

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODOLFO NGO, ACCUSED-APPELLANT.

G.R. No. 95680. October 04, 1991

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

This case is about a love turned sour. Private complainant and the accused were sweethearts of five years. Marriage was already in the air when private complainant decided to end her relationship with the accused because of the latter's philandering ways as well as differences in their religious convictions. The break-up was like a bitter pill which the accused could not swallow. Having been jilted, the accused-appellant decided to get even with the private complainant. How he did it is what spawned the present controversy.

In an information[1] dated June 9,1983, the accused-appellant was charged with the crime of Forcible Abduction With Rape allegedly committed as follows:

That on or about March 26, 1983, in the City of Iligan, Philippines, and within the jurisdiction of this Honorable Court, the above-named principal accused, in company with Mario "Doe", Philip "Doe" and Marlon "Doe" who are still at large, conspiring together and confederating with and mutually helping one another, did then and there willfully, unlawfully and feloniously, with lewd design, forcibly abduct the said Josefina Gracia Damgo against her will, and did then and there take her, pursuant to their common criminal design, to Pugaan, this city, where each of the four (4) accused, by means of force and intimidation, have carnal knowledge of the said Josefina Gracia Damgo against her will, to her damage and prejudice in such amount as may be awarded to her under the provisions of the civil code.

Contrary to and in violation of Article 342 in relation to Article 335 of the Revised Penal Code with the following aggravating circumstances, to wit: use of a motor vehicle; night time sought purposely to facilitate the commission of the crime and to make its discovery difficult, and abuse of superior strength.

Upon arraignment, the accused-appellant pleaded "not guilty" to the crime charged and the case was set for trial.

The trial court summarized the evidence for the prosecution and the defense as follows:

x x x x x x x x

x x x [t]he records show that the complaining witness met the accused sometime in 1978 at St. Michael's College, Iligan City and they became sweethearts. After five (5) years of relationship, they came to an agreement to get married on April 3, 1983 but said plan did not take place because she decided to break-up with the accused on March 6, 1983 and to which the accused did not agree. She testified that the reason why she broke up her relationship with the accused was because the latter has several women aside from her. On March 26, 1983, at around 9:30 in the evening while on her way to the Methodist Church at Rosario Heights, two men grabbed her arms and covered her mouth and eyes and loaded her in a jeep driven by the accused Rodolfo Ngo and drove away. The jeep came to a stop and she was dragged down from the jeep in (sic) an uninhabited place. The accused then asked her about her refusal to get married and she told the accused that

she is no longer willing to push through with the marriage. At this instance, she was then pushed down into the ground and while she was laying (sic) on the ground, the accused Rodolfo Ngo stayed on top of her while his other companions started to undress her. The accused then forcibly made sexual intercourse with her but she tried to resist his advances but she could not move. After the accused abused her, the other companions of the accused then took turns in having sexual intercourse with her one after the other.

On the other hand, the defense evidence show that accused Rodolfo Ngo and the victim were classmates at St. Michael's College and they became sweethearts in 1978 up to 1983 when they broke up. They have indulged in sexual intercourse on August 1982 and then many times thereafter until December 1982. She then asked him that they get married but he refused the proposal because he has no sufficient income to support a family but finally consented to get married when she told him that she was pregnant. They agreed to get married on April 3, 1983 but before the marriage could be had, she (Damgo) told him that she is not pregnant anymore because she had an abortion. That because of this, he backed out from the wedding plans. He also testified that he was the one who broke up the marriage plan. On March 26, 1983 at about 7:00 in the evening, the accused testified that he was at the Country Club House drinking beer with his companion, a certain Linda Bacus. After some drinks, he went to sleep with Linda Bacus at the room for rent at the country club house at about 11:00 o'clock of March 26, 1983, as evidenced by a document dated March 26, 1983 signed by the waiter opposite the word 3 beers and 6 beers with the amount of P40.00 as ordinary room rental. He testified that Miss Damgo filed this case because she was hurt. She wanted the wedding which he turned down to push (sic) because she had already invited friends and relatives to attend the wedding.[2]

On April 19, 1990, the trial court rendered its decision convicting the accused-appellant of the crime charged. Thus:

WHEREFORE, the Court finds the accused RODOLFO NGO guilty beyond reasonable doubt of the crime of Forcible Abduction with Rape and hereby sentences him to suffer the penalty of RECLUSION PERPETUA.

