

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TEODORO BALARES, ACCUSED-APPELLANT.

G.R. No. 73488. September 26, 1988

Ponente: PARAS, J.

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PARAS, J.:

The case before Us is an appeal made by the defendant Teodoro Balares from the judgment of conviction for the crime of rape rendered by the Regional Trial Court of Iriga City,[*] Branch XXXVI. The record of the case was erroneously transmitted to the Intermediate Appellate Court. The said Court immediately forwarded the said record to this tribunal in view of the penalty of reclusion perpetua imposed upon the accused.

The information reads:

"The undersigned Special Counsel accuses TEODORO BALARES upon complaint filed by the offended party Angelita B. Llorens of the crime of RAPE, defined and punished under Art. 335, as amended by R.A. No. 4111, committed as follows:

"That on or about the 9th day of December, 1972, in the Barrio of San Ramon, Municipality of Baao, province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the said accused did then and there willfully and feloniously with lewd designs and by means of force, violence and intimidation, have carnal knowledge of one Angelita B. Llorens against her will and without her giving provocation to it.

"That on account the unlawful acts committed by the accused, the said offended party suffered damages in the amount of P100,000.00, Philippine Currency.

"ACTS CONTRARY TO LAW." (pp. 180, 181, Rollo)

After trial, the Regional Trial Court Branch XXXVI, Iriga City on October 10, 1985, presided over by Hon. Judge Ulysses V. Salvador rendered the decision convicting the accused as charged. The decretal portion reads:

"In view of the foregoing, the Court finds the accused Teodoro Balares guilty beyond reasonable doubt of the offense charged, and therefore, sentences him to suffer the penalty of Reclusion Perpetua, to indemnify the offended party Mrs. Angelita Llorens the sum of P50,000.00 as moral damages and to pay the costs.

"SO ORDERED." (p. 181, Rollo)

Appellant assigns two alleged errors:

I

THE TRIAL COURT ERRED IN ACCEPTING THE VERSION OF THE PROSECUTION IN TOTO WITHOUT EVEN AS MUCH AS SUBJECTING IT TO A CURSORY ANALYSIS, TOTALLY IGNORING FACTS AND CIRCUMSTANCES WHICH RENDER IT EXTREMELY IMPROBABLE, HIGHLY INCREDIBLE AND COMPLETELY UNBELIEVABLE.

II

THE TRIAL COURT ERRED IN REJECTING THE CONTENTION OF THE ACCUSED-APPELLANT THAT HE DID NOT RAPE THE COMPLAINANT AND THAT THEIR SEXUAL ACTS WERE BY MUTUAL CONSENT.

Considering the circumstances of time (daytime) "6:00 p.m." and place (school library), the commission of rape in the instant case was extremely improbable.

The library situated as it was in a place directly approachable from the office of the principal and by students coming from the corridor and ventilated by wide windows, was hardly a place where rape would be committed by a male teacher against a female married co-teacher.

Complainant's narration of alleged rape committed on her is incredible, contradictory, contrary to human experience.

It appears from the records of the case that complainant has three different versions, on how she allegedly was rendered unconscious, to wit:

a)

At the preliminary inquiry. Because of the ensuing struggle immediately following her being pinned against the bookshelves, she fell on the steel bar of a table, then to the cement floor, and was thereby rendered unconscious (Exh. 8-A).

b)

On direct testimony. Having been able "to get free" after being kicked and thrown bodily on the cement floor, at which time the accused tried to lie on top of her, she was dragged to the end of the room and forcibly placed in a sitting position on top of the library table, but because she supposedly was fighting back, she was able to get down. The accused then was trying to "let his organ enter" hers and in the course of her "struggles" she lost her strength, became weak, and fell unconscious (tsn, Nov. 9, 1976, pp. 20-21, 25).

c)

On cross examination. After having been dragged to and forcibly placed on the library table in sitting position, she was able "to get down" because she struggled. She was again being placed on the table but she "slipped" and fell on a kneeling position on the cement floor, then was pushed by the accused, and the nape of her neck hit the steel bar of the table, rendering her unconscious (tsn, Dec. 7, 1976, pp. 46-47).

These successive changes in complainants version of how she allegedly was rendered unconscious, create doubt on the truth and credibility of her testimony. If it were true that she did fall unconscious, she could have easily given a clear and straightforward account of the circumstances immediately leading thereto instead of the muddled, confused story reflected in her testimony. It is quite obvious that she merely made up that story regarding her alleged loss of consciousness.

Another point which seriously detracts from complainant's credibility is her vacillating, uncertain and contradictory statements regarding the manner she allegedly was sexually abused by the accused.

After affirming that she had been rendered unconscious when her nape hit the steel bar of her table, she made the startling revelation that she was still aware of what the accused was subsequently doing to her. Thus:

Q - Now please answer my question, after you immediately hit that steel bar, you did not immediately fall unconscious?

A - Yes, because I first fell on my knees.

Q - Yes, you fell on your knees after which you supposedly... And that is the time you hit your nape on the steel bar. That is your narration, is it not?

A - Yes sir.

Q - Now my question is after hitting that steel bar, did you not immediately lose consciousness?

A - Except that I did not know anymore.

Q - So your answer is you immediately lost consciousness, is that correct? After hitting a steel bar?

A - I did not know a thing.

Q - And then at that moment was he trying to insert his organ in yours?

A - Before I lost consciousness.

Q - Do you mean to tell us while still struggling he was already inserting his penis into yours?

A - Except that he was still trying to insert it.

Q - Even while still standing and struggling?

A - Yes sir. (p. 237, tsn, Aug. 15, 1977, underscoring supplied).

It should be noted, however, that although the alleged trauma on private complainant's nape was so severe that it rendered her unconscious for fifteen to thirty minutes, the two medical certificates issued to her within two days of the alleged incident show no injury in that part of her body.

