

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALBERNI DUPALI, ACCUSED-APPELLANT.

G.R. No. 97474. February 14, 1994

Ponente: REGALADO, J.

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REGALADO, J.:

Accused-appellant Alberni Dupali, a 35-year old farmer, was charged before the Regional Trial Court of Puerto Princess City, Palawan, with the rape of his sister-in-law, 32-year old Victoria Apdon. In his defense, appellant insisted that Victoria seduced him and voluntarily submitted herself to him.

The trial court did not accept the story of appellant. It convicted him of rape, sentenced him to reclusion perpetua and ordered him to indemnify the offended party in the amount of P30,000.00.[1]

Victoria, in her complaint filed with the Municipal Trial Court of Narra, Palawan alleged:

"That on or about the 19th day of September 1989 at about 1:30 A.M., more or less, at Bgy. Bagong Sikat, Narra, Palawan, Philippines and within the jurisdiction of this Honorable Court the above-named accused armed with a deadly weapon (Bolo) by means of violence and intimidation, did then and there willfully, unlawfully and felon(i)ously have carnal knowledge of the complainant Victoria Apdon y Talplacido, against her will and in her own house.

CONTRARY TO LAW and with the aggravating circumstance that the said offense was committed in the dwelling of the offended party."[2]

At his arraignment, appellant entered a plea of not guilty to the charge,[3] and the case proceeded to trial. The court a quo found the following facts to have been established:

"x x x At about 1:30 in the morning of September 19, 1989, Victoria was sleeping with her two (2) children in their house located at Barangay Bagong Sikat, Narra, Palawan. Her husband was not with them, as he worked in Puerto Princesa City. She was awakened by the accused's call 'bayao, bayao'. Accused forcibly entered the house by cutting the straw, a crude lock of the door. She went down and asked the accused what he wanted. He said he was irrigating his riceland. A short chatting about his harvest (sic) in which she was lured to ask who is threshing his palay. He offered it to her in the form of 'pakyao'. Victoria invited him to a cup of coffee. She woke up her daughter to find the sugar. That daughter gave the sugar then went back to sleep. After serving the coffee, (the) victim washed and cooked rice. While in the act of fitting the pot on the stove, she was held by the neck and poked with (a) bolo on the head by the accused. Later, accused ordered her to put (out) the light which she obeyed. He pulled her outside the house. Victoria pleaded to the accused not to assault her as she treats him like a brother and told him other women would be willing to have sexual intercourse with him. Instead of heeding her plea, accused warned 'If you do not accede, I will kill you.' Inasmuch as her bolo (karit) was in the room upstairs, Victoria tried to trickily invite him to go up if he so desired sex. That way she could have the chance to stab him with that bolo there had he consented. Since she was intimidated by the accused she could not shout nor resist. She knew that the accused had already killed somebody at Estrella Village but was not arrested because no one dared report to the authorities. Even if she shouted she could not be heard by

the neighbors because her nearest neighbor is 100 meters away from them. She was also afraid that the accused might harm her children. Accused brought her to the other bank of a canal and kicked her causing her to fall down. He poked the bolo on her head, then he placed himself on top of her and started to undress her by lifting her shirt and pulling down her panty. She struggled in vain. After removing her panty, the accused inserted his penis into her vagina. After the coition, accused warned her not to report to anybody or else he would kill her. Then, the accused left, Victoria went back to the house, turned on the radio for (the) announcement of time. In the evening of the same day she went to her mother, Teresita Talplacido, who lives at Bagong Sikat also and disclosed the sexual abuse on her (Victoria) by the accused. The following morning or on September 20, 1989, Victoria together with her mother and the barangay captain went to the Narra Municipal Hall and reported the matter. Her statement was not taken as there was no investigator. An order was issued for the accused's arrest, but he (accused) was able to elude it. The statement was taken by the police only on September 22, 1989. The policeman told her to produce other witnesses and have herself examined by a government doctor.

"Victoria told (him) that accused used to go to their house because his two (2) year old son used to come to them.

