

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ADOLFO NARVAS PASCUAL, ACCUSED-APPELLANT.

G.R. No. 95029. March 24, 1993

Ponente: NOCON, J.

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NOCON, J.:

Accused-appellant Adolfo Pascual disclaims knowledge of raping Virginia de Guzman on the feastday of the Sto. Niño (January 17, 1982) in Tondo because he was, according to him, insane at that time. Virginia claims she was raped five (5) times in as many hours.

As summarized by the trial court, the facts of the case are as follows:

"[S]ometime in November, 1981, or roughly two (2) months before January 17, 1982, the Accused began courting Virginia de Guzman in earnest. x x x . His persistency and tenacity and avowals of love bore fruit because after a month of unrelenting court-ship, Virginia de Guzman finally succumbed and she accepted him as her boyfriend and agreed to be his girlfriend. x x x.

"However, the feast of the Sto. Niño, the patron saint of the locality, which was third Sunday of January of every year, was fast approaching. On January 15, 1982, x x x he invited Virginia de Guzman to attend and spend the day of the feast on January 17, 1982, and have dinner in the house of his uncle 'Tonying' and his auntie at No. 1602 Velasquez Street, Tondo, Manila. She saw nothing wrong with the invitation of the Accused and accepted the invitation readily.

"x x x (they) started the day of January 17, 1982, by meeting in the house of Virginia de Guzman at about 3:00 o'clock in the morning and attended mass together.

"xxx xxx xxx

"When x x x (they) arrived (at the house of his uncle and auntie), x x x the Accused told Virginia de Guzman that they will go to the old house (which was at the back of the house) to have their dinner there because there were plenty of people inside the house of his aunt. The Accused then took some food for him(self) and Virginia de Guzman. x x x (he) assured the latter that they will just stay there for a while and get back to the house after their dinner. On that note, Virginia de Guzman agreed.

"They left the house of the aunt of the Accused, passing through the door near the toilet (Exhibit 'I-E') and proceeded to the old house nearby. Upon reaching the old house, they passed through the door thereto. The old house is also a two-storey edifice. There were no occupants at the time the Accused and Virginia de Guzman entered the house. The lights were on.

"The two proceeded to the second floor of the house. Virginia de Guzman was then preparing the food brought for their dinner when the Accused suddenly kissed her and tried to remove her blouse. She was caught off-guard and, taken aback, instinctively she shouted. She resisted the advances of the Accused. However, the accused persisted, assuring her that he will answer and take full responsibility for what will happen. She refused. However, the Accused, took out a 'balisong' or single bladed knife from his waistline pointed it to her

neck, at the same time unzipping his pants. Virginia de Guzman, thereupon managed to run to the ground floor of the house to seek help. The door was closed, however. She pounded on the door, shouting: 'Diyos ko, tulungan po ninyo ako.' However, the accused followed Virginia de Guzman to the ground floor and prevented her from pounding on the door some more. Nevertheless, the aunt of the Accused heard the noise and inquired: 'Ano iyon, Dolphy?'' However, the Accused replied: 'Wala iyon, Tiyang.' Forthwith, the Accused boxed Virginia de Guzman on the stomach and tried to stab her with his balisong. Instinctively, Virginia de Guzman tried to wrest the knife from the Accused and got hold of the knife. She, however, failed to wrest the knife from the Accused. In the process, her palms and fingers were injured. The Accused then held Virginia de Guzman by putting his right hand around her neck, with the knife, held by the Accused with his right hand, pointed and pressed to her neck. The Accused uttered invectives at Virginia de Guzman, saying 'Putang ina mo, dito ka pa gagawa ng gulo,' and warning her that something might happen to both of them. The Accused then pulled her (kinaladkad) towards the second floor as she continued to resist. Thereupon, the Accused, with the knife still held by him, removed her blouse, cut off the front portion of her brassiere with the tip of his knife and removed the strap of her brassiere with his left, hand. She did not know where the Accused put her brassiere after removing it from her. She continued pleading with the Accused, at the same time kicking him. Instead of relenting, the Accused pointed the knife at her and warned her that if any vehicle was parked nearby, it might be a vehicle of a policeman and he would have to cut her neck with the knife. The accused removed his pants and clothes. Thereafter, he kicked the lower portion of her left leg and this forced her to fall down on the floor, on a sitting position. The Accused then removed her pants with his two hands, the knife still on his hand. The Accused then ordered her to lie down on the floor and, when she did, the Accused removed her panties with his left hand, while poking the knife at her neck. Thereupon, the Accused went on top of her and inserted his private part into her private parts succeeded in having sexual intercourse with her. The Accused, in the process, moved his buttock in and 'up and down' direction. She cried as she felt pains in her private parts. She had not experienced sexual congress before. Her love for him completely evanesced because of what he did.

