

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO CAMASIS, DEFENDANT-APPELLANT.

G.R. No. 87083. September 14, 1990

Ponente: PADILLA, J.

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PADILLA, J.:

This is an appeal interposed by the accused Romeo Camasis from the judgment* rendered in Criminal Case No. T-1141 of the Regional Trial Court at Tabaco, Albay, dated 29 December 1988, finding him guilty of the crime of Rape and sentencing him to suffer the penalty of reclusion perpetua; to pay the offended party the sum of P25,000.00, and to pay the costs.

The People's version of the facts of the case is as follows:

"At or about 5:00 o'clock in the afternoon of September 17, 1981, complainant Mercia Icaonapo, a twenty one-year old, unmarried girl then residing at Libtong, Tiwi, Albay, rode in the tricycle of appellant Romeo Camasis on her way home. She had just bought some household items from the Tiwi market upon request of her brother, Joventino Icaonapo (TSN, p. 6-7, October 5, 1983).

"The tricycle' (sic) first stop was Libtong, where a passenger alighted, and then it continued its trip in the direction of the Tiwi Agro-Industrial School. When the tricycle was about to pass the complainant's house, she tapped appellant and said 'digdi na, digdi na' (here already, here already). However, he intentionally ignored her and continued driving until reaching the school, about one-half (1/2) kilometer away from Mercia's house, where the rest of the passengers dis-embarked. Appellant promised to drive complainant back to Libtong. However, he instead proceeded to a place called Bagumbayan, about one kilometer away. Complainant got scared because the place was so dark and deserted. She immediately went out of the tricycle to seek help. Appellant followed and suddenly embraced her from behind. Thereafter, he dragged her to a nearby coconut plantation. She shouted for help and resisted him by pulling his hair, slapping his face and biting his left forearm, but to no avail. Appellant prevailed upon her when she was dropped and forcibly pushed to the ground where she lost consciousness. (TSN, p. 9-21, October 5, 1983).

"When complainant regained her consciousness, she felt pain in her private part and noticed her pants and panty rolled down to her knees. Appellant was beside her trying to roll up her pants and panty. Complainant, obviously shocked by appellant's sexual abuse on her, ran away. He followed and cajoled her with a promise of marriage. Later, she had no choice but to board the tricycle, and appellant drove her to her house (TSN, p. 23-24, October 5, 1983).

"At about 7:00 o'clock in the evening of the same day, complainant arrived home. She was met by her sister-in-law, Diosdada Icaonapo, who observed her sobbing and appearing nervous. She persuaded complainant to tell what happened and, after some hesitation, the latter confided that she was abused by appellant. The following day, complainant accompanied by her sister-in-law went to the police of Tiwi and reported the incident. The police conducted investigation and later summoned appellant. The police noticed that appellant had an injury on his left forearm (TSN, p. 7-20, March 7, 1984). Tiwi Public Health Officer, Dr. Leonides Cruel, later confirmed the injury of appellant and issued a medical certificate (Exhibit 'C'). The

police required complainant to submit herself for medical examination and was then examined by Dr. Dante Quiambao of Ziga Memorial Hospital who issued a medical certificate stating his diagnosis: Healed Hymenal tears, 4, 7, & 9 o'clock, Abrasion Inner surface of Labia Menora, right (Exhibit 'A').

"On September 23, 1981, complainant Mercia Icaonapo filed a formal complaint for rape against appellant with the Municipal Circuit Court of Malinao-Tiwi, Albay, which conducted preliminary investigation." [1]

The accused-appellant, Romeo Camasis, admitted that the complainant Mercia Icaonapo was one of the passengers on board the motorized tricycle driven by him during a trip from the poblacion of Tiwi, Albay to the Agro-Industrial School at Libtong, Tiwi, Albay, in the late afternoon of 17 September 1981. But he denied having brought the said complainant to Bagumbayan, Tiwi, Albay on the same day, as claimed by the complainant. He also denied having raped the complainant. His version of the incident, as stated in his Brief, is as follows:

"The accused stands charged for RAPE at Bagumbayan, Tiwi, Albay of the alleged victim, who was then one of the five (5) paying passengers in the motorized tricycle operated by the accused on September 17, 1981 from the Poblacion of Tiwi, Albay to the Agro-Industrial School at Libtong, Tiwi, Albay. Upon boarding the motorized tricycle when asked, the complainant said she will alight at Agro-Industrial School. On the way, one passenger alighted and when they were nearing the upward climb, complaining witness who was seated immediately behind the accused, twice tapped the seat to stop the motorized tricycle. Because of the upward climb, the driver continued its trip and immediately the complainant, bit his left arm. Upon reaching Agro-Industrial School, the three (3) passengers alighted with the exception of the complainant whose destination was near the upward climb so that the accused had to ferry back the complainant. It was at that moment that the accused was said to have brought the complainant to Bagumbayan, Tiwi, Albay a place out of the way from Agro-Industrial School to the Poblacion passing Libtong, Tiwi, Albay, the alleged residence of the complainant. The complainant upon reaching her house when the accused brought her back, tried to pay her fare but the same was not accepted by the accused driver. When his polite refusal was not honored he received a wallop at his back by the complainant.

