

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMON CARSON, ACCUSED-APPELLANT.

G.R. No. 93732. November 21, 1991

Ponente: PARAS, J.

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PARAS, J.:

Ramon Carson appeals from the decision of the Regional Trial Court of Government Center, Palo, Leyte, Branch VIII, Hon. Lolita O. Gal-lang, presiding, in Criminal Case No. 7167 convicting him of the crime of Rape under Article 335, par. 1 of the Revised Penal Code and sentencing him to reclusion perpetua and to pay to the complainant Marilyn Barola P5,000.00 as moral damages and to pay the costs.

The accused was charged with rape by his neighbor, the complainant, in the following information:

"That on or about the 21st day of September, 1985, in the Municipality of Alangalang, province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, by means of force and intimidation and with the use of a short bolo, did then and there willfully, unlawfully and feloniously have carnal knowledge with one Marilyn Barola, inside her house against her will and consent to her damage and prejudice.

Contrary to law." (p. 50, Rollo)

Upon arraignment, the accused entered a plea of "not-guilty."

At the trial, the prosecution presented the complainant, Marilyn Barola; her sister, Gloria Caones; and two physicians Dr. Edwin Jao and Dr. Loreta Y. Rama as witnesses.

The prosecution states that accused is married and with children; that complainant is an ordinary 14--year-old innocent barrio lass; that the accused is one of the neighbors of the complainant; that complainant on September 25, 1985 minded their store alone because her parents went to another barrio about 1 km. away since 7 A.M. to help harvest palay; that at about 2:00 o'clock in that afternoon since there were no customers, complainant took the opportunity to sweep their yard; that while thus sweeping, accused came and said he wanted to buy cigarettes; that complainant left the yard and went inside the store to get said cigarettes; that accused immediately followed and surprised complainant by embracing her, at the same time pointing at her neck a 5-inch small bolo (pisao); that accused dragged her to the room upstairs and threatened her angrily in the vernacular: "Do not shout, if you will shout, I will stab you" "that accused continued intimidating complainant with the deadly weapon and ordered her to remove her panty; that accused removed also his short pants; that accused eagerly inserted his erect penis inside the vagina of the complainant and the complainant felt pain; that after a little while, the voice of complainant's sister named Gloria rang looking for the complainant; that this alarmed the accused and "lost control of the situation" and let go of the complainant who rushed out downstairs already sobbing; that complainant saw accused could not get down altho he had covered himself with a mosquito net; that the sister of the complainant came in to eat her lunch; that complainant was asked by her sister why she was crying; that complainant was visibly shaken and appeared to be hysterical, thus unable to respond at once to the question of

her sister; that after some moments, accused was heard and seen by complainant's sister Gloria to have jumped from upstairs by destroying the nipa wall of the bedroom; that when called by Gloria, accused did not answer but walked on fast; that the complainant after regaining her wits, told her sister that the accused had raped her; that the sister fetched at once their parents from the ricefields; that complainant accompanied by her mother proceeded to the DZRM Hospital in Tacloban City and subjected her private parts to an examination for a medical certificate; that the next day, complainant and her mother reported the incident to the barangay captain named Igme Royo who gave them a piece of paper shown to policeman Pat. Basul; that a complaint was executed, sworn to and signed by the complainant.

Drs. Edwin Jao and Loreta Y. Rama, two impartial and disinterested witnesses issued a medical certificate proving sexual assaults, the pertinent portion of which reads:

"PE: = Hematoma at lateral aspect of neck both sides (Rt) & (L).

OB Gyne result: done 9/21/85 10:05 PM

External genitalia - grossly normal admits speculum with difficulty

Introitus – Nulliparous

Hymen = orythematus area moted at 6:00 o'clock position with incomplete laceration of hymen at 7:00 o'clock

speculum exam; cervix = pinkish, closed small, with scanty mucoid discharge."

(p. 53, Rollo)

Gloria Caones, a married sister of the complainant testified that on that unlucky day at around 2:00 o'clock in the afternoon she went to her parents' house in order to take her lunch; that she sat in the bench obviously tired and feeling very hot after working for hours in the fields with their parents; that she called out the complainant's name and when she did not see her around she lay herself on the said bench after having drunk some water; that suddenly, complainant came down from the bedroom crying and apparently shaken; that upon seeing complainant, she was surprised, immediately sat up and asked what was the matter; that complainant seemed to be in a daze continuously crying sadly; that while questioning complainant, Gloria's attention was caught by a man who jumped thru the wall of their bedroom upstairs which that man destroyed; that she called out to the man whom he immediately recognized as Ramon, their neighbor; that Ramon, the accused, did not answer but just walked faster; that simultaneously, with this, after another question to complainant why she was crying, complainant stated that Ramon raped her; that she at once fetched their parents who brought complainant to the hospital and the next day to the barangay and to the police.

The accused states that he is just living in with somebody but not married; that the interrupted sexual contact with the complainant was mutually agreed upon because they were sweethearts; that he can not present any evidence of their being sweethearts like cards, notes, other tokens, etc. because he cannot write; that he visits complainant once or twice a month.

In the Brief of the accused, the following were assigned errors:

I

THE TRIAL COURT ERRED IN GIVING WEIGHT AND CREDENCE TO THE TESTIMONY OF PRIVATE COMPLAINANT MARILYN BAROLA THAT SHE WAS RAPED BY RAMON CARSON.

