

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VICENTE R. MIÑANO, ACCUSED-APPELLANT.

G.R. No. 97609. March 31, 1993

Ponente: NOCON, J.

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NOCON, J.:

The accused-appellant, Vicente R. Miñano, was charged with the crime of rape in Criminal Case No. 1673 before the Regional Trial Court, Branch 81, Fourth Judicial Region, Romblon, Romblon. The complaint filed in said case reads, as follows:

"That on or about the 13th day of March, 1988, at around 8:00 o'clock in the evening, in barangay III-Poblacion, municipality of Romblon, province of Romblon, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the undersigned offended party, single and 15 years of age, against her will.

Contrary to law."[1]

Upon arraignment, the accused-appellant entered the plea of not guilty. Thereafter, trial on the merits ensued. On January 21, 1991, the trial court rendered its decision, the dispositive portion of which reads, as follows:

"WHEREFORE, this Court finds the accused VICENTE R. MIÑANO GUILTY beyond reasonable doubt of the crime of Rape under the Criminal Complaint, dated December 6, 1988, and hereby sentences him to a prison term of reclusion perpetua with the accessory penalties of the law, to indemnify the complainant Bernardita Lalisán the balance of P12,000.00, without subsidiary imprisonment in case of insolvency, and to pay the costs.

The accused is likewise ordered to support his illegitimate child Vicenta 'Beverly' Miñano in the sum of P200.00 monthly which shall be given to her mother, Bernardita Lalisán, at her residence, within the first five (5) days of each corresponding month from judicial or extrajudicial demand.

SO ORDERED."[2]

Hence, the present appeal.

The facts of this case are, as follows:

The victim, Bernardita Lalisán, 15 years old, single, testified during the direct examination that she has been staying in the house of the accused-appellant since she was in Grade II. Her usual task was to wash the clothes, take care of the children and feed the pigs. On March 13, 1988, at around 8:00 in the evening, the children of the accused-appellant, namely, Sunny Boy, Dodoy, Noel and Dinah, told her to prepare the table because they will be attending a social function. Later, she was left alone in the house. While she was preparing the beddings, the accused-appellant arrived. He closed the door and windows and put off the light. She was wrestled by the accused-appellant by putting her two hands at her back. She was not able to shout because the accused-appellant

pressed her mouth with his fist. While lying on her back, the accused-appellant spread her legs with the use of his knees. He pulled down her panty with the use of his hands. She could not tell exactly if the penis of the accused-appellant penetrated her vagina because she fainted. When she regained consciousness, she felt pain on her neck, shoulder, legs and vagina. She noticed blood in her vagina. She then slept together with Dinah, who arrived after the incident. Several months thereafter, her menstruation stopped. She inquired from her mother why her menstrual cycle stopped and she was told that it was only natural because it was still new. When she submitted herself to physical examination on August 27, 1988, she learned that she is pregnant. After March 13, 1988, she did not have any other sexual relationship with any man. On November 30, 1988, she gave birth to a girl whom she named Vicenta Miñano.[3]

On cross-examination, the victim testified further that she left the employ of Mr. & Mrs. Miñano after classes in Grade III closed. She had herself examined by a doctor because her skin was already yellowish, she became anemic and weak, and her belly was becoming bigger. After it was confirmed by the doctor that she was pregnant, she filed a criminal complaint against the accused-appellant. When the accused-appellant took off his trousers, her back was towards him and she did not think that the accused-appellant would do something bad. She was not able to go out of the house because the accused-appellant held her mouth and restrained her hands. The wife of the accused-appellant arrived at exactly 8:00 that evening, but she did not reveal to her the incident that happened because she did not know what he inserted in her vagina and what will happen to her. Neither did she report the matter to the police authorities. What she reported to her mother was about the stopping of her menstruation but she did not mention anything about the sexual abuse, not even to her father because she did not know whether or not she was pregnant. The accused-appellant was able to spread her legs when her panty was pulled down to her ankles. The accused-appellant's penis was firm and hard. She lost strength when the accused-appellant spread her legs. In connection with this case, she executed an affidavit of desistance.[4] Bebot Madali, whom she recognized as a policeman in their municipality, gave her eight thousand (P8,000.00) pesos as payment for the amicable settlement of this case. The amount was handed over to her in the presence of her parents and the fiscal. She was forced to sign said affidavit by Bebot Madali and was instructed not to reveal the matter to other persons. The actual amount they were demanding for the settlement of this case was twenty thousand (P20,000.00) pesos. She expected that the balance of twelve thousand (P12,000.00) pesos would be paid by the accused-appellant for having sexually abused her.[5]

