

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FAUSTINO PACNIS, ACCUSED-APPELLANT.

G.R. No. 68992. September 26, 1988

Ponente: PARAS, J.

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PARAS, J.:

The accused-appellant Faustino Pacnis and Linda Lumabas (at large) stand charged with the crime of rape in Criminal Case No. 1226-S (81) of the Regional Trial Court of Cagayan, Second Judicial Region, Branch XII. The information filed in the said case reads:

"That on or about February 18, 1981, in the municipality of Ballesteros, province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused, Faustino Pacnis y Alvarez alias Tinong, together with one Linda Lumabas y Taraboc, who is still at large and not yet apprehended, conspiring together and helping each other, did then and there willfully, unlawfully and feloniously commit the crime of Rape in the following manner, to wit: that the said accused, Faustino Pacnis y Alvarez alias Tinong, armed with a piece of wood, with lewd design and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with the offended party, Fe Guillermo, against her will and while she was unconscious; and the said Linda Lumabas y Taraboc who is still at-large and not yet apprehended, is also liable for the crime of Rape as she did conspire and cooperate with the accused, Faustino Pacnis y Alvarez alias Tinong in the commission of the crime by inviting and bringing the victim with her to the house of accused Faustino Pacnis y Alvarez alias Tinong, and while in the house she helped accused Faustino Pacnis y Alvarez alias Tinong pull the offended girl inside one of the bedrooms of the house and when the victim was already inside the bedroom she immediately went outside, closed the door and stood guard outside while the accused Faustino Pacnis y Alvarez alias Tinong was having sexual intercourse with the offended party, Fe Guillermo.

"Contrary to law." (pp. 11-12, Rollo)

Upon being arraigned, the accused entered a plea of not guilty to the offense charged while the co-accused Linda Lumabas remained at large. The trial court after trial on the merits, rendered its decision on July 9, 1984, the dispositive portion of which reads:

"WHEREFORE, the Court finds the guilt of the accused, Faustino Pacnis to have been proven beyond reasonable doubt of the crime of Rape and therefore sentences the accused to suffer the penalty of RECLUSION PERPETUA and to indemnify the victim Fe Guillermo, moral damages in the amount of TEN THOUSAND (P10,000.00) Pesos and to pay the costs of the proceedings.

"SO ORDERED." (p. 19, Rollo)

The prosecution and defense give different accounts of what occurred on February 18, 1981, the date of the alleged crime.

The following facts are gathered from the testimonies given by the prosecution witnesses.

On February 18, 1981 at about 12:00 o'clock noon, the offended party, Fe Guillermo, a sixteen year old, second

year high school student of Northern Cagayan Academy located at Ballesteros, Cagayan was fetched from school by Linda Lumabas (one of the accused who is still at large). She knows Linda Lumabas because her father stood as sponsor at Linda's wedding. Linda invited Fe to the house of the appellant Faustino Pacnis situated about 100 meters from the school where they would allegedly do some guitar playing. Fe accepted the invitation. When they reached the house they proceeded to the sala where appellant joined them. As it was already lunch time, the three of them ate their lunch. After lunch at about 2:00 o'clock in the afternoon as they were all in the sala, the appellant Pacnis and Linda approached Fe and without any warning grabbed her hands. Fe resisted but she was unable to wrest herself free. They forcibly dragged her to an adjacent room (tsn, p. 8, May 18, 1982). Once inside the room, Linda went out and closed the door by pushing it but Fe was pushing it forward, while Faustino held her back. Appellant then began his overtures toward Fe. He caressed her and took liberties with her person but Fe vehemently resisted by moving away from him (tsn, p. 27, May 18, 1982). Finally exasperated, appellant picked up a piece of wood and went on a rampage. He started clubbing Fe, hitting her several times in the body and extremities (tsn, p. 10, May 18, 1982). As a result, Fe went into shock and lost consciousness (tsn, p. 11, May 18, 1982). When she regained consciousness at about 4:00 o'clock that afternoon, she found herself pantyless, her vagina was bleeding, her whole body aching particularly her lower belly (pusong). She found out that she had been raped by Faustino Pacnis (tsn, pp. 12-17, May 18, 1982). Appellant who was seated in bed beside Fe, told her, "you go home now, it is already late" (tsn, p. 14, May 18, 1982). It was late in the afternoon when Fe reached home. And as testified to by German Guillermo, the father of Fe Guillermo, she was crying when she reached home that late afternoon of February 18, 1981. Fe immediately reported the despicable incident to her parents. And the following morning she was taken to a doctor for physical examination. She underwent medical treatment for her bodily injuries. The medical certificate (Exhibit C) issued after the examination showed the following injuries inflicted on Fe.

- Contusion of both left and right forearm;
- Contusion 2 inches, at the lateral aspect of the right thigh;
- Contusion 3 inches, just below wound No. 2;
- Contusion 2 inches at the anterior aspect of the thigh, right side;
- Small laceration of the hymen at the left side.

