

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROSAURO SAN PEDRO ALIAS BONG AND JOHN DOES, ACCUSED-APPELLANT.

G.R. No. 94128. February 03, 1993

Ponente: CRUZ, J.

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CRUZ, J.:

The accused-appellant made several attempts to befriend the complainant but he was consistently snubbed. Realizing that a romantic relationship was a distant dream, he decided that drastic measures were indicated. That night he stalked his prey and abducted her at the point of a knife. Then, as the object of his lust lay unconscious, he raped her.

This was the finding of the Regional Trial Court of Bontoc, Mountain Province, when after trial it convicted Rosauro San Pedro of rape and sentenced him to suffer the penalty of reclusion perpetua. He was also ordered to indemnify his victim in the sum of P30,000.00. The driver of the tricycle, identified merely as John Doe in the information, was never arrested and tried.

The principal witness for the prosecution was the complainant herself, Catherine Mata-ag, was an 18-year old third year student of the Mountain Province College at the time of the alleged incident. She claimed that San Pedro, a tricycle driver, had earlier made several overtures of friendship which she had ignored. On November 17, 1988, he took matters into his own hands.

At about eight o'clock that night, while she was on her way to a classmate's house, somebody suddenly approached her from behind and clamped one arm around her neck, almost choking her, while poking a pointed object at her back. He threatened to kill her if she made any outcry. He dragged her toward a tricycle parked nearby and forced her inside. When she asked what he was going to do with her, her assailant replied, "Don't worry because we are going to heaven." As the tricycle started,[1] she became more frightened and renewed her struggle, and it was at this point that she clearly saw and identified her abductor as San Pedro. He then boxed her in the chest and then pressed a piece of cloth on her mouth and nose, rendering her unconscious.[2]

When she awoke, she found herself in a strange place. She was completely naked. Her body ached all over. There was a sticky substance in her thighs. She cried when she realized she had been violated. Finding her clothes nearby, she put them on and scaled a stone wall. She looked for the way back, weeping all the while, and even contemplated suicide. Upon arriving home the following morning, she stayed at the back of the house. It was there that her brother found her, disheveled and in tears.[3]

Angel Lapon testified that he asked Catherine where she was all night and why she was in that condition. Catherine told her brother about her abduction and rape. Lapon immediately reported the matter to the police and at their suggestion took Catherine to the Bontoc General Hospital,[4] where she was examined by Dr. Imelda Pacheco.[5] The test showed several vaginal lacerations and abrasions and the presence of seminal fluid and spermatozoa in her vagina.[6]

Another important prosecution witness was Manolo Pao-ilan, who testified to having seen the actual abduction. He positively identified San Pedro as the abductor and declared he could easily see him by the light of the moon that night and the several electric lights in the place. He said he did not interfere because he was afraid that San Pedro had a gun. But he immediately related the incident to his friend, Cofo Palongon, who reported the matter to the authorities.[7] The police later invited Pao-ilan and took his sworn statement.[8]

The accused-appellant had a different story. He declared on the stand that from about 6 o'clock to half past ten in the evening of November 17, 1988, he was in the store of Roy Bugnosen and drinking gin with him, Bobby Fulangan, and Francisco Matay-eo. Thereafter, he left with Joe Waclet and slept in his house until the following morning. This testimony was corroborated by Francisco Matay-eo, Madeline Jane Tafaleng, Margaret Fagsao and Ellen Geronelia.

In the appellant's brief, the trial court is faulted for rejecting this alibi. It is averred that the accused-appellant had not been positively identified, particularly since the complainant claimed she was unconscious when she was raped.

The argument is feeble. In fact, San Pedro was positively identified by Catherine and Pao-ilan. The moon was bright at the time of her abduction; moreover, there were several street lights in the area, as testified to by Joseph Lacbawan, a line supervisor of Mountain Province Electric Company (MOPRECO), who was, significantly, a witness for the defense.[9] Both Catherine and Pao-ilan had seen San Pedro before, and Pao-ilan had no grudge or ulterior motive for testifying against him. Catherine could not have mistaken the accused-appellant for another person, as San Pedro had earlier approached her at least five times with his overtures of courtship.

