

PEOPLE OF THE PHILIPPINES, PETITIONER-APPELLEE, VS. FLORENCIO HINSOY Y VALLESPIN, ACCUSED-APPELLANT.

G.R. No. 68032. May 31, 1985

Ponente: AQUINO, J.

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AQUINO, J.:

Florencio Hinsoy appealed from the decision of the Regional Trial Court at Dumaguete City, convicting him of rape, sentencing him to reclusion perpetua and ordering him to pay Agustina Gemina, the offended party, P12,000 as damages.

Accused Hinsoy, a widower, 34, admitted that at around eleven o'clock in the evening of April 30, 1982 he had sexual congress with his neighbor, Agustina Gemina, a 43-year-old widow, in her house located in Barrio Banwague, Guihulngan, Negros Oriental, while she was lying between her two daughters, Narcisa and Gilda. The only issue is whether such intercourse was with Agustina's consent.

The prosecution's evidence shows that Hinsoy, who was naked below the waist, entered Agustina's house which was "three steps" above the ground. He was armed with a knife and a pistol. There was a kerosene lamp on the table. Agustina was awakened when Hinsoy embraced her. He announced that he was a member of the New People's Army. Agustina pleaded with him not to molest her. Narcisa, 12, who was sleeping on her left side, was also awakened. She asked Hinsoy not to harm her mother. He did not heed their pleas.

Hinsoy lifted Agustina's dress, ripped off her panty, which was torn as a result, and succeeded in copulating with her. Because she continuously resisted by moving her body, Hinsoy's semen was spread on her genital organ, thighs and abdomen. He poked his gun at her and threatened to kill her. She had bruises on her arm.

Agustina reported the incident to the barangay captain the following morning. Five days later, she complained to the police. She submitted to a medical examination. The attending physician found multiple contusions around her vagina and urethral orifice.

The barangay captain declared that when Hinsoy was arrested on May 5, 1982, he admitted having raped Agustina. He made the same admission to the police when he was investigated the next day, May 6.

On the other hand, Hinsoy testified that on the night of April 30, 1982 he was allegedly a guest of Agustina. He had supper in her house. She served horse meat. He slept in her house. At eleven o'clock he had sexual intercourse with her. She had agreed to the sexual intercourse. He left her house in the morning.

The trial judge did not give credence to Hinsoy's pretension that the sexual intercourse was due to mutual agreement. He found no reason whatsoever why Agustina would frame up Hinsoy or would act in a vindictive manner towards him. He concluded that her "simple and natural testimony" was credible and trustworthy.

The contention of appellant's counsel that Agustina lied and concocted the rape charge cannot be taken seriously. She would not have taken the considerable trouble of bringing him to court if the charge was not true.

WHEREFORE, the trial court's judgment is affirmed. Costs against the appellant.

SO ORDERED.

Makasiar, (Chairman), Abad Santos, Escolin, and Cuevas, JJ., concur.

Concepcion, Jr., J., on leave.

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