

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.ROMUALDO MIRANDA Y GERONIMO @ WALDO AND ORLANDO PAJARILIAGA (AT LARGE), ACCUSED, ROMUALDO MIRANDA Y GERONIMO @ WALDO, ACCUSED-A...

G.R. No. 97425. September 24, 1996

Ponente: TORRES, JR., J.

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TORRES, JR., J.:

Convicted of rape for having carnal knowledge with complainant, a 13-year old girl, by means of force and intimidation, with the use of drug and with lewd designs, in Sukol, Hagonoy, Bulacan, appellant Romualdo Miranda alias Waldo was sentenced on August 29, 1990 "to suffer life imprisonment; [and] to indemnify the victim, Maribel Mendiola in the amount of Twenty Thousand (P20,000.00) Pesos."

As summarized in the People's brief, the facts as established by the evidence of the prosecution are as follows:

"On 25 August 1989, a Friday, private complainant, Maribel Mendiola, 13 years old, a pupil at the Sta. Elena Elementary School in Hagonoy, Bulacan, was assigned as one of the cleaners after classes. She was the last to leave the classroom because she was the one who locked it.[1] At around [12:00] noon, while on her way home, she was accosted by accused-appellant Romualdo Miranda alias "Waldo", who was armed with a knife and his co-accused Orlando Pajarillaga (at large). They held Maribel's arms and made her board an owner type jeep.[2] She was made to sit at the back between appellant and Pajarillaga behind the driver wearing pigtail whom she did not know.[3]

"They brought Maribel to the house of accused-appellant's sister, Leda, in Sukol, Hagonoy, Bulacan. They reached the house which was a nipa hut, at around 12:30 p.m. The house was about 15 meters from the street and may take two hours (sic) before reaching it but the victim did not notice any other person because it was noon.[4] They went upstairs where she was offered a glass of softdrinks after which accused-appellant told his sister to disappear [as they have a victim].[5]

"Not long afterwards, she felt dizzy causing her to fall into a dream like consciousness.[6] As if in a dream she saw that appellant was on top of her pumping and moving his torso and buttock in a back and forth movement and while he was doing that she felt something long and round - penetrating her vagina which she failed to resist due to her dizziness. While appellant was performing the said acts, co-accused Orlando Pajarillaga was standing nearby laughing while watching accused-appellant.[7]

"When Maribel woke up, it was already morning. She had no panty on and she felt pain at the lower portion of her womb and had difficulty urinating accompanied by extreme pain and bleeding in her vagina. Maribel noticed injection marks on her right arm.[8]

"As soon as she woke up, accused-appellant and Pajarillaga entered the door and Maribel put on her panty and shorts. Crying, she was brought back to the jeep and drove to a place somewhere in Sto. Rosario, Malolos, Bulacan where there were women dancing and she was also made to dance. They had their lunch thereat.[9]

"Came nightfall, appellant and Pajarillaga brought Maribel to her grandmother's house in Paombong, Bulacan and told her that they would be back to fetch her on Monday (September 1). Maribel was specifically instructed not to tell her grandmother, Sabel, about what they did to her, but rather to tell her grandmother that the reason for her coming was due to some misunderstanding in their house.[10]

"On 01 September 1989, Maribel's father and stepmother arrived to fetch her at her grandmother's house. She confided to her parents what appellant did to her in Sukol, Hagonoy, Bulacan.[11]

"Maribel's parents brought her to the Bulacan Provincial Hospital for examination. Dr. Isidra Gatbonton, the resident physician of the said hospital conducted a physical examination on Maribel's genitals and found that her hymen had healed lacerations at one (1), seven (7) and nine (9) o'clock, and the request for vaginal smear was positive of spermatozoa cells. Based on said findings, she concluded that Maribel had a recent sexual contact as shown by the presence of sperm cells on her vagina."[12]

Some two months previous to August 25, 1989, both Waldo and Orlando also had sexual intercourse with complainant against her will but she was forced to submit for fear that she and her parents would be killed by appellant. That first time, the appellant made her sniff something on a small chalk-like bottle. She bled more on that first occasion than the second one and it happened inside their classroom. These two persons used to give her candies. They even gave her a stick of cigarette (marijuana) once.[13]

Appellant denied all the allegations of the complainant, stating that with his cousin Geronimo, they had been fishing at Tibagin, Hagonoy, Bulacan, in the morning of August 25, 1989 from 7:00 to 11:00 a.m. then they went home, ate lunch and took a rest for two (2) hours. Later on, he went to the shop of Manuel Martin to while away the time. At around 4:00 p.m., he left the tailor shop, went home and slept with Juanito Geronimo during the night.

Appellant testified that the family of the victim had a grudge against them because the former believed that there was a time when his mother was spreading the news that the sister of the victim was impregnated by her grandfather.

In this appeal, appellant concedes that his defense of alibi is weak; that the facts upon which it is based do not totally preclude his being present at the scene of the crime at the time of its supposed commission, considering its proximity to the place where he claimed he was on that occasion. Appellant also agrees with the findings of the lower court that the testimony of the complainant is sufficient. In fact, appellant finds her testimony to be sincere, candid and lack of outside suggestion.[14]

However, appellant disagrees with the Court's finding that the elements of rape were all present in this case; that granting that he had carnal knowledge of the victim, the force or intimidation used by the accused-appellant was not irresistible and could have been easily overcome by the victim, if she only tried; that the fact that she did not exert any effort to ward off the evil doings of the accused impliedly indicates her consent thereto.

According to appellant, the victim was fetched at 12:00 noon from the school which was located in an inhabited place; the victim was brought to the house of Waldo's sister, which is not also an isolated place; and the knife of Waldo at the time they alighted from the jeep was already folded and not pointed anymore to the victim. Yet, the victim did not do anything to free herself from the malicious intentions of the accused.

