

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PEDRO LAROA, ACCUSED-APPELLANT.

G.R. No. 98428. September 18, 1995

Ponente: VITUG, J.

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VITUG, J.:

In this appeal, accused-appellant Pedro Laroa questions the decision of the Regional Trial Court, Branch 1, of Tagum, Davao, finding him guilty of the crime of rape and sentencing him to reclusion perpetua under an Information that read:

"The undersigned upon complaint filed by the offended party accuses PEDRO LAROA of the crime of Rape under Article 335, par. 3 of the Revised Penal Code, committed as follows:

"That on or about May 3, 1990, in the Municipality of Kapalong, Province of Davao, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused, did then and there wilfully, unlawfully and feloniously have carnal knowledge of Marites Balongga, a seven (7) years old child."[1]

When arraigned, the accused entered a "not guilty" plea.

The young victim, Marites Balongga, is one of five children of the spouses Pablo and Nenita Balongga of Gabuyan, Kapalong, Davao. In the evening of 03 May 1990, Nenita and the children spent the night at the house of her mother Teodora de la Cruz. Nenita stayed with four of her children, Marites included, at the sala while the fifth child slept with the grandmother, Teodora, and Nenita's younger sister, Filomena de la Cruz, in the only other room of the house. Nenita slept with the wall to her left and the children on her right. A little farther to the right on another mat, so distanced as to allow passage in between mats, were Pedro Laroa and Nenita's nephews Vito Elintorio and Fernando Suganob. Accused Pedro Laroa, a "boyfriend" or fiancé of Filomena, lived in the same house since 1987.

The discord between the evidence given by the prosecution and that presented by the defense starts on the events that unfolded during the early hours of the following morning of 04 May 1990.

According to the prosecution, Laroa carried Marites over to his side of the mat. He covered her mouth, almost choking her, removed her panty, and thereupon sexually abused her. When Nenita Balongga was awakened moments later by the cries of her youngest child, Pablo, she noticed the absence of Marites. She lighted a wicker lamp and saw Marites lying beside Laroa. Reaching for her, she saw Marites lying flat on her back, apparently unconscious, with her two legs spread wide apart without her panty on. She felt the presence of sticky fluid and blood on the child. Hurriedly, she took her daughter away from Laroa's side.

At around six o'clock that same morning, Marites was brought by Nenita to the Barangay Captain and then to the Rural Health Clinic for examination. The findings of Dr. Eugenia Solis-Hingpit, contained in the corresponding medical certificate, would indicate that Marites had sustained -

"Circular abrasion around the vaginal canal extending to labia minora of both sides and clitories introitis admits one finger with pain.

"Laceration about 0.3 length with scanty fresh blood at about 6 o'clock of posterior cervix."[2]

The following day, Marites was brought to the Kapalong District Hospital due to her difficulty in urinating. Dr. Ma. Suzette Ramos found her to be suffering from Urethritis or inflammation of the urethra (located above the vaginal canal) caused by trauma.

On 06 May 1990, when Marites appeared to have somehow gotten over the shock, Dr. Ramos inquired why she found it painful to urinate. She replied that it was because her "vagina was abused."

After the prosecution had rested its case and before taking the witness stand himself, the accused presented Teresita Alejandria, Ruben Elintorio, and Filomena de la Cruz.

Teresita Alejandria, an old friend of the accused, testified that on 03 May 1990 she stayed overnight at the house of Rufina Javier, an acquaintance, about seven steps away from the house of "Nang Doray" (Teodora de la Cruz). She was suffering at the time from "LBM" (loose bowel movement) that constrained her to make frequent visits to the comfort room which was located about three meters away from the house of "Nang Doray." She remembered having gone to the comfort room around four times that night. During those visits, she had observed that the de la Cruz house was lighted by a lamp hanging inside the house. She could not recall having heard any voice, let alone cries for help, coming from the house.[3]

Ruben Elintorio, a cousin of Marites, said that in the evening of 03 May 1990, he slept in between Fernando Suganob and Pedro Laroa and he witnessed no unusual incident taking place during the night. The following morning, he said, Marites was even up and about.[4]

