

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALFREDO NUÑEZ @ “TEBAN,” ACCUSED-APPELLANT.**

G.R. No. 79316. April 10, 1992

Ponente: NARVASA, J.

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NARVASA, J.:

Rape is essentially an offense of secrecy, not generally attempted except in dark, or deserted and secluded places, away from prying eyes. Hence it is that a prosecution for the crime usually commences solely upon the word of the offended woman herself, and conviction invariably turns only upon her credibility as the people's single witness of the actual occurrence. It consequently behooves the court to exercise the greatest degree of care and caution in the consideration and analysis of her testimony, and no conviction should be handed down except only if it appears that her sincerity and candor are free from suspicion.[1]

The accused may, to be sure, be convicted even on the sole basis of complainant's testimony provided this be credible, natural and convincing, and otherwise consistent with human nature and the course of things;[2] to suffice for conviction, her testimony must be free of serious contradiction, and ring true throughout;[3] and in the assessment of the testimonial credit of the wronged woman, evidence of her conduct immediately after the alleged assault is of utmost importance.[4] These norms are unfortunately not met by the evidence given by the offended party herself in the case at bar. Acquittal of the appellant on reasonable doubt must perforce be this Court's verdict.

The appellant, Alfredo Nuñez, was convicted by the Regional Trial Court at Malolos of the crime of rape perpetrated against Ruby Nuñez and sentenced to suffer the penalty of reclusion perpetua and indemnify the latter in the amount of P30,000.00, as well as to pay the costs of the action.[5] The complainant, Ruby Nuñez, is married to Edmundo Nuñez. Edmundo is the first cousin of Alfredo Nuñez.

The Court accorded full credit to Ruby Nuñez's sole, uncorroborated testimony, now briefly summarized hereunder.

The rape, Ruby says, took place on the night of November 20, 1985 in her house in Malipampang, San Ildefonso, Bulacan. It is a small, one-storey house, measuring eight by ten feet, with an entrance but no door, and two windows, one covered with transparent plastic and the other, fine chicken wire and coarse burlap. She was alone in the house, except for her two children, six and two years old. Her husband, Edmundo, was away, at work in the adjacent barangay of Calawitan, threshing palay.

At about 11 o'clock that night, Ruby says she was awakened by the weight of a man on top of her, who was kissing her. She tried to scream, but the man covered her mouth with one hand while with the other, he raised her blouse and grasped one of her breasts. She pushed him away by his right shoulder but he took hold of her hands and threw them forcefully to the floor. He then pinned her thighs with his knees. Ruby says that at this point she could no longer put up any resistance, and the man succeeded in raising her skirt and removing her panties. Then, while in some sort of shock, she felt him penetrate her and consummate his lust. He left immediately afterwards,

but not before threatening her with harm should she tell her husband of the incident.

Ruby Nuñez says, too, that although there was no longer any lamp lit in the house at the time, there was some light streaming in from her neighbor's house, and by that light, she recognized appellant because of his build.

Ruby says her husband, Edmundo Nuñez, came home about an hour later, at midnight. Edmundo was riding a motorized tricycle operated by his cousin, Alfredo Nuñez. Actually, Alfredo had brought Edmundo to his place of work in the morning of that same day; in fact, and already for about two (2) weeks, Alfredo Nuñez had been taking Edmundo to his place of work and fetching him therefrom.

Ruby did not tell her husband on his arrival of what his cousin had done to her. She tried to relate the event to her husband the following morning but was unable to complete her narrative, for when she came to the part where she said that Alfredo had embraced and kissed her, and touched her private parts, Edmundo had become so enraged that she no longer told him of the rape. According to her, Edmundo had immediately rushed out of the house in search of his cousin but did not find him until several days later, when he came upon Alfredo driving his tricycle; Edmundo boxed Alfredo but the latter did not stop and thus avoided any further harm.

