

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FRANCISCO NATAN Y CALLEJO, ACCUSED-APPELLANT.

G.R. No. 86640. January 25, 1991

Ponente: REGALADO, J.

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REGALADO, J.:

Francisco Natan y Callejo, in a criminal complaint filed before the Regional Trial Court of Pasig, Branch 164,[1] by Mauricio R. Toledo, for and in behalf of his daughter Marilyn C. Toledo, was charged with the crime of rape allegedly committed as follows:

"That in or about and during the period August 3 to 29, 1986, in the Municipality of Pateros, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with abuse of confidence, entered the dwelling of Marilyn Toledo y Carpio who was then alone, did then and there wilfully, unlawfully and feloniously, employing unchaste machination, force and intimidation, did lie and succeed in having carnal knowledge of said Marilyn Toledo y Carpio against her will and she was suffering from a certain form of mental disorder.

Contrary to law."[2]

Upon arraignment on May 7, 1987, accused-appellant, assisted by counsel, pleaded not guilty to the crime charged.[3] During the pre-trial, appellant offered to plead guilty to the lesser offense of acts of lasciviousness but this was rejected by the prosecution.[4] Trial on the merits then ensued.

The facts of the case, as summarized by the Solicitor General in his brief and substantiated by the transcripts of the notes of the proceedings, are as follows:

"Sometime in August 1986, the accused Francisco Natan was requested by Marilyn Toledo's mother to help them in curing Marilyn's illness (p. 15, tsn, Sept. 7, 1987). Marilyn was then living in her parents' house at Zone 5, Kawayanan Street, Pateros, Metro Manila (p. 2, id.)

"The accused, who was a 'manghihilot', obliged and visited Marilyn. The latter was only fourteen (14) years old in 1986, and was very frail and weak.

"Marilyn was treated several times during the month of August, 1986 by the accused in the former's house, either in the presence of Marilyn's parents and sometimes alone.

"The accused at one time, using his moral ascendancy, treated Marilyn by positioning himself on top of her with her clothes on but the accused was told by Marilyn not to do so (p. 3, tsn, Sept. 7, 1987). The accused then went home but returned later bringing with him a tape recorder and some religious reading materials (p. 4, id.). The accused turned on the tape recorder and instructed Marilyn to read the Bible.

"Marilyn was asked to read the Bible sitting on the chair with the accused beside her and with arms around her shoulder. Meanwhile, as the tape recorder was played moderately loud, the accused started kissing Marilyn on her cheeks (pp. 4-6, id.).

"During another treatment, the accused timed his arrival at Marilyn's house when her parents were not around. He asked Marilyn to lie down as he massaged her abdomen. The accused then went home and returned, bringing with him an allegedly 'religious cordon' (pp. 6-8, id.). The cordon was utilized by the accused to tie Marilyn's hands. A pillow was also placed on top of Marilyn's face. The accused then successfully removed Marilyn's shorts and panty while at the same time positioning himself on top of Marilyn. The volume of the tape recorder was also significantly increased. Marilyn then asked the accused in Tagalog, 'Tatang bakit ba naman pati sa ibaba ay huhubarin ninyo?' (p. 9, id.). But the accused proceeded with his bestial designs and successfully had sexual coitus with his 'patient'.

After the incident, accused told Marilyn not to tell anybody otherwise he will kill her (p. 16, id.).

"Marilyn reported in early September 1986 the horrifying incident to her mother but her mother did not immediately believe the story since the accused was advanced in age (55 years old) and was respected as a faith healer (p. 7, ts, Sept. 10, 1987).

"The incident was, however, reported to the police, more or less, three (3) weeks after the incident by Marilyn's father, Mauricio Toledo (p. 13, ts, Sept. 7, 1987).

"Lt. Col. Desiderio Moraleda, (prosecution witness) immediately conducted a physical examination of Marilyn as requested by the Pateros Police Station (Exhibit 'A', p. 2, Decision) after securing the consent (Exhibit 'B', id.) of Marilyn's father (pp. 3-5, July 27, 1987).

A Medico-Legal Report (Exhibit 'C', p. 50, rec.) was thereafter submitted stating, inter alia.

