

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGELIO TALENTO, ACCUSED-APPELLANT.

G.R. No. 97611. August 10, 1992

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is an appeal from the decision of the Regional Trial Court, Branch 44 of Mamburao, Occidental Mindoro which found the appellant Rogelio Talento guilty beyond reasonable doubt of the crime of rape in Criminal Case No. Z-581.

Two separate informations for rape filed by the offended party identically charged that the appellant by means of violence and intimidation, had carnal knowledge with one Shiela Talento, against her will and consent (1) "on or about the month of August, 1989" (Criminal Case No. Z-580) and (2) "on or about the month of November, 1988" (Criminal Case No. Z-581). A third information for attempted rape also filed by the offended party charged that on or about the midnight of May 18, 1990, the appellant commenced the commission of the crime of rape against his legitimate daughter, one Shiela Talento, but did not perform all the acts of execution which should have produced the crime of rape as a consequence because said Shiela Talento was able to fight back and struggle for her safety (Criminal Case No. Z-582).

The trial court tried said cases jointly, and after appropriate proceedings, rendered a decision dated January 10, 1991, the dispositive portion of which reads:

"WHEREFORE, the Court finds the accused ROGELIO TALENTO GUILTY beyond reasonable doubt of the crime of rape in Criminal Case No. Z-581, and hereby sentences him to suffer the penalty of reclusion perpetua and to pay Shiela Talento the sum of P30,000.00 as moral damages as well as costs.

"In Criminal Case Nos. Z-580 and Z-582, accused is ACQUITTED, for want of ample evidence to establish his guilt beyond reasonable doubt." (Decision, p. 26, Rollo)

The evidence of the prosecution, consisting of the testimonies of the rape victim, Shiela Talento, her best friend, Agapita Arnaiz, the church minister, the police investigator and the medico-legal officer, tends to show that -

"x x x (I)n 1988 or even prior thereto, she (complainant), her two (2) brothers and father were then living in the house of her paternal grandparents, spouses Braulio and Maria Talento at Poblacion, Sta. Cruz, Occidental Mindoro. One night in November, 1988 at about midnight, she was awakened from her sleep when her father, Rogelio Talento, placed his knees on top of her thighs. Using one hand, her father then held both her hands while the other hand covered her mouth. Thereafter, she lost consciousness. After coming to her senses, she felt pains all over her body, particularly in her shoulders, waist, buttocks and down to her private parts. She found blood and sticky substance in her private parts. Her panties were already lowered down below her knees. Nearby was her father likewise lying down on the floor. After a few moments the latter warned her not to tell anybody what was done to her, otherwise, she would be killed. Afraid, helpless and confused, she merely cried silently. Subsequently, still in the month of November, 1988, she was raped three (3) more times by her father at a weekly interval.

"In August 1989, while she was lying and writing, her father suddenly held her hands and placed his knees on top of her thighs. She again fainted, and her father was able to rape her anew.

"Finally, on May 18, 1989, while she was inside the room after coming from the church, her father entered and tried to rape her. However, she was able to kick the latter's legs, and this made him ran away in the direction of the seashore. The following day, she finally went to her friend, Agapita Arnaiz, for some help. And in the presence of the latter's parents, she told Agapita that she was raped several times by her father. After narrating her harrowing experience, accompanied by Agapita's parents and Agapita herself, she went to Edwin Peña, a church minister. She narrated again to Edwin what her father had done to her. Forthwith, Edwin called for Sgt. Lampitoc. Upon the arrival of the latter, Shiela repeated the same story to the policeman who promptly summoned Shiela's father.

"A confrontation between Shiela and her father took place upon the arrival of the latter. However, Rogelio did not readily admit the accusation. x x x." (Decision, pp. 17-18, Rollo)

The next day, Dr. Teresa Tan, then Chief of the Sta. Cruz Community Hospital, conducted a physical examination on the complainant, and she found that there were old lacerations on the complainant's hymen at 4:00 o'clock and 6:00 o'clock. She then concluded that complainant was no longer a virgin; that said lacerations could have been sustained a week or more prior to the examination; and that the vaginal smear showed no sperm (Exh. "A").

As his defense, the appellant relied on alibi which he tried to bolster through the testimonies of his brother, Manolito Talento, his sister, Minerva Morales, and his son, Benjamin Talento (complainant's brother).

He averred that he never raped his daughter, much less on November of 1988 because at that time, she was not living in the house of her paternal grandparents (where appellant was residing and where the alleged crime occurred) but was staying with her aunts; and that when the complainant stayed anew in her paternal grandparents' house, the appellant could not have raped her in the 3 by 4 meter room of said house where his parents and two sons were also sleeping.

