

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BERNARD ALDANA, DEFENDANT-APPELLANT.

G.R. No. 81817. July 27, 1989

Ponente: CORTES, J.

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CORTES, J.:

This is an appeal from the decision of the Regional Trial Court of Bacoor, Cavite, Branch XIX in Criminal Case No. B-85-49, convicting the accused-appellant Bernard Aldana of the crime of rape and sentencing him to suffer the penalty of reclusion perpetua, to indemnify the offended party Stephanie B. Hutchison in the amount of P30,000, and to pay costs.

Based on a complaint filed by Mrs. Ofelia Barrioquinto-Hutchison, mother of the alleged victim, before the Municipal Court of Bacoor, Cavite on August 29, 1984, an information dated December 29, 1984 was filed charging the accused with the crime of rape, committed as follows:

* * *

That on or about the 18th day of August 1984, in the Municipality of Bacoor, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence and intimidation, did, then and there, wilfully, unlawfully and feloniously abuse, ravish and have carnal knowledge of one Stephanie B. Hutchison, against her will and without her consent, resulting to her damage and prejudice.

* * *

[Rollo, p. 11.]

The accused having entered a plea of NOT GUILTY, trial ensued.

The prosecution sought to prove the following essential facts:

Stephanie B. Hutchison, a thirteen and one half (13 1/2) year old high school student, and Bernard Aldana, an eighteen (18) year old college student were neighbors since 1982 in Talaba, Bacoor, Cavite. Their respective two-storey houses were only two to three meters apart. The accused started to court Stephanie in early 1984, but she refused to be his girlfriend [TSN, July 8, 1987, p. 2.]

According to the prosecution, on August 19, 1984*, at about 3:00 o'clock in the morning, Stephanie was awakened from her sleep and felt the presence of someone inside her bedroom (a room she shared with her mother) located on the second floor of the house. She was about to scream when the accused covered her mouth with his right hand and pointed a knife at her. Despite her resistance, the accused succeeded in having sexual intercourse with her. Having accomplished what he came for, the accused stood up, put on his briefs and left through the ungrilled window of the room from which three slats of glass jalousies had been earlier removed by him to gain entry into the room [TSN, May 20, 1985, pp. 4-8; TSN, June 11, 1985, pp. 14-25.]

Immediately thereafter, Stephanie transferred to her younger brothers' room and cried. She did not tell anyone

about the incident until August 26, 1984 when her mother came home from work for the week. (During the months of June, July and August, her mother who was then working with the Bureau of Customs at the Manila International Airport from 6 P.M. to 3 A.M., and as a caretaker of a friend's house in Dasmarinas Village, Makati, did not go home every day.) Stephanie and her mother reported the incident to the police and she, thereafter, submitted herself to a medical examination by Dr. Alberto M. Reyes of the National Bureau of Investigation [TSN, May 20, 1985, pp. 8-16; TSN, June 11, 1985, pp. 5-11.]

Dr. Reyes testified and submitted a report concluding that although there were genital findings compatible with sexual intercourse with a man on or about the alleged date of commission, there was no evident sign of extragenital physical injuries noted on Stephanie at the time of examination [Exhibit "D".]

On the other hand, the defense sought to establish the innocence of the accused by proving that he and Stephanie were sweethearts and that, by mutual consent, they developed a sexually intimate relationship.

Accused claimed that soon after Stephanie accepted his offer of love on June 4, 1984. Stephanie suggested to Bernard that since her mother infrequently went home from work, they should see each other in her bedroom. Stephanie told him that she would remove three slats of the ungrilled jalousie window so that he could enter the room. The accused agreed to the plan. Thus, on four subsequent occasions, the accused climbed into Stephanie's room at around midnight, and the couple would spend about an hour talking and caressing each other [TSN, October 7, 1985, pp. 9-15, 20-22.]

On August 11, 1984, the accused and Stephanie had sexual intercourse for the first time. On two more occasions, August 13 and 15, the accused returned to her room and the young lovers made love [TSN, October 7, 1985, pp. 22-24; TSN, November 5, 1985, pp. 9-10.]

In the early morning of the 18th of August, as Bernard once again entered her room, Stephanie warned him that her maid was sleeping in the room with her. But as he was about to leave, the maid woke up and turned on the lights of the room. The maid asked him what he was doing and he revealed that he was there at Stephanie's invitation. The accused then hurriedly left the room [TSN, October 7, 1985, pp. 24-25; TSN, January 7, 1986, pp. 4-6.]

After trial, the court rendered judgment on November 2, 1987 finding the accused guilty beyond reasonable doubt of the crime of rape.

