

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DOMINADOR PARINGIT, ACCUSED-APPELLANT.

G.R. No. 83947. September 13, 1990

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

This case, a prosecution for rape, originated from a complaint filed by the aggrieved party, Nida Pajar, of San Vicente East, Asingan, Pangasinan, a married woman and mother of three. On the basis thereof, Fiscal Jorito C. Peralta of Urdaneta, Pangasinan, filed an information and set forth the following:

The undersigned Assistant Provincial Fiscal, upon sworn complaint of Nida Pajar y Mercado, accuses DOMINADOR PARINGIT y CABIDA, alias "Ador Paringit", of the crime of RAPE, committed as follows:

That on or about the 15th day of October, 1985, at dawn, in Barangay San Vicente East, Municipality of Asingan, Province of Pangasinan, New Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused entered the dwelling place of complaining witness Nida Pajar y Mercado and by means of force and intimidation, did then and there, wilfully, unlawfully and feloniously, have carnal knowledge of said Nida Pajar y Mercado, against her will.

Contrary to Article 335, Revised Penal Code.[1]

The accused pleaded "not guilty" during arraignment.

The evidence for the prosecution discloses that on October 15, 1985, at or about dawn, Nida Pajar, 23 years old, was inside her hut at San Vicente East, breastfeeding her baby. Aside from her three children, she was alone. She alleged that her husband, Ricardo Pajar, was then at San Vicente West, about 500 meters from San Vicente East, attending a funeral wake. She stated that she was lying on the floor when she saw the accused enter the hut through an opening (what appeared to be the hut's doorway). She also declared that she recognized him by the light of a kerosene lamp ensconced on a can inside. Thereupon, she rose and shouted. The accused, however, embraced her, covered her mouth, and landed two punches on her stomach. She claimed that she fell down, and that thereafter, the accused "removed my panty and he abused me." [2]

After that, the accused allegedly told her: "[D]o not tell Carding. [Her husband.] I will come back again." [3]

When "Carding" returned, at or about five o'clock, she told him that "a certain man abused me," [4] and that man was Dominador Paringit, the accused. Her husband soon proceeded to the house of his parents, who convinced her to leave no stone unturned in bringing the accused to justice.

At around eight o'clock, the Pajars saw the barangay captain of San Vicente East, who accompanied them to the police station in Asingan, where Nida executed a statement. Later, they saw Judge Narciso Ramos of the Municipal Circuit Court of Asingan, who conducted a preliminary investigation, and who found probable cause for rape against the accused.

She also said that at about nine o'clock, she sought a medical examination.

Ricardo Pajar testified, in turn, that he had come from a wake at San Vicente West, when upon returning home, her wife broke the tragic news. Then, together with his wife and parents, he went to see the barangay captain who led them to the police headquarters. He also said that the accused himself was summoned by the police and was investigated. He told the court that shortly, he took his wife to the municipal health officer for examination.

He admitted having seen the accused at the wake but contended that the latter left at about eleven o'clock P.M. of October 14, 1985. On the other hand, he (Ricardo Pajar) left not until five o'clock the following morning (October 15, 1985).

According to Dr. Ruperto Natividad, he examined Mrs. Pajar on October 14, 1985 (should be October 15, 1985) at or about 8:45 a.m., who saw her to complain of rape. His report is as follows:

II INTERNAL FINDINGS:

- (a) External genitalia: presence of abundant pubic hair, long curly black in color
- (b) Labia majora and minora firm and coaptated, brownish in color not swollen.
- (c) Vaginal Canal: very lax, admit 2 examining fingers easily with out pain or resistance and also admit the vaginal speculum with out pain or resistance easily.
- (d) Vaginal Wall and Rogosities, orifice are coaptated and lost, with whitish-yellowish mucoid discharge around 1 cc volume.
- (e) Cervix of the uterus: Soft, with old cervical laceration at 11:00 and 2:00 o'clock position.[5]

Thereafter, the prosecution rested.

The defense presented Rosendo Rosquita, Eleuterio Malong, and the accused himself.

Rosendo Rosquita testified that on October 14, 1985, he attended a wake of Alexander Bataen, a child of a couple-friend, Salvador and Norma Bataen. He stated that he stayed there until five o'clock the following day. He said that he saw the accused there, playing poker along with Eleuterio Malong, a certain Robert Valdez and a few others. They allegedly played until five o'clock of October 15, 1985 after which they went home together.

Eleuterio Malong corroborated Rosendo Rosquita's testimony. He said that from ten o'clock P.M. of October 14, 1985 up to five o'clock the following morning. He averred that he, along with the accused, Rosendo Rosquita, and Robert Valdez, left together.

The accused himself declared that he was at the wake from about ten o'clock on the night of October 14, 1985 until five o'clock in the morning of October 15, 1985. He said that he bided his time playing poker. He reached the farm where he worked at about 6:30 a.m., where he chanced upon the Pajars along the way. They allegedly ignored one another. He claimed that the offended party had merely mistaken him for another "Ador", of Barangay San Juan, San Manuel, Pangasinan. He likewise contended that at the police headquarters, Nida Pajar denied that it was he who raped her.

