

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DOMINADOR VILLARIN, ACCUSED-APPELLANT.

G.R. No. 96950. January 29, 1993

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

For resolution before this Court is the appeal interposed by Dominador Villarin, accused-appellant for "Rape" under Criminal Case No. 1736. Villarin was sentenced by Honorable Roque A. Agton of the Regional Trial Court, Branch 6, Mati, Davao Oriental, to a prison term of "Reclusion Perpetua; to indemnify the offended party in the sum of P12,000.00 in the concept of moral damages and attorney's fee in the sum of P5,000.00; and to pay the costs."

The Information charging the accused-appellant for the crime, reads as follows:

"The undersigned, at the instance of the offended party, accuses DOMINADOR VILLARIN of the crime of RAPE, defined and penalized under Article 335 of the Revised Penal Code, committed as follows:

"That on or about the first week of December 1987, in the Municipality of Mati, Province of Davao Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with one CARIDAD VILLADAR, against her will." (Rollo, p. 30)

Upon arraignment, the accused-appellant pleaded not guilty to the crime charged. (Ibid., p. 30)

The testimonial evidence for the prosecution included Dra. Liwayway M. Lao who testified that as a resident physician of the Davao Oriental Provincial Hospital, Mati, Davao Oriental, she examined on June 30, 1988, Caridad Villadar, 28 years old, and found that Caridad Villadar was seven (7) months pregnant as indicated in Exhibit "A". Ms. Villadar was likewise x-rayed and the result was introduced as Exhibit "B". (Rollo, p. 31)

Adelina Amares testified that she is a local midwife and a resident of Tagamot, Dawan, Mati, Davao Oriental, and that on October 4, 1988, at about 2:00 o'clock in the morning, she assisted Ms. Villadar in delivering her baby daughter, who was named Maricel.

Editha Mapa was presented and testified that she is a purok leader of Tagamot, Dawan, Mati, Davao Oriental for 27 years. On June 28, 1988, she received a complaint that the latter was on the family way and was allegedly raped by Dominador Villarin. (Ibid., pp. 31--32)

Upon receipt of the complaint, Mrs. Mapa summoned the accused and his father. Sotero Villarin, the accused's father appeared, but the accused failed to honor the invitation. During the conference, Sotero Villarin proposed marriage of his son to private complainant Caridad Villadar, but unfortunately her mother, Esperanza Villadar, pushed for the filing of the case before the court.

On June 29, 1988, the mother, accompanied by her daughter, lodged a complaint before the police station,

asserting that her daughter was raped by the accused. This complaint was entered in the police blotter and an invitation was issued to the accused.

The accused and his father appeared before the police investigation officer on July 4, 1988, and in the course of the confrontation, the accused admitted having carnal knowledge with the victim and proposed to marry her. The parents of the victim, however, vehemently declined the proposal and instead insisted on filing the case in court. (Ibid., p. 32)

Pfc. Fortunato Libres testified that as a member of the INP of the Mati Police Station, Mati, Davao Oriental, he was assigned to serve a subpoena and a complaint by the Provincial Fiscal's Office for several times to the accused, whom he could not contact at his residence.

Undaunted, he tried and on the first week of August 1988, while armed with a warrant of arrest he went to Bunawan, Agusan del Sur, where the accused was believed to be working. For three (3) times, he failed to contact him. However, on December 15, 1988, he was able to serve the warrant on the accused whom he brought to the Mati Police Station. (Ibid., p. 33)

Esperanza Villadar, mother of the victim, testified that she noticed her daughter, Caridad's abdomen bulging on June 20, 1988, thus she brought the latter to the Davao Oriental Provincial Hospital for examination. Dra. Lao examined Caridad and informed Esperanza, that her daughter was pregnant. An x-ray picture was taken and it confirmed the examination of the doctor who diagnosed Caridad to be seven months pregnant.

