

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VICENTE JIMENEZ Y LUNA, ACCUSED-APPELLANT.

G.R. No. 97222. November 28, 1995

Ponente: REGALADO, J.

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REGALADO, J.:

The felony of rape, as has endlessly been stressed, is universally condemned as a detestable crime, a desecration of the right to privacy, and an assault on human dignity. Verily, no legal system worthy of its name can afford to ignore the traumatic consequences for the unfortunate victim, the disgrace to the victim's family, and the grievous violation of the peace and order of a civilized community.[1] Its abomination is compounded when committed, as in this case, by a relative on a helpless young girl left in the care of her kin by a mother forced to work abroad to support her family.

On July 24, 1987, Tisa Imperial,* a young girl barely 14 years old, finally broke her self-imposed silence and filed a complaint for rape against her own uncle, appellant Vicente Jimenez y Luna. Assisted by her mother who came home from abroad, Tisa charged appellant with rape before Branch 15 of the Regional Trial Court of Zamboanga City in a complaint alleging —

"That sometime in the month of November 1986, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force or intimidation, did then and there, willfully, unlawfully and feloniously, have carnal knowledge of the undersigned against her will." [2]

After trial on the merits, the court convicted appellant in the following judgment:

"WHEREFORE, the court finds the accused VICENTE JIMENEZ y LUNA, guilty beyond reasonable doubt of the crime of rape, as principal, and there being no mitigating or aggravating circumstances that attended (the) commission of the crime, hereby sentences him to suffer the penalty of reclusion perpetua, together with all the accessory penalties prescribed by law, and to indemnify the offended party, TISA IMPERIAL, in the amount of P30,000.00 as moral damages, without subsidiary imprisonment in case of insolvency, and to pay the cost(s)." [3]

Appellant has interposed this appeal therefrom on a lone assignment of error alleging that the court a quo erred in finding him guilty of the crime of rape despite the failure of the prosecution to prove his guilt beyond reasonable doubt.[4] The defense also explains in its brief that "the transcripts of the testimonies of all the defense witnesses were not procured, so the undersigned counsel cannot dwell elaborately on the testimonies of (the) defense witnesses." [5]

The People's version of the case, with appropriate documentation from the testimonial and documentary evidence on record, can be culled from appellee's brief. We have meticulously reviewed the said evidence and we are satisfied that they sustain the facts hereunder narrated, aside from being congruent with the factual findings of the trial court.

Sometime in November, 1986, at about 9:00 P.M., complainant Tisa Imperial, then barely 14 years old, was alone in the upper floor of the house of her aunt, Myrna Aranas, in Sta. Catalina, Zamboanga City. She heard someone calling "Inday," which is her nickname. Complainant, at that time, was living in the house of her aunt because her mother, Antonia Imperial, was working in Borneo.[6] Her father, incidentally, was already deceased.

She recognized the caller as her uncle, herein appellant, who is the husband of her aunt, Eufemia Imperial, who in turn is the sister of her father. She then proceeded to the ground floor where she found appellant in front of the stairs situated outside the house. When complainant approached him, the latter immediately held her left hand with his right hand, simultaneously covered her mouth with his left hand, and dragged her to the comfort room located about 4 meters away from the main house. When she tried to remove appellant's hand, the latter threatened to kill her if she should shout for help.[7]

The comfort room, measuring about 2 by 3 meters, was divided into two compartments, the smaller one provided with a toilet bowl, while the bigger compartment had none. Complainant was brought to the latter compartment and she asked appellant what he intended to do with her. Instead of answering, appellant pulled out a rag from his pocket and inserted it in her mouth. Thereafter, appellant removed complainant's short pants, tore it, and used the torn portions to tie her hands and feet. Thus bound, complainant was forced to lie on the floor.[8]

When complainant was already lying down, appellant placed himself on top of her. Finding it difficult to have carnal knowledge of complainant in her situation, appellant untied complainant's feet, spread her legs apart and succeeded in the consummation of the rape. Afterwards, appellant stood up and placed a P10.00 bill on complainant's hand but she refused the same.[9]

Appellant then warned her not to report the incident or else she would be killed. After he had left, complainant removed the rag from her mouth, and cut the strip of cloth which tied her hands by rubbing it against the edge of the bowl in the comfort room. She proceeded to the house and washed the blood from her private parts.[10]

When her cousin arrived at about 2:00 A.M., complainant did not have the courage to inform her of the incident because of the threat of appellant. Thereafter, at about 7:00 o'clock that morning, complainant forced herself to go to school. On the way, she met appellant who again threatened to kill her if she made a report of the incident.[11]

On May 9, 1987, complainant's mother, Antonia Imperial, arrived in Zamboanga City from Borneo. Complainant immediately told her mother about the incident and they reported it to the police station where a complaint for rape against appellant was filed. Thereafter, the police investigator directed her to go to the Zamboanga General Hospital for medical examination.[12]

