

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GUILLERMO CASIPIT Y RADAM, ACCUSED-APPELLANT.

G.R. No. 88229. May 31, 1994

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

FOUND GUILTY OF RAPE and sentenced to reclusion perpetua as well as to indemnify the offended party P30,000.00 for moral damages,[1] the accused GUILLERMO CASIPIT y RADAM appeals to us insisting on his innocence.

The victim, Myra Reynaldo, was then 14 years old and a sixth grader, while appellant was 22. They were neighbors in Victoria, Alaminos, Pangasinan.

On 19 September 1986, before going to Manila for a medical checkup, the father of Myra entrusted her to the parents of Guillermo. On the same day, Guillermo invited Myra to go to the town proper of Alaminos to buy rice and bananas. When they reached the poblacion, he told her that they should buy in Dagupan instead because the prices were cheaper. She agreed. Upon arriving in the poblacion, Guillermo invited Myra to watch a movie. They watched the movie until six o'clock in the evening, after which, they took a ride for Alaminos arriving there at eight o'clock. They took their dinner in Alaminos before proceeding home to Barangay Victoria. On their way home it rained hard that they had to take shelter in a hut in the open field of Barangay Talbang. Inside the hut, Myra sat on the floor while Guillermo laid down. After a few minutes, he told her to lie down with him and rest. Then he went near her. He removed her panties, poked a knife at her neck and warned her not to shout. She resisted appellant, kicked him twice, but was helpless to subdue him as he tied her hands behind her nape. Moreover, he opened her legs, went on top of her, and the inevitable had to come. He mounted an assault on her chastity until he succeeded in having sexual intercourse with her. She could not stop him as he was big and strong. After the sexual encounter, she felt pain and could not sleep.[2]

After waking up the following morning, they proceeded home. On their way, he told her to proceed ahead. When she reached home, she was observed to be walking abnormally (bull-legged) by Rogelio Casipit, her cousin-in-law. When her aunt, Nenita Rabadon, learned about it, she called for her and asked her what happened. She then narrated everything to her. Her aunt took her to the house of their barangay captain, Bruno Carambas, and reported the incident to him. The barangay official then called for Guillermo but he denied having raped Myra.

While inside the house of the barangay captain, the victim was examined by her sister-in-law Susan Cabigas and Elsa Carambas, wife of the barangay captain, who both found the victim's private part reddish and her panties stained with blood.[3]

The following afternoon, Myra, accompanied by an uncle, went to the police station of Alaminos to report the rape and then to the Western Pangasinan General Hospital where she was examined by Dr. Fideliz Ochave. The medical findings of Dr. Ochave showed no external sign of physical injuries but noted the presence of first degree

fresh healing laceration at the perineum and of the hymen at six o'clock position. The laboratory result was negative for spermatozoa.[4] On 26 September 1986, Myra gave her statement to the police and later filed a criminal complaint against Guillermo.[5]

The version of Guillermo, on the other hand, is that long before the incident, he and Myra were sweethearts. On 19 September 1986, they agreed to watch the movie "Cabarlo" so they went to Dagupan City. They entered the moviehouse at noon and left at six o'clock in the evening. While watching the show, he placed his arm on the shoulder of Myra and she did not object. He kissed her several times; she kissed him as many times. They talked about their love for each other. After the movie, they went home. However, when they reached Alaminos, it rained hard so they sought shelter in a hut. They removed their wet clothes. He embraced her and she liked it. Then he lowered her panties and she did not resist. He laid her down on the floor and she consented. He joined her on the floor. He placed himself on top of her and sexual intercourse followed as a matter of course. They stayed inside the hut the whole night. They went home together the following morning. After the love tryst, he went to look for a job in San Juan, Metro Manila. He was arrested in July 1987. He contended that the victim was probably induced by her aunt Nenita Rabadon to file the case.[6]

After trial, the court a quo sustained the prosecution and found appellant guilty of raping Myra by means of force and intimidation.

Appellant now assails the trial court for giving credence to the testimonies of the prosecution witnesses while disregarding his and worse, for finding him guilty instead. He maintains that the victim's story contained many flaws: firstly, even as she had testified that she struggled with him and kicked him twice, the doctor who examined her found no external physical injuries on her body; secondly, the fact that the victim agreed to have a movie date with him shows that she liked him and was attracted to him; and, thirdly, the victim did not leave the hut but slept with him until morning, which is an unnatural behavior of one who had been raped.