When confronted, the victim informed her mother that she was raped by the accused on the first week of December, 1987, while she was on her way home after gathering bamboo shoots on their land. (Ibid., p. 33)

On June 28, 1988, Esperanza again reported the pregnancy of Caridad to the Purok Leader/President of Tagamot, Dawan, Mati, Davao Oriental. Mrs. Editha Mapa, subsequently, reported the same incident to Sgt. Luciano of the Mati Police Station. (Ibid., p. 34)

Caridad Villadar, 30 years of age, single and a resident of Tagamot, Dawan, Mati, Davao Oriental took the witness stand and testified that on the first week of December 1987; she was told by her mother to gather bamboo shoots in their farm which is about one (1) kilometer away from their house. She brought with her the sack and a bolo for cutting the bamboo shoots. While on her way home carrying about half a sack full of bamboo shoots, the accused grabbed the bolo from her and threw it away. The accused boxed her thighs, forced her to lie down, and abused her. When his bestial desire was consummated, the accused told her not to tell her mother or else, she will be killed and then left immediately. She returned home without informing her mother about the incident. (Ibid., pp. 34-35)

At 2:00 o'clock in the afternoon on October 4, 1988, Caridad gave birth to a baby girl whom she named Maricel Villadar. (Ibid., p. 36)

For the defense, three witnesses took the stand, the accused Dominador Villarin, Esperidion Burgos and Romeo Carmelotes. (Ibid., p. 36)

The accused vehemently denied the accusation of the complainant and claimed that they are sweethearts. He also asserted that they had several sexual intercourses in the house of the accused and that in all these encounters, the complainant wholeheartedly consented. The relationship started in June 1986, when the accused allegedly first visited the victim in her house and proposed his love to her and on the same month, his proposal was accepted. Subsequently, he deflowered Caridad and this resulted in a lovers' intimacy which was repeated several times. (Ibid., pp. 37-38)

Esperidion Burgos, neighbor of the accused and the complainant, testified that every Saturday and Sunday, he used to visit his friend, accused Villarin. On one occasion, the accused told him that Caridad is his sweetheart and when he met her in the poblacion of Tagamot, the latter confirmed the relationship she had with the accused. He also disclosed that he saw on several occasions, the accused and Caridad embracing each other at the residence of the accused which is about 50 meters away from the residence of the complainant. (Ibid., pp. 36-37)

Romeo Carmelotes on the other hand, testified that he has seen Caridad in the house of Villarin many times since he often leaves in the house of the latter, farm produce that he purchased in the area such as mangoes, jackfruits, bananas, lemonsito, oranges and eggs. He asserted that he saw on several occasions Caridad and the accused, embracing each other. (TSN, pp. 12-13, April 2, 1990)

The only question left for this Court to resolve given the facts re-stated above which were culled from the testimonies of the witnesses for both the prosecution and the defense, is whether or not accused committed the offense charged. This Court notes the statement of the court a quo that:

"Upon close perusal of the facts at issue, both parties are locked in conflicting versions. The victim charged the accused for allegedly raping her in the first week of December, 1987, however, the accusation was vehemently denied by the accused and claimed that the victim is his sweetheart." (Rollo, pp. 37-38)

Indeed, the review made of the testimonies of the principal protagonists, the complainant herself, her apparently over-anxious mother, Esperanza Villadar and the accused Dominador Villarin and his witnesses, corroborated the finding of the trial court that the versions of the parties are not only conflicting, but they are inconsistent, incongruous, incoherent and contradictory with each other on vital and material points. Some doubt as to the veracity of the tales given by Caridad and her mother is engendered. On the basis of the records, the testimonies of Esperanza and Caridad Villadar could easily have been rehearsed since they are not first-hand recitals of facts and circumstances and they lack a certain element of spontaneity. The discovery of the pregnancy came on the seventh month of the fetal life of the fruit of the coital relationship between the accused and Caridad.

Pregnancy is an after-the-fact condition of the liaison between two persons of different sexes. Whether the pregnancy is the result of pleasurable or forced sexual intimacy is the duty of the court to determine from the given facts and circumstances that are not contrary to human nature and experience.

The fact that both Caridad Villadar and Dominador Villarin are of marriageable ages, both being 28 years old at the time of the incident and without any impediment to get married and the allegation that they would have lived a peaceful and blissful life of their own if the vehement objection of Esperanza Villadar did not stop them from doing so, is worth looking into to establish whether or not the incident was indictable or it was a pure and simple amorous relationship between two lovers.

There are other facts susceptible of two interpretations - one supporting a finding of innocence and the other indicating the opposite. There are also contradictory statements:

1. The meeting of the accused and Caridad appears to have been planned and was not by chance, considering the testimony of Esperanza Villadar that the house of the accused is situated closer to the road, such that when they have to go to the road, they pass by the house of the Villarins. Mrs. Villadar testified with respect to this matter on cross-examination made by the Court and the counsel for the defense, as follows:

"COURT:

Q - Is he (accused) your neighbor?

A - Before they were staying in the upper portion and they transferred to the lower portion, we are neighbors."