Dr. Concepcion Tan, resident physician of said hospital who examined complainant, later testified that she found healed lacerations on the victim's hymen at 3:00, 5:00, 6:00 and 9:00 o'clock positions. Further examination showed that complainant was 5 months pregnant.[13]

Appellant, as already stated, contends that the lower court should not have convicted him because the prosecution failed to establish his guilt beyond reasonable doubt. This submission he elaborates upon by arguing that, first, there were several inconsistencies in the statements of complainant; second, the victim failed to resist the onslaught on her honor and that is an indicium of voluntary carnal knowledge; and, lastly, the victim did not report the crime immediately but waited for almost 6 months before revealing the same.[14]

According to appellant, the testimony of complainant is replete with inconsistencies which he cites in this wise:

"a)

at one point in her testimony, she said her hands and feet were tied when she was standing; at another point,

she said her hands and feet were tied when she was lying down;

b)

at one point she said the accused was wearing short pants; at another point she said the accused was wearing long pants;

c)

she said that when she first approached the accused, the latter held her hands and covered her mouth; however, when asked to demonstrate, only her left hand was held by accused(s) right hand, which is awkward;

d)

she said though she wanted to shout, she could not; yet she said inside the comfort room she asked the accused what he would do, meaning she talked to the accused;

e)

she said the short pants she was wearing during the incident was torn by the accused into pieces, yet she also said that the short pants she was wearing in Court was the same she wore during the incident;

f)

when asked to demonstrate how she was abused she said that one hand of the accused held her right shoulder while the other hand pulled her right leg; however, at another point, she said that when the accused inserted his private part into her private part the accused held her two legs up; still at another point she said her legs were spread;

g)

discrepancies in the description of the size of the comfort room."[15]

Appellant further claims that the supposed victim is actually a woman of loose morals and was seen in the company of women of ill-repute in places frequented by so-called ladies of the night at unholy hours in the evening. One of the defense witnesses, a certain Alex Concepcion who was a dancer and part-time tricycle driver residing at Sta. Catalina, Zamboanga City, testified that he saw Tisa Imperial standing by at Zamboanga Garden Restaurant and Lodging House at Gov. Camins Street 5 to 10 times, accompanied by a known pimp named "Jung-Jung Cuawaet" and two female, prostitutes at around 11:00 o'clock in the evening. The defense also presented the aunt of the victim who testified that she caught the victim and her cousin in a compromising situation one evening at the back of the school building.[16]

Appellant further theorizes that the criminal charge against him was instigated by Alfonso Imperial, another uncle of the victim, whom he defeated during the last barangay elections, and that the main objective of the criminal case against him was to tarnish his reputation so that he would no longer win in the next elections.

A searching and objective evaluation of the evidence for both the prosecution and the defense convinces us that the prosecution has successfully overcome the presumption of innocence in favor of appellant. A careful perusal of the transcripts reveals that the alleged inconsistencies referred to by appellant do not exist. To illustrate, we note these portions of the transcripts of the victim's testimony regarding her torn short pants:

"Q.

So, what did Jimenez do to you?

A.

He removed my short pants and t(ore) it and tie(d) my hands and feet?

Q.

With what kind of material (sic) did Jimenez use in tying your feet?

A.

My short pant(s).

x x x x x x x x

Q

And you said that he used your short pants as the rope?

A.

Yes, sir.

Q

Was the short pants at the time of the alleged incident was (sic) the same short pants you are using now?

A.

The same.

Q.

And when he removed your short pants, he t(ore) your short pants into several shreds so that he can us(e) it into a rope?

A.

He used force to tear my short pants.

Q.

And when he was tearing that into several shreds, he used both his hands so that he can tear it?

A.

Yes, sir."[17] (Corrections supplied.)

Clearly, therefore, the victim merely testified that appellant used force in tearing her short pants, and that the short pants she was then wearing in court was the same that she wore at the time of the rape. She did not thereby acknowledge or represent that her short pants had been torn into shreds and was destroyed beyond repair, as insinuated by appellant. Considering that the victim is a poor girl whose mother even had to work as an overseas contract worker in order to support them, it is understandable that she would not throw away a piece of clothing if the same could still be sewn or repaired.

As to the alleged inconsistency on what appellant was wearing during the incident, appellant claims that the victim changed her original statement specifying long pants to short pants. The transcripts on this aspect do not reveal any statement from the victim, on direct or cross-examination, to the effect that appellant was wearing long pants, thus:

"Q.

Can you tell the attire of Mr. Jimenez at that time?

A.

With pants."[18]

x x x

Q.

So both of you were in short pant(s)?

A.

Yes, sir.[19]

The other alleged inconsistencies cited by appellant are so unsubstantial and strained that they cannot reflect adversely upon the credibility of complainant. The victim, a simple-minded barrio lass only 14 years of age when the crime was committed against her, cannot be expected to recall point by point the horrendous experience she went through at the brutal and fiendish hands of her own uncle. For instance, she can not be expected to take note of the measurements of the comfort room where she was defiled by appellant. Petrified as she was by fear and shock, to expect her to remember every other single detail and aspect of the incident is inordinately unfair and unduly demanding.

