

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODRIGO PASCUA, ACCUSED-APPELLANT.

G.R. No. 82303. December 21, 1989

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

Based on the sworn complaint of the alleged offended party, Magdalena Cambaleza, dated April 23, 1984, the assistant provincial fiscal of Nueva Ecija, Marcelina Tangunan-Annang, filed on October 8, 1986, an information dated October 6, 1986, in the Regional Trial Court, Third Judicial Region, Cabanatuan City, Branch 27, alleging the following:

That sometime in November, 1982, at about 4:00 o'clock in the afternoon, by the riverside of Gabaldon, Province of Nueva Ecija, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence and intimidation by using a bladed weapon, a "bayonet," did then and there wilfully, unlawfully and feloniously have carnal knowledge with Magdalena Cambaleza Y Suara, then less than 12 years of age, to her damage and prejudice in the sum of FIFTY THOUSAND (P50,000.00) PESOS representing actual, moral and consequential damages.[1]

Upon arraignment on February 20, 1987, the accused, with the assistance of counsel, entered a plea of "not guilty" to the offense charged.

After trial, the court a quo rendered judgment finding the accused Rodrigo Pascua guilty beyond reasonable doubt of the crime of rape and sentenced him "to suffer the penalty of reclusion perpetua and ordered to indemnify Magdalena Cambaleza, the offended party, the sum of P25,000.00 with costs." [2]

The evidence adduced by the prosecution shows that the complainant-victim, Magdalena Cambaleza, was born on December 17, 1970 [3] and is one of the four children of Agnes Suara and the late Domingo Cambaleza. Agnes is the common-law wife of the accused, Rodrigo Pascua, with whom she has likewise four children. She and Rodrigo, and all her eight children, were living under one roof in the house of Rodrigo, in Sitio Dalag, Barangay Ligaya, Gabaldon, Nueva Ecija at the time of the purported commission of the crime. They all started living together in 1983 according to Agnes.

The prosecution claims that sometime in November, 1982, the young Magdalena left their house to meet the accused near a river in Sitio Dalag. The latter pulled her towards the river bank and, intimidating her with a bayonet, made her lie down on the ground. He stripped off her pants and panties and then thrust his organ into her genital, causing her to cry out in pain.

The alleged incident was disclosed by the girl to her mother when she and her stepfather returned home. The accused, however, denied Magdalena's story. Even so, to avoid a repetition of the incident reported by her daughter, Agnes instructed Magdalena to go to Barangay Ligaya, an hour's walk from their sitio, where she would be employed as a maid in the house of a Mrs. Precy Dayao. In the meantime, she forgave Rodrigo and continued to live with him in his house until September, 1986. [4] Following Rodrigo's instruction, she told no one about her

daughter's story.

But that was not the end of her daughter's purported tribulations.

About two years later, on March 30, 1984, the accused went to Mrs. Dayao's house to inform Magdalena that her mother had been taken ill and was confined in a hospital in Cabanatuan City. Reluctantly, Magdalena went with the accused to the bus terminal and both boarded a bus heading for San Jose City. When they reached the city, they hitched a ride on a cargo truck bound for Nueva Vizcaya. They alighted somewhere in said province and rested for the night in an uninhabited nipa hut in the fields. Magdalena was roused from sleep by the accused who was on top of her, with a bayonet aimed at her. She felt pains in her vagina.

The following morning, the accused repeated the same act on the complainant. Thereafter, he brought her to his cousin's house in San Jose City and left her there while he proceeded alone to Isabela. After the accused had gone, Magdalena told the cousin of the accused that she had been raped by him (Rodrigo Pascua).

When the accused returned to San Jose, his relatives refused to let him take the complainant with him, and instead insisted that the complainant remain in their house until her mother came to fetch her.

The complainant's testimony is vague as to the date when Agnes went and picked her up from the house of the accused's cousin in San Jose.

After Agnes fetched her daughter from the house where she was left in San Jose, she took the complainant to Gabaldon, to report to the police authorities the rape of her daughter. A Sinumpaang Salaysay was executed before a police investigator by the complainant on April 23, 1984, wherein she narrated what she had gone through in the hands of the accused in November, 1982 and on March 30, 1984.[5]

Seventeen months after her alleged first rape, or on April 26, 1984, the complainant was medically examined in Laur, Nueva Ecija, by Dr. Felimon V. Veneracion, the rural health-physician. A medical certificate[6] was issued, stating among other things:

FINDINGS

External Examination - negative for extra-genital physical injuries. Breast – fully developed.