On appeal, the accused raises the following errors:

I. THE TRIAL COURT ERRED IN NOT GIVING CREDENCE TO THE EVIDENCE FOR THE DEFENSE;

II. THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.

In the review of the evidence presented in the case, this Court was guided by three established principles, to wit: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent to disprove; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and, (3) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense [People v. Quintal. G.R. No. L-49656, November 25, 1983, 125 SCRA 734; People v. Antonio, G.R. No. 53984, May 5, 1988; People v. Geneveza, G.R. No. 74047, January 13, 1989.]

For while it is undeniable that rape is a most detestable crime and therefore, its perpetrators should be severely

and impartially punished, the testimony of the alleged victim should not be accorded unquestioning acceptance by the courts. The evidentiary rule is that in crimes against chastity "when the conviction depends on any vital point upon her (the alleged victim's) uncorroborated testimony, it should not be accepted unless her sincerity and candor are free from suspicion. A little insight into human nature is of most value in judging matters of this kind" [People v. Fausto. 51 Phil. 852, 856 (1928); See People v. Francisco, 192 Phil. 752 (1981); People v. Estacio. G.R. No. 54221. January 30, 1982. 111 SCRA 537; People v. Cui, G.R. No. L-48084. June 20, 1988; People v. Ymana, G.R. Nos. 54161-62, March 9, 1989.]

In the light of the foregoing principles and after a painstaking study of the evidence on record, the Court finds that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt.

A. The uncorroborated testimony of the alleged victim as to the manner by which the accused allegedly overpowered and violated her through force and intimidation does not inspire belief.

Stephanie testified that soon after she detected his presence in the room, the accused covered her mouth with his right hand to prevent her from screaming or shouting for help. The accused held in his left hand a knife and poked it at her waist, instilling fear in her. The accused allegedly twisted her right hand behind her back and forced her down the bed by pulling her feet with his left hand, and pressed the weight of his body against her. Nevertheless, she struggled by kicking his legs and moving her body (torso) from side to side. The accused however held down her feet with his left hand. Also with the use of his left hand, the accused stripped off her pajama pants and panty, as well as his briefs. But because of the effort she made to try to free herself, the accused was unable to strip off her pajama top. Unfortunately, despite her efforts at swaying her torso from side to side and keeping her legs together, the accused succeeded in parting her thighs with his legs and feet and penetrated her without the aid of his hands [TSN, May 20, 1985, pp. 4-20; June 11, 1985, pp. 13-23; June 13, 1985, pp. 3-25.]

It is worth noting that Stephanie categorically declared on several occasions that the accused never took away his right hand from her mouth, thus preventing her from screaming for help nor loosened the grip of his left hand on his knife poised at her right side until after he had raped her [See TSN, June 11, 1985. pp. 21-25; TSN, June 13, 1985. pp. 9-16. 22-25.]

Testimony to be believed must not only proceed from a credible witness, but must itself be credible. No better test has yet been found to determine the value of the testimony of a witness than its conformity to the knowledge and common experience of mankind [People v. Baquiran, G.R. No. L-20153. June 29, 1967, 20 SCRA 451; People v. Peruelo, G.R. No. 50631, June 29, 1981, 105 SCRA 226.] Considering the degree of resistance the alleged victim purportedly made and the very peculiar position assumed by the accused all throughout the incident, i.e. his body pressed down on the left side of her body, his right hand covering her mouth and his left hand holding a knife at her side (notably the same hand which was used to unclothe her, to remove his briefs and to hold her feet down), the Court finds incredible the claim that the accused was able to penetrate her as she described [People v. Apari, G.R. No. L-28323, June 29, 1982. 114 SCRA 620; People v. Cabading, G.R. No. 74352, June 6, 1989.] Unless the accused were an adept contortionist of extraordinary strength and virility, which he was not shown to be, or the alleged victim were paralyzed with fear, which her testimonies on direct and cross examination refute, Stephanie's version of the incident fails the test of common knowledge and experience.

Moreover, Stephanie's admission that she did not use her unrestrained left arm and hand either to pull the hair of the accused or to box him when he mounted her [TSN, June 13, 1985, pp. 10-19] betrays a significant inconsistency in her testimony.

