

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REYNALDO ALVAREZ Y SORIANO, ACCUSED-APPELLANT.

G.R. No. 73071. September 11, 1992

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

This is an appeal from the judgment[1] of the court a quo finding accused REYNALDO ALVAREZ Y SORIANO guilty of rape, imposing upon him a prison term of reclusion perpetua, and ordering him to indemnify the offended party P10,000.00 for moral damages.

On the basis of the verified complaint of 13-year old Rosie Pascual, with the assistance of her father Jose Pascual, Alvarez was charged with rape thus -

"x x x on or about September 22, 1983, in barangay Carayungan Sur x x x Umingan x x x Pangasinan x x x the said accused by means of force, threats and intimidation and with lewd designs, did then and there wilfully, unlawfully and feloniously have sexual intercourse with Rosie Pascual, a minor of 13 years x x x without her consent and against her will, to her damage and prejudice in the amount of P30,000.00 x x x"[2]

Thirteen-year old Rosie Pascual, then an elementary pupil at the Cabangaran Elementary School, Umingan, Pangasinan, was in school on 22 September 1983. At around 12:00 o'clock noon, she was invited by her classmate Merlita Valdez to lunch at the house of her stepfather, appellant Reynaldo Alvarez. They were accompanied by another classmate, Sorita Macabiog.[3] After lunch, Merlita and Sorita went out of the house and sought shelter under an "arattles" tree, while Rosie was invited by Alvarez to his room upstairs. As she entered his room, Alvarez suddenly undressed her and laid her down without saying a word. He removed her panty, then his own pants, placed himself on top of her, spread her legs, and forced his penis in. She could not shout because Alvarez placed a handkerchief in her mouth. He was threatening to take her life. She felt intense pain when he inserted his penis that he was not able to insert it all the way.[4]

The sexual assault lasted for one hour after which appellant removed the handkerchief from her mouth while persisting in his threat on her life. She did not immediately report the outrage to her parents because she was afraid appellant would harm her. Eventually, however, she had to spill the beans because she and Merlita quarreled, and the latter spoke loudly of Rosie's sexual experience with Alvarez, which was overheard by their teacher, Mr. Abelardo Magpili, who then wrote Rosie's father to see him. When her father arrived, Mr. Magpili asked Rosie, if indeed appellant Alvarez sexually abused her, and she answered in the affirmative. Then her father confronted her himself and she gave the same answer.[5]

Rosie and her father then went to report the matter to the Barangay Captain who advised them to file a complaint with the police authorities and have Rosie medically examined at the puericulture center.[6] She was examined at the center by Dr. Thelma C. Busto, Rural Health Officer, who also examined the other rape victims of Alvarez. Afterwards, Rosie gave a signed written statement to the police in the form of an affidavit-complaint.[7]

The Rural Health Officer confirmed that Rosie had a laceration on her hymen possibly caused by sexual abuse,

probably due to the pressure and size of a male organ, her vaginal canal admitting one finger, a sign that she was already deflowered.[8]

Quite interestingly, Alvarez claims that he came to know of complainant only when he was already in jail. He asserts that on 22 September 1983 he was at Barangay Dadap, Solano, Nueva Vizcaya, in the house of his sister, Delia Alvarez Bartolome, to collect from her P2,000.00 she owed him. He arrived there on the 19th and stayed with her until he was paid on the 24th;[9] alibi, in other words.

Contradicting his own narration that he came to know Rosie only when he was already in jail, Alvarez avers that Rosie and Merlita, together with their classmates, used to frequent his house although Rosie had lunch there only once.[10]

As if to offer an explanation why he was charged, appellant now informs Us that Rosie's parents only wanted to extort money from him as he has been known to be a money lender since his return from Libya where he worked for 90 dinars a month.[11] He also claims that the Barangay Captain had an axe to grind against him because at one time he was not able to lend him money.[12] He admits having several rape cases pending against him where the complainants were all Grade V pupils of Cabangaran Elementary School and was in fact convicted in one,[13] which will be correlated herein later in this decision.