"On September 22, 1989, Victoria Apdon was medically examined by Dr. Dominador Hubo of the Medical Health Office, Narra, Palawan who issued a certification (Exhibit 'B') on the same date with the following findings:

- '1. Breasts conical in shape with protruding nipple surrounded by pinkish brown areola
2. Mons vene(ris) triangular in shape with abundant pubic hair
3. Labia majora and minors fully coaptated
4. Old hym(ene)al laceration at 12:00, 3:00 and six o'clock passing upon the face of the watch
5. Vagina admits one and one half finger with slight resistance
6. Negative for spermatozoa on Microscopic, examination for specimens at the for(nix)

Conclusion:

Physical virginity lost."[4] (Corrections in parentheses supplied.)

Another witness for the prosecution, Teresita Talplacido, mother of Victoria, testified that "at about 11:00 o'clock that evening, accused, armed with a bolo and drunk, arrived and asked forgiveness for what he had done to her (Teresita's) daughter." [5]

Appellant, on the other hand, admitted that he had sexual intercourse with Victoria in the evening of September 19, 1989 but claimed that he did not force her. Dupali testified that it was Victoria who invited him to come to her house and even prepared dinner for him. At about 8:00 o'clock in the evening, he went back to the victim's house to light his cigarette. When he was about to leave, appellant claimed that Victoria forced him to go near the door of the house and embraced him. She thereafter ushered appellant to a room upstairs where they had sexual intercourse.[6] The defense further asserted that the motive of Victoria for filing the complaint against Dupali is her alleged interest in acquiring Dupali's ricefield.[7]

The lone assignment of error raised by appellant is on the issue of credibility, that is, whether or not the lower court erred in convicting the accused based solely on the testimony of the complaining witness.[8]

A review of the record compels rejection of appellant's claim that his conviction was grounded on the "very doubtful testimony of complaining witness." The truth is that the trial court's conclusions were founded on the direct, positive and categorical assertions made by the offended party on the witness stand as regards the material

occurrences.

The victim, Victoria Apdon, emphatically declared that she had indeed been raped by her brother-in-law, and clearly narrated how the despicable offense was committed. She remained steadfast and consistent during cross-examination that she never consented to the advances of and sexual violation by appellant. The trial court's assessment of Victoria's testimony and demeanor bears stressing:

"The version given by the accused that complainant agreed to have sexual intercourse with him appears to be incredible. It was neither shown nor insinuated that Victoria was a woman of ill repute or loose morals. To the court's observa(tion) and appreciation of the complainant, she is just a plain simple woman who is not flirtatious to the opposite sex. Considering the absence of any previous intimate relationship between Victoria and the accused, the circumstance(s) of their meeting that early morning of September 19, 1989, was sought by the accused. For it is highly improbable that she (Victoria) would have laid open her honor to public ridicule and contempt by inviting herself to the consummation of the carnal act. x x x"[9]

Deeply embedded in our jurisprudence is the rule that when the issue of credibility of witnesses is concerned, appellate courts will generally not disturb the findings of the trial court considering that the latter is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during trial, unless certain facts of value have been plainly overlooked which, if considered, might affect the result of the case.[10]

The governing rule that generally applies when appealed cases hinge on the credibility of witnesses, is that findings of fact of the trial court are accorded the highest degree of respect by an appellate court.[11] Absent any proper reason to depart from this rule, factual conclusions reached by the trial court are, therefore, not to be disturbed.[12]

We find no reason to discompose the findings of the court below. For indeed, we find in the recorded evidence clear and concrete facts and circumstances justifying the holding that rape was really committed by appellant. The transcripts of the victim's testimony, buttressed by the corroborative testimony of her mother, and the medico-legal findings on record all conduce to the validity of the factual findings of the trial court, which we confirm, and the correctness of its conclusions, which we sustain.

Indeed, as prosecution witness Teresita Talplacido established, appellant even went to their house on the night following the incident to ask for forgiveness, an act undeniably indicative of guilt. For, as we held in *People vs. Domingo*,[13] "(m)oreover, if it were true that he and the complainant mutually planned their lovemaking and that the latter was really his sweetheart, there would be no sense or necessity for him to beg for forgiveness from her."