In the victim's rebuttal testimony, she added that one night, when she was getting the pot, the accused-appellant kissed her. His wife, who saw them, got angry. But the accused-appellant explained that he treated the victim as his grandchild.[6]

Eleazar Madali, member of the INP Police Force of Romblon, testified that it was their desire that the victim's affidavit be executed because they wanted this case to be settled. He is the son-in-law of the accused-appellant and it was his own money which he gave to the victim. It was the parents of the victim who went to their house and demanded that the amount of four thousand (P4,000.00) pesos they were intending to pay for the lawyer be given to them instead and eventually this case would be settled. The victim and her parents were demanding from him the total amount of fifteen thousand (P15,000.00) pesos but since he could not afford it he told them that it was the only money he could give.[7]

Carmen Lita P. Calsado, Chief of the Romblon District Hospital, identified the signature of Dr. Melchor P. Magsino appearing in the medico-legal certificate.[8] Regarding this certificate, she testified that the first entry means that the size of the uterus is compatible to a six (6) month pregnancy; the second entry refers to the age of pregnancy or gestation which was five (5) months, three (3) weeks and three (3) days, to be exact; and the third entry pertains to the old lacerations of the hymen at 3 and 9 o'clock positions and according to her, such

lacerations could have been caused by sexual intercourse. She could not determine whether or not the victim was a virgin at the time of the alleged sexual abuse. The last entry indicates that the victim was pregnant for five (5) months, three (3) weeks and three (3) days and she was not in labor. Counted from March 13, 1988, when the alleged sexual intercourse took place, up to August 27, 1988, when the victim was examined, her uterus was within the age of pregnancy.[9]

On the part of the defense, Carmen Miñano, wife of the accused-appellant, testified that at around 8:00 in the evening of March 13, 1988, the entire family was in their house. It is not true that they went out to attend a social function, especially herself, since it would be prejudicial to her health. It was their habit to eat supper together in order that the food will be distributed equally among them. She remembered having gone out of the house on July 9, 1987, when her older brother died. The victim used to go out bicycle riding until 10:00 in the evening. She even scolded her and reported her to her parents who reprimanded her also. In spite of that, the victim still goes out bicycle riding during nighttime, at times when she was already asleep. The victim left their house on March 11, 1988. She does not know the reason why the victim left. She slept at around 9:00 that evening of March 13, 1988 together with the accused-appellant and two small grandchildren who were in-between them. Outside, in front of the door of their room, was Noel who was sleeping on a folding bed. There are many houses adjacent to their house. From the time the victim left their house, she never saw or met her again. She visits her children and grandchildren about three (3) times a week but during daytime. Since 1988, she had no more sexual intercourse with her husband.[10]

Dr. Jose Magalong, Physician-in-Charge of the Romblon District Hospital, testified that a woman on actual menstrual period is not fertile and would suffer normally for two (2) to eight (8) days with the average of five to six days. It would take about twelve (12) days from the start of menstrual cycle of a woman that she would be fertile and that the duration of the fertility of a woman varies. Although there is a difference in the sexual urge of a young man and that of an old man, that would be insignificant. As to aggressiveness between the two, in their study, there was no evidence of any significance with regard to that. By mentality, it does not refer to his educational qualifications but to the motives of the person. It is directed by his emotion and not by his educational attainment, although some educated men would be more aggressive than others.[11]

