

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RESTITUTO BRAVO Y BAJARO, ACCUSED-APPELLANT.

G.R. No. 68422. December 29, 1989

Ponente: NARVASA, J.

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NARVASA, J.:

The tale shortly to be narrated herein was presented by appellant Restituto Bravo in the Regional Trial Court[1] which tried him for the felony of rape committed against a nine-year old girl.[2]

The girl, Meriam Balomino, so Restituto's story goes, was known in the barrio as "kulang-kulang," and was fond of climbing trees. In the early afternoon of May 30, 1982, she went up a kasuy tree, picking some of its fruits. She fell, and by a bizarre coincidence, she fell on a branch of a tree or sapling protruding from the ground, which pierced her "private parts." She removed her dress and used it to wipe that part of her anatomy, which was bleeding. She then threw the blood-stained dress away and ran to her house. As soon as she got home she told her mother that she had been raped by their neighbor, Restituto Bravo, a 67-year old widower. Immediately, her mother brought her to the police station, where both their statements were taken, and then to the Albay Provincial Hospital, where she was examined by Dr. Eduardo Martinez. Dr. Martinez also examined and analyzed a "green Girl Scout skirt" soaked with fresh blood, given to him by Meriam and her mother. The police then arrested Restituto Bravo.

The Trial Court did not believe Restituto Bravo's tale. Neither does this Court.

What really happened, declared the Trial Court after receiving and weighing the evidence presented by the State and the defense, was that -

" * * on May 30, 1982, at about 2 o'clock in the afternoon, while (Meriam) was in a coconut plantation situated at Maticol, Estanza, Legaspi City, gathering firewood, accused Restituto Bravo appeared and chased her; that accused overtook her, placed a handkerchief around her mouth and threatened her with a knife; that accused succeeded in removing her panties; that thereafter, accused removed his pants and placed himself on top of Meriam; that accused while pointing a knife at Meriam's stomach, forcibly inserted his penis inside Meriam's private part; that Meriam felt pain in her private part which bled; that in the same afternoon Meriam was brought to the Albay Provincial Hospital where she was examined by Dr. Eduardo M. Martinez who issued a medico-legal certificate with the following findings:

'P.E. - Green girl scout skirt soaked with blood (fresh) front & back --- both lower extremities soaked with fresh blood --- hands, fingers soaked with fresh blood --- vulva soaked with fresh clotted blood, fresh blood still oozing per introitis (no pubic hair yet) --- moderately bleeding laceration, hymen, 11 o'clock position about 0.5 cm. --- required 3 stitches --- vagina canal could not be inspected well for lack of appropriate instrument --- Fourchet intact --- No other injuries noted in the vulva.'"

These facts were deemed by the Trial Court to have been established beyond reasonable doubt by the testimony of Dr. Martinez and of the victim herself, as well as that of the victim's mother, Rosita Balomino and Dr. Salvador

Sambitan, a psychiatrist.

Meriam's evidence is to the effect that on the day in question, at about 2 o'clock in the afternoon, while she was gathering firewood in the coconut plantation owned by Kiko Prinsipe, Restituto Bravo came; she somehow became frightened and ran, and Restituto chased her; he overtook her, tied a handkerchief around her mouth and brandished a knife at her; he removed his trousers and placed himself on top of her; moments afterward she felt pain, and her private organ commenced to bleed as he forcefully inserted his own into hers; she could not shout for help because she was gagged, and because he was pointing his knife at her stomach; and when Restituto left, she went home and told her mother what had happened to her.

Rosita Balomino corroborated her daughter's testimony. She told of Meriam's coming home at that time, crying, and narrating what Restituto had done to her; that there were blood stains on the Meriam's girl scout uniform; that accompanied by a neighbor, she had immediately set out with Meriam to report the matter to the authorities; that on the way they had met a PC constable who brought them to the police station where Meriam's statement and hers were taken, and thence to the Albay Provincial Hospital where Meriam was examined by Dr. Eduardo Martinez; that they thereafter filed a complaint against Restituto at the City Fiscal's Office at Legaspi City; that her daughter's behavior later became aberrant, constraining her to consult a psychiatrist.¹

Dr. Martinez testified to his physical examination of Meriam and the results thereof, and acknowledged the possibility that the injuries in Meriam's vagina could have been caused not only by sexual assault but also by the insertion of a sharp instrument in her organ (by herself or by another), or her falling on a sharp object.¹

The appellant's own version of the occurrence, to which as aforesaid the Trial Court refused to give credence, was delineated by his declarations in court and those of his witnesses, Petronilo Prinsipe, Elvie Non, Leonora Pasuquin, a married daughter of the appellant, and Leonardo Bravo, Restituto's son. They sought to persuade the Court a quo to believe that Meriam's violent defloration was entirely accidental, caused by her falling from a tree and being impaled through her vulva on a stick or tree limb thrusting out from the ground; and that in any event, at the time of this uncommon happening, indeed, from 12:30 to 3:00 o'clock in the afternoon, Restituto had been at the house of his daughter, Leonora Pasuquin, during which time he, a neighbor, Elvie Non, and his son, Leonardo, had unloaded coconut midribs from his daughter's car for distribution to her workers in Maticol.

It was Petronilo Prinsipe, a farmer residing about 10 meters away from Meriam's house, who told the Trial Court about Meriam's falling from the kasuy tree and being deflowered by a protruding stick. And respecting Restituto's defense of alibi, corroborative testimony was given by Restituto's daughter, Leonora Pasuquin, his son, Leonardo, and a neighbor, Elvie Non.