'There is scanty growth of pubic hair. Labia majora are full, convex and coaptated with the light brown labia minora presenting in between. On separating the same are disclosed an abraded external meatus and an elastic, fleshy-type hymen with shallow, healed laceration at 5 and 7 and a deep, healed laceration at 6 o'clock. External vaginal orifice offers slight resistance to the introduction of the examining index finger and the virgin-sized vaginal speculum. Vaginal canal is narrow with prominent rugosities. Cervix is normal in size, color and consistency with moderate amount of whitish mucoid secretion.'" (p. 2, Decision)[5]

Only appellant testified in his defense. His testimony, as narrated by the trial court in its decision, is as follows:

"Accused Francisco Natan testified that during the month of August, 1986, he was visited by Marilyn and her mother in his house; that the purpose was to solicit his help in curing Marilyn's illness; that while in his house, they all prayed together and that Marilyn was healed; that after a few days Marilyn's mother again went to his house and fetched him because something disturbing was again happening to her daughter; that they proceeded to the house of Marilyn and there and then, they all said their prayers and this was repeated after a few days; that in all these occasions when he said his prayers in behalf of Marilyn, the latter's father or mother was present in the house with all the windows of the house open so as to allow the holy spirit to come into the house; that the reason he was presently charged is due mainly to professional jealousy because there is a certain 'Apo Blanca', who is also a faith healer, who convinced the private complainants to institute the instant complaint; that another probable cause is that the father of Marilyn harbored ill-feelings against him because sometime in the past, he failed to give the father the latter's rice ration during the time when he (the accused) was a pastoral leader for the Lady of Fatima in Pateros; that he further executed a counter-affidavit subscribed and sworn to before the investigating fiscal on November 17, 1986 specifically belying the charge of rape which is now marked as Exhibit '1' for the defense; that he is a 'cursillista' and from the period May 21 to 24, 1986, he attended a seminar called 'Life and Spirit Seminar' and in July, 1986, he also attended an 'out-reach' or prayer meeting in Makati, called the Prayer Partner Foundation, Inc.; that the alleged victim of rape suffers from a mental illness and during those times when he was holding prayer sessions for her, Marilyn would be under the grip of a strange behavior wherein she would display utmost fear of somebody and was shouting: 'Huwag mo akong kainin!'.

"On cross-examination, the accused Francisco Natan stated that he is also a 'manghihiilot'; that when he

conducted prayer-sessions, he would close his eyes and communicate with the spirits and he would maintain a distance of about two (2) feet away from his patient; that his source of income came from being a part-time carpenter and at times, he found work three days in a month which augmented the family income; that the reason why he did not mention the names of 'Apo Blanca' and Mauricio Toledo in his counter-affidavit is because at the time it was prepared, he was very confused; and that the purpose for the filing of this case against him is to cause him dishonor or to sully his reputation considering the fact that he was at one time a chairman of a religious organization in their community." [6]

On October 14, 1987, the court a quo rendered a decision finding appellant guilty of the crime charged, the dispositive portion of which reads:

"IN VIEW OF ALL THE FOREGOING, the court finds the accused Francisco Natan y Callejo guilty beyond reasonable doubt of the crime of Rape committed upon the person of the minor Marilyn Toledo in violation of Art. 335 of the Revised Penal Code and therefore sentences him to reclusion perpetua.

No pronouncement as to costs.

SO ORDERED." [7]

Not satisfied therewith, appellant interposed this appeal, raising the following assignment of errors: (1) The trial court erred in giving credence to the testimony of the prosecution witnesses; and (2) The trial court gravely erred in convicting the accused despite the failure of the prosecution to prove the commission by the accused of a single act of rape against the victim. [8] It is apparent that the resolution of said errors hinges on the credibility of the witnesses.