He further alleges that on 23 September 1983 he had his bicycle repaired and even advised Merlita not to lend it to anybody. Perhaps realizing he was off to a gaffe as on that date he was supposed to be in Barangay Dadap, Solano, Nueva Vizcaya, according to his earlier statement, he explains that his seeming conflicting dates were due to his worries over the rape cases filed against him.[14]

The defense also presented Santiago Bartolome, brother-in-law of appellant, in an obvious effort to corroborate his alibi that he was in Barangay Dadap, Solano, Nueva Vizcaya, on 22 September 1983 when the crime was committed. However, the trial court discarded the defense and sustained the prosecution instead.

In this appeal, the accused assails the trial court (a) for finding him guilty on the basis of the complainant's testimony which, according to him, is incredible and contrary to human experience; (2) for not considering her behavior after the alleged incident; (3) for not finding that there is no basis for his conviction; and, (4) for considering the other rape cases filed against him, in violation of the *res inter alios acta* rule under Sec. 48, Rule 130, Revised Rules of Court.

The crux of appellant's defense is that the testimony of complaining witness is so incredible and contrary to human experience that it cannot in the least justify a conviction. He insists that the complaining witness willingly went up his room while her classmates went out to play; that the finding that Rosie was cowed and coerced into going upstairs and submitting to him is contrary to the evidence, and that she even received the P5.00 he gave her right after their sexual encounter; and, that the trial court erred in failing to consider the length of time it took the accused to consummate the act.

We have carefully examined the evidence on record, and We are convinced more than ever that the judgment convicting the accused for rape must be sustained.

In rape cases, the accused may be convicted solely on the testimony of the complaining witness provided such testimony is credible, natural, convincing and otherwise consistent with human nature and the course of things.[15] The prosecution need not present testimonies of people other than the offended party herself if her testimony is accurate and credible.[16] After all, according to Chief Justice Andres R. Narvasa, "[R]ape is essentially an offense of secrecy, not generally attempted except in dark, or deserted and secluded places, away from prying eyes."[17]

As it has oft been repeated, on the matter of the credibility of witnesses the findings of the trial court are generally accorded great weight and respect, if not conclusive effect, because it has the opportunity to observe the demeanor of witnesses while testifying. Such findings may only be disturbed on appeal if there is any showing that the trial court overlooked some material or substantial facts which if given consideration will alter the assailed decision.

The case at bar is no exception. There is no indication whatsoever that the findings of the trial court have been arrived at arbitrarily. On this point, We need only quote the observations of the trial court on the credibility and demeanor of offended party Rosie Pascual -

"x x x the Court has observed the conduct and demeanor of the complaining witness while testifying and has reached the conclusion that there is no reason to doubt her version of the incident." [18]

The following testimony of Rosie, a babe in the woods, so to speak, in the world of lure, wiles and lust, so candid and simple, could only have flowed from an unaffected mind, uttered by innocent lips:

"Q. When you were called upstairs by Reynaldo Alvarez, where was Merlita Valdez?

"A. They were under the aratiles tree, sir.

"Q. Who was her companion?

"A. Sorita, sir.

"Q. Did you go upstairs when Reynaldo Alvarez told you to go upstairs?

"A. Yes, sir.

x x x x

"Q. At what place upstairs did you go with Reynaldo Alvarez?

"A. In his room, sir.

"Q. When you were in the room of Reynaldo Alvarez, what happened?

"A. He undressed me, sir.

"Q. What did he tell you, if any, before he undressed you?

"A. He did not tell me any, sir.

x x x x

"COURT

"Q. Can you illustrate how Alvarez undressed you?

"A. He told me to lie down then thereafter, undressed me, sir.

"Q. Were you wearing pantie at the time?

"A. Yes sir, I have.

"Q. Who removed your pantie?

"A. Reynaldo Alvarez, sir.

"Q. What did you do when Reynaldo Alvarez layed (sic) you down and removed your pantie?

"A. He also removed his pants, sir.

"Q. Before removing his pants, did he do anything yet?

"A. None, sir.

"Q. When Reynaldo Alvarez removed his pants, and after removing his pants, what else did Reynaldo Alvarez do?

"A. He placed himself on top of me, sir.

"Q. What did you do, if any, when Reynaldo Alvarez after undressing you went on top of you?

"A. Then I opened my legs, sir.

"Q. Before you opened your legs, what did Reynaldo Alvarez do?

"A. He inserted his penis in my vagina, sir.