Ruby says she presented a formal accusation against Alfredo Nuñez six (6) days later, on November 26, 1985. Accompanied by her mother-in-law, she went to the barangay captain and before him executed a written complaint, but alleged only that Alfredo had embraced and kissed her, and touched her private parts on the night of November 20, 1985. She made no mention of the rape because, according to her, she had not yet told her husband about it. She did so only two (2) days later, on November 28, 1985, nine (9) days after the supposed rape, after which she went back to the barangay captain to report the matter. On the latter's direction, however, it was to the police instead that she ultimately reported Alfredo Nuñez's violation of her chastity; and in the evening of the same day, she submitted herself to a medical examination.

Alfredo Nuñez was arrested. While Alfredo was in the municipal jail -- and according to Ruby, as she, her husband, Edmundo, and the latter's sister, Edna, were walking past his cell -- he pleaded for pity and forgiveness.

As already stated, the Trial Court pronounced Ruby Nuñez's testimony of the foregoing facts adequate to establish the appellant's guilt of the felony of rape beyond reasonable doubt, overruling in the process the latter's proffered defense of alibi and his submission that Ruby's evidence was fatally flawed by grave contradictions.

The Trial Court did not believe Alfredo Nuñez's story, narrated on the witness stand in his defense, that he did not commit and could not have committed the crime imputed to him because at the time of its alleged perpetration, he was then in Calawitan, three kilometers away from Ruby's house in Malipampang; that he was in Calawitan, precisely to fetch and bring home on his tricycle Ruby's husband, Edmundo, and his (appellant's) own brother, Eduardo; that on that night, he had left Malipampang for Calawitan at 9:50 o'clock, and he and his companions had left Calawitan for home at about 11:45 o'clock, riding on his tricycle; that when they arrived at Edmundo's house, they had partaken of some milk served by Ruby Nuñez herself, and he had smoked a cigarette before leaving. Neither did the Trial Court believe that Ruby Nuñez's testimony was seriously at odds with her sworn statement before the barangay captain or the other evidence on record.

Alfredo Nuñez has appealed to this Court and prays for reversal of the Trial Court's verdict, arguing that the Court a quo erred in:

- 1) "giving credence to the testimonies of the prosecution witnesses and ** disregarding the evidence for the defense;
- 2) "convicting ** (him) despite the failure of the prosecution to fully establish ** (his) identity **;

3) “convicting ** (him) despite the failure of the prosecution to prove his guilt beyond reasonable doubt.”

The rule, of course, is that the findings and conclusions of trial courts, which have the opportunity to directly observe the demeanor of the witnesses and analyze the evidence at first hand, should be accorded great respect and should not generally be disturbed on appeal. The exception is when it appears that the Trial Court has ignored or failed to appreciate facts and circumstances of such weight and substance as to place in grave doubt the validity of its findings and conclusions. The case at bar is comprehended in the exception and on this account must terminate in the appellant's absolution.

There are perceived defects in Ruby Nuñez's testimony which militate against according it the full credit it was given by the Trial Court. Considered singly and independently of any other, the defects might not suffice to overturn the Trial Court's judgment of conviction; but assessed and weighed conjointly, as logic and fairness dictate, they exert a powerful compulsion towards reversal of said judgment.

There is in the first place the improbability inhering in Ruby's account of her violation. It is plain from the evidence that Alfredo Nuñez was unarmed. He carried no instrument of violence of any kind. He uttered no threats against Ruby or her children, who were sleeping beside her. Yet she would have the Court believe that the accused, without weapons or threats, had rendered her unable to resist his lustful aggression by first covering her mouth with one hand and holding one of her breasts, then flinging her hands to the ground, and pinning her knees with his thighs. She had thereby become so helpless that the appellant was able to remove her panties and satisfy his perverse desires. And all the while that the accused was preparing to carry out his lustful intent, the only physical resistance she offered was to push him back by his right shoulder, and to mumble the word, “traitor.” She did not try to slap him, scratch his face, hit him, box him, kick him, get away from under him. After her first attempt, she made no further effort to shout or scream; nor did she seek to wake the children lying beside her. It was only after the appellant had allegedly satisfied himself that he uttered a vague threat of some harm that would befall her if she should tell her husband of the happening. A story such as this does not inspire belief of the commission of a felony. Rather, it indicates either that the sexual encounter did not occur at all, or that it was consented to by the woman after some initial reluctance.

