

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODANTE FELIPE, DEFENDANT-APPELLANT.

G.R. No. 90390. October 31, 1990

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

In this appeal from the decision of the Regional Trial Court, Fourth Judicial Region, Branch 63 of Calauag, Quezon, the accused-appellant seeks a reversal of the judgment of conviction dated August 21, 1989. The decision has the following dispositive portion:

“WHEREFORE and considering the foregoing, the Court finds the accused RODANTE FELIPE y BUSTAMANTE guilty beyond reasonable doubt of the crime of rape and hereby imposes upon him the penalty of reclusion perpetua, indemnify (sic) ROSALIE REVILLA in the amount of twenty five thousand pesos (P25,000.00) and pay (sic) the costs of the suit.” (RTC Decision, pp. 7-8; Rollo, pp. 24-25)

The accused-appellant was charged with the crime of rape upon complaint by the offended party’s father, Rolando C. Revilla in an Information dated September 30, 1987 which reads:

“INFORMATION

The undersigned, upon complaint filed by Rolando C. Revilla, father of the offended party, Rosalie Revilla accuses Rodante (Dante) Felipe of the crime of rape, committed as follows:

That on or about the 20th day of June 1987, at Barangay Villa Gomez, Municipality of Luzon, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threats, violence and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge of said Rosalie Revilla, a minor, 12 years of age, against her will.

“Contrary to law.

“Lucena City for Gumaca, Quezon.

“September 30, 1987.

(Sgd) DANTE H. DIAMANTE

Provincial Fiscal” (Records, p. 5)

The pertinent facts as summarized by the Solicitor-General in his brief are as follows:

“On June 18, 1987, Rolando Revilla, father of private complainant Rosalie Revilla, together with his wife, left his house in Villa Gomez, Quezon, Quezon, to seek medical treatment in Lucena City. They left behind their two (2) daughters, namely private complainant Rosalie, twelve (12) years old, and Rosana, nine (9) years old, in the care of daughter-in-law, Erlinda Gonzales Revilla (p. 3, tsn, June 28, 1989; p. 13, tsn, July 18, 1988).

The following evening, June 19, 1987, private complainant and her younger sister went to sleep at 6:00

o'clock p.m. on the floor of their hut. In the early morning of June 20, 1987, private complainant was awakened when she felt pain in her private parts. She saw a man on top of her with his organ inserted in her own organ. Private complainant shouted and struggled. She kicked the man on his organ. The man was thrown near the door of the house which was illuminated by a gas lamp. Private complainant recognized appellant, a long-time neighbor (pp. 3-5 and 17, tsn, July 18, 1988; pp. 2-3, tsn, June 21, 1989).

After freeing herself from appellant, private complainant tried to escape by running to the door. Her sister-in-law, Erlinda, who was then in her house three (3) arms length away, heard private complainant shouting for help. Appellant caught private complainant, boxed her on the stomach, slapped her on the face and started strangling her. Private complainant lost consciousness (pp. 5-6, tsn, July 18, 1988; p. 4, tsn, June 21, 1989; pp. 9-10, tsn, supra).

Erlinda lighted a gas lamp and immediately went to private complainant's house. At the door of the house Erlinda saw appellant coming out. Appellant recognized Erlinda and ran away. Erlinda found private complainant unconscious on the floor, her private parts bloody and her panty pulled down on one of her legs. Erlinda shook private complaint who regained consciousness. When asked what happened to her, private complainant answered 'pinag-iyot-iyot ni Dante.' Erlinda then brought private complainant and her younger sister to her house (pp. 9-13, tsn, June 21, 1989).

That afternoon, private complainant's father arrived and was informed of what happened. They filed a complaint for rape against appellant at the police station in Quezon, Quezon. Prior to that, private complainant submitted herself to a medical examination by Dr. Amador G. Nañola, the Municipal Health Officer of Quezon, Quezon. The physician issued a medical certificate dated June 21, 1987 (Exhibit A) containing the following findings:

“Redness and congestion around vaginal opening, hymen, absent, admits one finger and can admit two fingers with pain. Vaginal canal contains whitish fluid.” (Exhibit ‘A-4’) (pp. 4-7, tsn, June 28, 1989; pp. 3-4, tsn, February 9, 1988)’ ” (Appellee's Brief, pp. 3-6, Rollo, p. 57)

