

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DOMINADOR AVERO, DEFENDANT-APPELLANT.

G.R. No. 76483. August 30, 1988

Ponente: PARAS, J.

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PARAS, J.:

Convicted of Rape and sentenced to reclusion perpetua and to indemnify the complainant the sum of P30,000.00, by the Regional Trial Court of Abra, Branch I, the accused Dominador Avero has interposed this appeal challenging mainly the credibility of complainant Janet Avero, and the appreciation of evidence by the trial court.

The testimony of Janet (who was exactly 12 years, 8 months and 3 days old at the time of the incident) which the trial court found credible (Decision, p. 51), narrates the facts of the case thus:

“[O]n February 11, 1984, at about 12:00 noon or thereabouts, at Barangay Bayaan, Dolores, Abra, while she was on her way home from the river after washing clothes therein, accused Dominador Avero, all of a sudden appeared and met her on the path-way, then grabbed her by placing his hands around her waist; that she shouted but Avero covered her mouth (inapnot) and thereafter he brought her to a field where camotes were planted (laplapog); that upon arrival thereat, the herein accused forcibly lowered her short pants and panty, and thereafter removed his own long pants, lowered his brief and then raped her; that while accused was on top of her, he moved his waist back and forth and that although he was not able to insert all his penis into her va-gina, she felt something warm coming from his penis; that accused was armed at the time with a bolo which he used to threaten her and that after raping her, he warned her not to report to her father lest he would kill both of them; that she did not report to her father about the rape when she arrived home because she was afraid of the death threats of accused; and that she eventually reported the incident to her father after the lapse of eight (8) days and thereafter gave a statement to the PC and submitted herself for physical/medical examination at the Abra Provincial Hospital.” (Decision, p. 3).

The testimony of the father of Janet, Clarito Avero, which the trial court likewise found credible runs as follows:

“[O]n February 19, 1984 he went to send his daughter Janet to fetch water, but the latter refused; that upon inquiry why she refused, he sensed that she seemed not to be feeling well, and when he went near her, he noticed that she was crying, and upon further questions why she was cry-ing, Janet broke down to tears and narrated how she was raped by accused Dominador Avero when she came from the river to wash clothes on February 11, 1984; that he further testified that his daughter, upon reaching the field planted with camotes (laplapog) on her way home, Dominador Avero all of a sud-den appeared on the pathway and caught Janet by her waist (sinibet) and thereupon carried her, at the same time covering her mouth, and then brought her in a forested area, and while thereat, kissed her several times, then forcibly removed her panty and had sexual intercourse with her; that there-after, Dominador Avero warned Janet not to report lest he (Dominador Avero) will kill her and her father, that on February 21, 1984, or two (2) days after he was in-formed by his daughter of what Dominador Avero did to her, he and Janet went to the PC Camp at Bangued, Abra, and reported the matter and gave their statements; and that there-after, he likewise brought Janet to the Abra Provincial Hospital for medical exami-nation.” (Decision, pp. 2-3)

Dra. Adela Vera Cruz, a resident Physician of the Abra Provincial Hospital, conducted a medical examination of the complainant on February 21, 1984 and made the following findings:

"BREAST - Conical, small, pinkish areola

and nipple

"GENITALIA - External - no pubic hair labia majora and minora coaptated pinkish

"HYMEN - shallow, old laceration 12 o'clock deep, old laceration 3 o'clock and 9 o'clock."

(Rollo, p. 86, Brief for appellee, p. 4)

Accused-appellant, a 64 year old man and uncle of the victim, claims that he was elsewhere when the crime was committed. Thus, he testified that in the afternoon of February 10, 1984, one Emiliano de Guzman, Jr. fetched him to visit a sick relative, Emiliano de Guzman, Sr. in Narvacan, Ilocos Sur. On February 11, 1984, at about 6:00 o'clock in the morning, they left for Narvacan and arrived there at about 8:30 on the same morning.

By the nature of the offense of Rape, conviction or acquittal depends almost entirely on the credibility of complainant's testimony because of the fact that usually only the participants can testify as to its occurrence. (People v. Egot, 130 SCRA 134; People v. Alcid, 135 SCRA 280; People v. Ibal, 143 SCRA 317).

The trial court evaluated the credibility of the complainant Janet Averro as follows:

"Complainant, in the case at bar, was exactly 12 years, 8 months and 3 days at the time of the incident (Exh. E) and is therefore too young and too raw to fabricate a serious charge for rape against her own uncle, the accused herein." (p. 74, Rollo)

It is a well-settled rule that appellate courts will generally not disturb the factual findings of the trial court considering that it is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial.

We have carefully reviewed the records of the case and we find no reason to depart from this established rule.

Appellant claims that the fact that Janet did not immediately report the rape to her father or to the authorities casts doubt on the veracity of her testimony that she was raped. This is not true. As held in the case of People v. Oydoc (125 SCRA 250, 256):

"One should not expect a fourteen-year old girl to act like an adult or mature and experienced woman who would know what to do under such difficult circumstances and who would have the courage and intelligence to disregard a threat on her life and the members of her family and complain immediately that she had been forcibly deflowered. It is not uncommon for young girls to conceal for sometime the assaults on their virtue because of the rapist' threat on their lives, x x x."

Janet, on the witness stand testified:

"I was afraid sir because he (accused) told me that if I report the matter to my father, he would kill both of us." (tsn, August 22, 1984, p. 15; Rollo, p. 93).

It has long been held that no young Filipina of decent repute would publicly admit that she had been criminally abused and ravished, unless, that is the truth. For it is her natural instinct to protect her honor. (People v. Ibal, supra). And when a victim says that she has been raped, she says in effect all that is necessary to show that the rape has been committed, and if her testimony meets the test of credibility, the accused may be convicted on the basis thereof (People v. Royeras, 56 SCRA 666; People v. Reglos, 118 SCRA 344).

Appellant's defense of alibi cannot be given any credence. As aptly ruled by the trial court, it is the weakest of defenses especially where it lacks corroboration from competent witnesses and it is worthless in the face of explicit and positive identification by prosecution witnesses. (p. 6, Decision; p. 75, Rollo).

Significantly, the record shows that appellant took flight immediately after the incident. The warrant of arrest was issued on March 13, 1984 but the accused was arrested and committed in jail only on May 30, 1984 because apparently he had left the province of Abra after February 11, 1984. Flight of the accused signifies an awareness of guilt and a consciousness that he had no tenable defense to the rape charge. (People v. Manligas, 140 SCRA 18).

WHEREFORE, the decision appealed from is hereby AFFIRMED. Costs against accused-appellant.

SO ORDERED.

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

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