(TSN - Jan. 15, 1990, p. 99)

x x x

ATTY. DIUYAN:

Q - How far is the house of Sotero Villarin to your house?

A - Not far because we used to pass by their house and on my way going to the road.

Q - Can you estimate how far?

A - About 50 meters.

Q - And your house is situated at the upper portion of the area?

A - Yes.

Q - And the house of Sotero Villarin is below?

A - Yes.

Q - So, these two houses is (sic) located in the hilly portion?

A - Yes.

Q - And wherever (sic) you come down the road you pass by the house of Villarin?

A - Yes." (TSN - Jan. 15, 1990, pp. 99-100)

From the above, it can be argued that the appellant was on the watch for Caridad to pass by and followed her on that fateful day. More likely, however, is that there was a rendezvous between two lovers, for considering that Caridad may have been asked to gather bamboo shoots, how would the accused know where she would go and what time, if she did not tip off the latter? More important, as Caridad was to gather bamboo shoots, she would not be passing by the house of the accused to go to the forest where the bamboo grove grows because from the declaration of Esperanza above, they pass by the house of the accused in going to the road. This shows that the house of the accused is on the opposite direction if one is to go to the forest to gather bamboo shoots.

2. The declarations of the private complainant negate her accusation that she was raped, because while she alleged that she lost consciousness, she knew the details surrounding the act complained of as in the following:

"ATTY. DIUYAN:

Q - Now, what did you do since your hands were already free, did you fight back?

A - How can I when I was already weak.

Q - And you did not even shout?

A - No more because I feel weak.

Q - And you did not even cry?

A - I cried.

Q - Now, you said that you fell down, what was your situation at the time you fell down?

A - Facing upward.

Q - Now, what did Dominador Villarin do as you said you were lying down above (sic) him?

A - He removed my panty.

Q - What did you do when Villarin removed your panty?

A - I was already unconscious.

Q - Why were you unconscious?

A - Because he boxed my thighs.

Q - How many times did he box your thighs?

A - Several times.

Q - Which thigh did Dominador Villarin first pound?

A - Simultaneous, my two thighs were pounded.

Q - As you said you were already unconscious, is that right?

A - Yes.

Q - And as you said, inspite of the fact that you were unconscious, Dominador Villarin removed your panty?

A - Yes.

Q - Now, after removing your panty, what else did you do?

A - He ride (sic) on top of me. (Underscoring supplied)

Q - Your hands were no longer held by Dominador Villarin?

A - No.

Q - In other words, your hands were free?

A - Yes.

Q - At that time that he already rode on top of you, do you want to tell us that he was already naked or has removed his trousers?

A - Yes.

Q - What was his position when he removed his pants?

A - While he was on top of me, he removed his pants.

Q - And you were already unconscious at that time?

A - Not yet.

COURT:

Q - How do you know that he has removed his pants?

A - I could feel that he was the one on top of me because I can observe or notice.

COURT:

Proceed.

ATTY. DIUYAN:

Q - You mean, at that time, both of your eyes were open?

A - Yes.

Q - And you saw Dominador Villarin, you know that Dominador Villarin removed his pants?

A - Yes." (TSN, Jan. 16, 1990, pp. 136-138)

Not only were the allegations of Caridad conflicting as shown above, they were also contradictory to each other on material points. They are also contrary to human nature and experience, as shown by the following testimony:

"COURT:

Q - He was able to loosen that long pants while he was on your stomach?

A - Yes.

Q - And your panty was removed at that time?

A - He already removed my panty.

Q - And your hands were free at that time when he removed his pants?

A - Yes.

Q - Why did you not scratch him, kick his penis considering that your hands are free?

A - I feel weak at that time.

Q - But you were still free to move?

A - Because I could feel the pain on my arms which he held.

Q - After removing his pants, he lie on top of you?

A - Yes.

Q - Your legs were open?

A - Yes.

Q - In other words, you did not close your legs at the time he was on top of you?

A - Yes. How can it could be close (sic) that he rode on top of me?

Q - Did you not wriggle or remove him from your body?

A - I tried to wriggle but he insisted.

Q - At the time that he was in position to have sexual intercourse with you, did you not try to push him?

A - I cannot push him because he is a big man.

Q - Now, at the time of the sexual inter-course, did he hug and kiss you?

A - Yes.

Q - Now, he also kissed your lips?

A - Yes.

Q - Did you not bite his lips as you want to struggle to free yourself?

A - I cannot because he held also my head.