The defense having rested, the prosecution presented a rebuttal witness, Patrolman Severino Alvarado, who informed the court that he interrogated the accused about the victim's complaint, and the victim, who admitted meeting the accused on their way to file her accusation.[6]

On April 20, 1988, the lower court rendered judgment, declaring the accused guilty as charged, sentencing him to reclusion perpetua, and ordering him to pay P30,000.00 in moral damages.[7]

Hence, this appeal.

The accused assigns two errors allegedly committed by the trial court, first, in not acquitting him and second, in not giving weight to his defense.

He notes: (1) the offended party never mentioned the word "rape" in her recital; (2) she said that it was her husband "Carding" who "abused" her; (3) she did not offer a tenacious resistance in the course of the alleged rape; (4) when the accused said "Do not tell Carding, I will come back again," it means that they had past sexual encounters, and the last one was voluntary; (5) she could not have positively identified the accused as the culprit for lack of sufficient illumination; (6) she did not confront the accused when they met on her way to lodge a complaint; (7) she merely begrudged the accused whom she suspected of taking her money; (8) Dr. Ruperto Natividad himself could not positively determine whether or not she had been raped, or had recent sexual congress; (9) he found no sperm cells notwithstanding the fact that the victim testified that the accused ejaculated; (10) he found no hematoma or bruises on any part of her body; (11) his report stated that he conducted his examination on October 14, 1985, when the tragedy occurred on October 15, 1985; and (12) Ricardo Pajar, the victim's husband, said that his wife informed her of the incident on September 15, 1985, not October 15, 1985.

He also maintains that he had successfully established his defense of alibi by the corroboration of two witnesses.

It is axiom in rape cases that the lone testimony of the offended party, if credible, is sufficient to sustain a conviction.[8] This is so because no decent and sensible woman will publicly admit being a rape victim and thus run the risk of public contempt--the dire consequence of a rape charge--unless she is, in fact, a rape victim.[9]

Nida Pajar testified clearly and simply that on October 15, 1985, at dawn, the accused entered her hut and then ravished her. At the trial, she never wavered in her story, and the trial judge was convinced that it was a credible story. Albeit as a rule, this Court is bound by the findings of the trial court, especially as to credibility of testimonies, we are ourselves convinced, from a reading of the transcript of stenographic notes, that she is indeed a credible witness. Thus:

Q What did Dominador Paringit do while you were breast feeding your child?

A While I was breast feeding my baby, I saw the accused enter the house and after that I stood up and shouted.

Q When you shouted, where was the accused Dominador Paringit?

A He was already inside, sir.

Q How far was he to you at that time?

A Right in front of me, sir.

Q What was he doing?

A He embraced me and then he boxed my stomach.

Q How many times did he box your stomach?

A Twice, sir.

Q What happened after he boxed your stomach?

A I fell down, sir.

Q After you fell down, what did Dominador Paringit do?

A He removed my panty and he abused me, sir.[10]

As we held in one case, "when a victim says that she has been raped, she says in effect all that is necessary to show that the rape has been committed, and if her testimony meets the test of credibility, the accused may be convicted on the basis thereof." [11]

The alleged inconsistencies the accused refers to now involve minor details that do not negate the existence of rape. The fact that Nida Pajar never used the word "rape" in the course of her testimony was because of the sordid nature of the tale she was about to tell, and its embarrassing impact on the audience before her. Thus, the prosecution was constrained to move: "Your Honor, the witness is reluctant of [sic] answering, we move for the exclusion of the audience." [12] In any event, she testified that the accused "got my womanhood," [13] that "he had intercourse with me," [14] and that "he abused me," [15] words that positively signify a forcible sexual encounter.

Her statement that it was her husband, "Carding" Pajar, who victimized her has been obviously taken out of context. We turn specifically to her testimony:

FISCAL PERALTA TO THE WITNESS

With the permission of the Honor-able Court, during the last hearing, you were able to testify regarding the incident that happened to you on October 15, 1985 in the early morning. Now, we will continue with your testimony and at this time, we will ask you what happened when you have recognized the accused already inside your hut at that time.

xxx xxx xxx

COURT

What is your answer?

A He abused me, sir.

FISCAL PERALTA

Who are you referring to?

A My husband, sir.

Q What is the name of your husband?

A Carding, sir.

Q What happened when your husband Carding abused you?

A I said a certain man came to the house and abused me, sir.

Q To whom did you say that?

A I said that to my husband, sir.[16]

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Evidently, there had developed a communication gap between her and the prosecution. It is clear, however, that what she had wished to convey was the fact that another man had taken advantage of her person, and that she informed her husband about it.

We have held that incongruities as to non-material particulars "do not detract from the central fact of rape," [17] and are the products, at times and as in this case, of witnesses' unfamiliarity with the courtroom environment,

apart from the fact, in the case at bar, that the questions propounded were in English, a language in which the aggrieved party was apparently not conversant fully, considering her educational attainment. The trial judge was himself forced to question Mrs. Pajar:

COURT

Do you understand the question?

