

PEOPLE OF THE PHILIPPINES, PETITIONER-APPELLEE, VS. SALVADOR BIENDO, ACCUSED-APPELLANT.

G.R. No. 84731. December 16, 1992

Ponente: PADILLA, J.

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PADILLA, J.:

Appellant Salvador Biendo was charged with the crime of rape by the Provincial Fiscal of Iloilo.

The information dated 14 July 1982 alleged:

"x x x That on or about April 20, 1982, in the Municipality of Balasan, Province of Iloilo, Philippines, and within the jurisdiction of this Court, the above-named accused, by means of force, violence, and/or intimidation, did then and there willfully (sic), unlawfully and feloniously have sexual intercourse or carnal knowledge with Jocelyn Arbacan, a girl, 15 years of age, against her will and/or consent.

CONTRARY TO LAW."[1]

The victim-complainant, Jocelyn Arbacan, was the only witness for the prosecution to testify regarding the manner in which the crime was committed.

The accused interposed the defense that the complainant had an illicit sexual relationship with him prior to the date of the alleged rape.

On 17 January 1986, the trial court rendered a decision the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered finding the accused, SALVADOR BIENDO, guilty beyond reasonable doubt of the crime of RAPE, defined and punishable under Article 335 of the Revised Penal Code, and the Court sentences the said accused to suffer life imprisonment, to suffer the accessory penalties provided for by law, to indemnify Jocelyn Arbacan in the sum of P20,000 without subsidiary imprisonment in case of insolvency, and to pay the costs x x x."[2]

The evidence for the prosecution, based on the testimony of the complainant, was summarized by the trial court as follows:

"x x x at about 11:00 o'clock in the morning of April 20, 1982, she [meaning the complainant] was in her house when the accused passed by on his way home from the fishpond; the accused told her to buy Pepsi-cola for him, gave her P1.50, and instructed her to bring the Pepsi-cola to his house some 300 meters away; she obliged as the accused being her uncle, was used to letting her do things for him; she went to the store which is past the house of the accused and bought Pepsi-cola, and delivered the softdrink to the accused who was on top of the stairs by the door of his house; after she had moved 10 meters away, the accused told her to come back which she did; after she had gone up the house, the accused embraced her so she could not move, told her not to shout nor move or he would kill her, pulled down her shorts which was underneath her dress; she pushed the accused to release herself and she intended to go down the house, but the accused held her again and dragged her to a private room; on the way he removed his pants, leaving himself naked from the waist down; the accused made her lie down, pulled her short (sic) with a hand which she tried to prevent but failed, his other hand holding

her; the accused succeeded in having her thighs apart, after which the accused was able to have sexual intercourse with her; the accused warned her not to tell anybody otherwise he would kill her; she went home and did not tell her mother what happened because she was afraid of the accused as he had been imprisoned in Muntinglupa; she kept on pondering on what to do until she told her mother on April 26, 1982; they went to the barangay captain who accompanied them to the police; upon advice of the station commander, they went to Dr. Noel C. Posadas in Batad, Iloilo, who examined her. x x x Dr. Posadas founds (sic) 4:00 o'clock healed laceration in the hymen of the complainant (Exhibit "A"). According to Dr. Posadas the healed laceration was superficial and it was possible the sexual intercourse was on April 20, 1982." [3]

The version of the accused was as follows:

"The accused depicted the complainant as a temptress at an early age of 15. The accused alleged that the complainant ate her supper with other fish catchers in the evening of January 5, 1982 in a hut in the fishpond where the accused was working, and from there surreptitiously went to the hut where he was sleeping and lay by his side, he did not know that the person beside him was a woman until he felt the breast, the woman did not complain when he touched her private parts, and being a man, he was aroused, the woman responded, and he came to know that the woman was no other than the complainant after the inter-course." [4]

The trial court, in convicting the accused, relied on the "spontaneous answers and straight-forward and coherent narration of the complainant" which was unshaken by the lengthy cross-examination. [5] The defense version was rejected by the trial court as being a tall tale for the reason that it is "contrary to the traditional modesty of the Filipino woman." [6]

In this appeal, the accused-appellant assigns the following errors to the trial court:

I. x x x IN CONVICTING THE ACCUSED OF RAPE CONSIDERING THAT THE COMPLAINANT HERSELF SUBMITTED HERSELF TO THE ACCUSED AND THEREFORE VOLUNTARY (sic).

II. x x x IN NOT ACCEPTING THE DEFENSE OF THE ACCUSED THAT THE CHARGE OF RAPE AGAINST HIM WAS VENGEANCE ON THE PART OF THE COMPLAINANT SINCE THE FORMER TERMINATED THEIR RELATIONSHIP.

III. x x x IN NOT GIVING DUE COURSE (TO) THE DEFENSE OF THE ACCUSED [THAT] THERE WAS NO RAPE COMMITTED BY THE ACCUSED SINCE NO INJURIES WAS (sic) FOUND IN (sic) THE BODY OF THE COMPLAINANT AS PER MEDICAL CERTIFICATE ISSUED BY DR. NOEL POSADAS WHO EXAMINED THE COMPLAINANT." [7]

The rule is well settled that when a woman says that she has been raped, she says, in effect, all that is necessary to show that rape was committed and that if her testimony meets the test of credibility, the accused may be convicted on the basis thereof. [8]

In the case at bar, the trial court was clearly impressed by the testimony of the victim, Jocelyn Arbacan. The defense failed to show any improper motive on the part of Jocelyn to impute such a crime on her uncle, except for the self-serving and uncorroborated allegation of the accused that he was being charged because he had decided to end their illicit relationship. [9] This Court finds no compelling reason to disturb the findings of the trial court regarding the credibility of the complainant.

The absence of physical injuries on other parts of the body of the complainant is immaterial for this Court has ruled that the absence of physical injuries on the complainant's body does not negate the complainant's testimony that she was raped, nor does it make the complainant a willing partner in the sex act. [10] Additionally, as in the case of *People v. Rio*, [11] we find it hard to believe that a mother would allow her child to suffer the trauma and embarrassment of a public trial by charging someone, especially her own brother-in-law, of rape for reasons other

than to obtain justice for the dastardly act.

Finally, regarding the penalty imposed by the trial court, the proper term should be reclusion perpetua as correctly pointed out by the Solicitor General, instead of life imprisonment, in accordance with Article 335 of the Revised Penal Code as amended. The civil indemnity imposed is increased to Fifty Thousand Pesos (P50,000) in accordance with our ruling in the case of *People v. Magaluna*,^[12] considering that the victim is the accused's niece.

WHEREFORE, the decision appealed from is **AFFIRMED** with the following modifications:

- (1) The appellant shall suffer the penalty of reclusion perpetua; and
- (2) The award of civil indemnity in favor of Jocelyn Arbacan is increased to Fifty Thousand Pesos (P50,000), with costs against the appellant.

SO ORDERED.

Cruz, (Chairman), Grino-Aquino, and Bellosillo, JJ., concur.

[1] Original Records, p. 15

[2] Rollo, p. 30

[3] Rollo, pp. 25-26

[4] Rollo, p. 29

[5] Rollo, p. 28

[6] Rollo, p. 29

[7] Rollo, p. 153

[8] *People vs. De los Reyes*, G.R. No. 85771, 19 November 1991, 203 SCRA 707

[9] TSN, p. 1, 10 June 1985

[10] *People v. Barcelona*, G.R. No. 82589, 31 October 1990, 191 SCRA 100

[11] G.R. No. 90294, 24 September 1991, 201 SCRA 702

[12] G.R. No. 66755, 23 January 1992, 205 SCRA 266

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