

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MAURO DEL PILAR, ACCUSED-APPELLANT.

G.R. No. 75852. August 11, 1988

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

Indicted for rape, accused-appellant Mauro del Pilar does not dispute the fact that he indeed had carnal knowledge of complainant Miraflor Rivas, a married woman; 22 years of age, with two children, but strongly asserts his innocence of the crime charged, interposing the defense that the carnal act complained of was voluntary -- a mutual expression of the parties illicit and amorous relationship.

According to the information,[1] the crime was committed as follows:

That on or about the 13th day of April, 1984, at 10:00 o'clock in the evening, more or less, at the dwelling house of the offended party at Sitio Calabalol, Barangay Tapon, Municipality of Glan, province of South Cotabato, Philippines, and within the jurisdiction of the Honorable Court, said accused by means of force, violence and intimidation with the use of hunting knife, did then and there have carnal knowledge of one Miraflor Rivas, a married woman, without her consent and against her will.

Upon arraignment, the accused pleaded "not guilty". To obtain his provisional liberty, the accused posted a property bond in the amount of P20,000.00. After due trial, the court[2] rendered judgment, dated April 11, 1986, finding the accused guilty beyond reasonable doubt of the crime of rape and sentenced the accused to suffer the penalty of RECLUSION PERPETUA with the accessories provided by law, to indemnify the offended party in the amount of P15,000.00, and to pay the costs.[3]

As is usual in rape cases, the appeal hinges on the issue of credibility.

Under direct examination, the complainant alleged that in the night of April 13, 1984, at about 10:00 o'clock, she was in her house sleeping with her two children, ages one and three, when her youngest child who was sleeping in a cloth cradle cried. When she woke up to swing the cradle she was surprised to see the appellant inside the house wearing short pants and holding a knife. The room was lighted with a kerosene lamp. The appellant told her not to talk or say anything otherwise he would kill them all. The appellant covered her mouth and pointed a knife at her breast. He forced her to lie down. The appellant then proceeded to remove his pants and placed himself on top of her. She did not shout because she was afraid of his threats that he would kill them all. The knife the appellant was holding in his right hand was about ten inches in length and two inches wide. The appellant then proceeded to "enter" his penis into her vagina, making a push and pull movement until he ejaculated. The act was performed on the floor, about three meters away from her sleeping three-year old child Charito. He was on top of her for about two minutes. While the accused was abusing her she felt great fear because she was afraid that her husband would know about it; that she did not do anything while the accused was on top of her as she was afraid and she could not open her mouth;[4] after the act, the appellant stood up and threatened her that he would "salvage" her family

in case she tells her relatives and her husband about the incident. The following morning, she went to the house of Corporal Solacito. He advised her to go to the police headquarters and to have herself examined by Dr. Alfafara. On April 16, 1984, she went to the police station to have her affidavit taken. She stated that the houses of her brother and sister were only 20 meters distant from her house; that at the time of the incident she was wearing a white T-shirt and skirt; that her skirt and panty were torn by the appellant) that when she told the police about her torn panty and skirt she was told to keep them and bring them only at the trial.[5]

On cross-examination, the complainant declared that she know the appellant since childhood; that on April 12, 1984, she sold coconut shells to the appellant; that the appellant asked her where her husband was and she told him that her husband was in the mountains and had been there since April 6; that her brother Avelino Ugdamen is residing at a distance of 60 meters from her house; that she did not tell her brother about the incident; that her brother-in-law Berto Baklayon and her older sister live in a house just 20 meters distant from her house; that her mother's house is only about 80 meters from her house; that it was Patrolman Alinsugay who investigated her and took her affidavit about the incident on April 16, 1984; that the contents of her affidavit were interpreted to her in the Visayan dialect and the interpretation made mention of her torn skirt and panty.[6] The complainant further alleged that when she at first noticed the appellant inside her house, he was approximately 1 1/2 to 2 meters away from her but from that distance she did not shout as she was afraid, although at that moment, she did not notice the accused holding a knife;[7] that the distance of the flooring of her house from the ground is only one meter; that when her child woke up that evening of the incident, she was just beside the window; that the distance between the window and the flooring of her house is just about the waistline; that with all the chances of escape she refused to even jump over the window because she was afraid the accused would kill her children;[8] that although she did not shout, the accused covered her mouth; that while she was standing, the accused tore her shirt and panty with his left hand while his right hand was holding a knife pointed at her; thereafter, the accused held her right shoulder and forced her to lie down on the floor;[9] while she was in this position, the accused removed his short pants and brief with his left hand, while his right hand was still pointing a hunting knife at her; she did not attempt to stand up while the accused was thus engaged as she was afraid;[10] that she tried resisting the accused when he was already on top of her by pushing and kicking him, but since he was a big man, she did not succeed in pushing him away; that for three minutes while the accused was abusing her, she continued resisting by wriggling her body, although all the while the accused was pointing a knife at her and the other hand holding her left armpit;[11] that she only revealed the incident to Patrolman Solacito so that in case anyone of them dies, the authorities would know who is responsible;[12] that at 4:00 o'clock in the afternoon of April 14, 1984, she went to her mother's house but she did not tell her about the incident, not until her husband arrived.

