

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PEDRO BUENAVENTURA AND ILUMINADA ARESGADO, ACCUSED-APPELLANTS.

G.R. No. 86744. March 11, 1992

Ponente: NOCON, J.

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NOCON, J.:

This is a prosecution for rape against Pedro Buenaventura and Iluminada Aresgado committed on June 20, 1985 and July 3, 1985 at Barangay Dapdap, Municipality of Uson, Masbate and subject of two informations docketed as Criminal Cases Nos. 4994 and 4995.

After arraignment, wherein both of the accused entered a plea of not guilty and trial on the merits, they were acquitted in Criminal Case No. 4995 on the ground of reasonable doubt but convicted in Criminal Case No. 4994, the dispositive portion of the decision reads:

"WHEREFORE, the Court being convinced beyond reasonable doubt, that the crime of rape has been committed by the accused Pedro Buenaventura with Iluminada Aresgado as her accomplice, with the aggravating circumstances of use of a knife, without any mitigating circumstances proven in their favor, the court hereby sentences Pedro Buenaventura to suffer the penalty of reclusion perpetua in Criminal Case No. 4994. He is also further ordered to pay the amount of TEN THOUSAND (P10,000.00) PESOS as moral damages to Marilyn Arma and to pay the costs of the suit.

"As to Iluminada Aresgado, she is found to be guilty beyond reasonable doubt as an accomplice in the crime of consummated rape in Criminal Case No. 4994, she is hereby sentenced to suffer the penalty after applying the Indeterminate Law to suffer an imprisonment of EIGHT (8) YEARS and ONE (1) DAY as minimum of prison mayor to TWELVE (12) YEARS and ONE (1) DAY as maximum of reclusion temporal. She is also ordered to pay the amount of TEN THOUSAND (P10,000.00) PESOS as moral damages to Marilyn Arma as compensation for the heinous crime committed by her.

"Both accused are hereby ordered to pay the costs of the suit in Criminal Case No. 4994."[1]

Seeking appellate review, both accused appealed[2] to this Court raising as error of the trial court "in not taking into account certain circumstances which, if properly considered, could have reinforced the conclusion that the judgment should be one of acquittal not only in Criminal Case No. 4995, but likewise in Criminal Case No. 4994."[3]

The antecedent facts as found by the trial court are as follows:

"The complainant, Marilyn Arma, a 15 year old girl related in court that on June 20, 1985, at around 12:00 noon, she was requested by accused Iluminada Aresgado to go to her house in order to pick lice on her head. The complainant consented and went to the house of the accused. That in the house of the accused, they first seated themselves by the door and there she picked lice of accused Iluminada Aresgado. That after a few moments, Iluminada Aresgado stood up, held her hands and pushed her towards a room where the complainant

saw accused Pedro Buenaventura lying down. That accused Pedro Buenaventura stood up, holding a knife and threatened her, telling her that if she shouts she will be killed. By reason of this threats she lost all energy to resist the accused. All she did was to cry. Accused Pedro Buenaventura right then and there undressed himself forced her to lie down on the floor beside Buenaventura who was playing his penis until it hardened. By this time as she was made to lie down, Buenaventura placed himself on top of her and forced his organ inside the vagina and have sexual intercourse with her. According to Marilyn Arma she resisted the advances of Pedro Buenaventura but she was afraid for the accused was holding a knife and she was threatened with death. Pedro Buenaventura was able to consummate the crime of rape on her person. Though she felt pains when the organ of accused entered her vagina she could not shout as she was afraid. All she did was to cry. While Buenaventura was raping her accused Aresgado just stood by the door, sitting, watching and laughing.' (Decision, pp. 2-3; Tsn, June 9, 1987, pp. 2-6)"[4]

Accused-appellants' defense is anchored on denial and on the tall tale that while the father of Marilyn Arma was in Masbate and her mother in Manila visiting one of her children who works as a domestic helper, a man whom they do not know went up the house of complainant at the time when the latter was supposedly raped. Appellant Iluminada Aresgado claimed she was then in her house alone while Pedro Buenaventura denied having anything to do with raping Marilyn, considering that his house is just five houses away from the house of their barangay captain.