Q - But there are times that he will release his hands when he kissed you?

A - Because, he held my head and pushed it to the ground.

Q - And his lips is (sic) close to your lips or to his chin?

A - Yes.

Q - Why did you not bite him, his ears?

A - How can I bite him that he controlled my head.

Q - How did he hold your head?

A - By pushing to the ground.

Q - At that time, he was also kissing you and have sexual intercourse?

A - Yes.

Q - And also, he kissed also your nipple?

A - No.

Q - How long did it take Dominador Villarin to lie on top of you?

A - About five minutes." (TSN - Jan. 16, 1990, pp. 138-139; Underscoring supplied)

3. Contrary to the assertion of the complainant that the reason why the incident was not reported to her parents immediately was because she claimed that the accused threatened to kill her, yet she also testified that after the incident in the first week of December 1987, Dominador Villarin escaped. Below is part of the testimony of Caridad Villadar to this effect:

"ATTY. DIUYAN:

Q - Now, did you not inform your mother about the incident?

A - No, because I was afraid that he was going to have me killed.

Q - Now, at the time that you got pregnant before you were examined by the doctor, did you not inform your mother that you were raped by Dominador Villarin?

A - No, because I was afraid that he will kill me.

Q - Within that first week of December 1987, after the incident, did you have any chance to see Dominador Villarin in his house?

A - No more, he escaped.

Q - How did you know that he ran away?

A - Because everytime I go to the road, he cannot be seen as I pass by their house.

Q - After the incident, how many times did you pass the house of Dominador Villarin?

A - Several times.

Q - And you said, you did not see Dominador Villarin at that time?

A - No more.

Q - And somewhere in Sitio Tagamot, have you not seen him?

A - No." (TSN - Jan. 16, 1990, pp. 145-146; Underscoring supplied)

4. The filing of the complaint against the accused can be subjected to various explanations. The appellant claims that it was filed not to seek justice but to explain a pregnancy during an unmarried state. The accused had left the place and from all indications he may have abandoned the woman he impregnated. The rape drama is equally susceptible to a finding that it portrays what really happened or that it is a mere cover-up of an amorous relationship between the accused and Caridad who was prevailed upon by her parents to cooperate with them after the accused hid himself from their view. It may also be possible that the accused miscalculated the actuations of Caridad and her mother. The following testimonies support this point:

"ATTY. DIUYAN:

Q - Now, after you were being questioned by your father that was after being examined by the doctor, and you said that it was Dominador Villarin who raped you on the first week of December 1987, did you tell your mother and father to file the case before the purok president?

A - Yes, I told them.

Q - And it was you who went to the purok president?

A - Yes.

Q - And your mother just accompany you?

A - Yes, my mother and father.

Q - What was the purpose in reporting the matter to the purok president?

A - In order to let Dominador Villarin appear.

Q - Now, did you have a conversation with the purok president?

A - Yes.

Q - And, what did she say?

A - I requested her to let Dominador Villarin appear.

Q - Now, at the time when your mother noticed that your stomach is growing and before bringing you to the hospital for examination, did your mother inquire from you why your stomach is big?

A - She inquired but I did not tell them because I was afraid.

Q - Even the incident has lapsed for 6 months, you were still entertaining that fear?

A - Yes." (TSN - Jan. 16, 1990, pp. 146-147; Underscoring supplied)

On the other hand, the records are clear that Esperanza Villadar was adamant to the idea that her daughter, Caridad who was expecting a baby fathered by the accused would be married to the latter. The mother wanted to save face in the community where everybody knows everybody else. She protested the proposal first made by the

father of the accused, then the accused himself, as follows:

"ATTY. VAENTEROS:

Q - Now, what happened when the father of Dominador Villarin and his daughter were present in the purok?

A - While before the purok president, the father told us that we must settle the case because his son will marry my daughter.

Q - Now, after the father of Dominador Villarin will marry your daughter Caridad Villadar, what did you say?

A - I refused.

Q - Why did you refuse?

A - Because I don't like the idea of raping my daughter and propose marriage.

Q - Now, in that forum, was there any settlement arrived at?

A - Yes, before the purok president, the father of Dominador Villarin proposed settlement and to marry my daughter.

Q - You said you did not want that kind of proposal, after refusing the proposal of the father of Dominador Villarin, what did you do?

A - I referred the matter to the INP station.

x x x

Q - You said Dominador Villarin was around, was he alone at that time at the police station?

A - Together with his father.

x x x

Q - Now, what did you tell to the police?

