

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELIPE SANGIL Y VELISARIO, RESPONDENTS.

G.R. No. 91158. May 08, 1992

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

This is an appeal from the decision dated September 28, 1989, of the Regional Trial Court of Malolos, Bulacan, Branch 15, convicting the appellant of the crime of rape.

The trial court's recital of the evidence of both the prosecution and the defense and its findings of fact are reproduced hereunder:

"The victim-complainant Joselyn Sangil, a 19-year old lass testified that one midnight of September, 1983 (she was only 13 years old then), she was awoken by hands taking off her panty. She saw that it was her father removing her panty. She tried to push her father away but her father was strong besides he threatened her that he (father-accused) will kill her if she (witness-victim) will not submit to his advances. Her father-accused was able to deflower her because of his threat. Even though they were all sleeping in the same room (with her parents and brothers and sisters), she could not shout for help because of fear. Being a virgin, she bled when her father thrust his penis into her vagina. After raping her, her father left and returned to his own place to sleep. And then again in November 1984, her father raped her again and just like the other time he (father) threatened to kill her if she would tell anyone about it. It was after her sister Alicia became pregnant - that she reported the incident to the police authorities. Alicia told her that it was also their father who made her pregnant. During the confrontation with her sisters and mother. Araceli and Lourdes also confessed that they also have been raped by the accused, and it was then when they decided to file a complaint against their father-accused. While it is true that her father left to work in Saudi Arabia in 1982, he returned on June, 1983. He left again in 1984 and only stayed abroad for 6 months. She did not see and know when her other 3 sisters were raped by their father. She was only told of this matter during their confrontations (sessions). In fact had her sister Alicia did not become pregnant the fact that their father raped them would not be revealed. She executed a written statement to this effect (Exh. A). She was present when Dra. Fe Mesina prepared her Medical Report after examining her and her sisters, she was emphatic about not shouting and seeking help when her father abused her because of the threats of her father. She knows her father was very cruel and many times mauled her and her brothers and sisters in the past.

"Dra. Fe Mesina, the Municipal Health Officer of Calumpit, Bulacan, for the past 23 years, testified that on January 27, 1989 she received a request (Exh. D) for medical examinations of 4 Sangil sisters including Joselyn Sangil (complainant-victim in this case) for the alleged rape from the Police Station of Calumpit, Bulacan. She conducted physical examination on the four (4) Sangil sisters and found out that the subjects' physical virginity has been long lost before the said examination (TSN, 8-28-89, pp. 5 & 6) so that she issued her own medical certification (Exh. E). The hymenal lacerations could have been inflicted for more than a month or years before the date of examination. Alicia Sangil was pregnant when she examined her and she (Alicia) give birth on April 3, 1989 (Exh. F). Her patient told her that the author of her pregnancy was their father (TSN. 8-28-89, p. 8). She likewise testified that a total laceration of the hymen can be caused by sexual

intercourse and all of the Sangil's sisters suffered total lacerations of their hymen. The fact remains that the four Sangil sisters had been impregnated.

"When Araceli Sangil was placed on the stand, she stated that in January, 1989 her sister Alicia confessed to them that her pregnancy was authored by their father Felipe Sangil. She likewise learned that her other sisters Joselyn and Lourdes were also raped by their father. She was so angry with her father. (TSN, 8-28-89, p. 17.)

"Q: Why did you get angry?

"A: I got angry with him because I learned that it was not only me who was raped by him but also my sisters.

"Q: Who were the other sister of yours who were also raped by your father?

"A: Alicia, Joselyn and Lourdes, sir.

She further stated that Joselyn was raped on September 1983 and November 1984. She, herself was ravished by Felipe on June and August 1983. When her mother learned of this incidents, she got mad and when she confronted her father about it, her father admitted the same. They did not file any complaint right away and waited for their father either to leave their house or to ask for forgiveness either which he (accused) did not do instead he got angry with them so that they were forced to file their complaint. After her father was arrested and incarcerated, he (accused) wrote them letters of forgiveness (Exhs. G to G-4). She added that she was raped 2 times in 1984, 2 times in 1985. She could not fight back nor complain because her father was very cruel, although he does not drink, smoke or gamble. The first time that her father raped her she was hurt, although she tried to ward him off he was still able to insert his penis inside her vagina. For two (2) times her father poked a knife at her neck so that he was able to abuse her. All these raping incidents happened at the place where her brothers and sisters were likewise sleeping.