"The version of the complainant that the accused-driver sexually attacked her was denied by the accused at the police station on the following day, the corresponding police blotter entry was made, the accused-driver was examined at the Municipal Health Office at Tiwi, Albay, in the presence of the complainant, if the accusations imputed on the accused were really true, then the complainant should have submitted herself for medical and physical examination, what happened was the reversed (sic), the accused was examined for the injury sustained when he was bitten by the complainant. The complainant after five (5) days of the alleged incident submitted herself to medical and physical examination by Dr. Dante Quiambao of the Ziga Memorial Hospital." [2]

We find the appeal bereft of merit. The mere denial by the accused of his commission of the crime of rape is not sufficient to counteract the positive declaration of the complainant that accused had raped her. [3] The testimony of the complainant on how she was ravished by the appellant is credible and we find nothing unusual or improbable in it. She said:

"q Then what happened when you reached Bagumbayan?

a When we reached Bagumbayan, I was so afraid because it was so dark. Then the driver alighted the tricycle. I also went down the tricycle hoping that there might be some houses in the vicinity or some people who could help me but he was running at my back, following me.

FISCAL VILLAMIN:

When the accused, the driver of the tricycle was following you what did you do, if any?

a I was shouting for help but he embraced me, enclosing me within his arms and carried me, dragged me towards the coconut plantations.

q How far was the coconut plantation where you were brought to, dragged by the accused, from the road of Bagumbayan?

a About fifteen (15) meters.

q Will you please tell the Honorable Court how the accused brought or dragged you enclosed in his arms, being embraced by him, from the road of Bagumbayan to the coconut plantation? Can you tell (sic) the Honorable Court how you were dragged?

WITNESS:

I was embraced by him enclosed in his arms, close to his breast, then he dropped me down, pushing me forcibly down on the ground and I even fell almost unconscious (sic).

COURT:

Pushed forcibly? While you were pushed down forcibly by the accused and you fell, what did you do?

WITNESS:

I held on to his hair and kept slapping him and I even bit him on his left arm.

COURT:

Where did you bite the accused? (Witness points to the place where she bit the accused indicating the place on her own arm.)

COURT:

Witness points to the inner forearm almost opposite the elbow near the joint."^[4]

xxxxx xxxxx xxxxx xxxxx xxxxx

"FISCAL VILLAMIN:

You said that you held his hair, slapped him and bit him on his left arm, what did the accused do?

WITNESS:

He was on top of me.

FISCAL VILLAMIN:

Why was he on top of you?

WITNESS:

What he did was he was on top of me and he rolled my pants down to my knees."^[5]

xxxxx xxxxx xxxxx xxxxx xxxxx

"COURT:

Panty or pants? Were you wearing pants at that time?

WITNESS:

Yes.

COURT:

And inside was a panty?

WITNESS:

Yes, Your Honor.

COURT:

Were your pants, short or long?

WITNESS:

Long pants.

COURT:

What kind of material were your pants made of?

WITNESS:

Maong.

COURT:

How was your panty removed? Describe what your position was when your panty was removed, like lying down, standing, ...state the position you were in when it was removed.

WITNESS:

When I was

After I was pushed down I lost my consciousness. When I regained my consciousness, my pants and my panty were already removed.

COURT:

Already removed or still being removed?

WITNESS:

My pants and my panty were already rolled to my knees."[6]

xxxxx xxxxxx xxxxxx xxxxxx xxxxxx

"FISCAL VILLAMIN:

When you first regained your consciousness,..... the very first time you regained your consciousness, where was the accused?

WITNESS:

He was there beside me.

FISCAL VILLAMIN:

What was he doing beside you?

WITNESS:

Putting on my pants and panty. Then I ran away and he was running behind me, following me at my back saying that he was not afraid of my brother because he would marry me he said.

FISCAL VILLAMIN:

What happened next after that?

