

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MOISES INDAYA Y MAYOR, ACCUSED-APPELLANT.

G.R. No. 90296. April 25, 1991

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

This is an appeal from the decision of the Regional Trial Court of Ligao, Albay, Branch 11,[1] rendered on May 9, 1989, finding the accused Moises Indaya y Mayor guilty beyond reasonable doubt of the felony of rape. The dispositive portion of the decision reads:

WHEREFORE, premises considered, we find accused MOISES INDAYA Y MAYOR GUILTY beyond reasonable doubt of the crime of RAPE as defined and penalized under Article 335 of the Revised Penal Code, as amended, and hereby sentences (sic) him to suffer the penalty of RECLUSION PERPETUA, to indemnify the victim, Maria Cedro, in the sum of P20,000.00 and to pay the costs.

In the service of the sentence, the accused is granted a full period deduction for the preventive imprisonment he might have undergone.

SO ORDERED.[2]

In an information filed by Asst. Provincial Fiscal Eutiquo R. Nepomuceno of Albay, the appellant, Moises Indaya, 23, an itinerant watch repairer, was charged with the rape of Maria Cedro, 16, purportedly committed on April 2, 1988, at the dwelling of the complainant.[3]

The evidence of the prosecution discloses that on April 2, 1988 at around 7:00 o'clock in the evening, Maria Cedro was alone in her room studying her lessons by the light of a kerosene lamp or "gasera" when she saw Moises Indaya, her second cousin, who had been eating, now and then, in the family house for sometime, approach her from behind, carrying a white t-shirt. Before she knew it, Indaya had covered her mouth with the t-shirt and boxed her on the thighs and stomach, the excruciating pain causing her to lose consciousness for about a minute.[4]

When she regained consciousness, Indaya was already on top of her. Her duster had been rolled up. Indaya's sex organ was inside her vagina for about five minutes. Indaya was also able to tie the white t-shirt around her neck, preventing her from shouting for help. While the crime was being committed, Maria kept on struggling away from him. But all her efforts proved in vain.[5]

After satisfying his lust, Indaya pointed a kitchen knife at Maria and warned her that he would kill her if she told her parents what had happened. He then hurriedly left the house, leaving the white t-shirt and the kitchen knife in Maria's room.[6]

While the alleged rape was taking place, Maria's parents were in the house of her aunt, Adela Cedro, which was about 100 meters away, while her brothers and sisters were playing outside the complainant's house.[7]

It was only on April 6, 1988, or four (4) days after Maria was raped, when Santiago Cedro, after noticing the strange behavior (tulala) of his daughter and asking her what was wrong, did she, between sobs, reveal the sexual assault on her by Indaya.[8]

Maria was able to submit herself to medical examination only on April 12, 1988, or almost ten (10) days after the incident, since it was only on that said date that Dra. Antonieta Patacsil, the Municipal Health Officer, arrived in Libon. Maria and her parents had looked for Dra. Patacsil prior to the said date, but they were advised to look for the doctor from one town to another.[9]

The Medico Legal Report issued by Dra. Patacsil reveals "laceration(s) of the hymen (of the patient) at 12:00, 3:00 and 9:00 position." Said lacerations, however, were no longer fresh as they were old-healed lacerations about ten days old.[10]

The appellant, Moises Indaya, however, vehemently denies having raped the complainant, and swears that he and Maria were sweethearts ("magbata") for almost two years, beginning in March, 1986. He further claims that Maria had written him several love letters; this was confirmed by one Norly Llander who had been shown the purported love letters by the accused. He adds that as lovers, they had engaged in countless sexual intercourse ("cayo") in the past.[11]

Indaya also categorically denies that he and Maria had sexual contact on the night of April 2, 1988, since on the said night, Maria's parents, as well as her brothers and sisters, were all in the house, the place where the supposed attack had taken place.[12]

He further argues that there were no marks of violence, bruises, or scratches on the body, face, or hands of the offended party, implying that the latter had voluntarily and willingly acceded to the sexual contact (although this would contradict his flat denial).

He likewise asserts that on April 3, 1988, the day after the crime of rape was purportedly committed, Maria's mother was washing the appellant's clothes and came upon a love letter that had supposedly been written by Maria to the appellant. The discovery angered Maria's parents who disapproved of the relationship, and, in order to put an end to it, filed the rape charge against him.

From the foregoing, it is clear that the versions presented by the prosecution and the defense are in conflict.

Thus, the lone issue in this case is whether or not the lower court erred in giving credence and belief to the prosecution's version of the incident.

We believe not.

Guided by the three (3) settled principles in reviewing the evidence in rape cases which are hereunder quoted, to wit:

- (1) that an accusation for rape can be made with facility; it is difficult for the complainant to prove it, and even more difficult for the person accused, though innocent, to disprove it;
- (2) that in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with utmost caution; and
- (3) that the evidence for the prosecution must stand or fall on its merits, and can not draw strength from the weakness of the evidence for the defense;[13]

we believe that the version of the prosecution is supported by evidence sufficient to prove the guilt of the accused beyond reasonable doubt.