The doctor further testified that he found out that the vagina had a laceration caused by a hard object that penetrated the vaginal canal and a man's penis could have caused it. There was actual sexual contact but did not find any semen and there was no vaginal bleeding anymore.

On the same day Fe accompanied by her father was taken to the Ballesteros Police Department where she lodged a complaint against the herein appellant for rape.

As for the defense version, the appellant's defense is that, he and the complainant were sweethearts, had an existing relationship of romantic intimacy, before and at the time of the alleged incident and whatever sexual relation they had, with each other was consummated under the bliss of common and mutual desire.

The accused-appellant testified in his own behalf. He claims that on the day that the alleged rape incident took place, he and the complainant spent the whole day together. In the morning of February 18, 1981, at about 7:00 o'clock Fe Guillermo went to his house, woke him up and supposedly told him that her father had maltreated her, showing to him the injuries she sustained on her left and right forearms and on her thighs (tsn, pp. 11-14, id.). The reason Fe was maltreated by her father was an anonymous letter telling the father to be careful with his daughter or else the daughter might get pregnant. (tsn, pp. 14-16, id.). The accused further declares that Fe did not go to

school anymore on that day of February 18, 1981, so he took and accompanied her to the seashore for a stroll because he wanted to comfort her, and they stayed there until they returned to his house at about 2:00 o'clock in the afternoon and ate their lunch together (tsn, pp. 16-17, id.). After eating they conversed and Fe told him that they should get married but he told her that she should finish her studies first, but she insisted on such marriage and he then told her that he did not like to be blamed by her father, and further told her to go home as it was then already getting late (tsn, p. 18, id.). When Fe refused to go home, he went to call for Linda Lumabas at the tailoring shop where she was working and which is only 200 meters away from his house and make Linda persuade Fe to go home. In fact, the two left his house at 4:00 o'clock in the afternoon (tsn, pp. 28-31, id.).

The accused-appellant declared that he first met Fe in 1980 at the dela Cruz tailoring shop in Ballesteros where he used to go and have his clothes sewn and where Linda Lumabas, a friend of his and townmate of Fe, was working; that it was at the tailoring shop where Linda introduced him to Fe Guillermo (tsn, pp. 3-5, Feb. 14, 1984). Not long after his introduction to Fe, after three months, he courted and proposed to her. The accused-appellant claimed that it was in his house where he courted her most of the time as she then used to go to his house to eat her lunch; and that she accepted his proposal of love. The accused-appellant is 40 years old, while Fe is 16 years old. Fe is the third woman in his life. As claimed by the accused he courted Fe in the ordinary way and has in his possession an answer to one of his letters. To prove that he and the complainant were sweethearts, he brought out two pieces of papers, one onion skin, Exhibit "1", which is the wrapper and Exhibit "2" is the letter to Faustino delivered to him by Maria Bayani of Cabaritan, Ballesteros, Cagayan. The letter is addressed to "Fernando Pacnis" which is the popular name of the accused. The appellant wrote Fe while he was in detention at the Municipal jail of Ballesteros, Cagayan asking why she filed the rape case against him and Fe answered him in return.

The lower court found the defense version to be inherently incredible and as heretofore stated, pronounced the appellant guilty of Rape.

In this appeal, the appellant assails such decision rendered by the lower courts and assigns the following errors to wit:

ASSIGNMENTS OF ERROR

I

THE LOWER COURT ERRED IN FINDING THAT FE GUILLERMO WAS DRAGGED INTO A ROOM AND THAT SHE WAS, THEREAFTER, CLUBBED BY THE APPELLANT.

II

THE LOWER COURT ERRED IN NOT FINDING THAT FE GUILLERMO AND THE APPELLANT WERE SWEETHEARTS OR, AT LEAST, HAD AN EXISTING RELATIONSHIP OF ROMANTIC INTIMACY, BEFORE AND AT THE TIME OF THE ALLEGED INCIDENT; AND IN NOT HOLDING THAT WHATEVER SEXUAL RELATION THEY HAD, IF ANY, WITH EACH OTHER WAS CONSUMMATED UNDER THE BLISS OF A COMMON AND MUTUAL DESIRE.

III

THE LOWER COURT ERRED IN NOT HOLDING THAT THE PROSECUTION FAILED TO PROVE BEYOND REASONABLE DOUBT THE COMMISSION OF THE CRIME OF RAPE AND IN NOT ACQUITTING THE APPELLANT.

(p. 1, Brief for the Defendant-Appellant; p. 67, Rollo)

In many prosecutions for rape, the paramount issue to be resolved is always the credibility of the witnesses. The

final resolution of the trial court would hinge on whose version is more credible, more plausible and more trustworthy considering the circumstances surrounding its commission.