"Q. Did you shout when Reynaldo Alvarez went on top of you?

"A. No, sir, I did not.

"Q. Why did you not shout?

"A. He placed handkerchief in my mouth to prevent me from shouting, sir.

x x x x

"Q. Now, when Reynaldo Alvarez inserted a handkerchief inside your mouth, what did he do, if he did anything?

"A. I kept silent, sir, as he prevented me, sir.

"Q. What did he tell you when you said he prevented you?

"A. He said: 'Do not talk or else I will kill you'.

"Q. And so, when Reynaldo Alvarez inserted that handkerchief inside your mouth and prevented you from saying anything because he is (sic) going to kill you, what happened next?

"A. We have (sic) sexual intercourse, sir.

"Q. How did Reynaldo Alvarez have sexual intercourse with you?

"A. He inserted his penis in my vagina, sir.

"Q. And when Reynaldo Alvarez was inserting his private part what did you feel?

"A. It was painful, sir.

"Q. Did you consent to the sexual intercourse made by Reynaldo Alvarez to you?

"A. I refused, sir, but he forced me.

"Q. Do you recall if the entire private part of Reynaldo Alvarez was inserted into your vagina?

"A. He was not able to insert all, sir.

"Q. Why was he not able to insert all?

"A. Because it was painful, sir.

x x x x

"Q. Now, do you recall how long did the organ of Reynaldo Alvarez (?) inserted in your vagina?

"A. It was quite long, sir.

x x x x

"Q. Before he told you to go home, how long did it take Reynaldo Alvarez (to) have sexual intercourse with you?

"A. One hour, sir.

x x x x

"Q. And what did you (do) after Reynaldo Alvarez finish(ed) having sexual intercourse with you and he stood up?

"A. He told me not to reveal to anybody or else he will (sic) kill me, sir.

x x x x

"Q. You said earlier that you were sent after having sexual intercourse, after Reynaldo Alvarez had sexual intercourse with you, he said, 'Do not reveal this to anybody or else I will kill you' and then he sent you home, as you said, before you went home, what else did he do, if any?

"A. No more, sir.[19]

We cannot doubt, indeed, the testimony of Rosie. In this jurisdiction, it is unthinkable that a rural teener, an elementary pupil, would endure the embarrassment and humiliation of a public disclosure that she had been ravished, allow an examination of her private parts, and undergo the ordeal and expense of a court proceeding if her story is a lie.[20] A victim of rape will not come out in the open if her motive is not to obtain justice.[21] The Court thus notes with approval the observations of the Solicitor General thus -

"Concededly, the complainant when called by the appellant to go upstairs did so and upon his request, without asking her friends to accompany her. It must be noted however that according to the appellant himself, it was not the first time that he saw the complainant in his house. The complainant had been one of the regular classmates/schoolmates of his stepdaughter frequenting their house. Thus, for reason of familiarity with appellant and for obvious lack of malice on the part of the unsuspecting 13-year old minor, she went with him into his room. The minor, at the time, had no idea of appellant's ill motives and lewd designs on her. Hence, her innocence could not be taken against her, contrary to appellant's suggestion that the victim consented to the sexual assault.

x x x x

"Rosie testified that she could no longer resist appellant's assault on her because she was so afraid that she could not do anything anyway. As a matter of fact, she could not even push him away (pp. 14, 16, 17; Tsn, January, 5, 1984). As correctly found by the trial court, the 13-year old Rosie had sufficient basis to believe that no amount of resistance could prevent appellant from pursuing his lascivious intentions, since the mere sight of the accused alone could have instilled fear on her (p. 14, Decision). The strength of a dark and burly man in his forties was more than enough to cow and overcome the resistance of a young thirteen-year old (People v. Basiga, 169 SCRA 76)."

Under this lucid narration of facts, it can hardly be said that the judgment of conviction is baseless. The credible,

detailed and straightforward testimony of Rosie, as observed by the trial court, becomes more pronounced when We consider the conflicting testimonies of Alvarez. In one breath he would say that he saw Rosie for the first time only when he was already in jail, in another breath he would claim that she and his stepdaughter Merlita, together with their classmates, would frequent his house. While he says that from the 19th to the 24th of September 1983 he was in Barrio Dadap, Solano, Nueva Vizcaya, collecting a debt of his sister, he also testified that on the 23rd of September he had his bicycle repaired in his house in Carayungan Sur, Umingan, Pangasinan, and even advised Merlita after its repair not to lend it to anybody.