If she had in truth been raped, it would normally be expected that she would tell her husband about it immediately on his return from work, perhaps with much revulsion, distress, weeping. Not only did she not tell her husband about her repulsive violation when he arrived with her violator, she also proceeded --according to the appellant -- to serve them milk.

Now, it is undisputed that no report to the police or any municipal authority was made by Ruby until after six (6) days from the alleged offense. The record shows that on November 26, 1985, Ruby executed a sworn statement before the barangay captain, Exhibit “1,” in which she declared the following:

- 1) on the night and at the place in question, the appellant had indeed laid himself on top of her, kissed her, and touched her breast and private parts;
- 2) but she had resisted; she had kicked him and cursed him aloud;
- 3) and Alfredo Nuñez had desisted from any further sexual assault and left the house when she threatened to tell her husband about the event;
- 4) she did tell her husband about Alfredo's attack however, on the following night;
- 5) her husband had not then said anything although it seemed to her that he harbored ill feelings towards her attacker, his cousin.

Her sworn statement is palpably in contradiction of her testimony in court. In court she declared that Alfredo had actually consummated the rape; in Exhibit 1, Alfredo had committed at most attempted rape or abusos deshonestos. In court, Ruby did not mention the kicking and loud cursing she claims in Exhibit 1 to have made at the time that Alfredo was attempting against her virtue. She did not say in Court that she had threatened to tell her husband about the attack, as she does in Exhibit 1. She told the Court she informed her husband about Alfredo's crime on the following morning, contrary to what she says in Exhibit 1. In court, Ruby said that when she told her husband about Alfredo's offense, her husband had become so terribly infuriated that he had immediately rushed out to avenge the wrong done to his wife; whereas in Exhibit 1, Ruby says that her husband had merely kept silent although he appeared resentful. These are strange contradictions regarding events which are fairly simple and uncomplicated.

It may also be asked, if Ruby had already unburdened herself to her husband about his cousin's attempt to rape her, why the formal complaint of that offense was not made to the barangay captain until six (6) days later, or on November 26. If it is true that her husband had become fiercely furious in the morning of November 21, 1985 -- instead of merely keeping silent, as Ruby says in her Exhibit 1 -- so furious in fact that he had rushed out to look for the appellant and exact revenge, there is no reason why a report of the crime -- at least as much of it as had thus far been disclosed by Ruby -- should not have been made until several days afterward. And when at last the formal complaint was made on November 26, 1985 before the barangay captain, there is still the intriguing question why the complaint was not of consummated rape, but only of an attempt to commit it; for surely, this was already the appropriate time therefor: the husband could not have become angrier, by this time his rage must have already somewhat subsided, he having already sought out his cousin, found him and boxed him, and so the apprehension that he would try to kill his wife's assailant had become quite remote. There was no longer a strong enough reason to still withhold the real nature of the offense allegedly committed against Ruby Nuñez. Yet it still took another two days before a complaint charging the supposedly correct crime was submitted to the police. Inconsistencies such as these cannot but detract from Ruby Nuñez's credit as a witness.

There is, too, the oddity of the complainant's own reaction on seeing the person who had allegedly raped her only about an hour earlier. She did not accuse him, revile or denounce him, show rage, revulsion, disgust. Instead, she served him some milk, and suffered him to stay at her home and leisurely smoke a cigarette before going home. Such a nonchalant, unconcerned attitude is totally at odds with what might naturally be expected of a person who had just suffered the ultimate invasion of her womanhood.