Filomena de la Cruz, testified that just as night fell on 03 May 1990, Nenita and her five children slept on one side of their sala while Pedro Laroa and her two nephews took the other side. She heard no calls for help or witnessed anything unusual during the night until the next morning when she heard her sister Nenita shouting and telling Laroa of having raped Marites. Filomena confronted Laroa on it but the latter denied having done anything wrong. She expressed her suspicion that Nenita must have filed the case against Laroa in order to stop him from marrying her (Filomena).[5] She said that Laroa started courting her in 1987 and accepted his "offer of love" on 20 January 1990.[6]

The accused admitted that he, along with Nenita and her children, stayed in the house of Filomena on the night of 03 May 1990. He slept with Armando on his right and Jovito on his left. The place was lighted by a lamp. He denied having even touched Marites.[7] He believed that the only reason behind Nenita's accusation was to prevent him from marrying Filomena.[8]

The trial court, on 13 December 1990, rendered its decision, finding the accused guilty of rape and sentencing him accordingly; thus:

"WHEREFORE, premises considered, the guilt of PEDRO LAROA having proven beyond reasonable doubt pursuant to Article 335, paragraph 3, of the Revised Penal Code, he is hereby sentenced to a penalty of Reclusion Perpetua.

"SO ORDERED."

In appealing the judgment, accused-appellant asseverates that the trial court has erred-

1.) in giving weight and credence to the doubtful and contradictory testimonies of complainant Marites Balongga

and her mother Nenita Balongga;

2.) in convicting the accused of the crime charged; and

3.) in not acquitting the accused on the ground of reasonable doubt.

We are constrained to sustain the conviction.

Marites was unequivocal in stating that she was raped, and that it was accused-appellant, Pedro Laroa, who abused her. Her testimony was straightforward:

"Q

Marites, do you have a father?

"A

Yes, I have.

"Q

Do you still have a mother?

"A

Yes, I have.

"Q

How many brothers and sisters do you have?

"A

We are five (5).

"Q

Name them please?

"A

Luisito, I myself, Aurora, Nilo and Junior.

"Q

You said that you go to school. What school is that, if you know?

"A

I don't know.

"Q

Do you remember that on May 3, 1990, together with your mother and your brothers, you were sleeping in the house of your Iola?

"A

Yes, sir.

"Q

What about your father, where was he?

"A

He was at home.

"Q

Do you remember what happened to you on that particular evening, particularly dawn on May 4, 1990?

"A

Yes, sir.

"Q

What happened to you?

"A

I was raped.

"Q

Who raped you, if you know?

"A

Pedro Laroa.

"Q

If this Pedro Laroa is in court, please point to him?

"A

Yes, sir.

"Q

Please point to him.

"A

(Witness pointed to a man inside the courtroom, who, when asked his name, answered Pedro Laroa.)

"Q

You said that you were raped. How did you know that you were raped?

"A

Because I was awakened.

"Q

Why did you not shout?

"A

Because he tried to cover my mouth and at the same time choked me.

"Q

And what happened to you when your mouth was covered and your neck was choked?

"A

He removed my panty and also he removed his brief.

"Q

Before this incident of raping you, you slept beside your mother?

"A

No.

"Q

Where were you sleeping or who was sleeping beside you before you were raped?

"A

My elder brother.

"Q

What is the name of your elder brother?

"A

Luisito Balongga.

"Q

Can you tell us why you were beside Pedro Laroa since according to you you were sleeping with your elder brother?

"A

Because he carried me.

"Q

Who carried you?

"A

Pedro Laroa.

"Q

When your panty was removed and the brief of Pedro Laroa was also removed, what else happened?

"A

He had a sexual intercourse with me."[9]

When a victim says she has been raped, almost always she says all that has to be said.[10] Marites may not have related in great detail the sexual abuse against her person but what she has lacked in specificity is more than made up by the substance of her testimony. A court would often have marked receptivity to the testimony of a naive

whose simple answers to questions on the witness stand can well exude candor and sincerity.[11] Her responses even on cross-examination reveal to us her spontaneity, and an unrehearsed testimony, thus:

"Q

Marites, you told this court that you slept in the house of your Iola on May 3,1990.

Can you tell us why you were there sleeping that night?

"A

Because my mother harvested rice that time.

"Q

Do you know who was that rice your mother was harvesting?

"A

That is owned by Berto.

"Q

Now, you said Pedro Laroa carried you to the place where he was sleeping.

How do you know it was Pedro Laroa who carried you? Was there a light at that time?

"A

There was no light. Because I was awakened.

"Q

And when you were awakened, the sala was dark, is it not?

"A

Yes, sir.