The accused-appellant, in denying the unlawful act imputed to him, claimed as follows: that he could not have possibly committed the alleged rape against the offended party since at the time of the incident he was in the high seas near Balisin Island fishing together with a certain Ricardo Menle and the latter's son; that they left Quezon, Quezon at around midnight of June 20, 1987 and it took them about 2 1/2 hours to reach the place where they fished; and that they returned back to Villa Gomez, Quezon at about 9:00 o'clock in the morning of the following day, June 21, 1987. (Appellant's Brief, pp. 3-4; Rollo, pp. 39-40)

Upon arraignment, the accused-appellant, assisted by his counsel from the then Citizens' Legal Assistance Office, entered a plea of not guilty.

After trial ensued and the verdict of conviction was rendered, the instant appeal was interposed with a lone assignment of error, to wit:

“THE TRIAL COURT ERRED IN NOT HOLDING THAT THE EVIDENCE OF THE PROSECUTION HAS FAILED TO MEET THE TEST OF MORAL CERTAINTY OF APPELLANT'S GUILT AND TO OVERCOME THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE IN HIS FAVOR.” (Appellant's Brief, p. 1; Rollo, p. 37)

The accused-appellant submits that the trial court assailed his testimony instead of scrutinizing with utmost care the story told by the alleged rape victim as required in cases of this nature thereby basing its conviction not on the strength of the evidence for the prosecution but rather on the weakness of the defense. The accused-appellant points out that the alleged victim's account of the imputed crime furnished few details by which her story can be tested and that her story was tainted with improbabilities which rendered it highly doubtful.

The improbabilities referred to by the accused-appellant are as follows: (1) that private complainant Rosalie felt pain only after the accused-appellant had forcibly inserted his penis to her vagina and was already on top of her and making the coital movements when logic dictates that she should have been awakened when the accused-appellant initially laid on top of her and made his entry into her private part; and (2) that the said complainant was able to free herself from the accused-appellant by kicking his private part when it is inconceivable how a twelve-year old girl managed to do so with the size and weight of the accused-appellant on top of her and making the push-and-pull movement as claimed by the alleged victim. (Appellant's Brief, pp. 5-6, Rollo, pp. 41-42)

We find the contentions of the accused-appellant devoid of merit.

It is an axiomatic rule of law that "credibility" is the province of the trial court. (People v. Januario dela Cruz y Hurado, G.R. No. 84714, October 5, 1990 citing People v. Caringal, 176 SCRA 404 [1989]). Premised on the fact that the crime of rape, more often than not, is witnessed only by the offended party and the accused, the trial judge's evaluation of the credibility of the witnesses who appeared before him deserves our utmost respect in the absence of any showing that such evaluation is tainted with arbitrariness considering the trial judge's advantage of directly examining the witnesses' demeanor in court. (People v. Romenaldo Murallon, G.R. No. 85734, September 13, 1990 citing People v. Alvarez, etc., 163 SCRA 745 [1988]; People v. Rondina, 149 SCRA 128 [1987] citing People v. Ancheta, etc., 148 SCRA 178 [1987])

A careful perusal of the records of the case at bar discloses that the trial court's finding that the accused-appellant's guilt is beyond any indicia of doubt merits our unqualified concurrence. The victim's straightforward and spontaneous testimony clearly establishes the fact of rape and its author, the accused-appellant. She stated in Court that:

"xxx xxx xxx

Q In the early morning of June 20, 1987, do you recall or remember where were you? (sic)

A I was in the house, sir.

Q Where is this house of yours located?

A In Villa Gomez.

Q And what were you doing there at the time?

A We were sleeping, sir.

Q While you were sleeping in the early morning of June 20, 1987, do you recall or remember any unusual incident that happened?

A Yes, sir.

Q What was that unusual incident?

A When I was awoken there was somebody on top of me, sir.

FISCAL:

We want to make on record that the witness is crying.

COURT:

Place that on record.

FISCAL:

Q You said that on the said date and hour you were awoken that (sic) somebody was on top of you, did you recognize who was on top of you?

A Yes, sir. Rodante Felipe, sir.

Q How long have you known him?