It is highly unlikely, in addition, even foolish or foolhardy, one might say, considering the routine established over twenty days between Alfredo Nuñez and his first cousin, Edmundo -- i.e., Alfredo would bring Edmundo on his tricycle to the latter's place of work at a neighboring barangay in the morning and then pick him up from that place late at night to bring him home on the same tricycle -- for Alfredo to sexually assault his cousin's wife shortly before leaving to fetch her husband from work, and actually to bring him home to his just ravished wife, enter her home and stay there for a few minutes, drinking milk and smoking a cigarette.

There is furthermore the negativity or innocuousness of the medical examination to which Ruby Nuñez eventually submitted herself. The examination disclosed no sign of any violence on her person, no indication that she was the victim of a rape at all. Of course, it might be stated that no such signs or indications could be expected from a medical examination undertaken eight or nine days after the supposed rape; but this certainly is not a fault for which the appellant should be blamed; it is a situation for which Ruby Nuñez must take exclusive responsibility.

Finally, there is the admission elicited from Ruby Nuñez that there was a misunderstanding between her family and the appellant's family concerning the sale of a parcel of land, in connection with which, in Ruby's own words, appellant's "parents and other members of the family are trying to disgrace me because of that incident;" and

although she explained that her family “ignored that incident ** (and) tried to have a smooth relationship with ** (Alfredo’s) family **,” the possibility of some ulterior motivation on Ruby’s part for proffering her inconsistent criminal complaints cannot be altogether ignored.

It must be conceded that the appellant’s defense of alibi is weak;^[6] the facts upon which it is based do not totally preclude his being present at the scene of the crime at the time of its supposed commission, considering the proximity thereof to the place where he claimed he was on that occasion. The settled rule, however, is that conviction should rest on the strength of the prosecution’s evidence and not on the weakness of the defense.^[7] In this case, it appears to the court that the prosecution has failed to present proof sufficient to overcome the constitutional presumption of innocence in appellant’s favor who therefore, merits acquittal.

There are in this case, as earlier pointed out, “facts of substance and value militating against an affirmation of the finding of guilt,” and this proscribes the imposition of any criminal sanction on the accused, “particularly when the evidentiary rule is recalled that in crimes against chastity, the testimony of the injured woman should not be received with precipitate credulity, and when the conviction depends at any vital point on her uncorroborated testimony, it should not be accepted unless her sincerity and candor are free from suspicion.”^[8] Considering and appraising the entirety of the evidence, it is not possible for this Court to declare that the complaining witness’ sincerity and candor are indeed free from suspicion.

WHEREFORE, the judgment appealed from is REVERSED, and the accused-appellant, Alfredo Nuñez @ “Teban,” is ACQUITTED on reasonable doubt, without pronouncement as to costs.

SO ORDERED.

Cruz, Griño-Aquino, and Medialdea, JJ., concur.

Belosillo, J., on leave.

[1] SEE *Peo. v. Co*, 163 SCRA 453; *Peo. v. Quidilla*, 166 SCRA 778; *Peo. v. Pacnis*, 165 SCRA 609; *Peo. v. Avero*, 165 SCRA 130; *Peo. v. Mejias*, 168 SCRA 33; *Peo. v. Tabago*, 167 SCRA 65

[2] *Peo. v. Tabago*, 167 SCRA 65, *supra*

[3] *Peo. v. Ramos*, 167 SCRA 476

[4] SEE *Peo. v. del Pilar*, 164 SCRA 280

[5] Per Decision rendered by Judge Pablo S. Villanueva on June 20, 1987. Rollo, p. 25

[6] SEE e.g., *Peo. v. Talla*, 181 SCRA 133 (1990), citing *Peo. v. Onquillano*, 149 SCRA 442 (1987); *Peo. v. Acelejado*, 148 SCRA 147 (1987)

[7] SEE *Duran v. Court of Appeals*, 71 SCRA 68 (1976); *Peo. v. Solis*, 182 SCRA 182 (1990), citing *Peo. v. Hora*, 153 SCRA 21 (1987)

[8] *Peo. v. Francisco*, 105 SCRA 517, 527

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