The accused-appellant, 73 years old, testified that he retired as District Supervisor of the Department of Education, Culture and Sports on April 5, 1982. He is a Roman Catholic. He has been a member of the Knights of Columbus since its organization in their municipality and had occupied the positions of council warden, grandknight and District Deputy. As a lay minister, he conducted liturgy and also helped in the distribution of the hosts during communion. Like the priest, he preached the gospel, which he observed and followed. In February, 1988, he went to Manila to accompany his wife for her medical check-up, wherein she was advised by the doctor not to go out during nighttime because of her poor health. He never remember having gone out together with his wife except on one occasion and that was during the death of her elder brother, which was on July 5, 1987. The victim stayed with them for quite sometime as household helper. She was a good bicycle rider and even takes the bicycle they formerly had, in the evening after her household chores. In March, 1988, aside from his daughter Dinah, three sons, namely: Noel, Dodoy and Sunny Boy and his two grandchildren lived with them. Noel slept on the bed just at the door of the nipa house where he (accused-appellant) sleeps. On March 13, 1988, he and the members of the family did not go out on any special occasion. The victim at the time was no longer staying with them since she left their house on March 11, 1988. The house of their barangay captain is just about five (5) meters away from his main house, while on the northern portion of their house are the houses of Oñas and Fallaria. Adjacent to his house is a billiard hall which operates nightly, and the banging of the ball could be heard very well by him. At the side of their nipa house is a house owned by a person from barangay Li-o and it is occupied by high school students and an employee of the Assessor's Office. On the night of March 13, 1988, there

were many passers-by. Their main house was well-lighted with five (5) illuminating lamps and they switch on the lights when they are inside the house.

On cross-examination, the accused-appellant declared that the victim must have filed the charge of rape against him with the anticipation that he would come across with certain monetary consideration. He had no hand or idea with respect to the amicable settlement being made by his son-in-law and the family of the victim.[12]

In this appeal, the accused-appellant assails his conviction by the trial court. It allegedly failed to take into account the following: 1) several inconsistencies in the testimony of the victim; 2) delay in filing the complaint; 3) admission of the victim that she was menstruating when the rape incident happened; and 4) affidavit of waiver and desistance which was executed by the victim.

The accused-appellant maintains that the testimony of the victim does not inspire belief because it is replete with inconsistencies, to wit: a) the rape was alleged to have been committed at 8:00 in the evening of March 13, 1988, but it is the habit of the accused-appellant's family to eat dinner together at 8:00; b) the wife of the accused-appellant allegedly left after taking her dinner and arrived at exactly 8:00 that evening, at the same time that the rape was committed; and c) if the victim lost consciousness, she could not have remembered vividly what the accused-appellant did prior to the sexual abuse. The complaint against him was filed several months after the rape incident and only after the victim was found pregnant. The victim admitted that she was menstruating during the rape incident, so that he could not have impregnated her. The victim's affidavit of desistance was executed in order to extort money from him.

The Office of the Solicitor General is in full conformity with the questioned decision of the trial court.

We shall confine Our disquisition on the first and second allegations of the accused-appellant because the rest is inconsequential in resolving this appeal.

As aforementioned, the trial court convicted the accused-appellant of the crime charged against him. Its ruling was based principally on the finding that:

"xxx the testimony of the complainant, without the usual eye-witness corroboration, (is) credible and positive and satisfies the Court beyond reasonable doubt as to the guilt of the accused. This innocent and immature girl, who barely started in grade school out of the boondock where she came from and living as a maid with a more urbanized family at the central part of the capital town of Romblon, could not have concocted her story and denounced her former employer. In fact, in the course of her testimony, it was observed that there was that certain underlying bitterness, at times bursting in somewhat controlled shedding of her tears, so unnerving to be observed in a girl of such a tender age." [13]

Although this Court ordinarily relies on the factual findings of the trial court, recognizing its superior competence to assess the credibility of the witnesses through direct observation of their deportment on the stand, We decline to apply this policy in the case before Us.[14] It is not enough that the victim expressed her emotions to the fullest while testifying, the totality of the evidence should be considered before reaching the conclusion that, indeed, her testimony is credible and positive. A meticulous examination of the records and analysis of the arguments of the parties enabled Us to unearth the truth behind the victim's serious charge of rape against the accused-appellant. The prosecution has not sufficiently established his guilt to the point of overcoming the constitutional presumption of innocence that he enjoys.

In a rape case, the uncorroborated testimony of the victim may be adequate under certain circumstances to warrant conviction. But for this rule to obtain, the lone testimony of the victim must be clear and free from any serious contradictions. Her story must be impeccable and ring true throughout or bear the stamp of absolute candor.[15] Glaring circumstances, culled from the testimony of the victim, detract from the credibility of her version[16] of

the rape incident that transpired in the evening of March 13, 1988. First, she narrated what the accused-appellant did upon entering the room:

"Q - And you stated a while ago that while you were in the room fixing the beddings, Mr. Miñano came alone, is that correct?