Likewise, private complainant made inconsistent statements as to when she allegedly lost consciousness. Queried

on this point during cross-examination, the private complainant replied that she was already unconscious when appellant inserted his sexual organ into hers. However, in answer to the same question during the administrative proceedings against appellant, she explicitly stated that she was conscious during the act. Thus:

Q -

Now I will remind you, Mrs. Llorens, of your testimony during the administrative investigation on page 31 hereof upon question of the Chairman of the Committee and I quote:

"Q - And what happened after your nape hit the steel bar of the table?

A - I felt dizzy, I saw stars, but I was half conscious of what he is doing to me.

Q - Since you were conscious of what is being done to you, will you relate what was done to you?

A -

He raised my dress. He lifted the brassier of my breast by force and mashed my breast.

Q - What happened next?

A - He was mashing my breast.

Q -

At that time of your being conscious, did you recall that he was trying to let his organ enter yours and you are still conscious all the time that he is doing sexual intercourse?

A - Yes sir."

Q - Do you recall making that statement?

A - Yes sir.

Q -

Now which is correct your statement here that you were not aware or conscious of that sexual intercourse or your categorical admission that you were so aware?

A - They are all correct.

Q - So you were both unaware and you were also aware, is that what you mean?

A -

What I mean is that when I lost consciousness... What I mean before I lost consciousness he was already trying to do the act to me. (p. 237, tsn, Aug. 15, 1977, testimony of Mrs. Angelita Llorens; underscoring supplied).

It was impossible for appellant
to remove his pants,
polo barong, underwear and
shoes if private complainant
was continuously struggling
with him

Private complainant admitted in her testimony that when she entered the library she found appellant inside fully clad in polo barong and pants. Then later, she just noticed that appellant no longer had his pants, polo barong and shoes on. She could not explain how appellant was able to remove his clothes and shoes while she continuously struggled with him as she alleged. Thus:

Q -

Please remember, Mrs. Llorens, that you said that when you first saw Teodoro Balares inside the library he was in polo barong, pants on, shoes, on. Do you mean to tell us that at the time when you were already being placed on top of the table, he had to remove his polo, pants and shoes?

A - As far as I can remember he has no more down clothing.

Q -

When you said no more down clothing, no pants no underwear?

A - Yes because you can feel it.

x x x x x x x x

Q -

And you cannot tell this Honorable Court at what particular moment he removed his pants, he removed his shoes, he removed his underwear?

A - I just noticed that his lower clothing were no more.

Q -

And despite the fact that at time you said you attempted to run away from him there was a continuous struggle between you and him.

A - Yes sir.

Q - And you did not know when he was able to remove his pants?

ATTY. DY-LIACO:

Already answered, Your Honor.

ATTY. PARDALIS:

Q - During that continuing struggle she could have seen as to when the pants were removed?

A - I did not notice because my concern is to get out of the room.

Q - You did not also notice how he removed his polo barong?

A - I did not.

Q - Is it not true that when he entered the room, he was dressed up because of a concert that evening?

A - Yes sir. (pp. 213-216, tsn, Aug. 15, 1977, testimony of private complainant).

The enigma exists because private complainant insists that despite continuous struggle between her and appellant, appellant was able to completely disrobe. She is unwilling to state that one or the other is not true because it would be disastrous to her case. Yet it must be true that appellant removed his clothes because both he and private complainant so testified in court and sexual intercourse between them (as related by complainant) could not have taken place if it were not. The logical conclusion then is that there was no struggle between private complainant and appellant and that the sex act between them was voluntary.

Seminal stains on the panty
of private complainant
indicative of voluntary
intercourse rather than rape

In convicting appellant, the trial court considered the seminal stains found on private complainant's underwear as proof that she was raped by appellant. On the contrary, the stains support the version of appellant that the intercourse was voluntary. It is highly unlikely for a rapist, who would ordinarily be preoccupied by his victim's struggles, to be concerned about contraception, especially the withdrawal method. The seminal stains found on private complainant's underwear lends credence to appellant's allegation that he and private complainant used the "withdrawal method" for contraception.

The fact that appellant was
unperturbed after the incident
was discovered by his co-teachers
is indicative of his innocence.

Even after the alleged crime was discovered by his co-teachers, appellant was calm. He did not flee to escape prosecution. Instead, he went to see that his pupils-contestants participate in the choral singing contest, as if no crime had been committed by him.

If flight is evidence of guilt, appellant's stay at the scene of the alleged crime after its discovery should be evidence of his innocence (U.S. vs. Alegado, 25 Phil. 310).

It is not improbable for
private complainant to
have an affair with
appellant and claim that she
was raped by him

The lower court opined that it is not in the nature of a Filipina to seduce a man, more so when she has a husband of her own and a reputation to protect.

The lower court ignored the fact that the private complainant's husband was most of the time in Manila working. Probably longing for the marriage consortium's sexual aspect, private complainant might have sought it from appellant. Judicial annals record a few isolated cases of married Filipinas straying from the marital fold.

Having a good reputation as a public school teacher and being the daughter-in-law of the District Supervisor, private complainant had to claim that she was raped by appellant, because her husband's relative, also a teacher in the same school, saw her and appellant in a very compromising situation. She could have filed the charge of rape against appellant as a form of self-protection.

We also consider the Solicitor General's Manifestation recommending the acquittal of appellant Teodoro Balares in view of the insufficiency of the evidence presented by the prosecution to prove his guilt beyond reasonable doubt.

PREMISES CONSIDERED, the appealed decision is REVERSED and SET ASIDE and the appellant is ACQUITTED of the crime charged.

SO ORDERED.

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

[*] Penned by Judge Ulysses V. Salvador.

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