The other prosecution witness, Dr. Jesus Alfafara, Chief and Director of the Medicare Community Hospital of Glan, South Cotabato since 1977, testified that he examined the complainant on April 14 1984 but that he saw no sign of traumatic injury on her labia majora that this may be due to the fact that she is married with several children; that he found particles of drying seminal fluid on her labia minors and vaginal cavity which would signify "that she underwent sexual intercourse." [13]

Under cross-examination, the witness admitted that there was no sign of injury on any part of the complainant's body.[14]

On the other hand, the accused Mauro del Pilar, 55 years of age, with 14 children, denied the alleged rape of the complainant and instead put up the defense that he copulated with her that night of the incident because they were lovers. His version of the affair is as follows:

It was in the month of January, 1984 when complainant Miraflor Rivas would come visiting his house to eat bibingka in the afternoon while his wife was away, when he noticed that she was trying to attract his attention,

"showing an appearance as if inviting him" to make a pass at her. This was obvious from the complainant's seductive provocations, like when conversing with the accused, she would "open her legs" almost showing him the intimate parts of her body.[15] At first, he was puzzled and he tried to analyze the woman's blandishments. But because she continued on showing him the same provocative attitude, he decided on courting her. When the complainant came to his house on the pretext of buying bibingka, he would refuse payment and started wooing her.

Later, he confronted her by saying "you are showing me parts of your body which tempt me. Since both of us are married, can we not agree to love one another?" The complainant allegedly replied that, "If that is the only purpose, why not?" Thereafter, the accused told her to go to the bank of the river as he would follow her.[16] They had sexual intercourse right there and then. The second, third, fourth, and fifth intercourses all took place at about the same time -- at 2:00 o'clock in the afternoon and at about the same place, right at the bank of the Glan river, or a little farther, or at the bamboo grove almost at the same site.[17] The complainant would usually wear a black or red panty.

In the afternoon of April 13, 1984, the accused and complainant met again "near the bank of the river half-way from their house and our house." No sexual intercourse took place at the site as the place was muddy;[18] however, the complainant invited him to go to her house at 9:00 o'clock in the evening of the same day ostensibly because "they have something to talk about." According to the complainant, her husband was becoming suspicious of their illicit relationship. Hence, at the time agreed upon, the accused went to her house. The complainant opened the door by their kitchen because she made him pass through the kitchen, embraced him, and then they proceeded to the second floor of the house.[19] The intercourse took place in a room separate from that where the complainant's children were sleeping. While talking about the husband's suspicion of their relationship the accused told her that they better separate. The complainant then cried and threatened him that she would report the matter to the authorities. He thought that she was merely joking, not knowing that she was serious when she said she would file a case against him.

We find for the accused-appellant.

While rape is a most detestable crime, and ought to be severely and impartially punished, it must be borne in mind that it is an accusation easy to be made, hard to be proved, but harder to be defended by the party accused, though innocent.[20] As is usually the case, the testimony of the complainant would be the only evidence presented by the prosecution on how the alleged rape was perpetrated, and the same should be regarded with utmost caution and the person charged with the offense should not be convicted unless the complainant's testimony is impeccable and ring true throughout.[21]

A painstaking review of the evidence on record does not convince this Court of the truth of the complainant's testimony. The following facts and circumstances militate against an affirmation of the trial court's finding of guilt:

1. According to the medico-legal report and testimony of Dr. Jesus Alfafara there was no sign of trauma or injury on the private parts of the victim, although there were traces of seminal fluid, showing recent sexual intercourse. Under cross-examination, Dr. Alfafara declared that neither was there the slightest injury in the other parts of the complainant's body. While the absence of injury in her private parts does not negate experience of rape committed against a woman who has borne several children, there must at least be some injury or contusion in her body considering her testimony that she tried to push and kick the accused while the latter was on top of her and that she struggled for three minutes by "wriggling" her body against the rough bamboo flooring of her house to resist the accused. The total absence of any injury is fatal to her claim that she was raped[22] and consistent with the

claim of the accused that the intercourse was voluntary. It was not rape; it was love-making, adulterous though it may be.

