

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GIDEON BARCELONA Y DEQUITO, DEFENDANT-APPELLANT.

G.R. No. 82589. October 31, 1990

Ponente: PADILLA, J.

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PADILLA, J.:

In Criminal Case No. 6026 of the Regional Trial Court of Palawan, Gideon Barcelona y Dequito was charged with the crime of Rape committed as follows:

"That on or about the 7th day of November, 1985 at Barangay IV, Poblacion, Municipality of Roxas, Province of Palawan, Philippines within the jurisdiction of this Honorable Court, the said accused with lewd design, by means of force, threat and intimidation, did then and there, wilfully, unlawfully and feloniously have carnal know-ledge, with one Sylina Rodriguez against her will and consent to her damage and prejudice." [1]

When arraigned, the accused, assisted by counsel, pleaded "Not Guilty" to the commission of the crime.[2] After trial, however, he was found guilty, as charged, and sentenced to suffer the penalty of reclusion perpetua, to pay the offended party the amount of P30, 000.00, and to pay the costs.[3]

From this judgment, the accused appealed to this Court.

The incriminatory facts of the case, according to the People's counsel, are as follows:

"Around 6:30 p.m. of November 7, 1985, Sylina Rodriguez, a sixteen-year old high school student of the Roxas National Comprehensive High School in Roxas, Palawan, was walking on her way home (July 2, 1986 tsu, p. 7). Upon reaching a point in the diversion road near the Medicare Hospital of the new townsite, she looked back and saw a male person jogging (Ibid., p. 8). She continued walking (Ibid.). The jogger overtook her and upon doing so, suddenly turned back and took hold of her hands and started pulling her towards the bushes (Ibid.). She resisted and hit him with fist blows on his chest (Ibid.). As he was pulling her, he threatened to kill her by making a motion to pull something from his back (Ibid., p. 9). He was finally able to pull her to the bushes (Ibid.).

"In the bushes, he forcibly undressed her, removing both her skirt and panty (Ibid., p. 10). He also undressed and forced her to lay down on her back (Ibid.). He then lay on top of her and began to kiss her cheeks and lips (Ibid., pp. 9-10). At this point, she was in tears (Ibid., p. 11). Then he inserted his organ into her private part (Ibid., p. 10). She immediately felt a stab of pain (Ibid., p. 11) When he was finished, he allowed her to dress up but warned her not to report the incident to the police authorities (Ibid. p. 12). The victim then went home (Ibid., p. 13).

"The following day, November 8, 1985, accompanied by her uncle and auntie, she reported the matter to the police authorities (Ibid., p. 14). Thereafter, she was brought to the Medicare Community Hospital where she was examined (Ibid.).

"Upon information from Hernando Cayaon that he saw accused-appellant Gideon Barcelona jogging near the diversion road in the late afternoon of November 7, 1985, the police authorities invited the latter on November

9, 1985 for questioning (November 18, 1986 tsn, p. 3). Upon confrontation, the victim positively identified accused-appellant as the person who raped her (July 2, 1986, tsn, p. 14). Thereafter, accused-appellant was placed under arrest."^[4]

The accused Gideon Barcelona, however, denied that he committed the crime imputed to him and interposed the defense of alibi. The trial court summarized the evidence for the defense as follows:

"The accused in his defense testified that he is presently 19 years old having been born on November 7, 1968. He was employed since October 1985 in the fishing outfit of Paning Paner and has on their base at Cabugan Island, Roxas, Palawan. Normally, they go to the Poblacion of Roxas every Saturday to haul water and supplies. Sometime in the afternoon of November 9, 1985, he was fetched by P/Sgt. Eriberto Castillo of Roxas Police Station and taken to the Municipal Building. In the said place he saw Melchor Cayaon as well as his brothers and sisters. He alleged since complainant saw him, she did not positively identified (sic) him but entertained doubts as the person who raped her.

"Supporting in part his testimony was the statement of witness Roger Mania, a detainee at the municipal jail of Roxas, Palawan at the time who alleged that he saw suspect Melchor Cayaon in the early morning of 8 November, 1985. He stated that at about 8:00 A.M. of the same day when victim saw Melchor Cayaon, the former identified the latter as the one who raped her. He further heard the complainant describe that the person who raped her had curly hair. Suspect Melchor Cayaon had curly hair while accused Gideon Barcelona had no curly hair.

"In addition to this, witness Jose Lagrada testified that he was the companion of the accused at the fishing outfit of Paning Paner. In brief, said witness testified that he knew accused Gideon Barcelona. Both of them were employed in said fishing outfit about the latter part of October, 1985 and continued uninterruptedly until his arrest on November 9, 1985. He stated that their schedule of fishing is from 7:00 o'clock a.m. up to 1:00 o'clock p.m. . He claimed that from the last week of October 1985 up to his arrest on November 9, 1985, accused Barcelona never went to the Poblacion of Roxas, Palawan and continuously stayed at Cabugan Island. Despite prior knowledge that the latter was arrested for rape, he never informed the Police Force of Roxas, Palawan or any person for that matter about the stay of Barcelona in their place of work nor did he visited (sic) accused in jail despite his close friendship with him. (Test of Jose Lagrada, tsn: pp.1-11, December 12, 1986)"^[5]

In this appeal, the accused-appellant claims that the trial court erred: (1) in giving weight to the testimony of the complainant which is allegedly materially inconsistent, contradictory and incredible: and (2) in convicting the accused-appellant when there is no evidence on record that his guilt has been proved beyond reasonable doubt.