"Q

And when you felt somebody was carrying you, did you not shout for help?

"A

Because I was asleep.

"Q

Is it not a while ago you were awakened when you were lifted from the place where you were sleeping?

"A

Yes, sir.

"Q

And when you felt somebody is carrying you, you did not shout for your mother to help you?

"A

No.

"Q

Not even for your grandmother to help you?

"A

No.

"Q

You did not also ask help from your auntie Filomena?

"A

No.

"Q

Not even from your cousins Vito and Fernando?

"A

No.

"Q

Now, when you were carried from the place where you were asleep, where were you brought?

"A

At his place.

"Q

Whose place?

"A

At Pedro Laroa's place.

"Q

And what did Pedro Laroa do after bringing you to the place where he was sleeping?

"A

Immediately thereafter, he removed my panty.

"Q

Tell us first how were you able to identify it was Pedro Laroa who carried you when the night was dark?

"PROSECUTOR MACADANGDANG:

Already answered, Your Honor.

"ATTY. MARANIAN:

There was no answer.

"COURT:

There was no answer.

(To the Actg. Interpreter)

Translate.

"WITNESS:

"A

Because I recognized his shirt.

"ATTY. MARANIAN:

"Q

Can you tell us how were you able to recognize his shirt?

"A

He was wearing white shirt that time.

"Q

And you were able to see that white shirt that time, at the time you were carried to his place?

"A

Yes, sir.

"Q

In short, the sala of your Iola was not dark because you were able to see the white shirt of Pedro Laroa?

"A.

There was a little brightness.

"Q

That little brightness came from the kerosene lamp inside the house of your Iola, is that correct?

"Q

Also in the sala of your Iola, there was kerosene lamp that night, is that correct?

"A

None."[12]

Accused-appellant argues that the statement of Marites of having been raped seven times is incredible. He forgets that the victim is only a girl of tender age. What she has termed "seven times of rape" may have actually been seven thrusts or attempts to enter her. Neither deep penetration of, nor the presence of spermatozoa in, the victim's vagina is essential in a crime of rape.[13]

Accused-appellant seeks to discredit the testimony of Nenita Balongga, the victim's mother, for being allegedly contradictory, improbable and circumstantially dubious. We have closely studied her testimony - basically to the effect that when she was awakened by the cries of her youngest child, Pablo, Marites was no longer at her own

place of the mat but was beside appellant lying flat on her back without her underwear and with a sticky substance and blood on her genitals - and we are morally convinced that they could not have simply been made up by her. It would be anomalous to think that a mother would stamp her child with the stigma that follows a rape and unnecessarily subject her to humiliation, embarrassment and public curiosity.[14]

The medical findings of two physicians, Dr. Eugenia Hingpit and Dr. Ma. Suzette Ramos are incontrovertible. Dr. Hingpit diagnosed a swelling of the labia minora with laceration of the posterior portion and "clitoris introitis admits one finger with pain; laceration about 0.3 length with scanty fresh blood at about 6 o'clock of posterior cervix," and a circular abrasion around the vaginal canal caused by friction. Dr. Ma. Suzette Ramos, who examined her on 05 May 1990, testified in this wise:

"Q

There is here below item number 4 on the right side Will you read this, Doctor?

"A

That is genetu urinary tract; no internal examination done because patient is uncooperative.

"Q

You mentioned in your direct examination, Doctor, you mentioned of an object above the vagina.

Is that ureta?

"A

Urethra.

"Q

And that is the object you wanted to examine?

"A

No. Actually, you cannot examine the urethra because it has a very small opening.

COURT:

(To the witness)

"Q

Is that where the urine passes?

"A

Yes. It connects the opening where the urine comes out and the bladder.

"ATTY. MARANIAN:

"Q

And that is the thing inflamed?

"A

Yes, sir.

"Q

And you testified in court there could be three causes for inflammation of urethra?

"A

Yes, sir.

"Q

One is infection, next is bacteria, next is trauma?

"A

Yes, sir.

"Q

The fact, Doctor, is you are not certain because you have not conducted an internal examination what really caused inflammation of the urethra of that patient?

"A

It could be trauma because the patient has no fever at that time, because if it is infection, the patient could have fever.

"Q

How about if that is cause by bacteria?

"A

That patient still will have fever.

"Q

And were you not surprised why the patient is very apprehensive?