Anent the first assignment of error, We find no reason to disturb the findings of the trial court. The accused contends that the offended party was not dragged into a room by Linda Lumabas and the accused. He further denies having clubbed the victim with a piece of wood. He claims that there were inconsistencies in the testimony of the offended party regarding these matters. But this court has time and again held that inconsistencies and contradictions referring to minor details do not destroy the credibility of the witness. The fact that the offended party was not able to tell which of her hands was held by Linda and Faustino Pacnis although the incident happened in the daytime, precisely at 2:00 o'clock in the afternoon will not destroy her credibility as a witness considering the nature of the shock and fear she suffered. She could not have remembered each and every detail of what transpired on that day because as shown by the prosecution she is of tender age, only 16 years old at that time.

With regard to the clubbing incident, the defense claims that there was no occasion or reason for the accused to have clubbed the offended party because he claimed that he was able to do what he wanted even before he allegedly clubbed the victim. The credibility of the offended party cannot be destroyed by this contention because the lower court found the employment of force upon the offended party in the process of attaining sexual intercourse. The injuries suffered by the offended party on the different parts of her body, particularly on her private parts, unequivocally corroborate her accusation and reveal the nature of the crime committed on her.

For his second assignment of error the defense alleges the failure of the trial court to admit the fact that he and the offended party were sweethearts and whatever sexual relations they had with each other was consummated under the ecstasy of mutual libido. He further declares that he and the offended party had an existing relationship of romantic intimacy, before and at the time of the alleged incident.

The appellant's second assignment of error is likewise unacceptable. His theory relies solely on his claim that he and the offended party were sweethearts. In support of his claim, appellant submits an alleged love letter (Exhibit 2) written and sent to him in jail by the offended party. No probative value can be given to the alleged love letter because the offended party categorically denied ever having written any love letter to appellant, likewise the existence of any kind of relationship between them. And upon comparison of the handwritten love letter and specimen writings of the offended party, the trial court found the former to be completely different and thus refused to lend any credence to it. Although the identity of the messenger who delivered the letter was revealed, the failure of appellant to produce him as a witness renders the origin and authenticity of said letter spurious.

The last assignment of error emphasizes the accused-appellant's summation that his guilt of the crime of rape has not been proven beyond reasonable doubt and that the trial court gravely erred in not acquitting the appellant.

The final assignment of error is likewise unacceptable. The totality of the evidence clearly indicates appellant's guilt, to wit: 1) the positive identification of appellant by the offended party as the person who dragged her into a room, forcibly caressed her and took liberties with her body clubbed her with a piece of wood several times when she would not submit to his lewd advances and when she woke up without any underwear, her vagina bleeding and painful, seated beside her was the person who told her to go home; 2) the failure of appellant to prove any motive on the part of the offended party to fabricate serious charges against him; 3) the sincerity and credible manner in which the offended party testified under oath; and 4) the injuries suffered by the offended party on different parts of her body, particularly on her private parts. The trial court upheld the credibility of the offended party and pointedly observed as follows:

“As shown by the prosecution, Fe Guillermo is of tender age, only 16 years old at that time of incident,

beautiful, and of good repute. So that the Court believes that Fe would not falsely accuse Faustino Pacnis of the crime of Rape without truth in it. To do so would be exposing herself to ridicule young as she is, would tell a story of defloration, allow the examination of her private parts to her embarrassment, and thereafter permit herself to be the subject of public trial if she is not motivated by an honest desire to have the culprit apprehended and punished (PP vs. Selfaisen, SCRA 355; PP vs. Vega, 123 SCRA 238; PP vs. Abarico, 100 SCRA 280; PP vs. Cawili, 65 SCRA 24; PP vs. Sacabir, 57 SCRA 7071).

"No young Filipina of decent repute would publicly, admit that she had been criminally abused, unless that is the truth. (PP. vs. Can, 46 SCRA 669; PP vs. Tejada, 107 SCRA 176)."

(pp. 10-11, Decision; pp. 8-9, Appellee's Brief)

To support further his defense, appellant invites Our attention to the undisputed fact that Linda Lumabas, the appellant's co-accused who is still at large up to this time, is a neighbor of Fe Guillermo, her father was among the sponsors in the wedding of the former. The appellant contends that it is hard to believe that Linda Lumabas would help bring about the criminal defloration of Fe who is practically her sister. The accused claims that the inclusion of his co-accused Linda Lumabas is without reason or motivation. We find such contention untenable. The fact that accused Linda Lumabas is still at large only tends to weaken appellant's defense as this only proves that his co-accused is evading arrest. Flight in criminal law is the evading of the course of justice by voluntarily withdrawing oneself in order to avoid arrest or detention. If Linda Lumabas is not guilty as claimed by the accused, the said Linda Lumabas should have come out into the open and stand charged just like the appellant.

WHEREFORE, premises considered, the assailed decision is hereby AFFIRMED with MODIFICATION by increasing the amount awarded to the offended party from P10,000 to P20,000.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

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