

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILFREDO ALBARILLO, ACCUSED-APPELLANT.

G.R. No. 84729. July 30, 1990

Ponente: CORTES, J.

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CORTES, J.:

Appellant Wilfredo Albarillo was charged with the crime of rape in an information dated March 25, 1986, as follows:

That on or about the 14th day of January, 1986, at around 7:00 o'clock in the morning, in the Sitio of Ibuye, Barangay Calsapa, Municipality of San Teodoro, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by means of force and intimidation, wilfully, unlawfully and feloniously did lay and succeeded in having carnal knowledge of the offended party Melinda Cuaresma, against her will and consent. [Record, p. 1; Rollo, p. 2.]

Upon arraignment held on April 30, 1986, appellant pleaded not guilty. Thereafter, trial proceeded until terminated.

The evidence of the prosecution is as follows:

Sometime before 7 o'clock in the morning of January 14, 1986, complainant Melinda Cuaresma was requested by her stepfather, Norberto Saramusing, to gather fern tops across the Ibuye River [TSN, December 5, 1986, p. 13], at a fern grove located within a banana plantation [TSN, November 5, 1986, pp. 13-14.] While gathering the fern tops, she met appellant who asked her whether she had seen his female carabao. When she answered in the negative, she saw him leave for the farm of her Ka Francising. When she proceeded to gather fern tops, however, she noticed appellant following her. He asked her then what she was going to do with the fern tops and she answered that she was going to cook them. As she continued to gather fern tops, appellant embraced her and forced her to lie down on the ground. Complainant shouted for help but was warned by appellant to shut up otherwise he would kill her. With her right hand being held by appellant, complainant held on to her panty with her left hand; however, because he was definitely stronger, appellant was able to remove the same. Appellant, now in a kneeling position, thereafter pulled down his short pants [TSN, December 5, 1986, pp. 14-16, 24.]

Complainant tried to free herself by kicking and boxing him but to no avail. Appellant succeeded in having carnal knowledge of complainant [TSN, December 5, 1986, pp. 16-17, 24.]

Managing to free herself from appellant, complainant ran and crossed the river towards her home [TSN, December 5, 1986, p. 17.] Her mother, Lucita Saramusing, heard her cry "Inay, inay" [TSN, November 5, 1986, p. 4.]

Lucita Saramusing saw complainant fall on the bank of the river, some fifty (50) meters from their house. When her daughter stood up, she met the latter at their yard. Upon her inquiry, complainant said that she was raped by appellant [TSN, November 5, 1986, pp. 5-6.]

Lucita Saramusing brought her daughter to Barangay Councilman Leonilo Populi who referred them to Barangay Captain Pepito Puras. The latter in turn directed them to go to the Police Station. At the station, their statements were taken and complainant was told to subject herself to a medical examination [TSN, November 5, 1986, pp. 6-9; December 5, 1986, p. 20.]

The medical certificate issued by Dr. Arturo Alberto who on January 15, 1986 conducted the medical examination on complainant, contained the following findings:

EXTERNAL FINDINGS:

1. Contusion - (1 x 1/2 inch diameter) right breast - upper inner quadrant.
2. Hematoma - (1 x 2 inches diameter) right arm lower 3rd cubital area.
3. Hematoma - (1 x 1 inch dia) right thigh-upper thirds antero lateral aspect.
4. Hematoma - (1 x 1 inch dia) right leg upper thirds.

FINDINGS OF EXTERNAL GENITALIA:

HYMEN - Fresh laceration at 7 and 5 o'clock.

Vaginal canal admits 2 examining fingers with least resistance.

LABORATORY EXAMINATION:

Vaginal Smear none found for Spermatozoa. [Record, p. 6.]

On the other hand, appellant sought to establish the following:

At the time of the alleged incident, he was already at work as a laborer in the construction of the Bisay-an Bridge at Barangay Villaflor, San Teodoro. He first learned that he was being charged with the crime of rape of complainant on January 16, 1986 when his cousin, Edgardo Albarillo, personally fetched him from his place of work. Upon learning of such charge, he went back to sitio Ibuye at about 9 a.m. of the same day to verify from his mother the truth of such report. She, however, denied having any knowledge about the same. At about 2 p.m. of that day, he was fetched by a policeman and brought to the Municipal Building of San Teodoro where he was thereafter detained. No statement was taken from him [TSN, January 5, 1988, pp. 4-7.]

In a decision rendered on June 10, 1988, the Regional Trial Court of Oriental Mindoro, Branch XXXIX, found appellant guilty beyond reasonable doubt of the crime of rape. The dispositive portion of the decision reads as follows:

ACCORDINGLY, the Court finds the accused guilty beyond reasonable doubt, as principal, of the crime of rape, defined and penalized in Article 335 of the Revised Penal Code and hereby sentences him to reclusion perpetua, to indemnify the offended party in the amount of P20,000.00 by way of actual, compensatory and moral damages, without subsidiary imprisonment in case of insolvency and to pay the costs.

* * *

[Record, p. 191; Rollo, p. 17.]