A Yes, sir.

xxx xxx xxx

COURT

Mrs. Pajar, what is your highest educational attainment?

A Elementary, sir.

COURT

Did you graduate?

A Yes, sir.

COURT

You never reached high school?

A No sir.[18]

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We are not convinced either, of the accused's pretenses that Mrs. Pajar never offered enough resistance. As she testified, the accused struck her twice in the abdominal area, for which she dropped to the floor. As she lay helpless, the accused consummated his lustful purpose. In one decision, this Court held that force is relative, and it need only be shown that the accused had resorted to intimidation, sufficient to weaken another's defenses.[19]

The accused's warning, after violating Mrs. Pajar's honor, "[d]o not tell Carding, I will come back again," does not denote an existing "past" between Mrs. Pajar and the accused. There is nothing in that statement that would purvey this impression. It exists only in the accused's imagination.

We likewise believe that the victim had sufficiently identified the accused, as the guilty party. Her hut was lighted by a kerosene lamp, and we have ruled that the lighting produced by a gasera enables one to identify positively, persons in the dark of night.[20]

The fact that Mrs. Pajar failed or refused to confront the accused the morning after is nothing conclusive. It does not perish claims of rape.

The accused's insistence that Mrs. Nida Pajar implicated him to get even for an act of theft she believed the accused was earlier responsible for, is devoid of merit. As the Court has time and again indicated, no self-respecting Filipina, in accusing another of rape, would risk the perpetual stigma of a scarlet letter, unless her charges were true. It is unimaginable, more so in this case, that Mrs. Pajar would voluntarily open herself to public ridicule only for the flimsy reason that the accused had earlier stolen her money.

The accused also makes capital of the inconclusiveness of Dr. Ruperto Natividad's medical report, first, that it makes no finding that the victim had been raped; second, the doctor found the victim's sexual organ negative for

sperm cells; and third, no bruises or injuries were found on the victim's body.

To begin with, a medical finding is by itself unnecessary to show rape.[21] As the Court earlier declared, the lone testimony of the offended party is sufficient, if otherwise credible. The presence or absence of traces of spermatozoa is too, immaterial, since it is penetration, however slight, and not ejaculation, that makes for rape.[22] It is true that the victim, at the trial, alleged that the accused had seminal discharges, and that she felt them, but quite manifestly, she was mistaken. At any rate, the nagging fact remains that the accused did penetrate her, and when she told the trial judge that he did, she said all that needed to be said.

The absence of bruise marks on her torso is not absolutely essential. Not all blows leave marks.

The discrepancies as to dates--Dr. Natividad declared that he prepared his report on October 14, 1985 while Ricardo Pajar declared that the incident happened on September 15, 1985--are simply due to lapses of memory. Moreover, Dr. Natividad later rectified his error.[23] On the question of Ricardo Pajar's misstatement, that the event transpired on September 15, 1985, we credit that also to the failure of memory, bearing in mind that Pajar testified almost two years after the tragedy. In all events, these errors do not erase the fact that rape had been committed, whatever the date on which it happened.

All told, we can not sustain the accused's objections and denials.

And most of all, we can not accept his argument of alibi. For alibi to prosper, it must be shown that it was physically impossible for the accused to have gone to the scene of the crime at the time it happened.[24] The place he claimed he was at the time, San Vicente West, attending a wake, was only 500 meters away from the locus criminis. He would have easily slipped out of sight for a few minutes and returned to the wake unnoticed.

The accused has not, finally, ascribed any motive upon the complainant why she should falsify evidence against him.

WHEREFORE, the judgment appealed from is AFFIRMED.

SO ORDERED.

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

[1] Original Records, 1.

[2] T.s.n., Session of March 2, 1987, 14.

[3] Id., 16.

[4] Id., 17.

[5] Original Records, id., 8.

[6] See rollo, 39.

[7] Id., 45.

[8] People vs. Sarra, G.R. No. 78530, March 6, 1990.

[9] Supra.

[10] T.s.n., Session of March 2, 1987, id., 14.

- [11] *People v. Avero*, No. L-76483, August 30, 1988, 115 SCRA 130.
- [12] T.s.n., Session of January 13, 1987, 6.
- [13] *Id.*
- [14] *Id.*, 7.
- [15] T.s.n., Session of March 2, 1987, *id.*, 10.
- [16] *Id.*, 9, 10.
- [17] *People v. Cayago*, No. L-47398, March 14, 1988, 158 SCRA 586, 596.
- [18] T.s.n., *id.*, 8, 9-10.
- [19] *People v. Sarra*, *supra*.
- [20] *People v. Almenario*, No. L-66430, April 17, 1989, 172 SCRA 268.
- [21] *People v. Cayago*, *supra*.
- [22] *People v. Somera*, No. L-47275, February 21, 1989, 170 SCRA 428.
- [23] See t.s.n., Session of March 2, 1985, *id.*, 7.
- [24] Among a host of cases, see *People v. Loveria*, G.R. No. 79138, July 2, 1990, one of the latest cases on this point.

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