II

THE TRIAL COURT ERRED IN FINDING RAMON CARSON GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.

We will discuss them together, the same being interrelated to each other.

The contention of the accused that the criminal case was filed against him because not only the mother but the sister as well does not like him is far-fetched and nonsensical. It is hard to believe that a mother will drag the name of their family in a scandal and charge the accused with raping her daughter FOR A MERE GRUDGE. She will not permit her young daughter to detailedly describe in public the embarrassing steps comprising the elements of the crime of Rape if her motive was not for justice to prevail and to punish the lecherous person who assaulted her pitiful, innocent, minor child, the complainant. If the mother and other members of the family detest a man with a common-law-wife and children who desires to have a relationship with a daughter, this is but a manifestation of the high spiritual and moral standard the family has that should not be taken against them but instead should be counted in their favor (*Peo v. David*, 177 SCRA 551).

The other defense that the accused and the complainant were sweethearts or steadies and their interrupted coital liaison in that warm early noon was mutually agreed upon is another blatant lie. It is incredible that a sixth grader barrio lass, fourteen (14) years of age, a virgin before the assault, steeped in the old Filipino ways and customs, who had friends, classmates and childhood acquaintances of her age-level would have anything to do with an experienced, twenty-five (25) years old scurrilous and libidinous man, the accused, who belongs to another generation-level, unless the defense has established that the accused has been endowed with peculiar, extraordinary traits like irresistibly Adonis-type features and/or economic prosperity that could lure any ordinary maiden. Further, the accused, a long time neighbor of the complainant's family, is known by everybody in their barrio as a married man, from whom the complainant, young and moral as she is will never have anything to do romantically. It was proven, among other things, that the accused did not court the complainant. No evidence of notes, gifts, pictures or other tokens usually exchanged between steadies were presented. The rationale of the accused that it is because he does not know how to write and could write his name only is a very shallow, weak and flimsy justification. Altho, this kind of relationship can happen, still being sweethearts is usually not taken so lightly like this (*Peo v. Sarra*, 183 SCRA 34).

To further weaken his sweetheart defense, no person, not even one person was presented to testify as to any kind of proof that the accused and the complainant were really sweethearts. In this tight and dangerous situation the accused is in, he would present all kinds of evidence/proofs of his romantic relationship with the complainant if this were true.

Consider also the fact that in a rural area such as the place of the protagonists in this case, being a sweetheart of a married man is a very juicy item for gossips. There are no secrets of immoral relationships such as this kind in the place of accused and complainant where practically everybody knows everyone else. There was not an iota of comment of any kind linking complainant to the accused illicitly presented by the defense. This is so because the sweetheart-defense is actually untrue. (*Peo v. Tipoli*, 181 SCRA 279).

If ever the accused had secret lustful fantasies in his mind towards the unsuspecting complainant, such was only one-sided, and fated to be unreciprocated which eventually burst out in the open when the accused gave vent to his lewd, immoral and animalistic desires.

Now, if the sweetheart angle is ever accepted, still, that per se cannot be considered to be a valid defense for the crime of rape because being sweethearts is not a license to commit the sexual act which is a habit designed only

for husbands and wives. Therefore, a woman who is not yet married to her fiance is not obligated to render service in bed but can legally and validly refuse so as to keep her virginity intact (*Peo v. Bundol*, 143 SCRA 241).

When the question of credence as to which of the conflicting versions of the prosecution and defense where rape was committed is in question, the trial court's answer is generally viewed as correct and entitled to the highest respect because it is more competent to conclude so, having seen closely the way the witnesses testified, their deportments, and the peculiar manners in which they gave their testimonies and other evidence in court (*Peo v. Eguac*, 80 SCRA 665).

The immediate decision of the complainant to publicly complain and by not losing any time in doing so is another manifestation of her desire to avenge the wrong committed against her by the accused. When the parents of the complainant arrived, travel to the distant DZRM Hospital in Tacloban City was soon undertaken and it was past 10 o'clock in the evening when the duo reached said hospital for the needed medical certificate. The next day, steps were at once implemented to cause the execution of a Complaint against accused (*People v. Villanueva*, 162 SCRA 257).

Should there be some inconsistencies in the testimonies of the complainant and her sister Gloria, a shortcoming being attacked by the defense, the same were very minor and insignificant. Further, being naive and provincial folks as they are, the mere circumstance that they were testifying in the presence of strangers and for them, awesome people like the presiding judge, court personnel and counsel, on an intimate matter, not usually even mentioned in public, might have caused them not only little embarrassment and confusion that rendered their narrations less than perfect. Nevertheless, trivial discrepancies in their testimonies are indications that they were not rehearsed (*People v. Cayago* 158 SCRA 586).

It must also be considered that no young Filipina of decent repute would publicly admit that she had been criminally abused, unless that is the truth. No other motive can be ascribed to the complainant in filing the rape charge except that of a desire for justice and redress for a despicable wrong inflicted (*Peo v. Dolores*, 188 SCRA 660).

WHEREFORE, the decision appealed from is hereby AFFIRMED with the MODIFICATION that the moral damages are increased to P30,000 conformably with current jurisprudence. No other damages are imposed. No costs.

SO ORDERED.

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

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