Not knowing the man who allegedly went up the victim's house, appellant did nothing to know his identity, where he came from, or report the matter to the barangay-captain, in spite of Pedro Buenaventura's admission, that the father of Marilyn had entrusted the care of his family to appellants in his absence.

No motive, however, could be given by Pedro Buenaventura on why Gloria Arma, the mother of Marilyn, would be filing a complaint against him and his wife if she was not convinced of their culpability in the rape of her daughter nor why Marilyn would testify against them unless to tell the truth.

At any rate, the testimony of Marilyn Arma is clear, positive and unequivocal.

"Q Do you know the accused Pedro Buenaventura and Iluminada Aresgado?

A Yes, sir.

Q Why do you know them?

A Because they were my neighbors.

Q Where?

A In Dapdap.

Q On June 20, 1985 at 12:00 o'clock noon, remember having met them?

A Yes, sir.

Q Where?

A In their house.

Q And why were you there in their house?

A I was fetched by the woman.

Q What if you were fetched by the woman, Iluminada Aresgado?

A She went to our house and asked me to pick lice on her head."

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"Q After picking head lice of Iluminada Aresgado, remember anything unusual that happened?

A Yes, sir.

Q Will you please tell the Honorable Court what happened after you have picked lice of Iluminada Aresgado?

A Yes, sir.

Q What happened?

A The wife pushed me going inside the room and I do not have knowledge that the man was inside the room.

Q After you were pushed by the wife, Iluminada Aresgado inside the room, what else happened?

A The man was holding a knife.

Q What was he doing with that knife?

A He was threatening me if ever I will not follow what he says he will use that knife.

Q What did he tell you when he was holding that knife if any?

A He told me not to shout and if I will shout he will kill me.

Q And because of that what did you do?

A I got afraid.

Q What did the accused Pedro Buenaventura do to you?

A He undressed me."

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"Q Will you please clarify to the court what Pedro Buenaventura did to you ... which he did something to you?

A He had a sexual intercourse with me.

Q And before he had that sexual intercourse, what did you do?

A I was crying.

Q Is that the only thing that you did?

A I kept on pushing him because I do not want.

Q What is that that you do not want?

A I kept on pushing him because I do not want to have a sexual intercourse with him.

x x x x x x x x

"Q Where was Iluminada Aresgado while accused Pedro Buenaventura was having sexual intercourse with you?

A She was sitting and watching us.

Q How far was Iluminada Aresgado to both of you when she was watching you?

A Very near ... A distance of about two (2) meters."[5]

Appellants assail the credibility of Marilyn Arma's testimony, considering the delay in reporting the incident (13 days) to her parents, thereby placing in doubt the truthfulness of her complaint. But the delay is understandable. Complainant was afraid of the threats to her life made by the accused Pedro Buenaventura. As held in *People v. Oydoc*:^[6]

"One should not expect a fourteen-year old girl to act like an adult or 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. It is not uncommon for young girls to conceal for sometime the assaults on their virtue because of the rapists' threat on their lives, more so when the rapist is the child's own stepfather living with her."^[7]

Neither was the victim's conduct in running an errand for the appellants thirteen days after the rape be considered as contrary to the ordinary pattern of human behaviour. The victim is a child of tender age, naive, and inexperienced in the ways of the world. With child-like innocence she willingly agreed to run errands for the appellants, who are their neighbors. This should not be taken against her. Appellants simply took advantage of the victim's trusting and gullible nature.