"For the defense, Lucia Baltazar testified that she is the mother of Felipe Sangil, the accused in this case and the grandmother of Joselyn Sangil, the victim-complainant. In the past, her daughter-in-law will consult her on whatever happened in their house. The matter of this case filed by her granddaughters against her son Felipe, was never related to her. She just remembered one day, a long time ago, her daughter-in-law told her that one of her (daughter-in-law) daughters was so mad that she would kill her father. When she (witness) confronted this granddaughter, the latter remained mummed (sic) about it and told her nothing. She got sick when she learned that his (sic) son Felipe was arrested, jailed and sentenced by a court, she tried to talk to her granddaughters to settle the matter but she was refused.

"Accused Felipe Sangil on the stand denied all allegations of the prosecution's witnesses. The only reason why his daughters will complain against him was because of his cruelty to them. He admitted being cruel to his children because of their hard headedness and their refusal to follow his orders. He further stated that every time he and his wife would make love they would go to the kitchen to do it. He was surprised when he was arrested and sent to jail. He asked why and was informed by the policemen that his daughters filed a complaint against him. He admitted being cruel to his children especially when they do not follow his orders. He boxed and even kicked them. The only reason he could think of why his daughters will file a case against him was because for a long time now, his mother-in-law would like him to leave his house and the land. He likewise denied siring the baby of his daughter Alicia. (TSN, 9-18-89, p. 8)

"Q: What you are telling the Court was that the husband of Corazon was the father of the child not you?

"A: I could not sure that that is my baby or that is the baby of the tricycle boy because I ordered her 3 times not to ride on that tricycle but instead this Alicia Sangil told me that 'Hayaan mo, Ama gagawin ko and iniisip mong masama sa akin.'

He likewise admitted having written letter to Araceli (Exh. G). He asked forgiveness for maltreating them.

"In the assessment of the evidences presented by both the prosecution and the defense in this case, the Court

finds that the scale of justice tilted in favor of the prosecution by proof beyond reasonable doubt, considering the following:

"A young girl of 19, a student and who is not known to be a woman of loose morals, would not falsely impute the offense of rape against the accused (who is her father). It is hardly probable that she will, and can much less fabricate matters and thereby undergo the travails of a public trial, exposing herself to humiliation and embarrassment by unravelling nasty matters against her virginity, by lodging against the accused so grave and serious charge, if not true. (Pp. vs. Caluba, G.R. No. 38691, 19 Feb. 86, Second Division, Cuevas, J.)

"Even if the complainant-victim had only filed this case five (5) to six (6) years after the complaint incidents (when she was only 13 years when this happened) - one should not expect a thirteen year old girl who is being sexually assaulted to act like an adult or like a 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 no uncommon for young girls to conceal for sometime the assaults on their virtue because of the rapist's threat on their lives (P. vs. Ibaloy Yakap, G.R. No. 66010-12, 31 July 86, Second Division, Gutierrez, Jr.) and more particularly the culprit is their own cruel and violent father.

"Furthermore, it is hard to believe that an unmarried teenager a student would endure the shame and embarrassment of being publicly known that she had been ravished and would undergo the attendant difficulties of a court proceeding if she and her family were not sincerely and strongly motivated by a common desire to obtain retribution against the person who grievously wronged them. (P. vs. Manalo, G.R. No. 49810, 13 Oct. 86, Second Division, Alampay, J.)

"More importantly, the accused himself admitted while on the witness stand that 'he was not sure whether the child of his pregnant daughter, who also filed a rape charged against him, was his or that of Corazon's husband's' (TSN, Sept. 18, 1989, p. 8).

"There is no doubt to the mind of the Court that accused Felipe Sangil committed rape upon his own daughter Joselyn Sangil.

