (sic) claims are bare assertions unsubstantiated by any reliable proof. It would be difficult, indeed, to find any semblance of truth in the testimony of the accused deliberately twisted to exculpate himself. The Court could hardly believe that the complainant would ask P3,000.00 from the accused when the latter had no visible means of substantial support. Moreover, the accused declared that he had a daughter named 'Yoly' with the complainant who died of illness during infancy. It turned out, however, that the child 'Yoly' who is the daughter of complainant with her husband is very much alive and is at present studying at the Kasibu Elementary School (see Exhibit 'F'). As the accused has (sic) made untruthful narration of facts, his entire testimony do (sic) not deserve any credit as it appears manifestly false." [9]

We have carefully examined the records of this case and find no reason to disagree with the above conclusion of fact reached by the trial court.

In his brief,[10] appellant expanded his defense which he had submitted to the lower court and this time stressed heavily that while he did have sexual intercourse with complainant on the morning of 2 September 1975, that sexual embrace was voluntary on the part of complainant. Appellant argued that complainant could have run away from him and shouted for help when she saw appellant approaching her had she really wanted to avoid a sexual encounter with the appellant. He stressed that when he embraced her, she offered no resistance which she could have, if she indeed were an unwilling partner. Appellant underscored the absence of bruises or other tell-tale signs on the body of the complainant which, appellant argued, indicated willing submission on her part to his sexual embrace.

The trial court was not persuaded by the story told by the appellant and neither is this court. In the first place, 'assuming for a moment only that appellant's story was substantially true and that appellant and complainant had been lovers at sometime in the past, no presumption arises that the complainant had not in fact been raped, nor that the copulation with which the appellant was here charged was not coerced but rather consensual on the part of the complainant. In *People v. Tadyo*,[11] the Court explained:

"There is another reason why we are compelled to reject the accused's defense that he and Margarita were common law husband and wife. One may assume, *arquendo* merely, that Rogaciano and Margarita did live together as pretended husband and wife. But that by itself does not prove that Rogaciano could not have raped Margarita, that Margarita would never have denied Rogaciano sexual access. Certainly, no presumption arises that a common law wife will, or is willing to, submit to the common law husband's embraces always and under all circumstances. Proof of a prior history of a common law marital relationship will not prevail over clear and positive evidence of copulation by the use of force or intimidation." [12]

In this case, as in most rape cases, the trial court's evaluation of the relative credibility of complainant upon the one hand and the accused upon the other is critical. As pointed out earlier, the trial court did not find the accused-appellant a truthful witness. Upon the other hand, the trial court was clearly impressed and persuaded that the complainant was telling the truth when she testified in effect that the accused had taken her unaware so that she was unable to shout or to flee when he grabbed her and embraced her suddenly and clapped his hand over her mouth. The trial court said:

"On the other hand the guilt of the accused is deemed to have been persuasively demonstrated where it appears

that the declaration of the complainant was categorical and straight-forward, that no motive was shown for her fabricating a tale that could lead to so grievous a consequence for a fellow human being, that the cross examination to which she was subjected, far from weakening what was testified to by her, strengthened it. The accused's manifestly unbelievable, if not ridiculous, testimony has not dented the solid and firm testimony of the victim of his bestial assault.

The testimony of complainant as to how the offense of rape was committed was clear, concise, and categorical. Thereafter, she was subjected to a thorough, searching and intensive cross-examination. She stood firm. Her story held. It was not discredited. There is, thus, the quantum of proof necessary for the constitutional presumption of innocence to be overcome."^[13]

It seems scarcely necessary to recall the rule, so firmly settled, that the findings of fact of the trial court which had the inestimable advantage of listening to and watching the witnesses as they appeared before the court, are entitled to the greatest respect and will not be overturned by an appellate court save upon the clearest evidence.^[14]

The absence of physical injuries on complainant's body does not, of itself, negate the complainant's testimony of rape nor does it make the complainant a willing partner in the sex act here involved. This Court has pointed out in more than one case, that "the workings of [the] human mind when placed under emotional stress, however, are unpredictable and [different] people react differently. In the given situation, some may shout; some may faint; and some may be shocked into insensibility; while some may openly welcome the intrusion."^[15] As the trial court correctly pointed out, the force used in the commission of rape need not be overpowering or absolutely irresistible. What is essential is simply that the force employed was sufficient to enable the offender to consummate the lewd purpose which the offender had in mind.^[16] Marked disparity in the physical size and build of appellant and complainant -- the former was tall and muscular while the latter was a small woman, no more than four (4) feet in height, coupled with the menacing gestures of appellant with his bolo and the brandishing of threats, are circumstances reasonably adequate to explain how appellant was able to consummate his criminal desire. The record showed quite clearly that Wilhelmina fought and struggled with her attacker but that she was overcome by the accused. On direct examination, complainant said.