"The Accused was on top of her, having sexual intercourse with her, for about one-half hour. During that period of time, the Accused had his knife pointed at her neck. After about half an hour, she felt something coming out of the private part of the Accused and thereafter, he dismounted from her. Both of them sat on the floor, naked, leaning against the wall. The knife, in the meanwhile, was being held by the Accused. The Accused, assured her that he would take full responsibility for what happened. It was then about 7:00 o'clock in the evening of January 17, 1982. After an interval of ten (10) minutes, the Accused succeeded in having a second sexual intercourse with her. Like during the first intercourse, the Accused had with Virginia de Guzman, the knife was pointed at her. Again, she felt something was coming out of his private parts. They sat down again, on the floor, still naked for about thirty (30) minutes. Virginia de Guzman then told the Accused that she wanted to go home already. However, the Accused refused and merely kept silent. The Accused had sexual congress with her for three (3) more times. It was then about 2:00 o'clock in the early morning of January 18, 1982. By then she was extremely exhausted and dizzy. She wanted to put on her clothes back but the Accused did not want her to. As they laid down on the floor, Virginia de Guzman tried her best to keep awake. However, the Accused was alert and was able to keep awake too. Unable to keep herself from sleeping, Virginia de Guzman slept ahead of the Accused. The Accused took a blanket from inside the aparador and used the said blanket for both of them.[1] (Sic not used to avoid cluttering of testimony)

Accused-appellant was thus charged in court with the rape of Virginia de Guzman in an Information filed on February 3, 1982.[2]

In defense, accused-appellant pleads insanity and denial of the crime charged.

According to the trial court:

"The Accused pleaded ignorance of the charge against him. The accused denied recollection of his whereabouts on January 17, 1982. Although he admitted knowing the Private Complainant as his neighbor, he

alleged ignorance of any relationship he had with her or having met her on January 17, 1982, or his whereabouts on January 29, 1982 or why he was brought to the hospital although his mother, Felicitas Pascual used to visit him there. He recalled his father's name, Elpidio Pascual, and his brothers' and sisters' names, as Ernesto Pascual, Hermina Pascual, Arsenia Pascual and Jonel Pascual. He studied with the Arellano University High School but finished only the second year. He finished his elementary education at the Yangco Elementary School.

"The Accused adduced evidence, through the testimony of Dr. Eduardo Maaba of the National Center for Mental Health, to prove that, at the time of the commission of the crime charged, the Accused was insane within the context of Article 12, paragraph 1 of the Revised Penal Code. It appears that the Accused was first admitted to the National Mental Hospital (now the National Center for Mental Health) on May 7, 1980 for 'schizophrenia, undifferentiated type' when the Accused was barely eighteen (18) years of age. Eventually, the Accused was discharged from the hospital, on January 5, 1982 on an overdue pass. The hospital found that there was no more need for the further confinement of the Accused although he had to go back to the hospital for periodic examination and treatment. x x x.[3]

On March 5, 1982, the trial court ordered the confinement of the accused at the National Mental Hospital for examination and treatment.

It was only on July 3, 1987 that the accused was certified by the mental health authorities to be fit to stand the rigors of a court trial.

Consequently, after trial on the merits, the trial court rendered judgment against accused-appellant, on August 1, 1988, finding him guilty of the offense charged, the dispositive portion of which states as follows:

"WHEREFORE, judgment is hereby rendered finding the Accused ADOLFO PASCUAL Y NARVAS guilty beyond reasonable doubt for the crime of Rape defined in and penalized by Article 335 of the Revised Penal Code and, conformably with said provision, hereby sentences the said Accused, to the penalty of RECLUSION PERPETUA with all the accessory penalties of the law and the costs of suit.

"The Accused is hereby ordered to pay to the Private Complainant, Virginia de Guzman, the sum of TWENTY THOUSAND (P20,000.00) PESOS, Philippine Currency, as moral damages.

"The period during which the Accused has been confined at the City Jail after his arrest in this case and the National Center for Mental Health from March 5, 1982 in connection with this case shall be credited to him in full provided that he agreed, in writing, to abide by and comply strictly with the rules and regulations of the City Jail.

"SO ORDERED."[4]

Hence, this appeal, with accused-appellant raising as errors of the trial court:

- I. In not finding that the accused was insane at the time of the commission of rape;
- II. In proceeding with the trial without first securing the conformity or approval of the Director of Health as mandated by law that accused was already cured of his mental illness and can stand trial, and
- III. On the assumption that the accused was sane, in not acquitting him on ground of reasonable doubt on the face of the inconsistent, contradictory and incredible testimonies of prosecution witnesses.[5]

The principal submission of accused-appellant is that he was suffering from "schizophrenia, undifferentiated type" on January 17, 1982 that is why he does not remember having raped Virginia five (5) times.