A I have known him for a long time in Unisan, Quezon.

Q If the said person who was on top of you on the said date and hour and according to you Rodante Felipe is in the courtroom, will you be able to identify him?

A Yes, sir. (WITNESS pointing to a person in the courtroom answering by the name of RODANTE FELIPE).

Q You said that he was on top of you when you were awoken, what was he doing then at the time while he was on top of you?

A When I was awoken he was already on top of me and he was making a coitus movement and I felt pain on my private parts.

Q Why, what is the cause of the pain?

A Because when he was making the coitus movement I felt pain and I was struggling.

Q Do you know what kind of pain was it when you felt pain when according to you your private part was very painful?

A It was very painful, sir.

Q And what was the cause of that pain?

A Because he inserted his organ to my private part so I felt pain.

Q Do you mean to say that the male organ of Rodante Felipe penetrated to your private part?

A Yes, sir.

Q And what did you do if you did anything when you felt pain because of that private part inserted to your vagina?

A I was struggling and I was shouting.

Q Were you able to release yourself from him?

A When I was able to release from him (sic) and I tried to run away from him he caught me and he slapped me and boxed me.

Q How were you able to release yourself from him, by what means?

A I kicked him, sir.

Q When you kicked him did you hit him?

A Yes, sir. I was able to kick him in his organ and he felt pain so I was able to release myself.

Q And you said the accused boxed you, where in your body did he box you?

A In my stomach and he slapped me on my left face, and strangled me.

Q When the accused boxed you, slapped you and strangled you what happened to you?

A I lost consciousness, sir.” (TSN, July 18, 1988, pp. 20-23)

xxx xxx xxx

The medical findings made by the municipal physician who conducted the physical examination of the victim and who testified as to his findings in court coupled with the corroborative testimonies of the victim’s father and sister-in-law strongly confirm the fact that the accused-appellant sexually abused Rosalie.

The improbabilities and lapses pointed out by the accused-appellant in Rosalie’s narration of what the former did to her on that fateful day in June 1987 are, indeed, more apparent than real as the prosecution opined because of a clear showing that all the essential elements of the crime of rape under Article 335 of the Revised Penal Code are present. The accused-appellant would like to make us believe that the veracity of the victim’s narration is questionable since she was not awakened by the accused-appellant’s act of getting on top of her and making the initial thrust of his penis into her vagina. It is not at all unusual that the 12 -year old girl would wake up only when the pain of the man’s organ being forced inside her vagina was felt. The man did not have to bear down with his entire weight upon the poor victim before trying to do the sexual act. In this regard, our pronouncement in the case of *People v. Romeo Camasis*, G.R. No. 87083, September 14, 1990 citing *People v. Tolentino*, 140 SCRA 411 [1985] bears repeating. We stated that:

“xxx [I]f the complainant was indeed fabricating a story, it would have been easier for her to say that she was awake when she was assaulted.”

When the sister-in-law arrived in the house, Rosalie was unconscious on the floor. Her panty was pulled down and her private part was bloody. There can be no doubt as to who boxed and strangled Rosalie after raping her.

In fine, the accused-appellant’s defense of alibi must fail since alibi is unavailing as a defense where there is positive identification of the perpetrator of the crime, most especially, when the said identification is made by the victim of the rape herself in the absence of any motive to implicate the assailant. (See *People v. Restituto Bravo*, G.R. No. 68422, December 29, 1989 citing *People v. Nolasco*, 163 SCRA 623 [1988]; *People v. Sato*, 163 SCRA 602 [1988]; *People v. Patong--og*, 155 SCRA 675 [1987]; *People v. Malabad*, 133 SCRA 392 [1984]; see also *People v. Ernesto Santos alias “Kariba”*, G.R. No. 77912, March 6, 1990 citing *People v. Valdez*, 150 SCRA 405 [1987])

In the light of the circumstances of the instant case, we hold that the degree of moral certainty required to convict the accused-appellant is substantiated by the evidence on record.

WHEREFORE, the judgment appealed from is **AFFIRMED** with the modification that the amount of indemnification is increased to P50,000.00 in view of our recent pronouncements on indemnity.

Fernan, C.J., (Chairman), and Bidin, J., concur.

Feliciano, J., on leave.

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