Firmly settled is the rule that the finding of the trial court on the credibility of a witness is entitled to great respect. [9] The appellate courts will generally not disturb the conclusions and findings of fact of the trial court considering that it is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial, unless the court has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case. [10]

In the instant case, we find no reason to depart from the aforementioned doctrines. The testimony of the victim, corroborated by the testimony of her father and the medical findings, are sufficient to prove the guilt of appellant beyond reasonable doubt. The testimony of the victim is worthy of belief. There is nothing dubious or improbable in her statements. On this point, the trial court's assessment of the victim's testimony merits favorable mention and acceptance:

"Marilyn Toledo, the alleged victim, has been steadfast in her testimony especially so on the circumstances that surrounded the incident complained of. She never wavered in her testimony that on several occasions, she was treated by the accused in that they used to read the bible together and listen to a religious program over a radio cassette and that the accused used to massage her abdomen and at times lie on top of her; and that sometime in late August of 1986, while her parents were away, the accused came over and started the same treatment but after a while left and returned with a religious 'cordon', tied it around her waist and again lie on top of her and started kissing her cheeks and thereafter removed her shorts and panties and had carnal knowledge of her against her will and consent. Although there were certain inconsistencies in the testimony of said victim touching on details of the incident, such rather bolstered the truth of her charge rather than sap it of its strength for they served as signs that her testimony was not coached but given extemporaneously as she recalled her harrowing experience of so many months back. It is a legal truism 'that the most candid witness oftentimes commits mistakes and incur (sic) inconsistencies in his declarations, but such honest lapses do not necessarily impair his intrinsic credibility.' (Pp vs. Alcantara, G.R. No. L-26867, June 30, 1970, 33 SCRA 812)." [11]

The alleged inconsistency pointed out by appellant, to the effect that the victim said that she was raped many times and then later said it was only once, is not sufficient to render her testimony doubtful. To repeat, the most candid witnesses may make mistakes sometimes but such honest lapses do not necessarily impair their credibility.[12] The testimony of a witness must be considered and calibrated in its entirety and not by truncated portions thereof or isolated passages therein.

Furthermore, considering the inbred modesty and the antipathy of a Filipino woman to air in public things that affect her honor, it is hard to conceive that the complainant, a young girl of fourteen (14) years, would assume and admit the ignominy she had undergone, 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.[13] For, it is the natural instinct of a Filipina to protect her honor.[14]

Even the failure of the victim, when she testified in open court, to describe and give details of how she was raped by appellant does not detract from her credibility nor negate the commission of rape. The very young age of the victim and, as stated by the court below, her maidenly modesty may have impelled her to act that way. Her declaration that she was raped is enough. 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.[15]

We are convinced of the sincerity of the victim who had no reason to falsely incriminate the appellant. This court has consistently held that the testimony of a rape victim as to who abused her is credible where she has no motive to testify against the accused.[16] And, if her testimony meets the test of credibility, as in this case, the accused may be convicted on the basis thereof.[17]

Appellant insinuates ill motives in the filing of this case against him. He alleged that another faith healer, a certain "Apo Blanca" who succeeded him in treating the victim, may have induced her parents to file this case, in order to degrade his reputation; or it may be an act of revenge on the part of the victim's father, who had a grudge against him for his failure to give the former his rice ration in March and April, 1984 or in 1985 when appellant was the chairman of the pastoral unit of Our Lady of Fatima of Pateros.

The imputed motives are too shallow and picayune to be accorded credit. It is highly improbable for a father to sacrifice the honor, dignity and future of his innocent daughter on such flimsy motives. No parent will expose a young daughter to the shame of a rape trial for such a trivial reason.[18] As we stated in *People vs. David*: [19]

"It is inconceivable that a mother of a six-year old child would fabricate a rape charge, subject her daughter to physical examination and the embarrassment of a public trial. A mother would not sacrifice her daughter's honor to give vent to a grudge knowing fully well that such an experience would damage her daughter's psyche and mar her for life."