Schizophrenia, as a defense, was discussed extensively in *People vs. Rafanan, Jr.*,[6] as follows:

"Although the Court has ruled many times in the past on the insanity defense, it was only in *People vs. Formigones* that the Court elaborated on the required standards of legal insanity, quoting extensively from the Commentaries of Judge Guillermo Guevara on the Revised Penal Code, x x x:

‘xxx xxx xxx.

"The standards set out in *Formigones* were commonly adopted in subsequent cases. A linguistic or grammatical analysis of those standards suggests that *Formigones* established two (2) distinguishable tests: (a) the test of cognition -- 'complete deprivation of intelligence in committing the [criminal act],' and (b) the test of volition -- 'or that there be a total deprivation of freedom of the will.' But our caselaw shows common reliance on the test of cognition rather than on a test relating to 'freedom of the will;' examination of our caselaw has failed to turn up any case where this Court has exempted an accused on the sole ground that he was totally deprived of 'freedom and will,' i.e., without an accompanying 'complete deprivation of intelligence.' This is perhaps to be expected since a person's volition naturally reaches out only towards that which is presented as desirable by his intelligence, whether that intelligence be diseased or healthy. In any case, where the accused failed to show complete impairment or loss of intelligence, the Court has recognized at most a mitigating, not an exempting, circumstance in accord with Article 13(9) of the Revised Penal Code: 'Such illness of the offender as would diminish the exercise of the will-power of the offender without however depriving him of the consciousness of his acts.'"

"Schizophrenia pleaded by appellant has been described as a chronic mental disorder characterized by inability to distinguish between fantasy and reality, and often accompanied by hallucinations and delusions. Formerly called *dementia praecox*, it is said to be the most common form of psychosis and usually develops between the ages 15 and 30. A standard textbook in psychiatry describes some of the symptoms of schizophrenia in the following manner:

'Eugen Bleuler later described three general primary symptoms of schizophrenia: a disturbance of association, a disturbance of affect, and a disturbance of activity. Bleuler also stressed the dereistic attitude of the schizophrenic -- that is, his detachment from reality and his consequent autism and the ambivalence that expresses itself in his uncertain effectivity and initiative. Thus, Bleuler's system of schizophrenia is often referred to as the four A's: association, affect, autism, and ambivalence.

'xxx xxx xxx.

"Kurt Schneider described a number of first-rank symptoms of schizophrenia that he considered in no way specific for the disease but of great pragmatic value in making a diagnosis. Schneider's first-rank symptoms include the hearing of one's thoughts spoken aloud, auditory hallucinations that comment on the patient's behavior, somatic hallucinations, the experience of having one's thoughts controlled, the spreading of one's thoughts to others, delusions, and the experience of having one's actions controlled or influenced from the outside.

"Schizophrenia, Schneider pointed out, also can be diagnosed exclusively on the basis of second-rank symptoms, along with an otherwise typical appearances. Second-rank symptoms include other forms of hallucination, perplexity, depressive and euphoric disorders of affect, and emotional blunting.

"xxx xxx xxx

"In previous cases where schizophrenia was interposed as an exempting circumstance, it has mostly been rejected by the Court. In each of these cases, the evidence presented tended to show that if there was impairment of the mental faculties, such impairment was not so complete as to deprive the accused of intelligence or the consciousness of his acts."[7]

The following actions on the part of the accused-appellant, which are findings of fact of the trial court, negate complete destruction of intelligence at the time the rape was committed:

1. the fact that he pointed a 'balisong' at the neck of Virginia when she initially resisted his advances;[8]
2. the fact that he told his Auntie that Virginia's pounding at the door of the house, where accused brought her to be raped, was nothing to worry about;[9]
3. the fact that he threatened her with death if any police vehicle will park near that home;[10]
4. the fact that when complainant first resisted accused's advances and after he had consummated the sexual assault, he assured Virginia that he would answer and take full responsibility for what will happen;[11]
5. the fact that he raped her five (5) times in as many hours;[12]
6. the fact that accused took a blanket from the aparador and used it to cover both himself and the complainant, who having been raped five times, eventually fell asleep as she was tired, exhausted and emotionally drained;[13]
7. the fact that the accused insisted on going with Virginia when her mother rescued her from accused's auntie's old house.[14]

All these indicate to the court that accused-appellant was very much aware of what he had done, contrary to the requirement of complete deprivation of intelligence for the exempting circumstance of insanity to be appreciated in accused-appellant's favor.[15]

We find, therefore, no exempting circumstance of insanity in accused-appellant's case. With this finding, the resolution of appellant's second assignment of error would be irrelevant and immaterial.

