

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOEL SARTAGODA Y BOCANEGRA, JIMMY BASCUÑA Y LAZARTE, VLCENTE STA. ANA Y GUTIERREZ AND JOHN DOE, ACCUSED-APPELLANTS.

G.R. No. 97525. April 07, 1993

Ponente: CAMPOS, JR., J.

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CAMPOS, JR., J.:

The Regional Trial Court, Fourth Judicial Region, Branch 36, Calamba, Laguna convicted all three accused-appellants in its decision* dated November 7, 1990, the dispositive portion of which reads:

"WHEREFORE, the court hereby finds the accused Joel Sartagoda y Bocanegra, Jimmy Bascoña (sic) y Lazarte and Vicente Sta. Ana y Gutierrez all guilty beyond reasonable doubt as co-principals of the crime of Robbery With Rape, defined and penalized in Article 294, paragraph 2 of the Revised Penal Code; there being two aggravating circumstances without any mitigating circumstance to offset the same, hereby sentences each of the said accused to suffer the penalty of Reclusion Perpetua with the accessories provided for by the law.

Each of the three accused is ordered to indemnify the offended party Vilma de Belen the sum of P30,000.00, and each of them shall recognize the offspring if there be any.

The said accused are likewise ordered to return the personal properties stolen or pay its equivalent amount of P17,490.00 to Rogelio de Belen, the lawful owner thereof.

SO ORDERED."[1]

The facts of the case may be summarized as follows:

It was the evening of July 2, 1988 while Rogelio de Belen, his two daughters and his sister Vilma de Belen were sleeping in their house at Calamba, Laguna, when appellant broke in and woke him up, poking a knife at him. They tied up his hands and made him lie flat on his stomach and asked for the key to his cabinet. Fearing for his life and that of his companions, he reluctantly told them where the key was kept.

Just on the other room was Vilma, who heard whispers (kaluskos) but simply played possum. When the three saw her on the bed, they approached her. One covered her mouth as another poked a knife at her neck. They threatened to kill her if she should make an outcry.

They raised her blouse and removed her underwear. They tied both her hands so that she could offer no resistance. She was at such a pitiful state when the accused Jimmy Bascuña went on top of her, kissing her on different parts of her body, while Vicente Sta. Ana held her legs apart. Jimmy finally inserted his sex organ inside her and satisfied his bestial desire. After Jimmy was over, Vicente took his turn and then Joel. After the three of them had successfully deflowered Vilma, they left, carrying with them the money and other personal belongings of the de Belen family.

After the three men left, Rogelio, with his hands and feet still tied up, tried to get up from the bed and switched the lights on and called to his neighbors for help. Vilma, meanwhile, had lost consciousness due to shock.

Meanwhile, Petra Lamire, his sister-in-law who lives right next to his house responded to his cry for help. She went to their house and untied Rogelio. She saw Vilma with her upper body naked and sobbing so she covered Vilma with a blanket. Soon after, his other sister-in-law also arrived. They reported the incident to the Barangay Captain.

They had Vilma examined by Dr. Danilo A. Ramirez at Dr. Jose Rizal Memorial Hospital at about 10:00 that same morning. He conducted external and internal examinations. His external examination showed no physical injuries except that he noted several abrasions at the genital area. His internal examination showed fresh lacerations of the hymen at 9:00 and 4:00 positions. The vagina admitted two fingers with ease.

In the present appeal the lone assigned error is:

THE LOWER COURT ERRED IN NOT DECLARING (THAT) THE EVIDENCE OF THE PROSECUTION
UTTERLY FAILED TO PROVE THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT
HENCE, THEIR ACQUITTAL IS INEVITABLE.

This appeal has no merit.

The accused-appellants fault the trial court of ignoring the fingerprint examination report submitted by the Crime Laboratory of the PC/INP Camp Crame which stated that none of the specimen latent fingerprints were found to be positive. It is their contention that since their fingerprints were not found in the objects found in the scene of the crime they cannot be held guilty of the crime charged beyond reasonable doubt.

Although We agree with their opinion that a positive finding of matching fingerprints has great significance. We cannot stain their theory that from the negative findings in the fingerprint examination conducted in the course of the investigation in the instant case, it must be concluded that they could not have been at the scene of the crime. Negative findings do not at all times lead to a valid conclusion for there may be logical explanations for the absence of identifiable latent prints other than their not being present at the scene of the crime.