The contention that Catherine could not have known that it was San Pedro who had raped her is puerile. According to Article 335 of the Revised Penal Code, one of the ways of committing rape is when the victim "is deprived of reason or otherwise unconscious." Of course, an unconscious woman will not know who is raping her. If the defense theory were to be adopted, then it would be impossible to convict any person who rapes an unconscious woman, except only where a third person witnesses the crime. Henceforth, the clever rapist would simply knock his potential victim out of her senses before actually raping her, to be later immunized from conviction for insufficient identification.

In a situation like this, the identity of the rapist is determined by the events preceding or following the victim's loss of consciousness. And in the case at bar, the trial court correctly took into account the fact that before the rape of Catherine, she was abducted by San Pedro. For what reason? The submission that he should be convicted only of grave coercion is preposterous and does not deserve further comment from the Court. The more logical conclusion is that San Pedro abducted Catherine for no other reason than to rape her. This purpose was evident on his flippant reply when Catherine asked him what he was going to do with her. He said that they were "going to heaven."

In rejecting the accused-appellant's alibi, Judge Nicasio A. Baguilat was reasonably skeptical of San Pedro's claim that he spent the rest of the night of November 17, 1988, in Jose Waclet's house although he had his own boarding house, where he regularly slept. That oddity made the alibi even less believable, let alone its intrinsic weakness and San Pedro's positive identification by the prosecution witnesses.

We deal finally with the assertion that the defense was unduly prevented from presenting several witnesses who, it is claimed, could have proved that San Pedro could not have been at the scene of the crime. The appellant's brief says that the evidence would consist of the analysis of the samples of soil in the place where Catherine was raped and of soil taken from San Pedro's shoes.

The trouble with this complaint is that the accused-appellant had all of six months to present this evidence but this was never done. The earlier agreement of the prosecution and the defense was that the defense would present all their witnesses on February 26, 1990, and that "if their witnesses failed to appear on that date," they would "terminate their case and make their formal offer of evidence." [10] The witnesses failed to appear. Hence, the trial court committed no error when, conformably to the agreement, it denied the verbal motion of the defense for the continuance of the trial. Besides, Catherine did not pinpoint the place where she was raped, saying simply that it was "a strange place." There would have been no basis for the intended comparison.

We are convinced with the trial court that Rosauro San Pedro, in connivance with the unidentified person who drove the tricycle, forcibly abducted Catherine Mata-ag and took her to the "strange place" where he raped her while she was unconscious. The crime committed is rape, which absorbs forcible abduction because San Pedro intended at the very outset to rape Catherine when he abducted her. [11]

For his offense, the accused-appellant, who was only 20 years old at the time, must forfeit the prime of his years in the reproving confines of a prison cell. Catherine unfortunately must suffer a crueler ordeal for she must deal with the bitter memories of the outrage to her chastity until they mercifully fade with time.

WHEREFORE, the appealed judgment is AFFIRMED in toto, with costs against the accused-appellant. It is so ordered.

Padilla, Griño-Aquino, and Bellosillo, JJ., concur.

[1] TSN, August 18, 1989, p. 28.

[2] Ibid.

[3] Id., pp. 32-36.

[4] id., pp. 36-37.

[5] id., pp. 2-3.

[6] Exhibits "A" and "C," TSN, August 18, 1989, pp. 3-7.

[7] TSN, April 21, 1989, p. 103.

[8] Exhibit "P." TSN, April 21, 1989, pp. 99-101: 113-114.

[9] TSN, September 29, 1989, pp. 303-319.

[10] Ibid., February 26, 1990, pp. 354-355.

[11] People v. Toledo, 83 Phil. 777; TSN, April 18, 1989, p. 28.

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