

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARTURO CRUZ Y DE BELEN, DEFENDANT-APPELLANT.

G.R. No. 82121. December 29, 1989

Ponente: PADILLA, J.

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PADILLA, J.:

Appeal from the judgment rendered by the Regional Trial Court at Caloocan City in Criminal Case No. C-27956, finding the defendant-appellant Arturo Cruz y De Belen guilty of the crime of Rape and sentencing him to suffer the penalty of reclusion perpetua, to indemnify the victim, Jackeelyn Eustaquio, in the amount of P25,000.00, and to pay the costs.

The facts of the case, as stated by the Solicitor General in his Brief, are as follows:

"On December 4, 1986, at about noontime, the victim Jackeelyn Eustaquio, an 11-year old child (Exhibit "F", p. 81 Record) was washing clothes in the dam located at San Jose, Tala, Caloocan City (pp. 3-4, TSN, January 28, 1987). Later, on her way home, she was intercepted by the accused-appellant Arturo Cruz y de Belen and was boxed on her left hip (p. 5, *ibid*). Then the accused pointed a bladed weapon to (sic) her made her lie down, removed her shorts and panty (p. 6, *ibid*) and placed his penis into the vagina of the victim (p. 8, *ibid*). As a consequence, the victim bled (p. 25, *ibid*) and felt pain (p. 8, *ibid*). She (the victim) sustained other injuries as shown by a medical report issued by Dr. Jose N. Rodriguez of the Memorial Hospital (Exhibit "A", p. 75, Record).

The victim was able to run away towards the house of Aling Letty while the accused turned his back on her (p. 23, *ibid*). Thereafter, the accused ran towards Camarin (pp. 25-26, *ibid*). Upon reaching the house of Aling Letty, she informed the latter of the rape perpetrated on her and in turn, she (Aling Letty) sought help from a barangay tanod named Mang Mulong (Romulo Galopo) who responded and chased the accused (p. 10, *ibid*). Mang Mulong approached the accused and invited him to the Tala Municipal Hall (pp. 6-7, TSN, February 10, 1987) and on searching his (accused) body recovered a knife (p. 7, TSN, *ibid*). Later accused was transferred to the Urduja police officer for investigation of the incident (p. 8, *ibid*).

The victim was brought to Tala Caloocan Hospital for treatment (p. 11, TSN, January 28, 1987) and later to the National Bureau of Investigation (p. 14, *ibid*).

The victim was able to positively identify the accused during custodial investigation of the accused (Exhibit "C", p. 78, Record)."[1]

The defendant-appellant denied the accusation against him. The trial court summarized his evidence, as follows:

"That between 1:30 to 2:00 o'clock in the afternoon of 4 December 1986 while accused Arturo Cruz y de Belen was eating at a store located at Area D. Camarin, Caloocan City, seven (7) baran-gay officers arrived, apprehended him regarding a rape case and brought him in substation near Tala Hospital; that at the substation she (sic) was confronted to by a young girl who denied knowing her (sic); that the bladed weapon (Exh. "H") was recovered not on his person but was found inside her (sic) toolbox he was carrying at the time he was apprehended; that said bladed weapon was being used by him in his trade or occupation, he being a shoe and

umbrella repairer; that he did not give written statement to the police denying the charge against him because he has no one to approach, likewise he did not give written statement to the inquest fiscal because he was ashamed.”[2]

In this appeal, the defendant-appellant contends that the crime of Rape was not consummated because there was no penetration of the vagina of the complainant. In support of this contention, the defendant-appellant cites the testimony of the NBI medico-legal officer, who examined the complainant, to the effect that there were mere congestions in the vagina of the complainant and that her hymen was intact.

The appeal is without merit. Complete or total penetration of the complainant's private organ was not necessary to consummate the crime of Rape. The slightest penetration was sufficient. Neither was the rupture of the hymen essential for the consummation of the crime. It was enough that there was proof of entrance of the male organ within the labia of the pudendum.[3]

In this case, the complainant declared that she felt pain when the defendant-appellant put his penis inside her vagina and she bled as a result thereof. A portion of her testimony reads, as follows:

"Q You said that you were raped, please tell the Court how you were raped?

A ‘ANG TETE NIYA AY NILAGAY NIYA SA ARI KO’. (He placed his penis in my vagina).

Q When you feel (sic) that his penis was placed inside your vagina, what did you feel?

A It was painful sir.”[4]

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"Q Are you sure that the accused was able to place the entirety of his penis inside your vagina?

Atty. Donavillo?

Immaterial your honor, because there are two types of rape. It is also immaterial because this is statutory rape.

Court:

Overruled, witness may answer.

A Yes sir.

Q What made you say so?

A Because I felt pain sir.

Q Did you bleed Jackeelyn?

A Yes sir.”[5]

The trial court found that the complainant testified in a direct, firm and straightforward manner and showed no signs of insincerity or falsehood in her actions while testifying. We find no reason to disbelieve the trial court. Besides, the defendant-appellant is a stranger to the complainant and she had no motive whatsoever to testify falsely against him.

The testimony of the complainant is confirmed by the medical report[6] of the physician at the Dr. Jose N. Rodriguez Memorial Hospital at Tala, Caloocan City who examined the complainant soon after the commission of the offense, which stated that the complainant sustained "Superficial laceration, 8 o'clock abrasion 2 o'clock on vaginal introitus."

Complainant's testimony is further corroborated by the NBI medico-legal officer who testified that the labia majora and labia minora, as well as the vestibule, of the complainant were congested.[7] These congestions are actually the laceration and abrasion found earlier by the physician of the Dr. Jose N. Rodriguez Memorial Hospital at Tala, Caloocan City, which were cleansed at the said hospital. The lesions were in the process of healing when the NBI medico-legal officer examined the complainant the day after the commission of the offense so that they appeared to be, and were noted down, by the NBI medico-legal officer, as mere congestions.

WHEREFORE, the judgment appealed from is hereby AFFIRMED. With costs against the defendant-appellant.

SO ORDERED.

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

[1] Appellee's Brief, pp. 2-4

[2] Decision, p. 3

[3] People vs. Aragona, G.R. No. L-43751, 19 September 1985, 138 SCRA 569, and other cases cited therein

[4] tsn of 28 January 1987, p. 8

[5] Id., pp. 24-25

[6] tsn of 4 July 1987, pp. 4-5

[7] tsn of 14 July 1987, pp. 4-5

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