A - Yes, sir.

Q - And then he started taking off his trousers, correct?

A - Yes, sir.

Q - And then, after taking off his trousers, he closed the windows and the door, correct?

A - Yes, sir.

Q - When he came alone in this particular room and you noticed that he was taking off his pants, what appeared to your mind?

A - My back was towards him and I did not notice him.

Q - But you stated a while ago that you noticed Mr. Miñano taking off his pants, is that correct?

A - Yes, sir.

COURT:

You translate that last words.

A - When he took off his trousers he has his underwear and my back was towards him and it was then that he held my hands at my back."[17] (underscoring supplied)

In other words, although the victim was not facing the accused-appellant when he entered the room, still, she was able to give a detailed description of what he did. That is quite taxing to one's imagination. Second, she was categorical in her direct examination that the accused-appellant inserted his penis in her vagina:

"Q - After that, what happened?

A - He inserted his penis.

Q - Where did he insert his penis?

A - On (sic) my vagina."[18]

However, she later vacillated during the same direct examination:

"Q - And do you know why you did not have your menstrual cycle anymore?

A - I do not know, I do not even know what he inserted."[19]

and in the subsequent cross examination:

"Q - The following morning, you did not tell Mrs. Miñano what happened to you?

A - I did not because I do not know what he inserted and I don't know what will happen.

Q - So, that is the only reason why you did not tell Mrs. Miñano the following morning what Mr. Miñano did to you because you did not know what he inserted to you, is that correct?

A - Yes, sir.

Q - And you did not know whether it was his finger which he inserted into your vagina?

A - No, sir.

Q - What did he insert in your private parts? (sic)

A - It was his penis."[20]

" x x x.

"Q - And because you fainted, we could now say that you did not know what thing did (sic) Mr. Miñano inserted in your vagina because you were unconscious?

A - It was he who inserted his penis and I could not see because he was closing my eyes with his hands? (sic)[21]

"x x x.

"Q - What is your understanding when somebody tells you that a woman was sexually abused by a man, what is your understanding?

A - I do not know, sir, I cannot understand. He just inserted and I do not know what he inserted."[22]

"x x x.

"COURT:

Okey, this word again 'disgrasiya,' what do you mean by that word 'disgrasiya'?

A - Because it was he who personally wrestled me, it was he who really inserted his penis on my vagina and if not for this case I should have gone to school."[23]

It seems that her mind really fluctuated during the entire course of her testimony. One thing sure though, she knows what a penis is:

"COURT:

You know what is a penis?

A - Yes, sir.

Q - Do you have penis?

A - None, sir."[24]

The victim's behavior after she recovered consciousness is even more perplexing. The conduct of a woman immediately following the alleged assault is of utmost importance, as tending to establish the truth or falsity of the charge.[25] A rape victim's natural reaction upon regaining consciousness would be to rush out to seek help.[26] In this case, the victim was too casual, too nonchalant about her supposedly harrowing experience in the hands of the accused-appellant. According to her, she slept together with Dinah in her room. Dinah arrived after the rape incident.[27] She did not reveal the incident to the wife of the accused- appellant upon her arrival due to the ridiculous excuse that she (victim) was already fast asleep and she did not know what the accused-appellant inserted in her vagina and what will happen.[28] She did not report the incident to her mother.[29] Neither did she inform her father due to another ridiculous excuse that she did not know whether or not she was pregnant,[30] nor the police.[31] It is quite unnatural for a girl not to reveal the assault on her virtue immediately after it has happened especially when there is no threat on her life,[32] or when there is no restraint on her liberty, as in this

case.

The victim's behavior in the morning of the following day is simply incredulous. She still went to school.[33] In the light of human experience, a rape victim could not possibly recover immediately from a traumatic experience.[34]

After the incident, her relationship with the accused-appellant was cordial.[35] A week after the incident, she left the house of the accused-appellant[36] because classes in school have ended[37] and she felt lonely.[38] These are reasons that are leagues apart from the rape incident. But before she left, she asked the permission of the accused-appellant and his wife because she knew quite well that it would be bad if she does not do so.[39] Viewed in its entirety, her behavior after the rape incident was truly inconsistent with the charge of rape.

