

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GERARDO TERESO, ACCUSED-APPELLANT.*G.R. No. 84354. February 18, 1991*

Ponente: CRUZ, J.

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The tendency of the trial court in rape cases is to give credence to the complainant's testimony on the theory that she would not deliberately expose herself to public ridicule and to searching questions about the embarrassing details of her claimed outrage unless she was really telling the truth. The counterfoil to this supposition is the presumption of innocence mandated by the Constitution that can be overcome only by clear and convincing evidence establishing the guilt of the accused.

In the case at bar, the trial judge^[1] chose to believe the complainant and the other prosecution witnesses. Accordingly, he convicted the accused-appellant and sentenced him to life imprisonment, at the same time requiring him to pay moral damages to the complainant in the amount of P30,000.00 and to her parents in the amount of P10,000.00. As the complainant had borne a child in the meantime, the accused-appellant was also ordered to acknowledge the offspring and to pay the expenses of his delivery in the amount of P6,000.00 plus monthly support in the amount of P500.00.^[2]

The conviction of Gerardo Tereso was based mainly on the testimony of the complaining witness, Floriana Carmen, then twenty-one years old. According to her, she and her sisters had since 1974 been living with their childless uncle and aunt, Metodio and Victoriana Cotiangco, at their house in Barangay Coletto, Municipality of Bislig, in Surigao del Sur. In the morning of November 14, 1984, she was all alone in the house, her uncle and aunt having left for their farm and her sisters being in Bislig, when Tereso arrived at about 10 o'clock and went up the house without permission. He asked where the Cotiangcos were. When she answered that they were in their farm, he immediately closed the door and dragged her to her aunt's bedroom. She resisted but he drew a small knife from his waist and pointed it at her neck, telling her he would kill her if she did not obey him. He ordered her to undress. When she refused and pleaded for mercy, he himself took off her duster and panty with his left hand, all the while holding the knife with his right hand. He then pushed her to the bed and as she lay there in fear he took off his own clothes. Thus disrobed, he mounted and penetrated her and she felt pain as her maidenhead bled while he urged his lust into her for about three to five minutes. Thereafter, the deed done, he stood up, put on his clothes and returned the knife to his waist. He told her not to tell any one about the incident and threatened to kill her and her parents if she did. Then he left.

Floriana said she wiped the blood off the bed so her uncle and aunt would not see it. She did not tell them she had been raped and acted as if nothing had happened when they arrived at about five o'clock in the afternoon. She did not inform her parents either because of the threat the accused-appellant had made. But after four months, on March 27, 1985, she finally had to reveal the rape to her uncle and aunt because she could no longer conceal her pregnancy. That same day, they proceeded to her parents' house and informed them of her violation by Tereso.

The following day, her parents took her to the Mangagoy Rural Health Center where she was examined and found by Dr. Dolores Castillo to be four months pregnant.[3] From there, they went to the Bislig police station where she signed a sworn complaint for rape against Tereso. The corresponding information was filed on June 18, 1985. On September 4, 1985, while the case was pending, she gave birth to a baby boy.

In her own testimony, Henedina Carmen, the complainant's mother, declared that Tereso's parents twice offered to settle the case amicably but she rejected their overtures because she wanted justice for her daughter.

The main defense of the accused-appellant was alibi. He testified that at the time of the alleged incident, he was at his place of work at the PICOP and operating the Feeder C-Drier. He produced his Daily Time Labor Report for November 14, 1984, showing that he reported for work at 7:00 a.m. and left at 3:00 p.m. Corroboration came from three of his co-workers, namely, Bonifacio Loayon, Theodoro Demillo, and Felix Omol, who all declared under oath that they saw the accused-appellant actually working at his post as drier operator at the time the supposed rape was being committed in the morning of November 14, 1984. Omol declared that as foreman in the Plywood Operations, Green End Section, where Tereso worked under his control, he went around his section as usual that morning to check his men and found the accused-appellant at his post.

Tereso denied Floriana's claim that she saw him for the first time only on November 14, 1984, and declared that they had in fact been sweethearts. To prove this, he offered as exhibits three pictures of the complainant which he said she had given him.[4] They broke up, however, because the complainant had started going out with one Loloy Caserial. He insisted he never had any carnal knowledge of Floriana and was not the father of her son. He also denied ever having made any offers of amicable settlement with the complainant's family.

The defense also presented Thelma Reyes who testified that at the time of the supposed rape, the complainant was not living with the Cotiangcos but in a rented room in Thelma's house in Mangagoy, Bislig, Surigao del Sur. She said she leased the room to Floriana, who stayed there from November 2, 1984, until December 10, 1984, when she asked her to leave for non-payment of her rental. This witness recalled that on the date of the alleged rape, Floriana requested her to fetch a manghihilot because she was sick. She also asked her to call the accused-appellant, but he was not in his sister's house at the time. Juanita Lopez, the masseuse, said she dropped by that same morning but did not massage Floriana, promising to return that same evening. She did return as promised and noted that a certain Eddie Carmona was visiting the complainant. Both Reyes and Lopez suggested that Carmona and Floriana had an intimate relationship.