Internal Examination - Absence of pubic hair, labia.

Hymen - thin and opening linear in shape show old healed laceration of the hymen at 3:00 and 6:00 o'clock position in the face of the clock. Hyminal orifice admits one finger with resistance. Vaginal canal right Cervix presence of mucoid discharge.

CONCLUSION:

- 1) No extra-genital physical injuries are noted in the person of Magdalena S. Cambaleza
- 2) Physical virginity lost.

A complaint sworn to by Magdalena Cambaleza was filed against the accused with the Municipal Circuit Court on April 23, 1984. However, the complaint was archived on November 30, 1984.[7] Nonetheless, the accused-appellant was arrested on November 18, 1986 in his house in Ligaya, Gabaldon, Nueva Ecija.[8] When the trial commenced, it is claimed by the prosecution that Agnes, the mother of Magdalena, received from the accused two (2) letters,[9] written in the Ilocano dialect and begging for the complainant's forgiveness.

On the other hand, the defense of the accused consisted solely of his testimony.

He stated that in 1974, he moved to Barangay Ligaya, a small place with only ten houses, the nearest of which was ten meters away from his own house.[10] He had only a common-law relationship with Agnes Cambaleza, mother of the complainant. Agnes and her four children started to live with the accused and his own four children in 1974 which is contrary to the prosecution's assertion that they only started living together in 1983.[11]

Rodrigo denied having raped Magdalena Cambaleza in 1982 as charged. He also denied the prosecution's version that Magdalena had worked as a maid for Mrs. Dayao who happens to be the wife of the uncle of the accused; Magdalena, he alleged, did go to Mrs. Dayao's house but only a year later, in 1983, and she stayed there for merely a week because her gangmates invited her to join them in planting onions in Mrs. Dayao's farm.[12]

The accused Pascua was fifty (50) years old at the commencement of the trial and is a farmer by occupation. He owns two hectares of land on which he grows a variety of crops. His annual harvest from onions yields him an annual income of P15,000.00; from pechay, P3,000.00; and from palay, the equivalent amount of 60 cavans. Jerry, one of Agnes' sons, helped him tend the field.[13]

In 1982, the accused avers, Agnes began to gamble. Gradually her gambling became an obsession, and, feeling apprehensive that her frittering away of his earnings would have adverse effects on their family, he found himself applying force on her just so she would come to her senses. Frustrated by her refusal, Rodrigo started beating her up; his doing so, according to the latter, made Magdalena, Agnes' daughter and the alleged rape victim, very angry. At one time, Magdalena threatened to report him to the barangay captain, Eduardo Yasoy, for beating up and choking her mother.[14]

The same barangay captain was suspected by Rodrigo of carrying on an affair with his common-law-wife, Agnes. Rodrigo testified that a week before he was arrested, he fetched Agnes who was playing mahjong in the house of one Flores. He surprised the barangay captain and Agnes when he came upon them with the barangay captain's arm placed around her. Rodrigo mauled Agnes for that scandalous behavior.[15] Then there was that night when Rodrigo came down from the mountain after gathering "buho" and found the same barangay captain in his house, again with his arm around her.[16] Convinced more than ever that she was the paramour ("kabit") of the barangay captain, Rodrigo gave Agnes her worst beating that night. That same night, Agnes fled to the house of the barangay captain.

The following morning, the accused was summoned to the barangay hall by the barangay captain. There were four (4) councilmen when Rodrigo arrived at the place. The barangay captain was not present, but he sent a message through one of the councilmen for the accused not to maul his common-law wife. Afterwards, Rodrigo was sent home.[17]

A week later, on November 18, 1986, the barangay captain, with the help of three Civilian Home Defense Force (CHDF) men, arrested Rodrigo at his house. Agnes and her "kabit," barangay captain Eduardo Yasoy, visited Rodrigo at the municipal jail of Gabaldon, Nueva Ecija where he had already been detained for three months. During that visit, he was told by the barangay captain that if he gave him P50,000.00, the case against him would be dropped. Rodrigo refused, saying he would not pay anything as he was innocent. At that time, he had not even been informed of the reason for his arrest.[18] It was only when he was transferred by the police and the barangay captain to the provincial jail at Cabanatuan City that he was told that he was being indicted for rape.