Stephanie testified that the accused neither held nor pinned down her left arm and hand. Yet she admitted that she only used her left arm and hand to ward off the accused as he was pressing her down on the bed and removing her

pants and panty (TSN, June 13, 1985, pp. 10-19.) She claimed that she ceased using her left arm and hand to fight the accused because she feared that he would harm her with his knife. But this explanation is not consistent with her claim that she unwaveringly struggled and fought the accused by kicking his feet and legs, and by swaying her torso from side to side, even as he penetrated her and notwithstanding the knife pointed at her side [TSN, May 20, 1985, pp. 4-7; TSN, June 13, 1985, pp. 6-19, 23-24.] At any rate, this inexplicable inconsistency casts serious doubt on the veracity of the alleged victim's testimony.

Finally, Stephanie's conduct after the alleged rape incident does not correspond with the normal reaction of a victim of this hideous crime.

On the one hand, Stephanie testified that because the accused threatened her, she did not shout or scream for help even after the accused, left her room. She merely left her room and transferred to her younger brothers' room and cried. She did not attempt to get in touch with her mother while the latter was away at work; she reasoned that she was afraid to leave her house because the accused warned her not to reveal what had happened. Neither did she bother to tell her uncle, Arnold Perez, who was then staying with her family, or her brothers and close friends. The only time she informed anyone of the incident was when her mother arrived from work a week later [TSN, June 11, 1985, pp. 3-11.]

But on the other hand, she admitted that on the evening following the day she was allegedly raped, she slept once again in her bedroom alone [TSN, June 13, 1985, pp. 27-31.]

If indeed Stephanie were a victim of rape through force and intimidation, why would she continue to sleep alone in the very same room where she was forcibly violated? The normal reaction of a thirteen (13) year old victim, especially one who had not confided to anyone that she was raped, would have been to avoid that room which would remind her of the disturbing incident and trigger overwhelming fright and confusion.

On rebuttal, Stephanie and her maid Joela Almonte testified that the accused returned to Stephanie's room in the early morning of August 24, 1984; but this time Joela or "Ella" (who had just arrived from the province the day before) was also in the room.

Joela testified that she was awakened by the presence of somebody else in the room and switched on the lights. She saw the accused inside the room standing by the window while Stephanie was sitting in a corner. Joela demanded to know what he was doing there. Then she went downstairs to get help from the uncle of Stephanie but he was not in the house. Meanwhile, the accused hurriedly climbed out of the room through the same window he had used on August 19, 1984. When Joela returned to the room, she found Stephanie crying. Afterwards, both of them fell back to sleep. The next day, when Stephanie's mother arrived, she told her what happened [TSN, Joela Almonte, May 15, 1987, pp. 17-22.]

Stephanie testified as follows:

* * *

ATTY. VICTORIANO:

On that occasion August 24 did you converse with accused?

A No, sir.

Q Did anyone converse with him?

A No, sir.

Q About Ella. Did she talk to the accused?

A She asked, "Why are you here." We were surprised because another person was inside.

Q What was the reply? If there was any?

A There was no reply.

Q What happened after that?

A When Ella went to the door to get some help downstairs, the accused suddenly left.

Q How about you? You did not do anything when the accused was inside the bedroom?

A What can I do? Because I was confused. I was crying.

Q You did not tell Ella to do anything?

A No, sir. Because I was confused.

Q You did not attempt to leave your bedroom at that time?

A I did not know what to do. I just sat down on a corner.

Q As a matter of fact, you did not even shout nor scream?

A I couldn't do that. I was confused.

* * *

[TSN, July 8, 1987, pp. 8-9.]

Assuming that the presence of Joela calmed Stephanie's fears enough to allow her to sleep in her room on the evening of August 23, 1984, a stronger outburst of fear and repulsion from Stephanie is reasonably expected after a second intrusion by the accused. Instead, although Stephanie was supposedly crying in a corner after the accused left no testimony was made by either one of them that Stephanie had to be comforted or consoled. As a matter-of-fact, Joela claimed that after the accused left the room, she and Stephanie fell back to sleep in the same room until next morning. Neither one of them bothered to look for and replace the three glass jalousies supposedly removed by the accused to gain entry, nor to shut and lock the window after the accused left. It is also relevant to note that Stephanie did not disclose to her maid that the intruder had raped her the week before. Stephanie's behavior and explanation for it do not sustain belief in her testimony.

B. For its part, the defense presented as witnesses Mrs. Erlinda Aldana, mother of the accused, and Mrs. Josefina Guadarama, a friend of the Aldana family and an acquaintance of Mrs. Ofelia Hutchison. Both ladies testified that on June 16, 1985, they went to the house of Mrs. Hutchison with the primary purpose of convincing the latter to withdraw the case against the accused. Mrs. Hutchison however refused to agree and revealed that she was mad at the parents of the accused, specifically his father, and had in fact made it appear that the accused threatened Stephanie with a knife so as to make the charge graver [TSN, E. Aldana, February 11, 1986, pp. 9-14; TSN, J. Guadarama; December 8, 1986, pp. 5-8.]