To indemnify the complainant in the amount of P20,000.00.

SO ORDERED.[3]

On appeal to this Court by automatic review, the accused-appellant assigns the following as the errors committed by the trial court:

I.

The lower court erred in finding that the complaining witness was raped despite the physical evidence submitted in the case.

II.

Assuming that the complainant witness was raped, the lower court erred in finding that the accused-appellant was the one who raped her.[4]

We do not agree.

In rape cases, certain principles stand out: (1) that the testimony of the victim, if credible, is enough to support a conviction; (2) that no decent Filipina (or woman) would publicly admit having been a victim of rape unless her charges are true; and (3) that the resort to force need not be great but simply irresistible under the circumstances.[5]

When a woman testifies that she had been raped, she says in effect all that is necessary to show that rape was committed, for no decent Filipino woman would publicly admit that she has been criminally ravished unless that is the truth, for her natural instinct is to protect her honor.[6]

Each single evidence offered by the prosecution conclusively points to the commission of the crime of rape. Even the inconsistencies in the complainant's testimony tend to buttress the truth that she was raped by the accused-appellant rather than weaken it. In seriatim, the prosecution's evidence which we found to be clear and convincing are as follows:

x x x x x x x x

[The first prosecution witness], Irenia Artazo, testified that x x x at around 5:30 o'clock in the morning of March 27, 1983, she was in the river taking a bath; that she saw a woman looking dishevelled and holding a wooden stick and touching a stone and the water; that when she was ask (sic) to identify the said woman in court, she pointed to the offended party Josefina Damgo; that she went home and informed her brother-in-law Fidel Baruel to see the woman in the river, (TSN, pages 6, 9 to 13, July 26, 1983).

Dr. Decilio Paquit, the next witness presented by the prosecution, testified that x x x on March 27, 1983, at about 10:00 in the morning, he was called to examine a certain Josefina Damgo at the delivery room and his findings show multiple abrasions anterior chest, abdomen posterior chest and lumbar 1. Findings — easily admits one finger and hardly admits two fingers; no fresh vaginal laceration and bleeding. Vaginal washing positive. That said findings were reflected in the Medical Certificate Exhibit "A", issued by said physician. That he finds (sic) multi-linial abrasion in the anterior chest of Josefina Damgo which is more or less four to five inches; that this multi-linial abrasions can be caused by rubbing a hard or rough object and could also be caused by scratching of a fingernail (sic); that there were also two abrasions on the abdomen about two inches in length; that on the posterior chest, there was one abrasion which is about three inches; that it could have been caused by sharp instrument like nails; that he found also one abrasion on the posterior chest about three inches long and this could be (sic) caused by sharp or blunt instrument; that vaginal washing positive means there was the presence of sperm cells in the vagina which signifies that there was sexual intercourse or sexual contact between a man and a woman; that in the vaginal canal, the life span of a sperm cell is three hours because of the acidity of the vagina; that sperm cells stay in the vagina less than three days; that in the case of Josefina Damgo where the findings of the vaginal washing is positive, sperm cells was more or less three to ten hours already in the vaginal canal.

x x x x x x x x

x x x Fidel Baruel (the third prosecution witness) testified that x x x early in the morning of March 27 1983, Irenia Artazo informed him about the presence of a woman at the river of Puga-an, Iligan City; that he went to see this woman and asked her where she came from; that she was pale and her hair was crumpled and her clothes were dirty. She was in disarray and she keeps on murmuring; that he brought her home and turned her over to the Barangay Tanod who later instructed him to bring her to the Barangay Captain or to the Police Headquarters of Iligan City. (TSN, pages 6 to 10, August 19, 1983). (He identified the woman as complainant Josefina Damgo.)

x x x x x x x x

x x x The prosecution presented its 4[th] witness, Sgt. Rodolfo M. Suico, who testified inter alia that x x x on (sic) the morning of March 27, 1983, Sgt. Bebil received a phone call informing him that there was a woman abandoned at the vicinity of Puga-an, Iligan City; that they proceeded to the house of the Barangay Captain of Puga-an where they saw the woman; that the woman was Josefina Damgo; that they learned from her that she was abducted by four (4) men in a jeep and was abandoned at the riverside of Puga-an; that Lt. Mario Pormacio ordered the driver of their vehicle to bring the victim to the City Hospital because she seemed to be in the state of shock and she was dishevelled and was very pale; that she will not respond or give answers to their inquiries and she just focused her eyes on their faces and she was trembling.