2. Since there is nothing in the medico-legal evidence that would support the complainant's claim of rape, the prosecution in its bid to show that the intercourse was committed thru force introduced the complainant's torn panty and skirt. The said pieces of evidence are, however, of doubtful evidentiary value, considering that these were not presented in evidence during the preliminary investigation and that these pieces of clothing only surfaced during the trial of the case in the Regional Trial Court. While the complainant alleged that she told the police investigator about her torn skirt and panty, the sworn statement of the complainant admitted as Exhibit "B", taken by Patrolman Elizardo Alinsugay, made no mention at all of these significant pieces of evidence. The said failure raises grave doubts as to the veracity of her testimony at the trial.

It is also noteworthy that the skirt the complainant was allegedly wearing in the evening of the incident had a garter waistline. But from the observation made by the court, when the same was exhibited at the trial, the skirt was torn from the waist down to the seams. It is somehow difficult to believe why the accused should take the trouble to forcibly tear the complainant's skirt when he could have easily pulled it down considering its garter waistline and the complainant was allegedly still standing when the same was forcibly taken off.

3. A case of rape of a young teenage girl is approached differently from a case of rape of an adult woman. Hence, the conduct of a woman immediately after an assault is of utmost importance in rape cases.[23] The failure of the complainant to report the incident to anyone immediately after the alleged assault, not even to her elder sister and brother-in-law, Berto Baklayon, who were living just 20 meters from her house, or to her brother Avelino Ugdamen whose house is only 60 meters away from her house, or to her mother whose house is only 80 meters distant from her house, is a posture or attitude contrary to human nature and ordinary conduct of a woman who had just been raped. The lack of an outcry from the victim of rape after the offender had left the place contributes to render doubtful her testimony on the alleged rape.[24]

4. The incredibility of the story of the complainant is further exacerbated by the questionable entrance of the accused into her house. Considering that the complainant's husband was away not only at the time of the incident but as early as April 6, 1984, and her companions in the house were but two very young children, it is only logical to presume that she should have bolted her doors and windows to ward off the entrance of any intruder unless the person who comes knocking is expected or welcomed by her. As can be gleaned from the records, the accused gained entrance into her house without any difficulty and no evidence of forcible entry was brought to the attention of the trial court. Hence, the ease with which the accused gained entrance into the complainant's house not only lends credence to the appellant's claim that it was the complainant herself who opened the door for him as earlier agreed upon by them but also strengthens the evidence of the defense that the intercourse being complained of was in fact voluntary.

Under the circumstances, the ulterior motive of complainant in filing the rape charge is given weight. It is not too farfetched to believe the claim of the accused that the complainant's charge of rape would divert her husband's suspicion that she was having an illicit relationship with the accused. Self-inflicted indignity caused by a charge of rape filed by a woman is not a guaranty of the truth of her charge.[25] "Heav'n has no range like love to hatred turn'd, Nor hell a fury like a woman scorn'd."

After having considered the above facts and weighed the evidence presented, we hold that the guilt of the accused has not been established beyond reasonable doubt.

WHEREFORE, the decision of the trial court is hereby REVERSED and SET ASIDE, and the accused-appellant ACQUITTED of the charge, with costs de officio.

SO ORDERED.

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

[1] Rollo, 7.

[2] Regional Trial Court, Eleventh Judicial Region, Branch XXII, Gen. Santos City, South Cotabato, Hon. Marcelino R. Valdez, presiding judge.

[3] Rollo, 13-17.

[4] T.s.n., December 18, 1984, 16.

[5] Id. 20.

[6] Id., 22-23.

[7] T.s.n., January 21, 1985, 36.

[8] Id. 37.

[9] Id., 40.

[10] Id., 41.

[11] Id., 43.

[12] Id., 46.

[13] T.s.n., November 19, 1984, 2-5.

[14] Id., 6-7.

[15] T.s.n., May 7, 1985, 56.

[16] Id., 63.

[17] Id., 58.

[18] Id., 64.

[19] Id., 66.

[20] U.S. v. Flores, 26 Phil. 262, 629.

[21] People v. Tapao, No. L-41704, October 23, 1981, 108 SCRA 351, 354.

[22] People v. Suñga, No. 57875, July 5, 1983, 123 SCRA 327; People v. Jervoso, No. L-36530, September 29, 1983, 124 SCRA 765.

[23] People v. Hayag, No. L-38635, November 17, 1980, 101 SCRA 67, 83.

[24] People v. Estacio, No. 54221, January 30, 1982, 111 SCRA 537, 549.

[25] People v. Flores, No. L-17077, April 29, 1968, 23 SCRA 309, 326.

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