The accused denies having written the letters presented by the prosecution which begged for pardon and mercy.[19] In the first place, he says he does not know how to read and write, and it was only in the provincial jail that he learned how to sign his name.[20] It is noteworthy that the two letters, Exhibits "C" and "C-1," both identically dated "6-30-87," are nicely written in a very legible handwriting in ink.

Rodrigo claims that he never abused Magdalena; that the alleged rape at Sitio Dalag did not take place; that he did not fetch her at Laur and bring her to the Baliwag Transit terminal in Cabanatuan City; that he did not take her on a trip to Nueva Vizcaya; that he did not bring her to San Jose City; that the journey to and the rape in Nueva Vizcaya did not happen; and that he has no relatives in San Jose City.[21]

The accused-appellant assigns the following errors in his appeal:

I

THE TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY OF THE CRIME OF RAPE ON A VERSION THAT IS HIGHLY IMPROBABLE AND INCREDIBLE.

II

THAT THE TRIAL COURT ERRED IN CONCLUDING THAT ACCUSED'S DEFENSE WAS A SIMPLE DENIAL.[22]

The focus of attention should be on the alleged first rape incident at Sitio Dalag. The alleged second rape happening at Nueva Vizcaya is of no matter because it is not in issue here and surprisingly Rodrigo has not been accused of the same up to now. Rodrigo is accused only of the rape allegedly committed in 1982. However, we can not help but turn an exacting eye on the alleged second rape incident in 1984 because it poses a lot of questions on the testimonies of the complainant and her mother and their credibility, especially in this prosecution for a capital offense and for which Rodrigo was meted out by the trial court the maximum penalty imposable under our constitution--life imprisonment.

The accused-appellant argues that even if prosecution witness Dr. Veneracion found old healed lacerations at 3:00 and 6:00 o'clock in the face of the clock at the opening of the vagina, he cannot tell whether said lacerations were due to rape.[23] Thus, the medical examination is not decisive and practically worthless to corroborate the charge of rape in 1982 for which the accused was indicted and convicted by the trial court even assuming that the indicated "old healed laceration(s) of the hymen" were caused through sexual intercourse.

It is surprising to note that Dr. Veneracion admitted, on cross-examination, that the alleged victim, Magdalena, was still a virgin at the time when he examined her.

Q: You mentioned, after what I read that hyminal orifice admits one finger with resistance. Vagina canal tight. Is this not the character of the organ of a woman which (who) has no sex experience.

A: Normally that should be the vagina of a girl of her age.

Q: Just for clarification, so by the very character of these findings, you are more inclined to say that these findings is (sic) suggestive of a woman of virginity?

A: Well, I think that is correct.[24]

Medical science supports the conclusion of Dr. Veneracion, the examining physician.

As a general rule, the vaginal canal of a virgin is tight and the rugosities are sharp and prominent. Insertion of the finger or instrumentation shows certain degree of resistance.[25]

Under certain circumstances, medical examination is not a prerequisite for the prosecution and conviction of the accused in the crime of rape and that virginity is not a defense. However, here, the complainant avers that there were three (3) complete physical coitions (one in November, 1982 and two on March 30, 1984). These allegations of three intercourses become prominent in the light of the medical examination showing that Magdalena was still

a virgin at the time of the examination. There is something fishy in her testimony which tends to negate her assertion that she was brought to Nueva Vizcaya where she was supposedly twice abused.

The Nueva Vizcaya "interlude" behooves us to scrutinize it closely because it is uncommon for a man to take a 14-year old girl to a province where he is a total stranger, then walk for a distance in an unfamiliar field, pass the night in a strange hut he has accidentally found where he abuses her twice, and then return home the following morning.

It becomes even more bizarre when the victim's mother, Agnes, who should have been infuriated at the second and third rapes of her daughter, still continued to live with the rapist. From Agnes' own lips, she lived with the accused up to September, 1986.[26] The accused was, therefore, all the while in their (his) house at the time the complaint for rape was filed with the Municipal Circuit Trial Court on April 23, 1984, during its pendency before said court until it was ordered archived on November 30, 1984,[27] up to and including the day when he was arrested on September 18, 1986 (November 18, 1986 according to the accused-appellant), or for a period of one (1) year and five (5) months.