Alvarez insists that he never cowed, much less coerced, Rosie into submission; that he did not threaten her verbally or physically to make her submit to his sexual desires. But the evidence against him is overwhelming.

It is well-settled that force or violence required in rape cases is relative; when applied, it need not be overpowering or irresistible. What is essential is that the force used is sufficient to consummate the purpose which the offender had in mind, or to bring about the result.[22] The force or violence necessary in rape is naturally a relative term, depending on the age, size and strength of the parties and their relation to each other.[23] In this light, the trial court is correct in holding that -

"x x x Under this situation, taking into account the circumstances of the place (isolated room), time (just after lunch) and the person (no one was with the victim, for Merlita Valdez and Sorita Macabiog were then under the aratiles tree outside the house), we do not know what kind of resistance was expected to be offered by a young, innocent 13-year old girl against the accused, of whom she must have been so much afraid when he told her not to tell her parents about what he had done to her. Certainly, the immature, irresponsible barrio girl under these circumstances had to meekly submit herself." [24]

Alvarez further argues that the behavior of Rosie before and after the alleged rape only exhibits the weakness, if not futility, of the charge. To Us, it is rather his theory that is weak and futile. As appropriately pointed out by the Solicitor General -

"x x x People react differently under emotional stress. There is no standard form of behavior when one is confronted by a shocking incident especially if the assailant is physically near; the workings of the human mind when placed under emotional stress are unpredictable; and that people react differently. In a given situation, some may shout, some may faint, some may be shocked into insensibility, while others may yet welcome the intrusion." [25]

That Rosie did not immediately divulge her ravishment does not necessarily mean that she was not sexually desecrated. Being then in a very tender age and utterly innocent of the ways of the world, her temporary silence could be understandable. She could have been terrified by the threats of appellant and shocked into insensibility by the bestiality she was subjected to. To a very young and naive barrio girl, she could suffer in silence, albeit momentarily, if only to avoid humiliation and embarrassment that may be brought about by the public disclosure of such dastardly act.

As earlier mentioned, the accused admits that there are several rape cases pending against him where the complainants were then all Grave V pupils of Cabangaran Elementary School where his stepdaughter was also studying, and that he was in fact convicted in one. Taking cue from this admission, We delved into the other rape case where he says he was convicted and found that on 23 September 1983, or one day after the rape of Rosie in the case at bar, he also raped Mary Grace F. Lacasandili, a minor of 11 years, or two years younger than Rosie, in his house where he also raped Rosie, and for which he was sentenced to reclusion perpetua and to indemnify the offended party in the amount of P30,000.00 for moral damages. This case of Mary Grace is reported in G.R. No. 70831, 29 July 1988, 163 SCRA 745, as "People v. Reynaldo Alvarez y Soriano", penned by Mr. Justice Leo D. Medialdea, also of the First Division of this Court. We quote pertinent portions of the findings of fact in that

decision which show the same pattern adopted by the accused in the commission of rape -

"The complainant, Mary Grace Lacasandili, was under 12 years of age on September 23, 1983. She had a classmate, Merlita Valdez, who is the step daughter of accused-appellant, Reynaldo Alvarez. Merlita resided with her mother and stepfather in one house.

"At about noontime of the aforesaid date, Merlita invited the complainant to watch television at her residence. The television set was inside a room located on the second floor of the house. After the television program was over, Merlita went out of the house leaving behind the complainant alone in the room.

"Shortly afterwards, appellant approached and held the complainant, and then made her lie down on the floor. When the complainant asked the appellant why she was being made to lie down, the latter answered that he will have sexual intercourse with her. The complainant protested but the appellant insisted and later removed the panties of the former. The complainant shouted for help but was told by the appellant to stop. The appellant later placed himself on top of the complainant, unzipped his pants and tried twice to insert his penis inside the vagina of the latter. The appellant stood and left after he failed to make such insertion.