x x x x x x x x

On February 2, 1984, complaining witness Josefina Gracia Damgo testified that she is 28 years old, single, kindergarten teacher and a resident of 3rd East Rosario Heights Subdivision, Iligan City; that in 1978, she met accused Rodolfo Ngo at St. Michael's College and then they became sweethearts; that after five (5) years of relationship, they came to an agreement that they will get married on April 3, 1983 but which marriage plan did not take place because she decided to break up with her relationship with accused Rodolfo Ngo on March 6, 1983 to which accused did not agree; that on March 26, 1983 at around 9:30 in the evening while on her way to the United Methodist Church at Rosario Heights subdivision, she was grabbed by two men when she was about to open the gate; that she resisted and shouted for help but they covered her mouth and dragged her towards a parked jeep driven by accused Rodolfo Ngo; that there were four (4) persons inside the jeep including Ngo; that they loaded her in the jeep and had her seated between two men while another man at the back seat was covering her eyes and her mouth and the other two on her sides held her arms; that the jeep came to a stop and she was dragged down from the jeep; that she noticed that the place was uninhabited; that Rodolfo Ngo then ask (sic) her about their marriage plan and that she told him that she will not push through with it anymore; that the accused Rodolfo Ngo got angry and he started raising his voice on (sic) her and she also shouted to him; that they then covered her mouth and pushed her down into the ground; that while laying (sic) there on the ground, they then held her legs and arms; that they started to undress her, opened the zipper of her pants and pulled it down and then took off her blouse; that the accused then forcibly made sexual intercourse with her by pushing his private parts into her private parts; that she tried to fought (sic) back and resisted the advances made on her but she was helpless; that after accused Ngo abused her, his other companion also took turns in having sexual intercourse with her one after the other. The court notes that the witness was in tears while testifying.

x x x Conchita Trinidad (a medical technologist), was presented by the prosecution and testified that x x x on March 27, 1983, she had examined the vaginal washing of Josefina Damgo and that she (sic) was positive of sperm cells but already dead.[7]

The defense would harp on the fact that the medical examination of the complainant did not show fresh lacerations and bleeding in her vagina. The fact, however, that the lacerations on the complainant's vagina were no longer bleeding when she was examined the day after the commission of the crime charged does not preclude a finding that she was raped in the manner testified to by her.[8] As thoroughly explained by the Solicitor General, citing both legal and medical authorities, the absence of fresh lacerations in complainant's hymen, hence of vaginal bleeding, does not prove that she was not raped.

First, complainant's hymen may be "distensible" or "congenitally imperforate" in which case the insertion of the male organ, even a big one, would not produce any laceration (SOLIS, Legal Medicine, 1964 ed., pp. 341-342). So the fact that the hymen is intact does not prove the absence of sexual intercourse (Id., p. 344; People vs. Abonada, G.R. No. 50041, January 27, 1989, 169 SCRA 530).

Secondly, the hymen is lacerated only once and, as a rule, this happens during the first sexual act, however, this is not always the case (Solis, supra, pp. 341, 343-344). The laceration of the hymen can be caused by any of the following:

- a. Passage of clotted blood during menstruation.
- b. Ulceration due to disease, like diphtheria.
- c. Jumping or running.
- d. Falling on hard or sharp objects.
- e. Medical instrumentation.
- f. Local application or irritation.
- g. Self-scratching due to irritation.
- h. Masturbation.
- i. Insertion of foreign bodies.

j. Previous operation.
(Solis, Legal Medicine, supra, p. 344).