The trial court regarded their testimonies an implied admission of guilt [RTC Decision, pp. 17-18; Records, pp. 49-50.] The Court must disagree. This presumption does not arise in the instant case. It is clear from the testimonies of these two witnesses that they had sought to persuade Mrs. Hutchison to withdraw the case because they knew that the youngsters were sweethearts and they believed that the accused was innocent of the crime charged.

Significantly, their testimonies were not refuted by the prosecution, not even by Mrs. Hutchison when she was

presented on rebuttal [TSN, O, Hutchison, April 6, 1987.]

Mr. Manuel Gorobat was also presented as a defense witness to bolster the testimony of the accused that Stephanie came to visit him in the early mornings of October 17 and 19, 1984, at about 1:00 o'clock, after her mother had filed a complaint against him. The accused stated that Stephanie went to his house and confided to him that it was her mother who forced her to say that he had raped her (TSN, October 7, 1985, pp. 25-27.)

On direct and cross examination, Mr. Gorobat testified that while passing through the alleyway outside the Aldana house on the aforementioned dates, he saw Stephanie and Bernard seated side by side in the latter's terrace. He further claimed that when the accused saw him, the former waved at him to go away. He was candid enough to admit that he did not hear them conversing [TSN, October 8, 1986, pp. 2-14.]

There being no cogent reason to doubt the sincerity of the witness, the Court finds that the foregoing testimony renders more doubtful the veracity of Stephanie's claim. A victim of rape would not voluntarily meet with her alleged rapist, much less sit beside him in his terrace unescorted at 1:00 o'clock in the morning.

Finally, to support the theory that the youngsters were sweethearts, that they had met on several occasions in her room, and that they were keeping their relationship a secret because Stephanie feared the anger of her mother, the defense submitted in evidence two pictures and various letters and notes sent by Stephanie to Bernard.

The accused testified that when they were still friends. Stephanie had sent him two pictures of herself on April 21, 1982 and January 23, 1984, respectively [TSN, October 7, 1985, pp. 3-8.] These pictures were presented Exhibits "1" and "2".

In April 1984, when the accused started writing love letters to her, Stephanie, using her nickname "Apple", wrote him a letter dated April 15, 1984, the contents of which reads as follows:

April 15, 1984

Bernard,

I'm still fine upon receiving your letter. Nasabi sa akin ni Connie, alam mo nagtataka ako sa'yo kung bakit ako ang nakita mo samantala marami na mang magaganda sa Parañaque at sa school ninyo. To correct you hindi ko naging bata iyon dahil nagkamali ako at saka kung ipagpipilitan mo wala akong magagawa basta ako malinis ang konsensiya ko. Alam mo pala na magagalit ang Mommy ko, bakit ka pa sumulat, pero asahan mo na walang makakaalam nito. Natandaan ko nga 'yong sinabi mo sa akin, pero hindi ako itinago ng mommy ko, ikaw itong umalis. At paano mo nasabi na diyan ka na titira pagdating sa semester ay wala ka na diyan at ako hindi dito magka-college.

Apple

P.S.

Pls. don't say bad words again.

Same

[Exhibit "3".]

Stephanie sent the accused another letter dated "Good Friday", which reads as follows:

Bernard,

Alam mo, hindi ako mahirap kausapin kaya lang umiiwas ako sa intriga dito, lalo na 'yang nasa tabi ninyo. Ngunit sa iyong pagsulat ay baka may makahalata, di ba walang lihim na di nabubunyag. At saka bakit ka

maiinis sa sarili mo? How foolish can your questions be. Of course I can accept you, but love I have to think of it. Because I have to finish my studies. And if you do love me you have to wait even if it's a long time, and if you can't wait for that time you to stop thinking of me, okey. Mabuti at hindi mo nababangit iyon at kung nagkataon, kahit isang salita magkakagalit tayo. Thanx sa papuri mo and don't feel sad about it. Two years na lang tayo magkikita dahil sa hindi ako dito sa college mag-aaral.

Apple

P.S.

Pls. do rip my first letter.

Same

[Exhibit "4".]

The accused also testified that on July 11, 1984, when they were already sweethearts, he received a letter written on a yellow pad paper [Exhibit "5"] from Stephanie urging him not to go to her bedroom for fear that their relationship would be discovered. The accused testified that Stephanie adopted pseudonyms, i.e. "mama" for her and "papa" for appellant, as a precautionary measure in case the note was intercepted by her mother.