A - I really don't want that he will marry my daughter.

Q - Now, you said that you were in the police station, who did the talking?

A - We, the father of Villarin and myself.

Q - Now, what did Dominador Villarin propose in the police station for settlement?

A - That he is willing to marry my daughter.

Q - Now, your answer was no to that proposal?

A - Yes.

Q - What other proposal did they make?

A - The father also told us that they will pay for the wedding.

COURT:

Q - Is there any reason why you did not agree to the marriage?

A - Yes, My reason is, why did he rape my daughter if he is willing to marry?

Q - Did you not ask your daughter if she is willing to marry Villarin?

A - No." (TSN, Jan. 15, 1990, pp. 94-95; Underscoring supplied)

Dr. Liwayway Lao who examined Caridad testified on the questions asked by the Court pertaining to the pregnancy of the complainant. She stated that it was the mother of the latter who was over-anxious about the rape drama, indicating that with the clout exerted upon Caridad, she was forced to concoct the alleged rape, even if the pregnancy could have been the result of an amorous relationship, as follows:

"COURT TO THE WITNESS:

Q - In other words, at the time you examined the victim, she was pregnant for seven months?

A - That is by measuring the size of the uterus, Your Honor.

Q - In other words, you are not quite sure?

A - Because the victim was not so cooperative when I asked the questions for (sic) her.

Q - Who answered the questions?

A - The mother - she was the one accompanying her, Your Honor, because they seek consultation of the abdominal mass. x x x

Q - You stated that she is pregnant, do you know whether she had delivered a baby?

A - Yesterday, I learned that she already delivered, and also this morning, the mother told me, Your Honor.

Q - When did she deliver?

A - October, 1988, Your Honor.

Q - When was the time when you examined her?

A - June 30, 1988, Your Honor.

Q- In other words, your estimate of 7 months is not true because she delivered October?

A - June 30, Your Honor, and she delivered first week of October.

Q - How many months from the time you examined her?

A - Excluding October, because it is only 4 days, it is 10 months. A pregnant uterus can reach 10 months of post maturity, but I did not see the child when she delivered it.

Q - At the time you examined her?

A - By computation, Your Honor, with regards to palpation (sic). If I could remember right, when I asked the last menstrual period, she did not answer, because all the questions were answered by the mother." (TSN - April 11, 1989, pp. 8-10; Underscoring supplied)

During the confrontation at the INP Station, the mother of Caridad and the father of the accused did all the talking with respect to the offer of marriage to Caridad by the accused. (TSN - Jan. 15, 1990, p. 95)

The positive allegations of the accused that he was having an intimate relationship with Caridad which were corroborated by his two (2) witnesses were not successfully refuted. Portions of his testimony on cross examination, are:

"ATTY. VAENTEROS:

Q - You also testified on direct examination that you were courting Caridad Villadar?

A - Yes, sir.

Q - When was the first time in 1986 that you proposed your love to her?

A - That was in the month of June, 1986.

COURT:

Q - What day was that?

A - I forgot the date, Your Honor.

Q - Did you not stated (sic) previously it was June 13? You testified in direct examination that you proposed your love to her in their house on June 13 and now you forgot?

A - It was not June 13 that I visited, Your Honor.

Q - When?

A - My first visit was on June 7, 1986.

Q - When were you accepted?

A - June 12, 1986.

Q - Previously, you stated that your love was accepted on June 13, now you said June 12. I noted your answer. Which is correct, 13 or 12?

A - 12, Your Honor.

x x x

ATTY. VALENTEROS:

Q - Now, you said that you had intercourse with Caridad Villadar many times, did I get you right?

A - Yes, sir, we have done that for several times.

Q - When was the first time that you had intercourse with her?

A - The latter part of 1986.

Q - In December of 1986?

A - November.

Q - From that time you had several intercourse with her?

A - Yes, sir.

Q - How many times exactly if you can recall that you had intercourse with Caridad Villadar?

A - I cannot recall how many times but I have done it several times.

Q - Could it be 20 times?

A - More than that.

Q - About 40 times?

A - Maybe sir, about 40 times.

Q - Now, you said that you had intercourse with her the first time in the month of November, 1986, is that correct?

A - Yes, sir.

Q - Specifically, what date if you can recall?

A - I cannot recall the date.

Q - Could it be last week of November 1986?

A - I forgot but I am sure it was latter part in the year 1986.

x x x

ATTY. VALETEROS:

Q - November 1986, was that your first experience?