"Q - When he sat on your stomach and pressed your neck, what did you do, if any?

A - I struggled but I could not overcome his strength because he was strong and heavy, Sir."^[17]

On cross-examination, Wilhelmina said once more:

"Q - And in this lapse of time of five (5) minutes, what did you do while the attacker was doing his criminal act?

"A - I struggled and tried to push him (off) and because he seated (sic) on my stomach and one of his hand (sic) on my neck, I tried to shout but I could not shout and that is why he took my womanhood and pointed to me his bolo and told me if I shout he will kill me."^[18]

The appellant sought to make much of alleged inconsistencies in the testimony of the complainant. Complainant had testified that appellant had unzipped his pants and brought out his male member and laid himself upon her and penetrated her. Later on, she stated that after the sex act, appellant put on his pants. Appellant suggests in his brief that complainant had in effect said that appellant had removed his pants before commencing the sexual act. We do not believe that the inconsistency, if it was that, in this case was a material one; indeed, the inconsistency appears to be more a matter of specific detail than anything else which a woman, terrified by a large and menacing attacker, stretched on the ground and struggling to stave off sexual assault cannot realistically be expected to remember. Indeed, had complainant purported to remember, under those conditions, particular detail and precise sequence, her testimony would probably have merited disbelief.

We must note that appellant has not shown any motive on the part of the complainant falsely to accuse the appellant of rape. If appellant's defense were real -- that complainant had willingly submitted to appellant's embraces and voluntarily lain with him in the kaingin -- it is very difficult for this Court to understand why complainant should immediately thereafter rush to her husband crying that appellant had violated her. Like the trial court, this Court finds it unreal to suppose that the complainant, a young married woman, with no apparent reason for wanting to bear false witness against the accused, would tell a story of forcible violation to her husband, seek police authorities to report it, allow the examination of her private parts and thereafter subject herself to the glare and humiliation of a public trial, if indeed she had not been raped by the appellant and if she had not been moved simply by the understandable desire to bring her attacker to justice.[19]

WHEREFORE, the judgment of conviction appealed from is AFFIRMED, with the modification that the indemnity due to complainant is increased to P30,000.00.[20] No costs.

SO ORDERED.

Fernan, C.J., (Chairman), Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

[1] Rollo, p. 9.

[2] Id., p. 15.

[3] Exhibit "B," Records on Appeal, p. 3.

[4] Exhibit "B," Id., p. 4.

[5] TSN, 2 October 1978, pp. 84-85.

[6] Id., pp. 92-94.

[7] Id., pp. 89-91; pp. 106-109.

[8] Id., pp. 90-91.

[9] Rollo, pp. 13-14.

[10] Id., p. 46.

[11] 154 SCRA 349 (1987).

[12] 154 SCRA at 361.

[13] Rollo, p. 14.

[14] People v. Espejo, 36 SCRA 400 (1970); People v. Mercado, 97 SCRA 232 (1980); People v. Macayan, 126 SCRA 323 (1983); People v. Averro, G.R. No. 76483, 30 August 1988; People v. Sotto Basiga, G.R. No. L-47425, 13 January 1989; People vs. Bachar, G.R. No. 78269, 27 February 1989; People v. Estebal, G.R. No. 82768, 5 May 1989; People v. Solares, G.R. No. 82363, 5 May 1989; People v. Solares, G.R. No. 82363, 5 May 1989.

[15] People v. Cabradilla, 133 SCRA 413 (1984). See also; People v. Fernandez, G.R. No. 80278, 12 September 1988, at p. 9.

[16] People v. Abonada, G.R. 50041, 27 January 1989.

[17] TSN, 5 October 1977, p. 7; underscoring supplied.

[18] TSN, 12 April 1978, p. 8; underscoring supplied.

[19] *People v. Gan*, 46 SCRA 667 (1972); and *People v. Fernandez*, G.R. No. 80278, 12 September 1988, at p. 9.

[20] *People v. Estebal*, *supra*, p. 9; and *People v. Paragosa*, G.R. No. 50872, 18 October 1988.

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