II

However, appellant contends that, on the assumption that he was sane, he could not be convicted on the basis of the inconsistent, contradictory and incredible testimonies of the prosecution witnesses, as follows:

1. Accused-appellant threatened Virginia with a knife either when she was boxed by the accused at the first floor of the house where she was raped[16] or when he kissed her while they were eating;[17]
2. Either Virginia told her mother she was raped when she and her mother were going home from accused's auntie's house on the morning of January 18, 1982[18] or she never informed her mother of the rape committed on her[19]; and that
3. Virginia just slept the whole day of the 18th of January when she arrived at her house.[20]

These alleged inconsistencies represent minor lapses on the complaining witness' part and are to be expected when a person is recounting details of a humiliating experience, which are painful to recall, in open court and in the presence of strangers on an extremely intimate matter not normally talked about in public, and do not detract from the credibility of the complaining witness.[21] What is sufficient is that Virginia's parents did talk things over between themselves lest the entire family be involved in any untoward incident.[22] After the decision to seek vindication on the wrong done to her was reached, the family lost no time in reporting the incident to the police and having Virginia medically examined.[23]

The fact that Virginia slept the whole day of January 18, 1981 in the safety of her own house has no effect on the credibility of her testimony that she was raped the previous night by the accused and up to the early morning of January 18th. Tired and exhausted from her harrowing experience, it is put natural for her to fall asleep.

III

A rule deeply embedded in our jurisprudence is that when a woman testifies that she has been raped, she says in effect all that is to be said to constitute the commission of said crime.[24] No young Filipina of decent repute

would publicly admit that she has been ravished and abused unless it is the truth.[25]

The law presumes every person to be sane. A person accused of a crime has the burden of proving his affirmative allegations of insanity.[26] This appellant has failed to prove -- that he was insane at the time he raped Virginia -- and offered no evidence of his total deprivation of intelligence while he was raping Virginia five (5) times. On the contrary, accused appellant's own witness testified as follows:

"FISCAL CADELINA:

When you were examining him on March 9, 1982, he was relating to you the incident of intercourse, did the Accused show any sign of remorse about the intercourse or rape?

"WITNESS:

The most important thing that I do here is to jot down the acts of the patient, but there were times when the patient described emotional tunes. In this particular case I failed to reflect it in the chart of the patient, sir.

"FISCAL CADELINA:

But when the patient was answering your questions he answered them responsively and coherently, is that right?

"WITNESS:

Yes, sir."[27]

WHEREFORE, finding no reversible error in the decision appealed from, the same is hereby AFFIRMED with the modification that the indemnity is hereby INCREASED to P40,000.00 in line with current jurisprudence.[28] SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Campos, Jr., JJ., concur.

[1] Rollo, pp. 119-124; Appellee's Brief, pp. 3-10.

[2] Ibid, p. 4.

[3] Ibid, pp. 128-129.

[4] Decision, People vs. Pascual, penned August 1, 1988, by Judge Romeo J. Callejo, in Criminal Case No. 82-3145-SCC, Manila RTC, Branch 49; Rollo, p. 148.

[5] Ibid., p. 100.

[6] 204 SCRA 75 (1991).

[7] Ibid, pp. 74-77.

[8] Decision, p. 6; Rollo, p. 19.

[9] Ibid.

[10] Ibid., p. 7; Ibid., p. 20.

[11] Ibid., p. 7-8; Ibid., p. 20-21.

[12] Op. cit.

- [13] Ibid., p. 8; Ibid., p. 21.
- [14] Ibid., p. 9; Ibid., p. 22.
- [15] People vs. Dungo, 199 SCRA 860, 871 (1991).
- [16] TSN, December 3, 1987, p. 8.
- [17] Ibid., January 5, 1988, p. 31.
- [18] Ibid., December 3, 1987, p. 27.
- [19] Ibid., February 4, 1988, p. 6.
- [20] Appellant's Brief, p. 14; Rollo, p. 113.
- [21] People vs. Olivar, G.R. No. 10151, November 13, 1992, at p. 9.
- [22] Ibid., February 9, 1988, p. 18.
- [23] Ibid., p. 20.
- [24] People vs. Matrimonio, G.R. No. 82223-24, November 13, 1992; pp. 20-21 citing United States vs. Ramos, 1 Phil. 81, 82.
- [25] Ibid, p. 22.
- [26] People vs. Dungo, supra.
- [27] TSN, June 28, 1988, Dr. Eduardo Maaba, Physician-In-Charge, Forensic Psychiatric Pavilion, National Mental Hospital, under cross-examination, pp. 15-16.
- [28] People vs. Casinilo, G.R. No. 97441, September 11, 1992.

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