All told, the falsity of the charge is manifest. As pointed out by the accused-appellant:

x x x This long span of time during which the accused was not arrested despite his uninterrupted presence in the house as aforesaid, is surprising and eloquently belies the fury of a woman outraged seeking swift redress and speedy justice. And if the rape case was filed on April 23, 1984 and even archived on November 30, 1984, there must be some other reason why the accused boxed, kicked and choked her, and not because he was preventing her from making a report of the rape.[28]

Examining meticulously the testimonies of Magdalena and her mother, Agnes, we find several material inconsistencies that further eviscerate the case for the People. First, Magdalena positively asserted that her mother Agnes first caused the arrest of the accused before she fetched her in San Jose City in 1984.[29] This is not true as the accused had always been in his house in Sitio Dalag, Barangay Ligaya, Gabaldon up to the time he was arrested in 1986 (September 18 according to the prosecution, November 18 according to the defense). Moreover, Agnes said it was Magdalena who "suggested that I cause the arrest of his uncle (accused)."[30] Second, they (Agnes and Magdalena) made it appear that their house was isolated and they had no neighbors to run to from whom to seek help or report the alleged rape incidents.[31] On the contrary, Agnes admits that they did have immediate neighbors, "x x x even if I shouted our neighbors could not help me." [32] Third, Magdalena avers that in Nueva Vizcaya, she and the accused walked far into a field until they saw a nipa hut where they spent the night and where she was abused.[33] This deviates from what she stated in her affidavit, i.e., that she was abused in the cargo truck.[34] Fourth, in the nipa hut, she was abused once in the night and again in the morning.[35] In her affidavit, she was abused only once.[36]

Shifting our attention now to the alleged first rape incident for which the accused was charged and convicted, again, we are intrigued by Magdalena's account as to how she happened to encounter the accused on the day she claims to have been raped by the river at Sitio Dalag in November, 1982 (on November 19, 1982, according to her mother[37]). Sitio Dalag is far from their house. It is an isolated place. There are no houses along the way according to Magdalena.[38]

It is unusual that a girl below 12 years of age would make such a trip alone without informing her mother, brothers, and sisters who were all in the house when she set out for Sitio Dalag. A young girl would normally ask someone to accompany her to a distant place, or, at the very least, inform her family where she was going.

Q You said that you walk (walked) about an hour from your house just to meet your father-in-law, (should be step-father) do you remember having said that?

A Yes, sir.

Q There are no houses along the way that you walked?

A None, sir.

Q In fact, you did not met (meet) any persons when you meet (met) your father-in-law (should be step-father)?

A None, sir.

x x x x x

Q When you left your house who were present there?

A My mother, my brothers and my sister, sir:

Q When you said brother you were referring to your brother by the first husband of your mother?

A Yes, sir.[39]

We find it difficult to believe that the rape, if it did take place, was a chance encounter between the young Magdalena and her 45-year old stepfather.

The Solicitor General proposes that "it was appellant who, perhaps using his moral ascendancy influenced over complainant who is his stepdaughter, lured or commanded the latter to go to the river bank which was a little far from their house, in order to accomplish his lewd design. This is apparent from the fact that when complainant returned home immediately after the incident, she told her mother that she was fooled ("niloko") by appellant, who raped her at the river bank (tsn., July 28, 1987, pp. 22-23)"[40] (Emphasis ours).

This conjecture is controverted by the very evidence for the prosecution. What the mother, Agnes, declared was:

Q Will you please tell the Court what did Magdalena reported (report) to you?

A Magdalena reported to me that her uncle fooled (niloko) her at the river bank.

Q What do you mean that Magdalena was fooled (niloko) by her uncle at the river bank?[41]

x x x x x

A That she was raped.[42]

On the other hand, the direct testimony of Magdalena herself, which is more decisive, showed that it was her own idea to meet him and that she was not lured or commanded by him to go to the river bank.

Q You said a while ago that in 1982 during the month of November, on a date you cannot exactly remember, that you were raped by your stepfather Rodrigo Pascua, will you explain to this Court what do you mean when you say that you were raped?

A I met him at Barangay Ligaya and that was where I was raped.

Q: What I was asking is, will you tell the Court how you were raped?