We are convinced that indeed, Maria, the main witness, after giving a clear, convincing, natural, and straight-forward testimony, is a credible witness. Thus:

Atty. Ricafort (Private Prosecutor):

Q:

Miss Witness, you said that when you regained consciousness, the accused was on top of you and that you felt aches in your vagina, is that correct?

Maria:

A:

Yes, sir, that's correct.

Q:

And what was the accused doing with your vagina? A: He raped my vagina.

Q:

As you said he raped you, what did the accused do when he raped you?

A:

He inserted his penis to (sic) my vagina.

Q:

In what manner did the accused insert his organ to (sic) your vagina?

A:

I lost consciousness. When I regained consciousness, he was already doing the act. His penis was inside my vagina.[14]

We give credit to the observation of the trial court, when it held:

After a careful scrutiny of the evidence on record, we find the testimony of the private offended girl, Maria Cedro, a first (sic) cousin of the accused, to be clear and convincing. Her version of the incident remained unshaken despite the clever attempt by the defense counsel to destroy her story. Her testimony appears credible as it was given in a natural, spontaneous, and straightforward manner. Her gesture, inflection of voice and demeanor on the witness stand, especially during the cross-examination to which she had been exposed further

strengthened the credibility of her testimony. By and large her testimony has all the earmarks of truth.[15]

Recognized is the principle that this Court is restrained from indiscriminately rejecting or even modifying the trial court's factual findings. The trial court is in the best position to assess the demeanor of the witnesses and such assessment is entitled to the highest respect by this Court.[16] Well-settled is the rule that where the issue is one of credibility of the witnesses, the appellate court will generally not disturb the findings of the trial court unless certain facts of substance and value have been plainly overlooked and, if so considered, might affect the result of the case.[17] No oversight has been proved here.

Consequently, as this Court has repeatedly laid down, when the victim says that she has been raped, she says in effect all that is necessary to show that rape has been committed, and if her testimony meets the test of credibility, the accused may be convicted on the basis thereof.[18] It is axiomatic in rape cases that the lone testimony of the offended party, if credible, is sufficient to sustain a conviction.[19] The instant case is no exception.

Moreover, we have declared, time and again, that no decent Filipino woman would publicly admit that she has been raped unless her charge is true.[20] Considering the inbred modesty and abhorrence of a Filipino woman for airing in public things that affect her honor, it is difficult to conceive that the complainant would assume and admit the ignominy she had undergone in the hands of the accused if this were not true. It is her natural instinct to protect her honor.[21] A 16-year-old barrio lass will not undergo the onus of a public trial and expose herself to shame, disgrace, and humiliation if her denunciations are false. It is difficult to believe that a young unmarried woman would tell a story of defloration, allow the examination of her private parts, and thereafter subject herself to a public trial, if she would not be motivated by an honest desire to seek justice.[22]

By and large, it is unmistakably clear that the present accusation of rape, as shown by the evidence submitted by the prosecution and interpreted by existing jurisprudence, stands on its own merits and warrants the conviction of the accused-appellant. The accused-appellant's tale, however, must be contraposed with proverbial precedents to totally nullify his submissions.

The main defense of the appellant that he and Maria were "sweethearts" and as such had had countless sexual intercourses in the past save on that night of April 2, 1988 is obviously a concoction of an offender desperate to escape punishment for his unlawful act. Hence, it must be rejected. Maria denied that they were "sweethearts" and did so consistently and convincingly. No evidence of such a relationship was ever offered by the appellant except his own self-serving testimony that Maria had written him several love letters. [There were supposed to be twelve (12) of them.] Not one of these letters was ever presented in court, the reason proffered being that all of them were confiscated by Maria's father. The reason is as good as a lame excuse. Moreover, that a young man and a girl are "sweethearts" (magbata) does not necessarily lead to their engaging in sexual intercourse, more so, for countless times. The appellant himself even affirmed this:

COURT:

Q

So, if it is true that Maria is your sweetheart, you never touch (sic) her, you never kiss (sic) her, you never touch (sic) her hands?

INDAYA:

A

Yes, sir, because we are sweethearts.[23]

However, the appellant's complete turn-around later, declaring that, being lovers, he and Maria had had sexual contact ("cayo") for countless times,[24] renders impotent his assertions, and as such, weakens his case. On this point, it is worth mentioning that if the appellant and Maria had sexual intercourse several times in the past as the former had unabashedly claimed, the latter, absent any resistance, should not have suffered lacerations of the hymen. The findings of the Municipal Health Officer showed lacerations of the victim's hymen. Therefore, the appellant's declaration that he and Maria had had countless coituses in the past does not ring true.