"The accused Felipe Sangil who become (sic) an outcast in his own family, his four daughters had charged him with rape, a daughter named Alicia had given birth and declared his grandchild as his own, an incest relationship, pure and simple. During the trial, the Court reminded the daughter Joselyn that her father might be sentenced or incarcerated to a life imprisonment, and despite the warning given by the Court, the daughter was adamant and refused to be merciful. There is no doubt in the mind of the Court that accused had raped his daughters, a mere denial would not extricate him from this predicament (charges), it has been ruled that 'No young Filipina of decent repute would publicly admit that she had been criminally abused and ravished unless that is the Truth. It is her natural instinct to protect her honor.' Much more the offender is her father, the ignominy of this fact cannot be erased or iradicated (sic) by silence. While it took this complainant Joselyn to confess her experience only after the lapse of more than five years and only after her sister became pregnant and devulge (sic) the true mysterious facts of their family life. The abuse of confidence and relationship must be taken into consideration of (sic) the gravity of the offense committed. Imagine a father exercising coital relationship with his four daughters, this is shocking to the conscience." (pp. 49-52, Original Record.)

On January 29, 1989, Joselin gave and signed a sworn statement before Pfc. De la Cruz, and Pat. R. Sabino of the Municipal Police of Calumpit, Bulacan, accusing her father of having raped her twice: the first time in September, 1983 and the second time in November 1984. The pertinent portion of her "Sinumpaang Salaysay" are quoted below:

"T - Bakit ka naririto ngayon sa himpilan ng Pulisya ng Calumpit, Bulacan?

"S - Ihahabla ko po ang aking ama si Felipe Sangil.

"T - Bakit mo naman siya ihahabla?

"S - Dahil sinira po niya ang aming puri.

"T - Sino-sino ba ang sinira ang puri ng iyong ama?

"S - Ako po, at yong tatlo kong mga kapatid sina Alicia, Araceli, at Lourdes.

"T - Kailan ba nangyari ang sinasabi mong sinira ng iyong ama ang iyong puri at saan lugar?

"S - Noon pong Setyembre 1983 sa aming bahay sa Balungao, Calumpit, Bulacan.

"T - Matagal na palang nangyari bakit naman ngayon ka lang nagsusumbong dito sa Pulis?

"S - Kasi po tinatakot po ako at binabantaan na papatayin pag kami ay nagsumbong kahit kanino.

"T - Papano ba ang ginawa sa iyo ng iyong ama sa pagkuha ng iyong puri na sinasabi mo?

"S - Noon po ako ay natutulog at ako ay inalisan ng panty ng aking ama at binantaang papatayin pag hindi ako pumayag sa kanyang

kagustuhan, kaya ang ginawa ko po ay umiyak na lang ako at nagawa na po ng aking ama ang kanyang gusto.

"T - Ano ba and naramdaman mo ng gawan ka ng iyong amang si Felipe Sangil ang bagay na iyon?

"S - Nasaktan po ako.

"T - May pinagsumbungan ka ba na ibang tao sa pangyayaring ito sa iyo?

"S - Wala po, pero ngayon ay ipinagtapat ko sa aking ina ang ginawa sa akin ng aking ama si Felipe Sangil.

"T - Ilang beses ba ginawa sa iyo ng iyong ama ang pagpugay sa iyong puri?

"S - Dalawang beses po, yong isa ay noong Nobiembre 1984 sa amin ding bahay na ganoon ding pamamaraan.

"T - Sinabi mo pati ang iyong mga kapatid ay ginawan din ng ganoon ng iyong amang si Felipe Sangil nakikita mo ba pag isinasagawa ng

iyong ama ang ganoong bagay?

"S - Hindi po, pero nagkausap-usap po kaming magkakapatid at nagkatapatan kami sa ginagawa sa amin ng aming ama." (p. 18, Original

Record.)