A: When I met him at Barangay Ligaya and when we came near the bank x x x.[43] (Emphasis ours)

Given the above testimonies of the complainant and her mother, the accused-appellant strongly disputes the hazy scenario painted by the prosecution:

x x x Here lies precisely what makes the mind restless. It boggles the imagination how a girl of her age, below

12 at that, could possibly make such a trip. There was no plausible reason for her to do it. She had not done it before. And she was not asked to do it. The accused is not even shown to have left the house and if he did, no one knew where he went and at what time he would come back. It is, therefore, intriguing how she could have known that he would pass in said place and at such precise time of the day. Even a full grown man could not accomplish such a feat -- meeting his parents without being asked to and first informed where and when. And to think that she left alone without informing her mother, brothers and sisters who were all in the house is inconsistent with the innate instinct of fear in a child who would normally ask for company to overcome it. In short, the alleged journey was a thing of make-believe.”[44]

We have repeatedly stated that:

When the evidence is inconsistent with human experience the same cannot be considered a sufficient basis upon which to rest a judgment of conviction.[45]

Evidence to be believed must not only proceed from the mouth of a credible witness, it must be credible in itself -- such as the common experience and observation of mankind can approve as probable under the circumstances. We have no test of the truth of human testimony, except its conformity to our knowledge, observation and experience. Whatever is repugnant to these belongs to the miraculous and is outside of judicial cognizance.[46]

The trial court should not have merely limited its observation of the conduct of Magdalena on the witness stand, who was already sixteen (16) years old and already married at the time she testified, which it described as impressed with "naturalness and candor,"[47] disregarding altogether that her narration on how, where, and when she was abused, which is very crucial, contradicts ordinary observation, knowledge, and experience.

The attitude of Agnes, the mother, is quite revealing. Beyond allegedly confronting the accused on her daughter's report of her chastity being violated, she did nothing. She did not complain to the authorities and even allegedly forgave him. The record is bereft of any evidence to show a mother's wrath or anger which is the natural consequence of so grave an offense as that committed against her young daughter and imputed to the accused.

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, but hard to be defended by the party accused, though innocent. 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 accused should not be convicted unless the complainant's testimony is impeccable and rings true throughout.[48] These safeguards must be scrupulously observed otherwise an innocent accused may languish in jail for the remainder of his lifetime.

The testimony of the complainant is not truthful as the trial court would make us believe. Her story smacks of concoction rather than proclaims the truth. Trial courts should put prosecution testimonies under severe testing. Every circumstance or doubt favoring the innocence of the accused should be duly taken into account. The proof against him must survive not only the test of reason and logic, but, above all, that of experience.

Although the trial court did state that "a mother would not sacrifice her daughter, who was already married, to tell a story of defloration (People vs. Jones, 137 SCRA 166)," and "a victim of rape will not come out in the open if her motive is not to obtain justice (People vs. Ignacio, 60 SCRA 11),"[49] that is not always the case as the Court noted long ago.

The books disclose too many instances of false charges of rape, attempted rape and kindred offenses to permit the courts to enter a judgment of conviction of a crime of this nature without having in mind the possibility that the complaining witness may have been actuated by some sinister motive in bringing the charge.[50]

It cannot be denied that the complainant would harbor ill feelings against the accused since she had witnessed him beating up her mother on a number of occasions on account of her compulsive gambling. And the mother, on her part, would have more reasons to get back at her common-law-husband since he had beaten her up many times and more so because it appears that her love for him was already lost and transferred to the barangay captain Eduardo Yasoy.

Defense evidence shows that Rodrigo had frowned on Agnes' addiction to gambling since 1982.[51] His advice that their family would suffer if she continued with her vice was unheeded.[52] She even squandered their earnings giving part thereof (P3,000.00) to Barangay Captain Eduardo Yasoy.[53] Ineluctably, Rodrigo used force on her almost daily--beating, choking, and slapping her--hoping that she would see the light. Instead, she retaliated by refusing to do the regular chores of a wife.[54] It was not home sweet home anymore.