A - Yes, sir.

Q - Do you know if in the early part of December 1986 you had intercourse with her?

A - No, sir.

COURT:

Q - When was the second time?

A - About February, 1987, Your Honor.

ATTY VALETEROS:

Q - Up to when was that relationship of yours cut off?

x x x

A - At the time when her mother learned that she was pregnant.

x x x

COURT:

Q - Now, during your first carnal knowledge with the woman did you ask for a date again to do the same thing?

A - Only one day of difference, your Honor.

Q - In other words, in the month of November you have done the same thing?

A - Yes, Your Honor.

Q - More or less in November how many times?

A - Many times.” (TSN, April 4, 1990, pp. 166-175; Underscoring supplied)

In the course of this review, the Court noted the insistence of the accused in asserting what could be the true antecedents surrounding the alleged rape, including the hope that their indiscretion, might bring about the consent of Caridad's parents. The indiscretion was a miscalculated move on his part, for instead of allowing the couple to

settle down for good, the mother saw to it that a charge of rape be levelled against the accused.

The records show that at critical junctures when Caridad should have been concerned, she was silent and apathetic leaving everything to her mother who was persistent and assertive:

"ATTY. DIUYAN:

Q - Now, Mr. Villarin, everytime the hearing is called you are present and you noticed that Caridad Villadar testified in court charging you for committing rape against her, what can you say to that?

A - That is not true.

Q - What is the truth?

A - That happened, to both of us because of our agreement with each other.

Q - Now, Mr. Villarin, did you have still a chance, if any, to talk to Caridad Villadar after the case was filed against you?

A - Yes, sir.

Q - When was that?

A - My last hearing last November 16 here in court.

ATTY. DIUYAN:

Q - In what particular area of this court were you able to talk to Caridad Villadar?

A - Downstairs.

Q - Can you recall, if any, what conversation took place between you and Caridad?

A - I confronted her why she filed a case against me.

Q - What was her answer?

A - Caridad Villadar said that: 'I cannot do anything because if I will not obey my parents they will kill me.'"
(TSN - April 4, 1990, p. 160)

x x x

"COURT:

Q - From the time when her mother knew that her daughter was pregnant did you not talk to Caridad?

A - No more, Your Honor.

Q - Why?

A - Because her mother doesn't allow us anymore to talk.

Q - But you love Caridad, is that correct?

A - Yes, Your Honor.

x x x

Q - Did you not tell your close friends that you wanted to talk with Caridad considering that the mother was angry with you?

A - I was not able to do that because I was already confused what to do." (TSN - April 4, 1990, p. 170)

x x x

"ATTY. VAENTEROS:

Q - Now, Mr. Villarin, while you were still sweethearts with Caridad did you not go to the parents of Caridad even ones to insinuate about your desire to marry her? (sic)

A - I told Caridad that I wanted to be introduced to her parents in order that I will propose marriage but she said not now.

COURT:

Q - How many times did you tell Caridad that you will marry her?

A - Many times.

Q - And her answer is her parents does (sic) not like you?

A - Yes, Your Honor.

Q - But at any rate Caridad loves you?

A - Yes, Your Honor.

Q - Considering therefore that the parents of Caridad doesn't like you, inasmuch as Caridad loves you so much why did you not ask her to elope with you in order that both of you can be married?

A - I did not think about that because her parents objected to my proposal how much more if I will elope with their daughter.

Q - Even if that is the only way that you will save yourself by eloping her?

A - I will wait for them until such time that they will come to me.

Q - You still waited for the time when the parents of Caridad does (sic) not like you?

A - At that time, Your Honor, I told Caridad that I am decided to ask for your hands but Caridad said not this time and I said, 'Now that you are pregnant what will happen to you?', and Caridad answered, 'We will wait for the decision of my parents.'" (TSN - April 4, 1990, pp. 176; Underscoring supplied)

Notwithstanding the rebuttal testimony of Caridad Villader consisting of plain denials of the accused's positive, definite, consistent and detailed assertions, the inconsistencies on material points remain. The prosecution failed to establish evidence convincing enough to overcome the constitutional presumption of innocence.

WHEREFORE, the decision of the Regional Trial Court of Mati, Davao, dated August 30, 1990, is hereby REVERSED and SET ASIDE. The accused-appellant DOMINADOR VILLARIN is ACQUITTED on grounds of reasonable doubt.

SO ORDERED.

Bidin, Davide, Jr., Romero, and Melo, JJ., concur.

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