In assailing the veracity of the testimony of the complainant, appellant argues that "Victoria did not offer any tenacious resistance as shown by the fact that she turned off the light willingly when the appellant asked her to do so; she did not shout despite the presence of her brother's house fifty (50) meters away from the crime scene; appellant removed her panty (bikini) without holding her; and she did not report the incident to her brother the next morning."[14]

As lucidly narrated by the victim, appellant poked a bladed weapon (bolo) on her head while threatening her that he would kill her and her children if she resisted.[15] That act of appellant was more than sufficient to subdue the victim and cow her into silence because of the imminent danger not only to her life but to her children as well. In *People vs. Grefiel*,[16] we held that "(u)nder the circumstances, the failure to shout or offer tenacious resistance did not make voluntary complainant's submission to the criminal acts of the accused-appellant."

The failure of Victoria to report her indignation to her brother does not make her testimony less worthy of credence. Such failure can be attributed to the shock and fear instilled in the mind of Victoria. Not every witness

or victim to a crime can be expected to act reasonably and conformably with the expectation of mankind. Besides, as she explained on the witness stand, she did not want to involve her brothers and sisters[17] in what may be the aftermath of the criminal incident.

We have ruled in a number of cases that people may react differently to the same situation. One person's spontaneous or unthinking, or even instinctive, response to a horrid and repulsive stimulus may be aggression, while another's may be cold indifference.[18]

Finally, the lame explanation of appellant that the charge of rape was motivated by the desire of the victim to acquire his ricefield does not deserve any consideration. As correctly pointed out by the lower court, there is no valid reason why Victoria should falsely accuse her brother-in-law of rape and then expose herself to the ridicule and nagging tongues of her rural community.[19] Her mere interest in the ricefield of the accused, even if true, would not suffice to induce her to fabricate a charge of rape against appellant which would necessarily bring shame and untold miseries to their respective families, since appellant is married to her own sister.

And, on the latter score, since appellant is a relative by affinity of the victim, we believe that such circumstance warrants an increase in the civil liability to be imposed on him. The callous violation of the trust and confidence reposed in appellant as a close relative justifies an increased civil indemnity of P50,000.00.[20]

WHEREFORE, with the modification that accused-appellant Alberni Dupali should indemnify the offended party, Victoria Apdon, in the amount of P50,000.00, the judgment appealed from is hereby AFFIRMED in all other respects.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Nocon, and Puno, JJ., concur.

[1] Original Record, Criminal Case No. 8400, 102; per Judge Amor A. Reyes.

[2] Ibid., 5.

[3] Ibid., 18.

[4] Ibid., 98-99.

[5] TSN, June 20, 1990, 3.

[6] Ibid., July 18, 1990, 153-154.

[7] Ibid., id., 155.

[8] Brief for the Accused-Appellant, 6; Rollo, 49.

[9] Original Record, 101.

[10] People vs. Literado, G.R. No. 77114, May 27, 1992, 209 SCRA 319; see also People vs. Barcelona, G. R. No. 82589, October 31, 1990, 191 SCRA 100; People vs. Manago, G.R. No. 90669, November 21, 1990, 191 SCRA 552; People vs. Tongson, G.R. No. 91261, February 19, 1991, 194 SCRA 257.

[11] People vs. Canamo, G.R. No. 62043, August 13, 1985, 138 SCRA 141.

[12] People vs. Legones, L-30245, January 30, 1976, 69 SCRA 210.

[13] G.R. No. 97921, September 8, 1993.

[14] Brief for the Accused-Appellant, 9-10; Rollo, 52-53.

[15] TSN, June 18, 1990, 4-5.

[16] G.R. No. 77228, November 13, 1992, 215 SCRA 596.

[17] TSN, September 19, 1990, 6-7.

[18] People vs. Danico, G.R. No. 95554, May 7, 1992, 208 SCRA 472; People vs. Kyamko, G.R. No. 103805, May 17, 1993.

[19] Original Record, 101.

[20] People vs. Magaluna, G.R. No. 66755, January 23, 1992, 205 SCRA 266.

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