We cannot sustain the accused; hence, we affirm his conviction. We cannot argue against the trial court for giving full faith and credit to the testimony of Myra that appellant poked a knife at her neck and sexually abused her despite her resistance as he was stronger and bigger than she who was only 14 years old. Considering the physical condition of the victim and the place where the crime was perpetrated, which was in an isolated hut in an open field, it was not difficult for the accused to subdue the victim and coerce her into submission.

These factual findings of the trial court appear to be borne by the records, and we cannot have any justification to hold otherwise. When the question of credence arises between the conflicting versions of the prosecution and the defense on the commission of rape, the answer of the trial court is generally viewed as correct, hence entitled to the highest respect, because it is more competent to so conclude having closely observed the witnesses when they testified, their deportment, and the peculiar manner in which they gave their testimonies and other evidence in court.[7]

The argument that the absence of external injuries on the body of the victim belies her claim that she struggled with appellant to prevent him from raping her is devoid of merit. The absence of external signs or physical injuries does not negate the commission of rape. Proof of injuries is not necessary because this is not an essential element of the crime.[8] This does not mean however that no force or intimidation was used on the victim to consummate the act. The force or intimidation required in rape is relative. It is viewed in the light of the victim's perception and not by any hard and fast rule. It need not be overpowering or irresistible but necessary only to achieve its purpose. Aside from applying force, the appellant used intimidation by threatening the victim with a knife.

The fact that Myra went with appellant to a movie is no indication that she already agreed to have sex with him.

Her actuation is understandable as she is a close relative of appellant, according to his grandfather.[9] Hence, it is not improbable that the victim placed her trust on appellant by letting him accompany her to the movie. It should be emphasized that she was then only fourteen years old, an innocent barrio lass. Records are bereft of evidence that she was a woman of ill-repute, or of a flirtatious nature to incite or provoke appellant to have sex with her.

The principal defense of appellant that he and Myra were sweethearts cannot be given weight. For, if that was true, she would not have immediately disclosed to her family and to the authorities the sexual assault done to her.[10] After all, nobody else but the two of them knew what happened between them in the loneliness of an isolated hut in an open field. The fact that Myra lost no time in immediately reporting the violation of her honor and submitting herself to medical examination bolsters her credibility and reflects the truthfulness and spontaneity of her account of the incident. If she had voluntarily consented to the sexual act with appellant, her most natural reaction would have been to conceal it or keep silent as this would bring disgrace to her honor and reputation as well as to her family. Her unwavering and firm denunciation of appellant negates consent.[11]

Worth noting is the marked receptivity of our courts to lend credence to the testimonies of victims who are of tender years regarding their versions of what transpired since the State, as *parens patriae*, is under obligation to minimize the risk of harm to those who, because of their minority, are not yet able to fully protect themselves.[12]

WHEREFORE, the appealed decision finding accused-appellant GUILLERMO CASIPIT y RADAM guilty of rape and sentencing him to reclusion perpetua is AFFIRMED, with the modification that the indemnity in favor of MYRA REYNALDO is increased to P50,000.00.

Costs against accused-appellant.

SO ORDERED.

Davide, Jr., and Quiason, JJ., concur.

Cruz and Kapunan, JJ., on leave.

[1] Decision penned by Judge Antonio M. Belen, Regional Trial Court of Lingayen, Pangasinan, Br. 38.

[2] TSN, 1 December 1987, pp. 6-10.

[3] TSN, 15 February 1988, pp. 1-10.

[4] Records, p.1.

[5] *Ibid.*

[6] TSN, 22 April 1988, pp. 1-14.

[7] *People v. Carson*, G.R. No. 93732, 21 November 1991, 204 SCRA 266.

[8] *People v. Abonada*, G.R. No. 50041, 27 January 1989, 169 SCRA 530.

[9] Rollo, p. 62.

[10] *People v. Sarol*, G.R. No. 75506, 19 June 1991, 198 SCRA 286.

[11] *People v. De Dios*, G.R. No. 58174, 6 July 1990, 187 SCRA 228.

[12] *People v. Tamayo*, G.R. No. 86162, 17 September 1993.

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