Only latent fingerprints found on smooth surface are useful for purposes of comparison in a crime laboratory because prints left on rough surfaces result in dotted lines or broken lines instead of complete and continuous lines. Such kind of specimen cannot be relied upon in a fingerprint examination. The latent fingerprints are actually oily substances adhering to the surfaces of objects that come in contact with the fingers. By their very nature, oily substances easily spread such that when the fingers slide against the surface they touch, no identifiable latent print is left, only smudges instead. Not all police investigators are aware of the nature of latent fingerprints so as to be guided accordingly in deciding which objects to submit for fingerprint lifting and examination. Noting the interplay of many circumstances involved in the successful lifting and identification of proper latent fingerprints in a particular crime scene, the absence of one does not immediately eliminate the possibility that the accused-appellants could have been at the scene of the crime. They may be there yet they had no left any identifiable latent fingerprint. Besides, in the case at bar, only ten latent fingerprints are involved. The findings in this particular fingerprint examination are not sufficient to cast even just a reasonable doubt in their finding of guilt for the crime charged.

The accused-appellants likewise contend that the police line-up has been irregularly conducted revealing suggestibility to their prejudice. They accused Pat. Reyes of coaching complainant Vilma de Belen when she identified her three assailants. They claim that it was Pat. Reyes fault that "they were not allowed to select their positions at the line-up; that they were not placed in line under a numeral against a wall marked to indicate their

respective height in feet and inches; that there was no record made of their descriptions and physical characteristics; that the witness/victim was not out of view of the three (3) accused lined-up for identification purposes".[2]

We find these claims of irregularities of little if not, of no significance at all when considered in the light of the natural desire in the victim to seek retribution not simply from anybody who may be put before her but from the very same offenders who actually did violence against her. It would be most illogical for an outraged victim to direct her anger against anyone other than her three offenders. We cannot accept the accused-appellants' claim that it was on Pat. Reyes' suggestion that the victim pointed to the accused-appellants as her assailants. No amount of coaching will be sufficient to counter the natural outrage of a rape victim against her abuser when said abuser is presented before her in a police line-up. The outrage displayed by the rape victim was a spontaneous reaction. She identified her assailants because of no other reason except to let people know who hurt her.

Whether or not there was a previous police line-up, the fact is that they were positively identified at the trial. There is no law requiring a police line-up as essential to a proper identification.[3] The complainant's recognition of the accused-appellants as her attackers cannot be doubted for she had during the carnal acts ample opportunity to see the faces of the men who ravaged her. It is the most natural reaction for victims of criminal violence to strive to see the looks and faces of their assailants and observe the manner in which the crime was committed. Most often the face of the assailant and body movements thereof, create a lasting impression which cannot easily be erased from their memory.[4]

The accused-appellants further claim that "the Medical findings of Dr. Danilo Ramirez concludes that the alleged victim of rape, Vilma de Belen must have had sexual experienced (sic) five (5) to six (6) days before the alleged incident happened on July 2, 1988 at about 3 to 4 o'clock in the morning"[5]. There is no truth to this claim. In fact, there was no categorical or positive assertion on the part of Dr. Ramirez that the sexual intercourse with Vilma was committed on the very date when the alleged "robbery with rape" took place on July 2, 1988.

This is a clear distortion of the testimony of Dr. Ramirez who on cross-examination testified as follows:

"ATTY. MAIQUEZ:

Q: You cannot also determine when was the first and was the last intercourse as per your examination?

FISCAL: Objection, witness is incompetent.

COURT: Witness may answer.

A: The findings suggest that because of hymenal laceration the injuries was (sic) recent not more than one week sir.

Q: When you say it is not more than one week, could it be 6 or 5 days?

A: Possible, sir.

Q: When you say it is possible that the victim could have experienced sexual intercourse 6 to 5 days that was indicated in your examination marked as Exh. A, can you determine as per your finding?

A: Well, yes, sir, I placed fresh hymenal laceration because laceration will determine whether it is fresh or old because of the characteristic (sic) of the laceration, sir.

Q: At the time you examined the patient in your medical opinion it could have been 5 or 6 days had elapsed?

A: Yes, sir.

ATTY. MAIQUEZ: That will be all."[6]

The trial court, in the exercise of its discretion to seek clarification in witness' testimony proceeded as follows:

"COURT:

Q: Doctor, in your findings you noted that there was an abrasion?

A: Yes, your Honor.

Q: Is that more than one abrasion?

A: I found 3 mm., your Honor.