"A

Because the patient complained of pain of the vagina.

"Q

And in that, Doctor, have you not interviewed your patient what might have caused the inflammation of the urethra?

"A

As claimed by the mother of the patient, because I interviewed the mother, this inability to urinate was noted a day before when the patient was allegedly raped.

"Q

But you noted, Doctor, your patient can talk very, very well?

"A

Yes, sir.

"Q

Did it not come to your mind to re-check the alleged claim of the mother that she was raped?

"A

Because the patient was crying, so I cannot rely on the patient.

"Q

After 15 minutes, Doctor, you said she cooperated with you, that is why you were able to find inflammation of the urethra while conducting an external examination.

Did you not try to persuade your patient to tell you the cause?

"A

The patient consented to be examined but still crying.

"Q

But the fact is while conducting the examination, you never asked her question about what caused the inflammation of the urethra?

"A

I asked her the following day wherein the patient is already somewhat at home in the hospital. I asked her: 'Why is it painful to urinate?' 'When did it happen?' So, she told me 'Yesterday'. 'Why?' 'Because my vagina was abused.'"[15]

Accused-appellant suggests that the friction which caused the swelling of the victim's perineum might have been caused by another object, such as a finger and not necessarily by a male organ, considering Dr. Hingpit's own testimony to this effect:

"Atty. Maranian:

Q:

But is it possible, Doctor, that the injury on the genitalia of the child was not caused by a penis?

A:

Yes, Sir."[16]

We note, however, that Dr. Hingpit has made the remark only in response to a follow-up question and answer, to wit:

Q:

Is it possible, Doctor, that the injury on the genitalia of the child was caused by a finger which was introduced into the genitalia, the size of which is no bigger than the size of your finger?

A:

"A No, Sir."[17]

In any case, the assigned errors focus mainly on the trial court's appreciation of the evidence consisting of the

testimonies of witnesses for both the prosecution and the defense. The Court respects the rule that an appellate tribunal should defer to the findings of a trial court on the credibility of witnesses unless it is clear that the latter has plainly overlooked facts of substance and value that, if considered, might affect the results of the case.[18] We have examined with care the records, and we see more than enough to support the findings of the trial court.

We observe that the trial court did not award moral damages. Under prevailing jurisprudence, the accused in rape cases is required to indemnify the offended party P30,000.00 for moral damages. In statutory rape cases and forcible abduction with rape, as well as the rape of a young girl with age ranging from 13 to 19, the rape of a mental retardate, the rape of a wife in front of her husband, and other instances of like gravity, the award of moral damages is increased to P50,000.00.

WHEREFORE, the decision of the trial court finding accused-appellant guilty is hereby affirmed, and he is further ordered to indemnify the victim the amount of P50,000.00 by way of moral damages. Costs against appellant.

SO ORDERED.

Romero, (Acting Chairman), and Melo, JJ., concur.
Feliciano, (Chairman), J., on leave.

[1] Rollo, p. 5.

[2] Exhibit "A."

[3] TSN, 04 December 1990, pp. 5-11.

[4] TSN, 04 December 1990, pp. 24-28.

[5] TSN, 04 December 1990, pp. 32-40.

[6] TSN, 04 December 1990, pp. 41-42.

[7] TSN, 04 December 1990, pp. 66-70.

[8] TSN, December 4, 1990, pp. 57-65.

[9] TSN, 13 September 1990, pp. 32-35.

[10] People vs. Rabanes, 208 SCRA 768; People vs. Matrimonio, 215 SCRA 613; People vs. Biendo, 216 SCRA 626; People vs. Pamor, 237 SCRA 462; People vs. Joya, 227 SCRA 9.

[11] People vs. Guibao, 217 SCRA 64.

[12] TSN, 13 September 1990, pp. 35-39.

[13] People vs. Barro, Jr., 188 SCRA 284; People vs. Salazar, 93 SCRA 796; People vs. Magallanes, 218 SCRA 109.

[14] People vs. Rio, 201 SCRA 702; People vs. Ignacio, 233 SCRA 1.

[15] TSN, 06 November 1990, pp. 16-20.

[16] TSN, 17 September 1990, p. 20.

[17] TSN, 17 September 1990, p. 20.

[18] People vs. Rivera, G.R. No. 87187, 29 June 1995; People vs. Dado, G.R. No. 87775, 01 June 1995; People vs. Malagar, 238 SCRA 512.

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