Appellant further alleges that the victim did not show any kind of resistance or involuntariness when she drank the softdrinks offered to her; that she could not have been so naive not to have perceived the "animalistic desire of the two accused considering that she had a previous sexual encounter with them, two months ago;" that it is intriguing that despite the blood she saw in her panty and the pain she felt in her private parts, she shed no tears nor uttered any word of anger or remorse; and that neither was there any emotional outburst when the two accused returned to

her after the said intercourse and casually brought her to another house in Sto. Rosario, Malolos, Bulacan where she danced with the girls there and ate lunch with the accused as if nothing happened the night before; and that complainant's behavior after the alleged assault was wholly inconsistent with the charge of rape.

We do not agree.

Although the school was located in an inhabited place, the appellant's act of pointing the knife at her, was enough to intimidate and silence the complainant. While there are girls who are gifted with courage and presence of mind in like situations, complainant in this case was not so gifted. It is not unlikely that a girl of such tender age would be intimidated into silence by the mildest threat against her life. Moreover, force and violence required in rape cases is relative and need not be overpowering or irresistible when applied.[15]

As to appellant's contention that complainant's behavior after the alleged assault that there was no emotional outburst when the two accused returned to her after the said intercourse and that she danced with the girls and ate lunch in another house in Sto. Rosario, Bulacan, suffice it to say that there is no standard form of human behavioral response when one has just been confronted with a strange, startling or frightful experience as heinous as the crime of rape[16] and not every victim to a crime can be expected to act reasonably and conformably with the expectation of mankind.[17]

Failure to shout or offer tenacious resistance did not make voluntary complainant's submission to the criminal acts of the accused.[18] At any rate, complainant could not have offered any resistance while she was being ravaged by the appellant for she was drugged[19] by the appellant which rendered her unconscious. Rape is committed by having carnal knowledge of a woman under any of the following circumstances: (a) xxx (b) when the woman is deprived of reason or otherwise unconscious; and (c) xxx.[20]

As to appellant's allegation that he was charged with rape because the complainant's family had a grudge against their family, this is too flimsy a reason. It is unnatural for a parent to use his offspring as an engine of malice.[21]

The denial by the accused cannot prevail over the clear and positive testimony of the complainant.[22] She was only 13 years old at the time she was raped. It is unthinkable for her to publicly disclose that she had been sexually abused, then undergo the trouble and humiliation of a public trial if her motive were other than to protect her honor and bring to justice the person(s) who unleashed his lust on her.[23]

We find the penalty imposed by the trial court, of life imprisonment as improper. The appropriate penalty for the crime of rape is that - of reclusion perpetua. As the Court has said a number of times, life imprisonment and reclusion perpetua are judicially different, the latter being imposed by the Revised Penal Code and having its specific duration and corresponding accessory penalties.[24]

The trial court sentenced appellant to indemnify complainant in the amount of P20,000.00. The prevailing jurisprudence is that the accused in rape cases is normally sentenced to pay the victim P30,000.00 for moral damages.[25] However, in view of appellant's dastardly act by which private complainant was snatched from the cradle of youth and innocence, the damages in favor of private complainant should be increased from P20,000.00 to P50,000.00.

ACCORDINGLY, the decision appealed from dated August 29, 1990 is AFFIRMED with the MODIFICATION that the penalty imposed upon appellant Romualdo Miranda y Geronimo is hereby CHANGED to reclusion perpetua and the award of indemnity is INCREASED to Fifty Thousand (P50,000.00) Pesos.

SO ORDERED.

Regalado, (Chairman), Romero,, and Puno, JJ., concur.

Mendoza, J., on leave.

[1] TSN, October 30, 1989, p. 23.

[2] TSN, pp. 4-5 and 22, October 30, 1989.

[3] TSN, p. 29, id.

[4] TSN, p. 34, id.

[5] Id.

[6] Id., TSN, p. 4, November 10, 1989.

[7] TSN, pp. 14-19, October 30, 1989.

[8] p. 7, id.

[9] TSN, pp. 9-10, Id; TSN, September 10, 1989, pp. 17, 18.

[10] p. 11, id.

[11] pp. 12-13, id.

[12] TSN, pp. 4-5, January 10, 1990; Exhibits "A" to "B-1", p. 37, Records.

[13] Judgment of the the trial court, p. 1; Rollo, p. 130.

[14] Appellant's Brief, p. 10; Rollo, p. 124.

[15] People vs. Errojo, 229SCRA 49, G.R. No. 102077, Jan. 4, 1994.

[16] People vs. Flores, 217 SCRA 613, G.R. No. 98069, Jan. 27, 1993.

[17] People vs. Dupali, 230 SCRA 62, G.R. No. 97474, Feb. 14, 1994.

[18] Ibid.

[19] Appellant put drugs in the softdrinks she was made to drink and she was further injected on her arm with drugs.

[20] People vs. Palicte, 229 SCRA 543, G.R. No. 101088, Jan. 27, 1994.

[21] People vs. Salomon, 229 SCRA 403, G.R. No. 96848, Jan. 21, 1994.

[22] People vs. Sarellana, 233 SCRA 31, G.R. No. 102056-57, Jun 8, 1994.

[23] People vs. Buyok, 235 SCRA 622, G.R. No. 109771, Aug. 25, 1994.

[24] People vs. Muyano, 235 SCRA 184, G.R. No. 105621-23, Aug. 25, 1994.

[25] People vs. Sabellina, 238 SCRA 492, G.R. No. 93514-15, Dec. 1, 1994.

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