Hence, complainant's hymen could have been previously lacerated due to any of the foregoing causes. If so, the absence of any fresh laceration due to the alleged rape is not surprising and does not indicate that she was not raped.[9]

The absence of other physical injuries on the complainant's body does not also negate the complainant's testimony that she was raped. The victim need not kick, bite, hit, slap, or scratch with her fingernails the offender to successfully claim that she had been raped. It is enough that coition was undertaken against her will. It is sufficient that there was carnal knowledge after the woman yielded because of an authentic apprehension of a real fear of immediate death or great bodily harm.[10]

As correctly argued by the Solicitor General, the use of force was clearly established by Josefina's "crumpled hair, the condition of her garments, and by her multiple injuries when she was found. Her blue maong pants (Exhibit 'C') was covered with mud and dirt in the front portion and behind the knees (Id., p. 48). Her red sleeveless blouse (Exhibit 'D') was torn at the button holes and at the lower left portion and was covered with sand and dust at the side (Id., p. 49). Her brassiere (Exhibit 'E') was torn in several places; at the front portion or the left strap, at the back portion of the right strap, and at the joints (Id., p. 51). Her panty (Exhibit 'F') was torn at the sides and had several cigarette burns at the front portion (Id., p. 51)."[11]

The accused-appellant's defense of alibi can not prevail over the positive identification by the victim herself that he, Rodolfo Ngo, was her abductor and molester. The two of them had been going steady for five long years to be very familiar with each other. Further, the accused-appellant had not shown by strong, clear, and convincing evidence that it was impossible for him to be at the scene of the crime at the time of its commission. Only his uncorroborated self-serving testimony that he was with one Linda Bacus on the night the incident happened support his claim of absence from the scene of the crime. This does not inspire belief in the face of the complainant's positive identification of the accused-appellant as the man who abducted and abused her.

Was the charge of forcible abduction with rape a mere fabrication of complainant to wreak revenge on the accused-appellant for refusing to marry her? We do not find so. As summarized in the People's brief:[12]

x x x Complainant was a Protestant belonging to the Methodist denomination of which she was a very active and committed member. During her college days, she joined the International Order of Job's Daughter in 1971, where she became a Junior Princess and later became the Honored Queen (TSN, February 2, 1984, pp. 58-59). She also joined the International Order of the Eastern Star where she held the position of Queen of Esther (Id., p. 59). She was the President of the United Methodist Youth Fellowship and the District Coordinator for the Mindanao District (Id., pp. 59-60). She was also a church leader with high responsibilities being a Deaconess of the church she attended and was also the Kindergarten Director (Id., p. 60). She also served in such responsible positions as Assistant Secretary, District Child Work Director and District Youth Director (Id., p. 60).

All these belie the allegation of the accused-appellant that the complainant is a devious woman who would pretend to having been raped in order to exact vengeance on him. She had her job, her reputation, and her friends' respect to lose by exposing herself to the humiliation of a rape public trial. Societies, generally, are not kind to violated women, exposing them to ridicule and shame when they report their having been violated. Rape victims bear the responsibility of proving that they had been raped, that they had not invited seduction, or had not been unchaste. The process of bearing the burden of proof can cause deep, and in some cases, irreparable emotional damage to the victims and the people around their lives. On the other hand, the harsh hand of social injustice does not seem to apply to the rapists.[13]

No, Josefina was not motivated by revenge when she filed the rape charges against the accused-appellant. All that she wanted was to right the wrong committed against her person, her honor, her dignity, and to bring to justice the man who ravaged her. We can not deny her that.

WHEREFORE, the judgment appealed from is hereby **AFFIRMED**, with the modification that the indemnity to be paid to the complainant is increased to P40,000.00. With costs.

SO ORDERED.

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

[1] Rollo, 1.

[2] "The People of the Philippines versus Rodolfo Ngo," Crim. Case No. 92, Regional Trial Court of Lanao del Norte, 12[th] Judicial Region, Branch 1, Iligan City, Mamindiara P. Mangatora, Presiding Judge.

[3] Id., 11.

[4] Appellant's Brief, 1.

[5] People vs. Sarra, G.R. No. 78530, March 6, 1990, 183 SCRA 34.

[6] People v. Barcelona, G.R. No. 82589, October 31, 1990, 191 SCRA 100, citing People v. Abonada, G.R. No. 50041, January 27, 1989, 169 SCRA 530.

[7] "The People of the Philippines vs. Rodolfo Ngo," supra, note 2, at 2-5.

[8] People v. Lutañez, G.R. No. 78854, December 21, 1990, 192 SCRA 588.

[9] Appellee's Brief, 30-31.

[10] People vs. Barcelona, supra, note 6, at 105.

[11] Appellee's Brief, 31-32.

[12] Appellee's Brief, 5-6.

[13] People v. Muñoz, G.R. No. -62152, July 29, 1988, 163 SCRA 730.

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