WITNESS:

He led me back to the tricycle and he said that he would bring me home because there was nothing to be afraid of, any way he said he would marry me.

q Were you eventually able to ride the tricycle?

a Yes."[7] xxxxx xxxxx xxxxx

xxxxx xxxxx

"ATTY. SANCHEZ:

Q Before you became conscious did you feel any pain in your vagina?

A Yes, sir.

Q What was that pain about?

A 'Malanit', (To describe the pain.)"[8]

While it is true that the complainant was sexually assaulted when she was unconscious, yet, who else could have raped her if not the appellant who had embraced and dragged her to a nearby coconut plantation and there forced her to the ground, causing her to lose consciousness? And then, when complainant regained consciousness, she saw appellant right beside her trying to roll up her pants and panty after having assaulted her. If the complainant was indeed fabricating a story, it would have been easier for her to say that she was awake when she was assaulted.[9]

The appellant, in his Brief, assails the trial court for giving credence to the medical certificate[10] issued by Dr. Dante Quiambao, despite the failure of the latter to testify in this case.

The contention is untenable. The acceptance of a medico-legal certificate without the physician's testimony is not fatal to the prosecution's case.[11] In fact, the medical examination of a rape victim is not an indispensable element in a prosecution for rape since it all depends upon the evidence offered. If such evidence, be it the testimony alone of the complainant, convinces the court, a conviction is proper.[12]

The appellant also contends that the crime of rape could not have been committed by the appellant under the circumstances testified to by the complainant since "her pants rolled to the level of her knees will prevent the sexual act," and that the dastardly act could have been committed only by a sex maniac or one who has not experienced the sexual act but not by the appellant who is a father of seven (7) children, married to a beautiful wife and who has had enough sex with her.

The contention is also without merit. The record does not show that the complainant was raped while her pants and panty were rolled down to her knees. The complainant testified that, when she regained consciousness, she felt pain in her vagina and saw the appellant trying to roll up her pants which had rolled down to her knees. The rape must have been committed previous to that moment and under circumstances favorable to the appellant, as the complainant was then unconscious.

The claim that the appellant could not have raped the complainant because he is married to a beautiful wife and has enough sex with her cannot, by itself alone, negate the circumstances which point to him as the rapist.

Besides, the appellant has not shown any ill-motive why the complainant filed this case against him. As the trial court said, "it is hard to believe that a young unmarried woman would reveal that she was deflowered and allow an examination of her private parts and thereafter permit herself to be the subject of public trial if her motive was not to bring to justice the person who wronged her." As a matter of fact, the complainant was hesitant to be examined by a male physician. She wanted a lady physician to see her. But since there was no lady physician available and the only doctor round was Dr. Quiambao, a male, she had to submit to Dr. Quiambao for medical examination because the medical certificate was urgently needed by the police.[13]

Finally, the appellant contends that the commission of rape is belied by the entry in the polite blotter of the Tiwi, Albay, police station,[14] which states that the crime reported was only acts of lasciviousness.

The veracity and reliability of this entry in the police blotter, however, is contested by the appellant himself when he said:

"In the police blotter entry, the previous report was acts of lasciviousness and later on Rape was intercalated therein, this could be seen because their (sic) were different ball pens used. Here we also see the variance of the testimony as well as the report of the complainant. x x x." [15]

The trial court, therefore, did not commit any error in finding the appellant guilty of the crime for which he was charged. The indemnity to be paid to the victim, however, should be increased to P30,000.00 in line with the new policy of the Court on the matter.

WHEREFORE, the judgment appealed from is hereby **AFFIRMED** with the sole modification above-indicated. With costs against the appellant.

SO ORDERED.

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

* Penned by Judge Rhodie A. Nidea

[1] Appellee's Brief, pp. 2-5

[2] Appellant's Brief, pp. 2-3

[3] *People vs. Canoy*, G.R. No. L-40422, June 24, 1985, 137 SCRA 134

[4] tsn of October 5, 1983, pp. 14-17

[5] *Id.*, pp. 18-19

[6] *Id.*, pp. 20-22

[7] *Id.*, pp. 23-24

[8] tsn of January 25, 1984, p. 11

[9] *People vs. Tolentino*, G.R. No. L-40236, December 19, 1985, 140 SCRA 411

[10] Exhibit A

[11] *People vs. Aragona*, G.R. No. L-43752, September 19, 1985, 138 SCRA 569

[12] *People vs. Pielago*, G.R. No. L-42256, December 19, 1985, 140 SCRA 418

[13] tsn of March 7, 1984, p. 23

[14] Exhibit F

[15] Appellant's Brief, p. 8

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