As held in *People vs. Adlawan*,^[20] a court can not expect a rape victim to remember every ugly detail of the appalling outrage, especially so since she might in fact be trying not to remember them. Courts can not expect the rape victim to keep an accurate account of the horrifying experience she went through. Corollarily, as observed by the Court in a number of cases, inconsistency is but a natural thing and even enhances the witness' credibility, as a minor discrepancy could also indicate that the response given was honest and unrehearsed.^[21]

On the claim that the delay in reporting the crime to the authorities for around 6 months is reason enough to doubt the credibility of complainant, the Court has held in a long line of cases that delay in reporting the crime is not sufficient to doubt the truthfulness of the accusation. Apropos to the case at bar, we held in *People vs. Errojo*^[22] that it is not uncommon for a young girl to conceal for some time the assault on her virtue because of the rapist's threats on her life.

In fact, a highly disturbing and deplorable commentary on the present crime situation is the increasing number of rape cases, with extremely young children as the victims in a majority of them. It is not improbable that, as suggested in some studies, this sociological phenomenon may largely be attributed to the criminal's awareness of or belief in (1) the natural reticence or aversion of the victims to reveal the humiliation attaching to the crime, which stigma they will have to bear indefinitely thereafter; (2) the fear of these young victims of reprisal against them or their families and the ease with which they can be cowed into submission and silence; (3) in incestuous rape, that fear which compels non-revelation is further reinforced by the moral ascendancy of the rapist over his ravished relative; and (4) the repulsive theory that, by reason of youth and lack of social exposure, these minors are not infected with the virus which causes the dreaded acquired immunodeficiency syndrome.

In the instant case, the victim was just 14 years old at the time of the rape and, as honestly and candidly revealed in her testimony, she was threatened by appellant not only once but on several occasions that she would be killed if she should report the matter. Another factor that contributed to the delay on her part to report the crime was the happenstance that her mother was away and she felt that she needed her mother to support her, aside from the fact that, in her youthful inexperience, she evidently did not have either the knowledge of the proper course of action to take or the courage to do so.

The claim of appellant that the complaint was instigated by complainant's uncle who was defeated by appellant in the preceding barangay election is incredible and absurd. No mother will allow her daughter to be used in such a callous and insensate manner that will bring lasting dishonor to her daughter and her family on such an insignificant consideration as a minor political scrimmage between relatives.

This Court, just like the court below, rejects the obviously contrived and desperate defense of appellant that the victim is a woman of loose moral values, disregarding the glaring fact that she is only in her early teens. The attempted corroboration by appellant's wife and one Alex Santos does not inspire belief, considering the intrinsic weakness in the nature and substance of the same, not to speak of the fact that the motives of said witnesses are evidently suspect. No other respectable evidence or facts have been adduced to overcome the reality that stories of that nature can be easily concocted to suit the purposes of appellant.

All told, and after considering every plausible implication from the scenarios painted by the contending parties, the Court finds that the prosecution has proven the guilt of appellant beyond reasonable doubt, and that the trial court did not err in its factual findings and legal conclusions.

WHEREFORE, the judgment of the court a quo holding accused-appellant Vicente Jimenez y Luna guilty as charged is hereby **AFFIRMED** in toto.

SO ORDERED.

Narvasa, (Chairman), Puno, Mendoza, and Francisco, JJ., concur.

[1] People vs. Guibao, G.R. No. 93517, January 15, 1993, 217 SCRA 64.

[*] Her first name is misspelled as "Tessa" in some parts of the records.

[2] Original Record, 1.

[3] Ibid., 84-85; penned by Judge Jaime T. Hamoy on October 22, 1990.

[4] Rollo, 52; Accused-Appellant's Brief, 1.

[5] Ibid., 60; id., 9.

[6] TSN, February 15, 1988, 15, 45.

[7] Ibid., id., 6, 12-13, 54.

[8] Ibid., id., 9, 17-18, 58.

[9] Ibid., id., 20-25, 27.

[10] Ibid., id., 27-29.

[11] Ibid., id., 29-32.

[12] Ibid., id., 35-37.

[13] Ibid., March 14, 1988, 17-18, 21.

[14] Rollo, 62-66; Accused-Appellant's Brief, 11-15.

[15] Ibid., 62-63., Id., 11-12.

[16] Ibid., 60-61; id., 9-10.

[17] TSN, February 15, 1988, 19, 58-59.

[18] Ibid., id., 20.

[19] Ibid., id., 61.

[20] 83, Phil. 194 (1949).

[21] People vs. De La Peña, G.R. No. 104839, April 29, 1994, 232 SCRA 72; see also People vs. Querido, G.R. No. 95319, February 7, 1994, 229 SCRA 745

[22] G.R. No. 102077, January 4, 1994, 229 SCRA 49.

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