

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CAMILO ABARQUEZ Y DAVID, ACCUSED-APPELLANT.*G.R. No. 85186. December 01, 1992*

Ponente: CRUZ, J.

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The interesting thing about this case is that the complainant was allegedly carried out of the house while she was sleeping, her mouth stuffed with a t-shirt to prevent her from calling for help, and brought to a clearing near a banana grove some one hundred meters away. It was only then that she suddenly awoke and, shortly after that, she said, she was raped by the person who had abducted her. Did this really happen or was it only a dream?

The complainant is Carolina Abanto, who was only thirteen years old and a Grade IV pupil at the time of the incident in question. The accused-appellant is Camilo Abarquez, who is now appealing his conviction by the Regional Trial Court of Batangas City for abduction with rape. He has been sentenced to serve the prison term of reclusion perpetua, to indemnify the victim in the sum of P30,000.00, and to pay the costs.[1]

The alleged offense happened at about 2:30 o'clock in the morning of October 22, 1978, in Bauan, Batangas. After being abducted as above narrated; Carolina said that she was forcibly undressed by Abarquez, who was all the time brandishing a knife. He inserted his fingers in her vagina, but she moved away, which provoked him to choke her and box her breast. He then succeeded in penetrating her, causing her to cry out in pain (if not also frustration and disgust).[2]

His lust still unspent, Abarquez next told her to come with him to a darker forested area nearby, but Carolina refused, saying she was barefoot. As Abarquez went to look for her slippers, she sidled away and escaped, running to her uncle's house. There she told him and her aunt what had happened, and they immediately brought her to the Medicare Hospital in Bauan, where she was attended to and examined by Dr. Boanejes Anis. Dr. Anis found that her hymen had been freshly lacerated, "possibly by the forceful insertion of a male organ." [3] He also noted bruises on her back and neck.

The police was also notified and came to investigate while Carolina was still in the hospital. She described her attacker to Pat. Bienvenido Magnaye and Cpl. Magno Comia as somewhat dark, short, bearded and with long hair. Acting on her report, they brought before her three men answering to the description she had given and asked her if she recognized any of them. She said none of them was the culprit. Continuing their investigation, they came upon Abarquez at Barrio Putok, who also matched Carolina's description of her attacker. They invited him for questioning but he refused at first. Later, upon his father's assurance that he would accompany him, he agreed to go with the policemen to the hospital, where they brought him before Carolina. On seeing him, the girl exclaimed, "Iyan po!" [4]

Pat. Magnaye added that to be absolutely sure, he gathered seven other men with the same description and together with Abarquez, brought them before Carolina at the hospital. Again Carolina unhesitatingly pointed to Abarquez as her assailant.[5]

Later at the trial, Carolina declared she was able to recognize Abarquez because the moon was bright when she was raped.[6]

The Court also notes with the trial court that Abarquez agreed to submit to a medical examination, which was also conducted by Dr. Anis. The examination revealed the presence in the suspect's fingernails of microorganisms called trichomonas vaginalis,[7] to indicate their usual habitat. In his defense, Abarquez testified that he probably got them while he was feeding his cattle, when his fingers touched their mouths.

Carolina was corroborated by her uncle, Benedicto Pasaol who declared that in the morning of the incident he woke up because his youngest child was asking for milk and he found that Carolina was not in the house. He went out looking for her and came upon two figures in the clearing described earlier by Carolina, one on his knees before the other person, who was lying on the ground. The first one saw him approaching and ran away, but Benedicto said he recognized him as Abarquez. On returning home, he found Carolina already there and tearfully narrating her ordeal.[8]

Abarquez denied the charge and claimed he was nowhere near the place when and where the alleged rape happened. He said that at about 8 o'clock in the evening of October 21, 1978, he went to the house of Graciano Cabral from which, he and his other friends, namely, Bien, Bibong and Danny, went to serenade a girl. He said he went home at 10 o'clock, was asleep by 11 o'clock, and awoke at 6 o'clock the following morning. He proceeded immediately to feed the animals.[9]

Camilo's father, Jorge Abarquez, testified that his son did come home at 10 o'clock in the evening of October 21, 1978, but admitted on cross-examination that he did not know if Camilo left later or whatever else he might have done the rest of the night. This witness also confirmed that their house was about 2/3 of a kilometer from the place where Carolina was allegedly raped.[10]

Significantly, Abarquez did not present any of the friends he claimed to have gone out with to serenade a girl, or the object of their affection.

The Court has gone over the record and finds there is no warrant for reversing the decision of the trial court. We are satisfied that, as found by Judge Romeo F. Zamora, the guilt of the accused-appellant has been proved beyond reasonable doubt.

We have said time and again that mere denial and alibi are weak defenses and will be accepted only if supported by the most telling corroboration. There was none to speak of in the case at bar. Moreover, Abarquez did not show that it was impossible to leave the place where he claimed he was sleeping and to return thereto after committing the crime, to still be able to show that he did get up at 6 o'clock that morning in the place where he had gone to sleep. By his own father's admission, the distance between his house and the place where the rape was committed is less than a kilometer.

Carolina's testimony was by contrast forthright and positive. She readily pointed to Abarquez in the hospital, first when he was brought there alone, then when he was made to join seven others who matched her description of the abductor-rapist, and finally at the trial itself. It is true that there is something incredible about her not being awakened when she was lifted bodily and carried one hundred meters from the house, and with her mouth gagged with a t-shirt to boot. But this can be explained by her age at the time; she was only thirteen then and possibly a heavy sleeper, like most teenagers. At any rate, there is the medical evidence of her defloration, ascertained the very day she was raped, and of the presence of trichomonas vaginalis in Abarquez's fingernails to confirm her assertion that he inserted his fingers in her vagina. Also not to be discounted is the slipper found at the doorway of the house where Carolina was abducted, apparently left by her abductor like an improbable Cinderella. It fitted

Abarquez perfectly, but not to make him live happily ever after.

The defense rightly rejects Benedicto's corroboration as suspiciously fabricated. But we agree with the trial court that even without his testimony, the case of the prosecution is strong enough with Carolina's accusation alone and the supporting medical evidence. Carolina had no known malicious motive in pointing to Abarquez as her abductor and rapist. She was a naive 13-year old still in her primary grades and was doing nothing more innocuous than taking care of the two children of her aunt and uncle, who were supporting her schooling. Her violation was no invention. Her torn hymen was not an imagined outrage. Her identification of Abarquez was a cry for retribution against the man who had indelibly stained her chastity with his lechery. Her certainty was born of the evil face that seared her memory like a branding iron that night in the banana grove when he ruptured her virginity forever.

WHEREFORE, the challenged decision is AFFIRMED and the appeal DISMISSED, with costs against the accused-appellant. It is so ordered.

Padilla, Griño-Aquino, and Bellosillo, JJ., concur.

[1] Rollo, pp. 42-54.

[2] TSN, February 9, 1984, pp. 9-17.

[3] Ibid., January 29, 1984, pp. 15-16.

[4] Id., January 30, 1979, pp. 40, 85.

[5] id., p. 43.

[6] id., March 23, 1984, p. 23.

[7] Records, p. 5.

[8] TSN, May 7, 1979, pp. 20-38.

[9] id., December 5, 1985, pp. 10-20.

[10] id., October 3, 1985, pp. 10, 38.

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