The alleged flaws in Marilyn's testimony on the manner her dress was removed which appellants contend may show tacit consent; the supposed conflict in her testimony on how the rape was divulged to her mother and the latter's testimony on how she came to know of the incident; and that the victim resisted the advances of appellant Buenaventura for an hour, are on minor details which do not destroy the substance of the victim's testimony. As stated in the case of *People vs. Avero*:^[8]

". . . when a victim says that she had been raped, she says in effect all that is necessary to show that the rape has been committed, and if her testimony meets the test of credibility, the accused may be convicted on the basis thereof."^[9]

At any rate, settled is the rule that the findings of the trial courts will not be disturbed considering that the latter are in a better position to evaluate testimonies, having seen and heard the witnesses themselves and observed their demeanor and manner of testifying, unless the trial court had overlooked or misconstrued some material facts which if considered would affect the result^[10] which we do not find in the case at bar. Thus, the trial court's observation of the demeanor of the complaining witness:

"However, Marilyn Arma is comely, maiden, 15 years old, residing in the hinterlands of Masbate. She is not well versed to the vagaries of our permissible society that is happening in the urban areas. Her testimony as observed of this court is full of sincerity. That she sometimes have to say her testimony coupled with tears in her eyes. This only shows that the copulation that happened was not of her consent. It would be unthinkable that a young barrio lass would concoct a story against her neighbor who based on testimony of the accused was commissioned by her father to watch over them being a neighbor, the father because of poverty and by force of circumstances has to leave her family to pursue a family need to Masbate."^[11]

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The testimony of this ignorant barrio lass which was so direct in a tense atmosphere before this court as the accused were observed by the court to be looking at the complainant with intimidating eyes. But inspite of all these, the victim Marilyn Arma declared without considering what her revelation would result and what would happen to her.^[12]

Clearly, the trial court made a determination of the credibility of the witnesses, observing their demeanor and deportment while testifying and making a painstaking and detailed evaluation of said testimonies.

In rape cases where the evidence of the prosecution invariably rests on the sole testimony of the complaining woman her testimony should be carefully examined and weighed to preclude conviction of the accused unless her testimony is impeccable and rings true throughout.[13] It should not be accepted unless her sincerity and candor are free from suspicion. The evidence of the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence of the defense.[14] In the case at bar, the foregoing criteria was more than met by the testimony of the young and innocent victim, barely 15 years old, in the hands of a 52 years old man and his 61 years old common-law wife. As stated by the trial court:

"While it appears that there are no clear signs coming from the complaining witness that she put [sic] up a determined resistance when she was attacked nor did she make an outcry the court have to consider her situation as an ignorant girl yet of tender age whose will have been subjugated by a ruthless assertion of an indirect guardian the accused being commissioned by the father to watch over her accompanied by threats of death. The sexual act between an old man in the person of accused Buenaventura is so revolting and is hard to believe that the complainant would have submitted thereto if her will to resist have [sic] not been overpowered." [15]

WHEREFORE, finding no reversible error in the decision appealed from, the same is hereby affirmed in toto. Costs against appellants.

SO ORDERED.

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

[1] Appellee's Brief, pp. 2-3

[2] Notice of Appeal, p. 94, Records.

[3] Accused-Appellants' Brief, p. 1.

[4] Appellee's Brief, pp. 4-5.

[5] T.S.N., pp. 2-4, 5, June 9, 1987.

[6] G.R. No. 61679, 125 SCRA 250 (1983).

[7] 125 SCRA at 256.

[8] L-76483, 165 SCRA 130 (1988).

[9] 165 SCRA at 134, citing *People vs. Royeras*, 56 SCRA 666 and *People vs. Reglos*, 118 SCRA 344.

[10] *People vs. Villeza*, L-56113, 127 SCRA 349, 360 (1984).

[11] Decision, pp. 3-4.

[12] *Id.*, pp. 6-7.

[13] *People vs. Ariarte*, 60 Phil. 327.

[14] *People vs. Quintal*, L-49656, 125 SCRA 734.

[15] Decision, p. 7.

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