After trial, and due study of the evidence, the Court came to the reasoned conclusion that Restituto's guilt of the crime of rape charged had been proven beyond reasonable doubt. It accordingly sentenced him, as follows:

"WHEREFORE, this Court finds accused Restituto Bravo y Bajaro guilty beyond reasonable doubt of the crime of rape defined and penalized under Article 335, Paragraph 3 of the Revised Penal Code and hereby sentences him to suffer the penalty of reclusion perpetua, to indemnify the victim in the sum of P12,000.00 and to pay the costs."

Restituto Bravo's appeal from this judgment of conviction must fail. The proofs of the prosecution do indeed establish his guilt beyond reasonable doubt. On the other hand, his defense of fortuitous defloration is incredible, and his claim of alibi, untenable.

It bears stressing, at the outset, that by well settled principles this Court is enjoined from casually modifying or rejecting the Trial Court's factual findings affirming Restituto's guilt, a showing of serious and substantial error in

that Court's appraisal of the evidence being essential therefor.² Such factual findings, particularly the Trial Judge's assessment of the credibility of the testimony of the witnesses, are accorded great respect on appeal for, as repeatedly held, the Trial Judge enjoys the advantage of directly and at first hand observing and examining the testimonial and other proofs as they are presented at the trial and is therefore better situated to form accurate impressions and conclusions on the basis thereof.³ In this case, the Court has not been cited to any reason of weight to refuse reliance on the trial court's appraisal of the proofs, particularly the testimonial evidence upon which the case hinges, as indubitably establishing the appellant Restituto's commission of the rape imputed to him.

The Court is satisfied that the Trial Court's verdict of conviction finds ample support in the Government's evidence. That evidence indeed leaves little room for doubt that the dastardly felony of rape was correctly ascribed to Restituto and was not, as the defense posits, merely fabricated or imagined by Meriam. Meriam's narrative on the witness stand rings true in all its details. Her testimony is clear and cohesive, her youthfulness notwithstanding; it is free from any serious contradictions. She was unwavering in her identification of Restituto as her defiler. And it is of no little significance that she had no motive whatever to conjure up the charge of rape against her sixty-seven year old neighbor.¹

Restituto's alibi is feeble and flimsy. It is unavailing as a defense where, as here, Restituto was positively identified.² Moreover, the proximity of the house of Restituto's daughter --- where he claims to have been at the time the rape was perpetrated --- to the scene of the crime --- the places being only thirty meters apart --- does not at all make it impossible for him to have been where his victim was.³

The appellant's additional theory, that Meriam had been the victim, not of the vile crime of rape, but of a bizarre accident, is equally untenable. Seizing upon the testimony of Dr. Martinez that the lacerations in Meriam's hymen might possibly have resulted from causes other than sexual assault, the defense sought to develop the theory that Meriam's violent defloration had resulted from her fall from a kasuy tree and her vagina's being pierced in the process by a piece of wood projecting from the ground. The theory is on its face quite implausible. It simply does not inspire acceptance and belief. Furthermore, the evidence by which this extraordinary theory was sought to be demonstrated, the testimony of Petronilo Prinsipe, is itself implausible. For all things considered, it is improbable for Petronilo, from a distance of more than twenty yards, with a patch of trees and shrubbery virtually hiding Meriam from view, to have heard, much less seen Meriam, fall from the kasuy tree. In fact, he testified only to first having seen Meriam perched on a tree branch --- the diameter of his right thumb in size, according to him --- and then hearing a cracking sound or a thud, from which circumstances he concluded that Meriam had fallen and had thus injured herself in a delicate part of her body.

In fine, the Court agrees with the Trial Court that the evidence suffices to establish beyond reasonable doubt the appellant's guilt of the crime of rape. The indemnity that he has become obliged to pay to his victim must however, conformably to uniformly observed precedent, be raised from P12,000.00 to P30,000.00.

WHEREFORE, as modified in the manner indicated in the next preceding paragraph, the judgment of the Regional Trial Court subject of this appeal is hereby AFFIRMED in toto.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Branch II, Legaspi City, presided over by Hon. Jesus G. Bersamira

[2] Criminal Case No. 2380, commenced by complaint dated June 24, 1982, charging rape under paragraph 3, Article 335, Revised Penal Code, i.e., "having carnal knowledge of a woman ** under twelve years of age" (even if there be no force or intimidation, or the woman is not deprived of reason or otherwise unconscious)

1 Dr. Salvador Sambitan, who attended to Meriam, testified to the results of his mental examination of the girl: that she was depressed and quite unresponsive but coherent and relevant in speech and not clinically psychotic, his impression being that Meriam was suffering from a transient situational disturbance with depressive reaction most probably due to her psychologically traumatic experience (TSN, OCT. 13, 1983).

1 TSN, Oct. 7, 1982.

2 See *Peo. v. Dimacali*, 153 SCRA 454 (1987) citing *Peo. v. Burgos*, 144 SCRA 1; *Peo. v. Cabrera*, 100 SCRA 424

3 *Cortez v. C.A.*, 163 SCRA 139 (1988); *Peo. v. Jarzi*, 163 SCRA 307 (1988); *Peo. v. Traya*, 147 SCRA 381

1 See *Peo. v. Lopez*, 141 SCRA 385; *Peo. v. Mesias*, 127 SCRA 792

2 *Peo. v. Nolasco*, 163 SCRA 623 (1988); *Peo. v. Sato*, 163 SCRA 602 (1988); *Peo. v. Paton-og*, 155 SCRA 675 (1987); *Peo. v. Malabad*, 133 SCRA 124

3 *Peo. v. Sato*, supra; *Peo. v. Nolasco*, supra; *Peo. v. Olmedillo*, 116 SCRA 193; *Peo. v. Mesias*, supra; *Peo. v. Aragona*, 138 SCRA 569; *Peo. v. Ramilo*, 146 SCRA 258

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