On February 2, 1989, she signed the following criminal complaint in English before Municipal Judge Celerina B. Caluag who, after conducting a preliminary examination of the charge, issued a warrant for the arrest of the accused:

"CRIMINAL COMPLAINT

"The undersigned complainant, on oath, accuses Felipe Sangil of the crime of Rape committed as follows:

"That on or about month of November 1984 at barangay Balungao, Municipality of Calumpit, Province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, said accused with lewd designs qualified by force and intimidation and at knife point did then and there wilfully, unlawfully and feloniously have carnal knowledge with Joselin Sangil, 18 yrs. old, single, his daughter against the will and consent of the latter.

"CONTRARY TO LAW:**“JOSELIN SANGIL”**

“(Complainant).”

(p. 3, Original Record.)

On March 31, 1989, Assistant Provincial Prosecutor Alfredo L. Geronimo filed the following information against the appellant:

"The undersigned Assistant Provincial Prosecutor, on complaint of the offended party Joselin Sangil y Villanueva accuses Felipe Sangil y Velisario of the crime of rape, penalized under the provisions of Article 335 of the Revised Penal Code, committed as follows:

"That on or about the month of September 1983, in the municipality of Calumpit, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by means of force, violence and intimidation, and taking advantage of his ascendancy, did then and there wilfully, unlawfully and feloniously have carnal knowledge of one Joselin Sangil y Villanueva his own daughter, of 13 years of age, against her will and in their house or dwelling." (p. 4, Rollo.)

After trial, judgment was rendered by Judge Carlos C. Ofilada on September 28, 1989, the dispositive portion of which reads:

"WHEREFORE, the Court finds the accused Felipe Sangil y Velisario guilty by proof beyond reasonable doubt and in accordance with Art. 335 Revised Penal Code, he is hereby sentenced to suffer life imprisonment (The crime of Rape shall be punished by Reclusion Perpetua). he is likewise ordered to pay the offended party the sum of P30,000.00 as damages and pay costs." (pp. 52-53. Record.)

In due time, the accused appealed to this Court, assailing only the jurisdiction of the trial court but none of its findings on the criminal liability of the accused. The lone assignment of error alleges that:

"The trial court erred in hearing and deciding this case when it never acquired jurisdiction over the same due to the lack of a proper complaint from the offended party charging accused-appellant of rape on September 1983." (p. 69, Rollo.)

The appeal is anchored on Art. 344 of the Revised Penal Code which provides:

"ART. 344. Prosecution of the crimes of adultery, concubinage, seduction, abduction, rape and acts of lasciviousness -

"xxx xxx xxx

"The offenses of seduction, abduction, rape or acts of lasciviousness, shall not be prosecuted except upon a complaint filed by the offended party or her parents, grandparents or guardian, nor, in any case, if the offender, has been expressly pardoned by the above named persons, as the case may be." (Underscoring supplied.)

and which is reproduced in Sec. 4, par. 3, Rule 110 of the 1964 Rules of Court and Sec. 5, Rule 110 of the 1985 Rules on Criminal Procedure.

Since the criminal complaint which Joselin signed on February 2, 1989 accused her father of having raped her in November 1984, the defense contends that he could not be prosecuted for, and the trial court had no jurisdiction to convict him of having raped his daughter in September 1983, as alleged in the information.

The appeal is bereft of merit.

The jurisdictional requirement that a prosecution for rape should be commenced by a complaint of the aggrieved party, by her parents, grandparents or guardian, pursuant to Sec. 5, Par. 3 of Rule 110 of the 1985 Rules on Criminal Procedure, was satisfied in this case.

The information was based on the first complaint which Joselin lodged with the Municipal Police of Calumpit, Bulacan, and which is contained in her Sinumpaang Salaysay dated January 27, 1989. In that "sworn" statement (it was not actually sworn to before the Municipal Judge although the proper jurat was typewritten at the bottom of the "salaysay") she categorically stated in Tagalog, that she was raped twice by her father - the first time in September 1983 and the second time in November 1984.

"T - Kailan ba nangyari and sinasabi mong sinira ng iyong ama ang iyong puri at saan lugar?

"S - Noon pong Setyembre 1983 sa aming bahay sa Balungao, Calumpit, Bulacan.

"xxx xxx xxx

"T - Ilang beses ba ginawa sa iyo ng iyong ama ang pagpugay sa iyong puri?