We find no merit in the appeal. There is no doubt that the complainant had been raped on 7 November 1985, in the manner testified to by her and affirmed by the trial court. When a woman testifies that she has been raped she says in effect all that is necessary to show that rape was committed, for no young and decent Filipino woman would publicly admit that she has been criminally ravished unless that is the truth, for her natural instinct is to protect her honor.^[6]

Besides, complainant's testimony is confirmed by the surrounding physical facts. Medical examination of her genitalia in the morning following the attack showed that (1) there was a slight mucosal inflammation of the labia majora; (2) hymenal laceration at 2:00 o'clock, 5:00 o'clock, and 9:00 o'clock; and (3) whitish mucosal vaginal discharge, scanty in amount noted.^[7] Dr. Feliciano Velasco, medical officer of the Roxas Palawan Medicare Community Hospital, who examined the complainant, opined that this was the first time she had sexual intercourse because the lacerations on the hymen were fresh.^[8]

Moreover, the outrage was immediately reported to the police authorities after its commission. removing any

doubt that the complainant may have concocted her charge against the appellant.

The appellant contends, however, that the crime of Rape was not committed because no force or intimidation was employed, i.e., no external injuries or bruises or scratches were found on the complainant's body, despite her testimony that she was dragged to the bushes, and that the complainant did not offer tenacious and spirited resistance to the assault on her.

The absence of physical injuries on the complainant's body does not, of itself, negate the complainant's testimony that she was raped; nor does it make the complainant a willing partner in the sex act. The victim need not kick, bite, hit, slap or scratch with her fingernails the offender to successfully claim that she had been raped. It is enough that coition was undertaken against her will. It is sufficient that the carnal knowledge was done after the woman yielded because of an authentic apprehension of a real fear of immediate death or great bodily harm. In this case, there is evidence that the offended girl yielded to the carnal desires of the appellant for fear that he might kill her since, according to complainant, the appellant had threatened her with death and made menacing gestures as if to draw a weapon. It is this same fear that must have prevented her from making an outcry or reporting the outrage to her uncle.[9]

As the Court had said in a case,[10] "the force or violence required in rape cases is relative. When applied, it need not be too overpowering or irresistible. What is essential is that the force used is sufficient to consummate the purpose which the offender had in mind, or to bring about the desired result. In using force, it is not even necessary that the offender is armed with a weapon, as the use of a weapon serves only to increase the penalty. Intimidation can be addressed to the mind as well. In sum, the absence of external signs or physical injuries does not negate the commission of the crime of rape."

As to the identity of the perpetrator of the dastardly act, the complainant declared, and the trial court agreed with her, that the appellant committed the crime. The complainant positively identified the accused as the person who raped her[11] and, as the trial court said, she had no doubt nor second thought about her identification of the accused-appellant. Besides, it would appear that the complainant had no ill motive to testify falsely against the appellant. In fact, the appellant was a complete stranger to her and she did not know his name then. But, when they came face to face, the second time, she readily pointed to the appellant as the person who ravished her.[12] This Court has consistently held that the testimony of a rape victim as to who abused her is credible where she has no motive to testify falsely against the accused.[13]

The appellant argues that the testimony of the complainant should not be given weight and credence because it is allegedly inconsistent, contradictory and incredible in that: (1) on direct examination, she declared that in trying to repel the advances of the appellant, she bit him on the left forearm, whereas, on cross examination, she denied having stated that she bit the appellant; (2) on direct examination, the complainant declared that she did not report the incident to her uncle because she was afraid but, on cross examination she stated that reported the incident to her uncle who, in turn, reported it to the police; and (3) on direct examination, the complainant testified that the sexual act took about twenty (20) minutes and that she felt pain, but that she felt no ejaculation, while on cross examination, she stated that there was ejaculation inside her vagina.

These alleged contradictory statements are not fatal as they refer to relatively minor details, and they are to be expected from uncoached witnesses. They do not affect, nor can they prevail over the positive identification of the appellant as the rapist. As repeatedly held by the Court, discrepancies and inconsistencies in the testimony of prosecution witnesses which refer to minor details do not impair the probative value of their testimony.[14]

The insinuation of the appellant that he could not have raped the complainant on 7 November 1985 because it was his birthday is, definitely, without basis for a man overcome by perversity and beastly passion chooses neither

time, place, occasion, nor victim.

There being no error committed in the judgment appealed from, the same should be affirmed.

WHEREFORE, the judgment appealed from is hereby **AFFIRMED**, with costs.

SO ORDERED.

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

[1] Original Record, p. 1

[2] Id., p. 9

[3] Id., p. 9

[4] Brief for the Appellee, pp. 2-5, Rollo, pp. 93-96

[5] Original Record, pp. 102-103

[6] People vs. Abonada, G.R. No. 50041, January 27, 1989, 169 SCRA 530

[7] Exhibit A

[8] tsn of July 2, 1986, p. 4

[9] tsn of July 2, 1986, p. 9

[10] People vs. Abonada, supra, at footnote No. 6

[11] tsn of July 2, 1986, p. 14

[12] Id., pp. 6, 8

[13] People vs. Nunag, G.R. No. 54445, May 12, 1989, 173 SCRA 374 and cases cited

[14] People vs. Somera, G.R. No. 65589, May 31, 1989, 173 SCRA 684 and cases cited

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