On cross examination, however, the appellant's son admitted that the complainant was living with the appellant in their grandparents' house in November of 1988 (pp. 5-7, Tsn, September 17, 1990). The trial court also conducted an ocular inspection of said house and concluded that with the size of the room, it is not impossible for the appellant to commit the rape. Thus -

"Undoubtedly, the first time that accused ravished the complainant in (the) first week of November 1988, his two (2) son Benjamin and Sherwin were already asleep as it was about midnight. It is normal for children of tender age like the two (2) sons of the accused to sleep soundly that a noise could hardly wake them up in their sleep. The mother of the accused did not possibly notice the commission of the offense for she was naturally at the other portion of the room which is separated by a partition beside her sick husband. Moreover, with impaired senses by reason of old age, as the Court had observed her during the ocular inspection, she could hardly perceive anything around her, especially so that in all likelihood she was also asleep. With more reason as regards accused's father who suffered a stroke and has been debilitated. As a matter of fact, the victim was likewise asleep. She was only awakened after the accused placed his knees on top of her thighs." p. 22, Rollo)

On January 10, 1991, the trial court convicted the appellant of one crime of rape committed in November of 1988 (subject of Criminal Case No. Z-581). Other charges filed against the appellant for sexual assaults committed thereafter were dismissed because they were not described in detail by the complainant (pp. 25-26, Rollo).

In his bid for a reversal, the appellant impugns the guilty verdict based on the medico legal's testimony that the lacerations found on the complainant's hymen could have been sustained "about a week or more before the examination" (conducted on May 21, 1990). The appellant insinuates that the complainant must have lost her virginity to Pastor Edwin Peña (with whom she was having an illicit affair) when she joined the latter's camping

bout last May 14-17, 1990. He claimed that complainant, unlike the other campers, was required to sleep and stay in camp for four successive nights and days and as a result, he scolded her as he cared so much for her and his other children since his wife betrayed him and lived with another man.

We reject this submission.

Firstly, if such an illicit affair was indeed happening, there was no point in creating a public spectacle out of an otherwise successful secret liason. Secondly, appellant -- her father -- would be the very last person to be blamed by complainant for causing her to lose her innocence in the most horrible way, if it were not really true. Thirdly, despite advances in forensic medicine, there are certain limitations which prevent doctors from stating with complete certainty the precise time a healed wound was caused. But since the wound heals approximately in one week, the report that the lacerations could have been inflicted at least one week before examination does not negate the commission of the first rape in November of 1988.

The complainant positively identified the appellant as the malefactor. There was sufficient illumination from the moon, which streamed through the open windows of the house (tsn, August 14, 1990, p. 8). It must also be remembered that the man who raped her was her very own father, someone who is extremely familiar to her. She knows his face, his voice and his physical appearance -- important details about, the appellant which she has become intimately knowledgeable since birth. Thus, the complainant's positive identification of the appellant as the rapist prevails over his defense of alibi.

The trial judge's conviction that the accused had raped his daughter is a finding that merits the highest respect of this Court for he had unmatched opportunity to hear the witnesses testify, assess their credibility, and observe their demeanor under questioning (People v. Francisco, G.R. No. 69500, February 15, 1990, 182 SCRA 305; People v. Besa, G.R. No. 78899, March 22, 1990, 183 SCRA 533).

We particularly note with approval the following observations of Judge Niovary M. Marin on the testimonies of the complainant and her father, the herein appellant:

"Moreover, on the witness stand Shiela did not exhibit manifestations, actions, movements, mannerism or facial expressions, indicative of insincerity or falsehood. She did not show hesitancy in directly pointing the accused as the perpetrator of the incidents. However, she was so depressed and dejected that, at times, she could not hold back her tears while narrating the tragic incidents, and her harrowing experience in the hands of her own father. As a matter of fact, at one time, the Court was constrained to temporarily suspend her testimony so that she could take a glass of water to calm her down for she became hysterical and was about to eventually collapse. Nonetheless, such attitude bolsters rather than weakens the truthfulness of her accusation. Besides, she was able to finally withstand a long and exhaustive cross examination without incurring any serious contradictions in her testimony.

"In fine, the Court had inevitably found Shiela's testimony more credible and worthy of belief.

"Upon the other hand, as the Court had observed the accused during the trial, especially at the witness stand, the latter was always dejected and abashed. His head bowed down, not wanting to gaze or glance at anyone, all the more to the complainant. Such behaviour eloquently betrays a guilty conscience. Further, the accused was evasive in answering relevant questions. His testimony is wanting of the tone and firmness that would inspire belief for it was punctured with constant pauses and hesitations." (Decision, p. 60, Records)

ACCORDINGLY, the appealed decision is hereby AFFIRMED in toto with costs against the accused?appellant.

Cruz, (Chairman), Griño-Aquino, and Bellosillo, JJ., concur.

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