What strikes the attention of the Court further, is the fact that the victim filed the complaint only on December 6, 1988.[40] It took her more than eight months to complain about the incident which occurred on March 13, 1988. The prosecution did not endeavor to explain the delay. It is probable that had the victim not become pregnant, she would not have disclosed the incident at all to anyone.[41]

The accused-appellant sets up the main defenses that at the time of the rape incident, their entire family was at home and the victim left their house on March 11, 1988. Although these were adequately corroborated by his wife, not much credence should be given to her testimony. It is undeniably tainted with bias since it springs from the natural desire of a wife to bail out her husband from criminal liability even to the extent of lying.[42] We thus find his defenses weak. However, it is an enduring rule that the prosecution must rely on the strength of its evidence rather than on the weakness of that of the defense.[43] This Court has no option but to declare that the prosecution has failed to meet the exacting test of moral certainty and proof of guilt of the accused-appellant beyond reasonable doubt. It is imperative that We reverse the trial court's guilty verdict.

WHEREFORE, the decision appealed from is hereby REVERSED. The accused-appellant is ACQUITTED of the crime of rape.

SO ORDERED.

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

[1] P. 13, Rollo.

[2] P. 82, Rollo.

[3] Pp. 9-16, TSN, Aug. 11, 1989.

[4] Exhibit "1."

[5] Pp. 16-38, TSN, Aug. 11, 1989; pp. 161-165, TSN, Aug. 9, 1990.

[6] Pp. 160-161, TSN, Aug. 9, 1990.

[7] Pp. 40-42, TSN, Aug. 11, 1989.

[8] Exhibit "C."

[9] Pp. 47-56, TSN, Jan. 25, 1990.

[10] Pp. 67-99, TSN, May 4, 1990.

- [11] Pp. 104-114, TSN, June 15, 1990.
- [12] Pp. 121-153, TSN, Aug. 9, 1990.
- [13] Pp. 79-90, Rollo.
- [14] *People v. Tereso*, G.R. No. 84354, 194 SCRA 154 (1991).
- [15] *People v. Permison*, G.R. No. 89664, 199 SCRA 635 (1991).
- [16] *People v. Permison*, *supra*; *People v. Leopante*, G.R. No. 85328, 187 SCRA 190 (1990).
- [17] Pp. 19-20, TSN, Aug. 11, 1989.
- [18] P. 13, TSN, Aug. 11, 1989.
- [19] P. 15, TSN, Aug. 11, 1989.
- [20] P. 21, TSN, Aug. 11, 1989.
- [21] P. 25, TSN, Aug. 11, 1989.
- [22] P. 28, TSN, Aug. 11, 1989.
- [23] P. 37, TSN, Aug. 11, 1989.
- [24] P. 28, TSN, Aug. 11, 1989.
- [25] *People v. Baderes*, G.R. No. 38413, 153 SCRA 253 (1987).
- [26] *People v. Herrick*, G.R. No. 85137, 187 SCRA 364 (1990).
- [27] P. 14, TSN, Aug. 11, 1989.
- [28] P. 21, TSN, Aug. 11, 1989.
- [29] P. 24, TSN, Aug. 11, 1989.
- [30] P. 25, TSN, Aug. 11, 1989.
- [31] P. 22, TSN, Aug. 11, 1989.
- [32] *People v. Mejias*, G.R. No. 79677, 168 SCRA 33 (1988); *People v. Cuarteros*, G.R. No. 68764, 195 SCRA 285 (1991).
- [33] P. 14, TSN, Aug. 11, 1989.
- [34] *People v. Mejias*, *supra*.
- [35] Pp. 28-29, TSN, Aug. 11, 1989.
- [36] P. 17, TSN, Aug. 11, 1989.
- [37] P. 16, TSN, Aug. 11, 1989; p. 158, TSN, Aug. 9, 1990.
- [38] P. 37, TSN, Aug. 11, 1989.
- [39] P. 29, TSN, Aug. 11, 1989.
- [40] P. 19, TSN, Aug. 11, 1989.

[41] People v. Flores, G.R. No. 60665, 125 SCRA 244 (1983).

[42] People v. Loste, G.R. No. 94785 (1992).

[43] People v. Permison, supra.

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