WITNESS (continuing):

- and on the lower opening of the vagina on the right side, that is the only place, sir.

COURT:

Q: Aside from that injury or rater (sic) that portion there is no other injury which you found?

A: None, your Honor.

Q: Because laceration stated in your medicolegal certificate that there was fresh hymenal laceration noted at 9 and 4 o'clock on the face of the clock?

A: Yes, your Honor.

Q: Do we gather it right when you stated in your medicolegal certificate fresh it is not yet healed?

A: Yes, your Honor.

Q: From that finding of yours regarding the existence of fresh hymenal laceration you said that it least one or 2 days had elapsed before you have conducted the physical examination?

A: Yes, your Honor.

Q: In other words from one to 5 days?

A: Yes, your Honor.

COURT:

Q: But it is possible that it could be more than one or two days?

WITNESS:

A: Yes, your Honor."[7]

It is evident that Dr. Ramirez never categorically concluded that the sexual intercourse causing the fresh hymenal lacerations took place five to six days before the date of her examination. The accused-appellants' claim that the sexual intercourse took place on June 26 or 27, 1988 is conjectural and without factual basis.

The claim of accused-appellants that the prosecution failed to present rebuttal evidence to refute the averments of Joel Sartagoda that they tried in vain to persuade him to admit the charge against him and to implicate his two (2) co-accused did not deserve the attention of the trial court nor does it deserve Ours, being per se unacceptable and unbelievable in the light of human experience.

Finally, they claim that the fact that Vicente Sta. Ana and Jimmy Bascuña did not flee, even when they had all the opportunities to do so, prove their innocence. When they were allowed to go home after Vilma failed to identify them during the first confrontation at the police station, they stayed home and did not flee until they were again required to appear at the police station for the second time. The accused-appellants in effect posit that if flight is an indication of guilt, non-flight or the decision not to flee, having the opportunity to do so, is a sign of innocence.

We do not agree. Although it is settled that unexplained flight indicates guilt, it does not necessarily follow that absence thereof proves innocence, specially so when there is overwhelming evidence to establish their guilt.

This Court finds no reversible error having been committed by the trial court in convicting the three accused-appellants for the crime of robbery with multiple rape under Article 294 par. 2 of the Revised Penal Code. We affirm its findings of fact which are firmly grounded on the evidence presented at the trial. We reiterate our ruling thus:

"There is need to stress anew that this Court has long been committed to the principle that the determination by a trial judge who could weigh and appraise the testimony as to the facts duly proved entitled to the highest respect, unless it could be shown that he ignored or disregarded circumstances of weight or influence sufficient to call for a different finding." [8]

We are for the affirmance of the conviction of the three accused-appellants. With regard to the indemnity to Vilma de Belen for multiple rape, there having been evidence of conspiracy, the act of one being the act of all, each must be liable for all the three rapes committed, they must be held solidarily liable [9] for said indemnity which the trial court fixed at P30,000.00 for each offender of a total of P90,000.00. [10]

However, this Court cannot uphold the trial court's ruling ordering each of the accused to "recognize the offspring if there be any". In multiple rape, not one maybe required to recognized the offspring of the offended woman. In a case [11] where three persons, one after another, raped a woman neither of the accused was ordered to recognize the offspring simply because it was impossible to determine the paternity thereof.

WHEREFORE, premises considered, the appealed decision is **AFFIRMED** with the **MODIFICATION** that the accused-appellants are held jointly and severally liable to indemnify Vilma de Belen for multiple rape in the amount of P90,000.00, and that none of the accused is required to recognize the offspring.

SO ORDERED.

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

* Penned by Judge Justo M. Sultan.

[1] Records, pp. 353-354.

[2] Appellants' Brief, p. 23.

[3] *People vs. Salguero, et al.*, 198 SCRA 357 (1991).

[4] *People vs. Selfaison*, 1 SCRA 235 (1961).

[5] Appellants' Brief, p. 25.

[6] TSN, October 18, 1988, pp. 13-14.

[7] *Ibid.*, pp. 14-16.

[8] People vs. Carandang, 52 SCRA 259; 267 (1973); citing People vs. Angcap, 43 SCRA 437 (1972).

[9] See: People vs. Selfaison, supra.

[10] In People vs. Calixtro, 193 SCRA 303 (1991), the Court ordered the accused to indemnify the offended party in the sum of P30,000.00 for each of the three rapes committed for a total of P90,000.00.

[11] People vs. De Leon, et al., G.R. No. L-2094, April 20, 1950.

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