Magdalena observed these developments with her own eyes which naturally ignited a deep feeling of resentment against her step-father. In Agnes' own testimony:

x x x she (Magdalena) was the one who suggested that I (Agnes) cause the arrest of his uncle (accused), because she knew that his (her) uncle was maltreating me, and if he is put in jail he might reform his way of treating me.[55]

Thus, bearing false witness against one's neighbor (in this case, one's step-father) is not a remote possibility, most especially if the motive is to exact revenge on the accused. Moreover, we find plausible the testimony of the accused that his common-law wife had become the paramour (kabit) of the barangay captain. This accusation, repeatedly and explicitly specified by the aggrieved Rodrigo on the witness stand, was surprisingly not rebutted by the common-law wife, the mother of the complainant, nor by her alleged paramour. This comes as a source of wonder to us; it is a wonder as well that the prosecution would not repudiate this lie -- if it was a lie.

The barangay captain's standing in the community may appear to be a modest position of authority, but in the rural areas, like a sitio, it can wield considerable influence and power sufficient to hatch a plot against the accused and make it stick, as in this case. It would not then be of any wonderment that barangay captain Eduardo Yasoy had shown an unusual interest in the case against the accused. Thus, it was this barangay captain, together with his Civilian Home Defense Force (CHDF) members Sofio Asuncion and Pascual, who arrested Rodrigo.[56] It was the same barangay captain who instructed the barangay council members to warn Rodrigo not to maul Agnes again. Worse, at the municipal jail of Gabaldon, Nueva Ecija, and in the presence of Agnes, this barangay captain shamelessly tried to extort from the accused saying that if he (accused) would give fifty thousand pesos (P50,000.00) they can have his case settled.[57] Likewise, this was not rebutted by the barangay captain. If this is not extortion, at the very least it casts suspicion on the motive behind Magdalena's, Agnes', and Yasoy's filing of a criminal complaint against Rodrigo and actively cooperating in his prosecution. When he was transferred to the provincial jail in Cabanatuan City, Yasoy was with the police escorts.[58]

We go back to the two letters of repentance, supplication, and mercy purportedly written by Rodrigo and offered and admitted as evidence by the prosecution, obviously intended to help prove his guilt. The letters were not proven to be his as adverted to earlier. Not only did Rodrigo vehemently deny writing the letters, he affirmed that he did not even know how to read and write.[59] The letters[60] addressed to Agnes were made to appear that they originated from the accused who was begging for mercy.

The letters could not have possibly come from the accused who had been under detention in the provincial jail, Cabanatuan City, for more than a year continuously to the present. This is established by the envelop itself[61] where the rubber stamp mark of the post office of Bongabon, Nueva Ecija appears, indicating that they were mailed in said municipality, and not in Cabanatuan City.

In addition, there is the admission of Agnes that the signatures appearing in said letters were not those of the accused.[62] Is there any need to say more? These falsified letters presented in evidence by the prosecution depict not only weakness of the accusation but also indicative of the plausibility of the defense contention that the whole thing is a cruel concoction motivated by revenge and greed.

There is another factor which has helped abrade the merit of the cause of the prosecution. The rape of which Rodrigo stands accused is alleged to have been committed in 1982. Yet, there was delay in the filing of the complaint (1984), longer delay in the arrest of the accused (1986), and more delay in the commencement of the trial (1987). This protracted delay is attributable mainly to the complainant and her mother and very probably aided and abetted by the barangay captain who seems to be occupying not a minor role in this episode. Not only that, the accused was arrested in November 1986 despite the fact that all the time he was living with Agnes in his home. The prosecution commenced only in late 1986 -- a considerably long time after the commission of a deplorable crime against a minor's honor. Although the lower court declared that the lateness of the disclosure of the crime was excusable, we do not preclude the possibility of fabrication. The longer it takes to report to the authorities the commission of a crime, the greater the possibility that the crime never happened. And if the incidents really did happen, we find it incomprehensible that the accused would be charged only for a "rape" allegedly committed in 1982, and not for those alleged two rapes committed in 1984 as well. This long delay, augmented by the non-prosecution of two other alleged heinous offenses committed against the same offended party, by the same man, at the very least, creates a reasonable doubt as to the guilt of the accused.

Our findings in the case at bar should not create the mistaken impression that the testimonies of the prosecution witnesses should always be looked at with askance. What we are driving at is that every accused is presumed innocent at the onset of an indictment. But, it has often happened that at the commencement of a trial, people's minds, sometimes judges too, would have already passed sentence against the accused. An allegation, or even any testimony, that an act was done should never be hastily accepted as proof that it was really done. Proof must be closely examined under the lens of a judicial microscope and only proof beyond reasonable doubt must be allowed to convict. Here, that quantum of proof has not been satisfied.