Appellant now comes before this court assigning the following errors:

I

THE LOWER COURT ERRED IN HOLDING THAT RAPE WAS COMMITTED AGAINST THE PERSON OF THE COMPLAINANT; and

II

THE LOWER COURT ERRED IN NOT GIVING CREDENCE TO THE DEFENSE OF THE ACCUSED.
[Rollo, p. 38.]

Ultimately, the only issue is whether or not appellant is guilty beyond reasonable doubt of the crime of rape.

I.

Owing to the peculiar nature of the crime of rape, the very act itself is oftentimes, as in this case, witnessed by only two people, the complainant and the accused. As a consequence, extreme care and caution is required in weighing and appraising their conflicting testimonies to ensure that justice is meted out [People v. Villapana, G.R. No. 53984, May 5, 1988, 161 SCRA 72.]

The trial court gave credence to the prosecution's evidence consisting mainly of the testimony of the complainant as corroborated by the findings of Dr. Arturo Alberto. It found that complainant, an unsophisticated barrio lass and barely 15 years old at the time of the incident in question, would have no reason to tell a sordid tale of violation by a man unless such was the truth. The Court has consistently held that conclusions as to the credibility of witnesses in rape cases lie heavily on the sound judgment of the trial court, for it is the court which has observed the behavior and deportment of the witnesses [People v. Veloso, G.R. Nos. L-38551-53, February 27, 1987, 148 SCRA 60; People v. Sarda, G.R. No. 74479, April 24, 1989, 172 SCRA 651.] Given the following considerations, we find no reason to depart from this rule.

A perusal of complainant's testimony will show the candor expected of a girl truthfully recounting the terrible experience which had befallen her. Her account of the events which occurred before, during and after the rape was consistent and unwavering even during cross-examination. More importantly, that she put up a struggle against the appellant so she could free herself is consistent with the injuries she suffered as a result thereof, as shown in the medical certificate.

Moreover, complainant's behavior immediately after the incident establishes beyond reasonable doubt that she was raped by appellant. Accompanied by her mother, she lost no time in reporting the incident to the authorities. The policemen who interviewed her regarding the incident noted that she was pale and trembling and her clothes were wet. She was also crying and was unable to speak so she was advised to first rest and calm down [TSN, January 13, 1987, pp. 7-8, 18.] This condition in which complainant was found is an added basis for the finding that she was all the while telling the truth.

II.

To raise doubt that rape was indeed committed on Melinda, appellant relies upon the testimony of his expert witness, Dr. Mariefreda Madla, to the effect that contusions and hematomas may be due to pre-menstrual irregularities [TSN, February 3, 1988, pp. 13-16] and that the hymen of a woman may be broken from causes like biking, running or masturbation or in the course of examination of a physician [TSN, February 3, 1988, pp. 16-19.] Dr. Madla's testimony deserves scant consideration. Since she did not personally examine complainant, but expressed her views on the findings in the medical certificate, her testimony amounts to no more than a theoretical assessment which cannot overcome the findings and testimony of Dr. Alberto who actually examined

the complainant. On the contrary, the totality of Dr. Madla's testimony even corroborates Dr. Alberto's conclusion for it does not discount the probability that complainant's injuries, particularly the laceration of her hymen, was caused by intercourse.

Appellant likewise capitalizes on the testimony of Barangay Captain Pepito Puras, a witness for the prosecution, to bolster his defense of denial. The pertinent testimony of Mr. Puras is as follows:

Q: Now, on January 14, 1986, will you please tell the Court if you have (sic) received any complaint from a certain Lucita Saramusing and Melinda Cuaresma?

A: Mother and daughter Lucita Saramusing and Melinda Cuaresma arrived in the field where I was farming sometime on January 14, 1986 and thereat they lodged a complaint regarding or, in connection with what happened to her daughter.

Q: What was, in particular, the complaint of mother and daughter Lucita Saramusing and Melinda Cuaresma. Please tell the Court?

A: Lucita Saramusing approached me and complained to me that Wilfredo Albarillo wanted to rape her daughter.

Q: Now, what else did the mother and daughter report to you on that particular date of January 14, 1986 aside from what you have just narrated?

A: They told me that had it not (been) for the step-father of Melinda Cuaresma the latter should have been raped. [TSN, March 27, 1987, pp. 4-5.]

This testimony in isolation does not lend support to appellant's case. It is not enough to overturn the other evidence for the prosecution strongly pointing to the guilt of the accused. What must be underscored is complainant's credible testimony that she was violated by accused against her will and without her consent. In any case, it is not difficult to explain why Lucita Saramusing, faced with the rape of her daughter and intent on seeking redress for the wrong done to her, could have made some inaccurate statements in this wise.

Appellant moreover insists that he could not have raped complainant since on January 14, 1986 when this was allegedly committed, he was working as a construction laborer on the Bisay-an Bridge at Barangay Villaflor, San Teodoro. He presented the daily time sheets of his employer from January 11, 1986 to January 15, 1986 to prove that he reported for work on January 14, 1986. Furthermore, he presented the testimonies of the project engineer and three of his co-workers to the effect that these daily time records were prepared before actual work started at seven o'clock in the morning and that the workers were allowed to sign only before 7:10 or 7:15 o'clock in the morning, to prove that appellant was already at work at the time the rape was allegedly committed.