The appellant insists that on April 2, 1988, Maria's parents, as well as her brothers and sisters, were all in the house that night and as such, it was not possible for him to have raped her on that date and at that time. This is non sequitur. In several instances, this Court has held that rape can be committed even in places where people congregate: in parks, along the roadside, within school premises, and even inside a house where there are other occupants. Lust is no respecter of time or place.[25] In any event, the prosecution's evidence belies this uncorroborated assertion of the appellant.

The appellant also contends that according to the evidence on record, there were no marks of violence or scratches on the body, face, or hands of the offended party as should be found in a victim of rape. Again, this Court has decided in a long line of cases that the presence of bruise marks on the complainant's torso is not absolutely essential. Not all blows leave marks.[26] The absence of visible signs of injury does not mean that the offended party offered no resistance; the mere weight or the physical strength of the accused could have virtually immobilized her. Hence, for rape to be committed, it is not necessary that there be marks of physical violence on the victim's body.[27]

That the lacerations in the private part of the complainant were old-healed lacerations only bolsters the prosecution's theory that the rape was committed around April 2, 1988, or ten days prior to Maria's examination conducted on April 12, 1988.

The appellant then submits that Maria was only pressured by her parents to file the case against him because they were offended by his courting her, and by their sexual relations. This is without reason. A rape charge is a serious matter with pernicious consequences. It exposes both the accused and the accuser to humiliation, fear, and anxieties, not to mention the stigma of the shame that both have to bear for the rest of their lives. It is therefore inconceivable for a chaste girl and her parents to devise a scheme which shall forever cast a cloud upon the girl's honor.[28]

In view of the foregoing, we hold that the trial court correctly found the accused-appellant guilty beyond reasonable doubt of the crime of rape. However, we have to increase the indemnity adjudged from P20,000.00 to P30,000.00 consonant with prevailing jurisprudence.[29]

WHEREFORE, the appealed decision is hereby AFFIRMED with the MODIFICATION above indicated. Costs against the accused-appellant.

SO ORDERED.

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

[1] Hon. Protacio C. Sto. Tomas, Presiding Judge.

- [2] Rollo, 23-24.
- [3] Criminal Case No. 2544.
- [4] TSN., September 7, 1988, 5-8, 21-22; September 27, 1988, 10.
- [5] TSN, September 7, 1988, 22-24, 40-42.
- [6] Ibid., 8-9, 23-24.
- [7] Ibid., 6; September 27, 1988, 6-7.
- [8] TSN, September 27, 1988, 10, 27-28.
- [9] TSN, September 7, 1988, 26-27.
- [10] TSN, September 27, 1988, 53-55.
- [11] TSN, January 25, 1989, 8-11; February 1, 1989, 4-5.
- [12] TSN, January 25, 1989, 36.
- [13] *People v. Yambao*, G.R. No. 77778, February 6, 1991; *People v. De Guia*, G.R. No. L-49825, May 14, 1990, 185 SCRA 336; *People v. Villapaña*, G.R. No. -53984, May 5, 1988, 161 SCRA 72, 78; *People v. Quintal*, G.R. No. L-49656, November 25, 1983, 125 SCRA 734, 749.
- [14] TSN, September 7, 1988, 32-33.
- [15] Judgment of the RTC, Branch 11, Ligon, Albay, in *Crim. Case No. 2544*, 2-3.
- [16] *People v. de Guia*, *supra*, citing *People v. Almenario*, G.R. No. 66420, April 17, 1989, 172 SCRA 268.
- [17] Ibid., citing *People v. Abonada*, G.R. No. 50041, January 27, 1989, 169 SCRA 546.
- [18] *People v. Paringit*, G.R. No. 83947, September 13, 1990, citing *People v. Averro*, No. -76483, August 30, 1988, 165 SCRA 130.
- [19] Ibid, citing *People v. Sarra*, G.R No. 78530, March 6, 1990, 183 SCRA 34.
- [20] *People v. Sarra*, *supra*.
- [21] *People v. Fernandez*, No. -80228, September 12, 1988, 165 SCRA 302.
- [22] *People v. Estebal*, G.R. No. 82768, May 5, 1989, 173 SCRA 209, citing *People v. Selfaison*, G.R. No. L-14732, January 28, 1961, 1 SCRA 235.
- [23] TSN, January 25, 1989, 37.
- [24] TSN, February 1, 1989, 4-5.
- [25] *People v. Mangalino*, G.R. No. 79011, February 15, 1990, 182 SCRA 329, citing *People v. Viray*, G.R. No. L-41085, August 8, 1988, 164 SCRA 135.
- [26] *People v. Paringit*, *supra*.
- [27] *People v. Viray*, *supra*.
- [28] *People v. Managbanag*, No. -66550, November 27, 1987, 155 SCRA 669.

[29] People v. Paringit, supra.

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