PAPA,

Wala sa akin iyon, Hindi naman sa ayaw kong magpasundo sa iyo kaya nga lang ay doon din nag-aaral si Ricky at si Jimmy eh, kung makita tayo wala na akong ibang dahilan pa.

Tungkol naman sa Sabado hindi ko alam kung makakatiyak ako dahil sa baka hindi pumasok ang MOMMY ko. Kung makaalis man siya tiyak ng hindi ako papayagan ng Tita ko, (kung) saka na lang tayo magkita. Ako na lang ang magsasabi sa iyo kung kailan at saan. Huwag ka muna aakyat dito mahirap nang mabuko tayo palipasin muna natin ng two weeks saka ka na pumanhik dito diba ikaw din ang maysabi na nakakahalata na sa inyo, para sa atin din naman ito. Hindi naman ako magagalit sa'yo at lalo naring hindi ako magsasawa sa iyo, sa Sabado from 5:00 p.m. at 8:00 p.m. hintayin mo na lang ang tawag ko.

Sweet kisses & tight embraces

MAMA

P.S.

Sleep early but pray first.

[Exhibit "5"]

On two subsequent occasions, Stephanie again left notes on his window warning him not to come to her bedroom because, on one occasion, her mother was sleeping with her, and on the other, her aunt was keeping her company for the night [Exhibits "6" and "7"]. She likewise adopted their pseudonyms [TSN, October 7, 1985, pp. 15-20.]

On the witness stand, Stephanie admitted that she sent her pictures to the accused through a mutual friend and wrote the two letters marked as Exhibits "3" and "4". But she denied having written the letter and notes marked as Exhibits' "5", "6" and "7".

Thus, the defense presented as expert witness Jovito R. Gutierrez, a document examiner of the PC-INP Crime Laboratory, who, by order of the trial court, examined these notes as well as other documents in the possession of the accused which were used as standard handwritings of Stephanie, i.e. Exhibits "3" and "4", a handwritten schedule of Stephanie's classes [Exhibit "9"], and a sheet containing Stephanie's biodata [Exhibit "8"].

Mr. Gutierrez testified, and was duly cross-examined, on the manner and findings of his examination as summarized in his official report [TSN, April 21, 1986, May 16, 1986 and June 16, 1986.] His report which was presented and admitted as evidence for the defense contained the following:

* * *

FINDINGS:

Comparative examination and analysis of the questioned and the standard writings reveal significant similarities in handwriting movement, stroke structure and other individual handwriting characteristics.

CONCLUSION:

The questioned handwritten letter/note previously marked "Exh. "5", "6" & "7" and the standard handwritings of Stephanie Hutchison previously marked "Exh. "1", "2", "2-A", "3", "4", "8" & "9" WERE WRITTEN BY ONE AND THE SAME PERSON.

* * *

[Exhibit "11".]

The trial court, however, did not consider as binding the findings of Mr. Gutierrez [RTC Decision, 25-26: Records. pp. 57-58.]

Admittedly, findings of expert witnesses will only serve as a guide for the courts to arrive at a finding after considering all the facts of a given case. But in the light of the evidence presented by both parties in the instant action, the above findings further engender doubt in the prosecution's theory of the case.

While the Court generally desists from disturbing the findings of the trial court, considering that the latter is in a better position to pass upon the matter of credibility of witnesses, the Court will not hesitate to take exception to this rule in order to keep faith with the principle that every criminal conviction must be supported by proof beyond reasonable doubt [People v. Ola, G.R. No. L-47147, July 3, 1987, 152 SCRA 1; People v. Mejias, G.R. No. 79677. November 28, 1988.] The proof against the accused must survive the test of moral certainty. The conscience must be satisfied that on the defendant could be laid the responsibility for the offense charged [People v. Dramayo G.R. No. L-21325, October 29, 1971, 42 SCRA 59.]

In view of the foregoing, the Court declares that the prosecution failed to discharge its burden of proving the guilt of the accused beyond reasonable doubt. The implausible tenor of the testimony of the alleged rape victim weighed against the evidence presented for the accused casts serious doubt on the guilt of the accused.

WHEREFORE, the accused-appellant's guilt not having been proved beyond reasonable doubt, he is hereby ACQUITTED of the crime charged.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

* Although the information filed against the accused states "on or about 18th day of August 1984." Stephanie Hutchison clarified that she was actually raped in the early morning of the 19th day of August 1984 [TSN, June 4, 1985, pp. 17-18.]

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