"S - Dalawang beses po, yong isa ay noong Nobiembre 1984 sa amin ding bahay na ganoon ding pamamaraan." (p. 18, Original Record.)

That accusation was repeated by Joselin during the trial proper:

"Fiscal:

"Q. Do you recall of any sad incident that happened sometime in that month of September, 1983?

"A. There was ma'm.

"Court: What time did it happen?

"Witness:

"A. Night sir, about midnight of September, 1983, sir.

"Fiscal:

"Q. Will you tell us what was that sad incident that happened that night of September, 1983?

"A. Ginawan ako ng masama ng aking ama.

"Q. What do you mean by that 'ginawan ng masama ng iyong ama?'

"A. Ni rape po, ginahasa po, ng aking ama.

"Q. What is the name of your father?

"A. Felipe Sangil, ma'm.

"Q. Is this Felipe Sangil the same accused in this case?

"A. Yes, ma'm.

"Q. Will you point to him if he is around?

"Interpreter: Witness pointed to a man who answered by the name Felipe Sangil.

"xxx xxx xxx

"Q. Was this incident repeated?

"A. Yes, ma'm.

"Q. When?

"A. November, 1984.

"Court: Over a year after?

"A. Yes, sir.

"Fiscal:

"Q. What happened in that incident?

"A. It is just the same as first time.

"Q. And just the same you did not report this incident to anybody?

"A. No, ma'm.

"Q. Why?

"A. He is going to kill me." (pp. 3-20, tsn, Aug. 18, 1989.)

The phrase "complaint filed by the offended party" as used in Section 5, Rule 110 should be given a liberal or loose interpretation meaning a "charge, allegation, grievance, accusation or denunciation" (p. 158, West's Legal Thesaurus Dictionary) - rather than a strict legal construction, for more often than not the offended party who files it is unschooled in the law. The purpose of the complaint in Section 5, Rule 110, is merely to initiate or commence the prosecution of the accused. The victim's "sinumpaang salaysay" which was prepared in the vernacular and the "complaint" in English, which must have been prepared for her by someone else, complement each other, when read together, and satisfy the legal definition of a "complaint" as "a sworn statement charging a person with an offense, subscribed by the offended party x x x" (Sec. 3, Rule 110, 1985 Rules on Criminal Procedure). The Court is not inclined to disregard her salaysay (complaint) for mere lack of an oath for that would amount to suppressing her anguished cry for redress.

The trial judge's conviction ("there is no doubt in the mind of the court") "that the accused had raped his daughters" is a finding that merits the highest respect of this Court for he had unmatched opportunity, denied to this Court, to hear the witnesses testify, assess their credibility, and observe their demeanor under questioning (People vs. Francisco, 182 SCRA 305; People vs. Besa, 183 SCRA 533). We have no hesitancy in sustaining the conviction of the accused.

However, the correct penalty for the crime of rape is reclusion perpetua, not life imprisonment. Trial courts should be careful in using the proper designation of the penalties prescribed by the statutes to avoid misunderstanding as to the scope and consequences of the penalties (People vs. Ansing, 190 SCRA 374; People vs. Dekingco, 189 SCRA 512; People vs. Manalansan, 189 SCRA 619). The Revised Penal Code has its own table of penalties, which some special laws do not follow strictly. Life imprisonment is not synonymous with reclusion perpetua for the latter carries the accessory penalties prescribed in Article 41 of the Revised Penal Code, which life imprisonment does not (People vs. Del Pilar, 188 SCRA 37).

WHEREFORE, finding no reversible error in the decision of the trial court, we hereby AFFIRM it with modification of the imposable penalty for the crime of rape which is reclusion perpetua, with the accessory penalties provided by law. The appellant, is further ordered to pay the offended party damages in the increased

sum of P40,000 in view of the unnatural, heinous and repulsive nature of the crime committed. Costs against the appellant, Felipe Sangil y Velisario.

SO ORDERED.

Narvasa, C.J., Cruz, Medialdea, and Bellosillo, JJ., concur.

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