"After the incident, the complainant put on her panties and left the house. She later saw Merlita under a tree located near the same house. When the complainant asked Merlita why she did not render any assistance despite her shout for help, the latter replied, 'I should not have invited you to have sexual intercourse with my stepfather.' The complainant did not report to anyone what the appellant did because he earlier threatened to kill her if she did so.

"The records also show that on October 18, 1983, Mary Grace, Merlita, and three of their classmates quarreled among themselves in school regarding their having been the victims of rape. Upon learning of the cause of the quarrel, their teachers conducted an investigation. The girls, including the complainant, recounted the ordeal they suffered in the hands of the accused-appellant. Later, the school authorities wrote to the parents of the victims informing them of the sexual abuses done to their daughters. The parents of the victims in turn reported the matter to the barangay captain and the latter sent out barangay tanods to look for the appellant x x x x"[26]

As regards the contention that the trial court was affected by the other rape cases against the accused in convicting him, in violation of the "res inter alios acta" rule, it is clear from the decision in the case at bar that the judgment of the court a quo was based mainly on the strength of the evidence of the prosecution.

Considering the appalling sexual aberration which, it is not too remote, may leave a permanent scar on Rosie's psyche, the award of P10,000.00 for moral damages is too meager, to say the least; hence, the amount should be raised to P30,000.00.[27]

WHEREFORE, the decision appealed from is AFFIRMED, with the modification that the award of moral damages to ROSIE PASCUAL is increased to P30,000.00. Costs against accused-appellant.

SO ORDERED.

Grino-Aquino, and Medialdea, JJ., concur.

Cruz, J., (Chairman), on leave.

[1] Penned by Judge Cornelio W. Wasan, Sr., Regional Trial Court of Lingayen, Pangasinan, Branch 39.

[2] Information, Crim. Case No. L-2932, Record p. 17; Rollo, p. 8.

[3] Tsn, 5 January 1984, p. 3.

[4] Id., p 5.

[5] Id., pp. 6-8.

[6] Id., p. 8.

[7] Exh. "A" and series, dated 17 October 1983; Id. pp. 9-10.

[8] Tsn, 14 April 1984, p. 3.

[9] Tsn, 18 June 1985, pp. 2-3.

[10] Id., pp. 5-6.

[11] Id., p. 4.

[12] Id., p. 7.

[13] Tsn, 18 June 1985, pp. 10-11.

[14] Id., p. 12.

[15] *People v. Tabago*, G.R. No. 69778, 8 November 1988, 167 SCRA 65, cited in *People v. Alfredo Nuñez*, G.R. No. 79316, 10 April 1992; see also *People v. Sarda*, G.R. No. 74479, 24 April 1989, 172 SCRA 651 citing *People v. Monteverde*, G.R. No. 60962, 11 July 1986, 142 SCRA 668; *People v. Almenario*, G.R. No. 66420, 17 April 1989, 172 SCRA 2681.

[16] *People v. Calixtro*, G.R. No. 92355, 24 January 1991; 193 SCRA 303.

[17] *People v. Nuñez*, G.R. No. 79316, 10 April 1992.

[18] Decision, p. 14; Records, p. 105.

[19] Tsn, 5 January 1984, pp. 4-6.

[20] See *People v. Ramos*, G.R. Nos. 92626-29, 27 May 1991, 197 SCRA 523; see also *People v. Derpo*, No. L-41040, 14 December 1988, 168 SCRA 447; *People v. Taño*, 109 Phil. 912 (1960); *People v. Gan*, No. L-33446, 18 August 1972, 46 SCRA 667.

[21] *People v. Villorente*, G.R. No. 100198, 1 July 1992.

[22] *People v. Ramos*, *supra*.

[23] *People v. Natan*, G.R. No. 86640, 25 January 1991; 193 SCRA 355.

[24] Decision, p. 14; Rollo, p. 35.

[25] *People v. Abonada*, G.R. No. 50041, 27 January 1989, 169 SCRA 530; *People v. Fernandez*, G.R. No. 80228, 12 September 1988, 165 SCRA 302.

[26] Id., pp. 746-747.

[27] See *People v. Resano*, G.R. No. 57738, 23 October 1984, 123 SCRA 711; *People v. Alvarez*, G.R. No. 70831, 29 July 1988, 163 SCRA 745; *People v. Perez*, G.R. No. 84302, 7 July 1989, 175 SCRA 203.

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