The failure of the complainant to immediately report the incident to the authorities does not cast a doubt on the credibility of the charge. The unintended delay has been satisfactorily explained. Appellant threatened to kill the victim should she report the incident to another. That threat directed to a fourteen-year old girl is enough reason for the delay in exacting the truth from her. One should not expect such a young girl to act like an adult or like a mature and experienced woman who would know what to do under such difficult circumstances, and who would have the courage and intelligence to disregard a threat on her life and the members of her family and complain immediately that she had been forcibly deflowered.[20] It is not uncommon for young girls to conceal, for some time, the assaults on their honor because of the rapist's threat on their lives.[21]

As to the alleged absence of force and tenacious resistance, we find appellant's arguments thereon bereft of merit. The victim herein was under treatment by appellant, hence the latter had moral ascendancy over the former. The victim thought that what appellant was doing to her was just a part of the treatment. It was the moral ascendancy

and influence of appellant that rendered the victim subservient to his lustful desires. Hence, the words she, uttered to wit: "Tatang, bakit ba naman pati sa ibaba ay huhubarin ninyo?" and "Tatang, huwag naman po ninyo ako ganyanin." could not be taken as a mere token resistance but that it was the only means she could then think and avail of, considering her mental state, to express her non-conformity to the abuse being perpetrated against her. Further, the record shows that appellant tied the victim with a "cordon" and covered her face with a pillow before he positioned himself on top of her and succeeded in raping her. Such circumstances and means rendered it impossible for the victim, who was only fourteen (14) years old, sickly and frail and suffering a form of mental disorder, to offer much resistance.

This Court has consistently held that rape is committed when intimidation is used on the victim^[22] and this includes the moral kinds of intimidation or coercion.^[23] The force or violence necessary in rape is naturally a relative term, depending on the age, size and strength of the parties and their relation to each other.^[24]

We, therefore, agree with the findings and conclusions of the lower court, but we notice an error of omission in its judgment. No civil indemnity has been awarded to the offended party pursuant to Article 345, paragraph 1, of the Revised Penal Code. Our present jurisprudence provides for an award to the offended party in rape cases in the amount of P30,000.00 as indemnity.^[25] Accordingly, herein appellant should be and is hereby ordered to indemnify the offended party in the amount of P30,000.00.

WHEREFORE, except for the modification above indicated, the judgment appealed from is **AFFIRMED** in all other respects, with costs against accused-appellant.

SO ORDERED.

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

[1] Judge Apolonio R. Chavez, Jr., presiding.

[2] Original Record, 1.

[3] Ibid., 11.

[4] Ibid., 30.

[5] Rollo, 69-72.

[6] Ibid., 15.

[7] Ibid., 18-19.

[8] Ibid., 40.

[9] *People vs. Amoncio*, 122 SCRA 686 (1983); *People vs. Orita*, G.R. No. 88724, April 3, 1990.

[10] *People vs. Balili*, 92 SCRA 552 (1979); *People vs. Bautista*, 142 SCRA 649 (1986); *People vs. Ibal*, 143 SCRA 317 (1986).

[11] Rollo, 16.

[12] *People vs. Cabato*, 160 SCRA 98 (1988); *People vs. Orita*, ante.

[13] *People vs. Selfaison*, 1 SCRA 235 (1961); *People vs. Angsioko*, 131 SCRA 486 (1984); *People vs. Mustacisa*, 159 SCRA 227 (1988).

[14] People vs. Avero, 165 SCRA 130 (1988).

[15] People vs. Royeras, 56 SCRA 666 (1974); People vs. Reglos, et al., 118 SCRA 344 (1982); People vs. Avero, supra.

[16] People vs. Lopez, 141 SCRA 385 (1986); People vs. Nunag, 173 SCRA 274 (1989).

[17] People vs. Hachang, 164 SCRA 441 (1988).

[18] People vs. Montalbo, 130 SCRA 634 (1984).

[19] 177 SCRA 551 (1989).

[20] People vs. Sonico 156 SCRA 419 (1987).

[21] People vs. Oydoc, 125 SCRA 250 (1983).

[22] People vs. Daniel, 86 SCRA 511 (1978); People vs. Sarda, 172 SCRA 651 (1989).

[23] People vs. Hortillano, 177 SCRA 729 (1989); People vs. Copro, 126 SCRA 403 (1983); People vs. Murallon, G.R. No. 85734, September 13, 1990.

[24] People vs. Savellano, 57 SCRA 320 (1974).

[25] People vs. De la Cruz, 158 SCRA 537 (1988); People vs. Alvarez, 163 SCRA 745 (1988); People vs. Murallon, supra.

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