Generally, alibi is a weak defense. In order to be given full faith and credit, it must be clearly established and must not leave any room for doubt as to its plausibility and verity. The accused must show, not only that he was not at the place where the crime was committed but that it was impossible for him to be there [People v. Tuando, G.R. No. L-47720, May 20, 1987, 150 SCRA 8; People v. Lucas, G.R. No. 80102, January 22, 1990.] That appellant failed to satisfy the above requirements can be shown by the following considerations:

1. Fernando Rotone who was the foreman, the time keeper and the project engineer of the Bisay-an Bridge project during the period of employment of appellant, claims that a worker who arrives later than 7:15 o'clock in the morning of each working day will not anymore be allowed to sign on the daily time sheet and hence will be absented from work for that period [TSN, September 17, 1987, pp. 11-12.] It bears emphasis however that no matter how vigilant Engineer Rotone might be in taking note of the times of arrival of his workers, he admits that owing to the nature of his work, he has to leave the job site sometimes during working days [TSN, September 17,

1987, p. 23] and the signing of the daily time record has to be entrusted to Mr. Teddy Gasco [TSN, September 17, 1987, p. 22.] Contrary to his allegations, therefore, he is not always around to personally check on his workers. It also follows that a worker's late arrival for work, specifically after 7:15 o'clock in the morning of a working day according to appellant's witnesses, will go unnoticed and enable him to sign his name on the daily time sheet.

2. The basis for Engineer Rotone's categorical statement that appellant was already at work at the time of the alleged rape is that appellant signed up for the morning session as shown by the January 14, 1986 daily time sheet. However, it must be noted that the daily time sheets alluded to are merely sheets of yellow pad paper containing spaces where the workers sign their names if and when they report for work in the morning and again, in the afternoon. Noticeably, these do not indicate the times when the workers arrive for work or when they leave after work. Appellant could have signed his name on the daily time sheet despite his being late for work.

3. Sitio Ibuye, Barangay Calsapa where the rape was perpetrated and Barangay Villaflor where appellant asserts he was working at the time of the alleged rape is only approximately seven (7) kilometers apart [Decision, p. 3; Rollo, p.16.] Appellant testified that when he goes to his place of work from his house in sitio Ibuye, he has to cross first the Ibuye River and then take the tricycle in Calsapa [TSN, January 5, 1988, p. 20] which stops at the Poblacion of San Teodoro [TSN, January 5, 1988, p. 24.] He has then to negotiate about two kilometers from the poblacion to the Bisay-an Bridge [TSN, January 5, 1988, p. 25.] Admittedly, the crime scene can be passed by appellant from his house in sitio Ibuye, where he and complainant are neighbors, en route to his place of work. The distance between the crime scene and appellant's place of work can be negotiated in a span of time so as to be consistent with the theory that after raping complainant in sitio Ibuye, Barangay Calsapa, appellant then proceeded to work in Barangay Villaflor. Moreover, it has been ruled that the defense of alibi cannot be believed where the distance of two (2) barrios is only eight (8) kilometers and can be traversed by walking in one and a half hours [People v. Ausan, G.R. No. L-49728, July 15, 1987, 152 SCRA 52; People v. Quidilla, G.R. Nos. 79369-70, October 28, 1988, 166 SCRA 778].

The Court notes the futile attempts of appellant to impute several motives on the part of complainant's family to implicate him in this case. He tried to show that there was a long-standing feud between his family and the family of complainant because complainant's family have frequently trespassed on their premises (the banana plantation and the fern grove where complainant gathered the fern tops were being tenanted by Josefina Albarillo, the mother of appellant) and gathered vegetables without their consent. He also attempted to make it appear that the mother of complainant had a reason to be angry against his family since his mother Josefina accused her of not having remitted to the insurance company about P1,000.00 in insurance premiums paid to her as an insurance agent.

That a mother would use her daughter and subject her to the shame of admitting that she had been raped so that she could seek vengeance on the son of a woman against whom she harbors a grudge does not merit consideration. It is difficult to believe that a young, unmarried woman would tell a story of defloration, allow the examination of her private parts and thereafter permit herself to be the subject of a public trial, if she was not motivated by an honest desire to seek justice [People v. Selfaison, G.R. No. 14732, January 28, 1961, 1 SCRA 235; People v. Estebal, G.R. No. 82768, May 5, 1989.]

WHEREFORE, finding that appellant's guilt has been proved beyond reasonable doubt, the decision of the trial court is hereby AFFIRMED, except as to the amount of the indemnity which is increased to Thirty Thousand Pesos (P30,000.00) [People v. Villanueva, G.R. No. 50299, June 20, 1988, 162 SCRA 257; People v. Estebal, G.R. No. 82768, May 5, 1989].

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

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