What strikes the Court at the outset is the fact that it took Floriana more than four months to complain about her alleged rape by the accused-appellant, and only after she could no longer keep her condition a secret.

The complainant's explanation that she had to keep silent because of the threat upon her and her family is not convincing. While we may accept that she was truly intimidated at the time of the rape - assuming it really happened - the danger she apprehended then did not continue in the same degree during all of the next four months, to prevent her from disclosing the outrage committed on her by Tereso.

The supposed threat came from a twenty-three year old person with no known record of violence or lawlessness. He was not the village bully or a notorious criminal. Even the weapon he supposedly carried was a "small knife." It would seem to us that the fears of the complainant would have sufficiently dissipated after the alleged rape and she would soon have summoned enough courage to report it to her family.

It is likely that when she finally decided to file charges against the accused-appellant, it was not really to seek justice, as her mother insisted, but to explain her unmarried pregnancy. She was not deliberately exposing herself to humiliation because of the alleged rape but in fact using it extricate herself from the shame that could no longer

be hidden. The disgrace was already there, as obvious as her bulging abdomen, and what she desperately wanted was an excuse for the foetus in her womb.

While alibi is generally regarded as a weak defense, it is not so in the case at bar. We regard as satisfactory the testimonial and documentary evidence submitted by the defense to show that Tereso was working at the time of the supposed offense at PICOP and Floriana herself was not in Barangay Coletto but in Thelma Reyes' house in Mangagoy. The time records are especially significant because they showed that Tereso was working at PICOP on November 14, 1984, even as it was also noted therein that it was his "rest day," for which he was entitled to extra compensation. The testimonies of Thelma Reyes and Juanita Lopez that on that same date Floriana was living in Thelma's house is supported by the clothes she was forced to leave as security for the payment of her back rentals and is consistent with the claim that she was working then as a manicurist in a nearby shop.

The prosecution suggests that, even if Tereso really did report for work that morning, he could still have used one of the 200 service jeeps in the PICOP compound to drive to the Cotiangco house, rape Floriana, and return to PICOP without his absence being detected. That is straining things too much. We are asked to believe that the service jeeps were there for anybody to use at will and for any purpose, available for the convenience of any employee, including the accused-appellant. That is a strange policy, indeed. It becomes stranger still if it is considered that Tereso was only a drier operator, let alone the lack of any showing that he even knew how to drive.

Doubt is also cast on the supposed relationship of Floriana with Carmona and Caserial because they were not presented by the defense to corroborate Tereso's testimony. Given the insinuations made by Tereso, we do not see how he could have reasonably persuaded these persons to testify on his behalf to show he did not sire Floriana's baby. On the other hand, there is also the failure of the prosecution to present the Cotiangcos to support Floriana's allegation that she was indeed left all alone in their house in the morning of November 14, 1984. There was no difficulty in asking them to testify but neither of them spoke up at the trial.

It is possible that Tereso was indeed the father of Floriana's son, if we are to believe that they were sweethearts, but not as a result of the rape allegedly committed in her uncle's house on November 14, 1984. For that matter, it is also possible that somebody else could have fathered Floriana's illegitimate son, considering her alleged relationship with Eddie Carmona as suggested by Thelma Reyes and with her other male friends. But we make no definite finding on this matter, confining ourselves to the responsibility solely of the accused-appellant under the information filed against him.

Although this Court ordinarily relies on the factual findings of the trial court, recognizing its superior competence to assess the credibility of the witnesses through direct observation of their manner on the stand, we do not apply this policy in the case before us. We have carefully examined the records and analyzed the arguments of the parties, and we find that the prosecution has not sufficiently established the guilt of the accused-appellant to the point of overcoming the constitutional presumption of innocence in his favor. The testimony of the complaining witness, tested in the light of her apparent motive and the evidence for the defense, has not stilled those insistent whispers of doubt that prevent us from affirming the accused-appellant's guilt. He must therefore be absolved.

WHEREFORE, the appealed decision is REVERSED and SET ASIDE. The accused-appellant is ACQUITTED on reasonable doubt and ordered released immediately. No costs.

SO ORDERED.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Judge Martin V. Vera Cruz, RTC, 11th Judicial Region, Br. XXIX, Bislig, Surigao del Sur.

[2] Rollo, pp. 27-28.

[3] Exhibit "A."

[4] Exhibits "4," "4-A," & "4-B." But these were unsigned.

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