WHEREFORE, the decision appealed from is REVERSED and the accused-appellant is ACQUITTED.

SO ORDERED.

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

[1] Rollo, 9.

[2] Decision, rollo, 35-36.

[3] Exhibit "D", Baptismal Certificate, Original Record with Exhibits, 121.

[4] T.S.N., July 28, 1987, 20-21.

[5] Exhibits "B", "B-1", and "B-2", Original Record, id., 117.

[6] Exhibits "A" and "A-1", Original Record, id., 116.

[7] Exhibit 3, Original Record, id., 182.

[8] T.S.N., Sept. 8, 1987, 10.

[9] Exhs. "C", "C-1" and "C-2", Original Record, id., 118-120.

- [10] T.S.N., Sept. 8, 1987, id., 7.
- [11] Id.
- [12] Id., 12.
- [13] Id., 15.
- [14] T.S.N., Sept. 30, 1987, 11-12.
- [15] Id., 2-3.
- [16] Id., 8-9; not Agnes in the house of the barangay captain as mentioned in par. 2, p. 7 of the trial court's decision.
- [17] Id., 10.
- [18] Id., 12-15.
- [19] Exhs. 2; 2-A; 2-B; C; C-1; and C-2, Original Record, 118-120.
- [20] Exhibits 1 and 1-A, Original Record, id., 181.
- [21] T.S.N., Sept. 8, 1987, id., 10, 14-16.
- [22] Brief for the Accused-Appellant, 11.
- [23] T.S.N., July 28, 1987, id., 16-17.
- [24] Id., 17-18.
- [25] SOLIS, LEGAL MEDICINE, 487 (Revised Edition, 1987).
- [26] T.S.N., July 28, 1987, id., 21.
- [27] Exhibit 3, Record, id., 182.
- [28] Brief for the Accused-Appellant, id., 21.
- [29] T.S.N., July 28, 1987, 47-48.
- [30] Id., 35.
- [31] Id., 40.
- [32] Id., 32.
- [33] T.S.N., July 28, 1987, id., 45; T.S.N., August 14, 1987, 12.
- [34] Exhibit "B", Affidavit of Magdalena Cambaleza, Record, id., 117.
- [35] T.S.N., July 28, 1987, id., 46.
- [36] Exhibit "B", affidavit of Magdalena Cambaleza, Record, id., 117.
- [37] T.S.N., July 28, 1987, id., 24.
- [38] T.S.N., August 14, 1987, 3.
- [39] T.S.N., August 14, 1987, id., 2-4.

[40] Brief for Plaintiff-Appellee, 10.

[41] T.S.N., July 28, 1987, id. 22.

[42] Id., 23.

[43] Id., 40.

[44] Brief for the Accused-Appellant, id., 12-13.

[45] People v. Broqueza, No. L-62467, October 31, 1983, 125 SCRA 549.

[46] Borgvilla vs. Court of Appeals, No. L-47286, January 7, 1987, 147 SCRA 20.

[47] Decision of the trial court, 8, last par.

[48] People vs. Mauro del Pilar, G.R. No. 75852, August 11, 1988, citing U.S. vs. Flores, 26 Phil. 262, 269; and People vs. Tapao, No. L-41704, October 23, 1981, 108 SCRA 351, 354.

[49] Decision of the trial court, id., 12.

[50] U.S. vs. Ramos, 35 Phil. 671.

[51] T.S.N., Sept. 8, 1987, id., 19.

[52] Id.

[53] T.S.N., Sept. 30, 1987, id., 8.

[54] T.S.N., July 28, 1987, id., 35.

[55] T.S.N., July 28, 1987, id., 35.

[56] T.S.N., Sept. 30, 1987, id., 12-13.

[57] Id., 13-14.

[58] Id., 15.

[59] T.S.N., Sept. 30, 1987, id., 19.

[60] Exhibits C and C-1, Record, id, 118-120.

[61] Exhibits "2" and "2-b" (Exhibits "C-2" and "C-4" for the prosecution), Original Record, id., 120.

[62] T.S.N., August 14, 1987, id., 17.

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