

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SOFIO MOHADO Y GARBO, ACCUSED-APPELLANT.*G.R. No. 98433. October 05, 1993*

Ponente: CRUZ, J.

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Mutya was awakened with a kiss but it did not send her into transports of love. In fact she found it distasteful and pushed the intruder away. But the intruder was not to be denied and in the end had his way with her. He left the outraged maiden in tears and with a sullied purity.

Her full name was Mutya Ebarvia and she was only 14 years old at the time of the incident. The man who she claimed had ravished her was 22-year old Sofio Mohado, her neighbor in Barangay Balubad, Lumban, Laguna. At her instance, he was prosecuted for rape in an information filed with the Regional Trial Court of Sta. Cruz, Laguna.[1]

The principal witness for the prosecution was, of course, Mutya herself.[2] She said that the attack happened at about 5 o'clock in the afternoon of July 11, 1990. She was all alone in her house when Mohado entered unbidden and roused her from her sleep with his unwelcome kiss. She tried to ward him off but he slapped her twice in the face and boxed her abdomen, making her faint. She recovered consciousness when she felt his manhood penetrate and rupture her maidenhead, causing her much pain. She found she had been undressed. She could not shout for help because she had been gagged with a piece of cloth. When Mohado finally released her, he informed her, as if to explain his filthy act, that he was under the influence of marijuana. He then threatened to kill her and her family if she reported the attack.

The threat did not daunt her, however, because she immediately informed her mother of the rape when she arrived that night. The following day, as Evelyn Ebarvia also testified,[3] they reported the matter to the police. Mutya was examined at the Provincial Health office in Sta. Cruz, Laguna.

Dr. Lorna Labutong, who made the examination, found no external injuries on Mutya's abdomen or extremities. However, there were two healed lacerations in the girl's vagina, indicating its penetration by a blunt object. The doctor opined on the stand that it was possible for the laceration of a hymen to take ten days to heal although two or three days would be more likely. She also said she found no discharge or smear of spermatozoa in Mutya's vagina.[4]

Mohado testified for himself and denied the charge that he had raped Mutya. He claimed he was her sweetheart and admitted only that they were kissing that afternoon in the stairs of the Ebarvia house when her mother came upon them. Evelyn scolded him and warned him she would have him arrested if he showed his face in her house again. And so he left. He was surprised when he was picked up in the evening of the same day and later accused of raping Mutya.[5]

Florencio Malinis, who identified himself as the acting barangay captain of Balubad, testified that in the evening

of July 11, 1990, Evelyn complained that Mohado had kissed her daughter Mutya. Mohado offered to marry the girl but the girl demurred, saying she had to finish her schooling. Evelyn agreed not to file any charge against Mohado as long as he kept away from Mutya. On that undertaking, Malinis considered the case closed.[6]

In a decision dated February 28, 1991, Judge Jose Catral Mendoza found Sofio Mohado guilty as charged and sentenced him "to suffer the penalty of reclusion perpetua, to indemnify the victim, Mutya Ebarvia, the amount of P20,000.00 as damages, without subsidiary imprisonment in case of insolvency, and to pay the costs." [7]

The appellant now challenges his conviction on the ground that the trial court should not have given credence to the testimonies of Mutya and her mother Evelyn because of their many inconsistencies and contradictions. He adds that the decision should have instead applied the constitutional presumption of innocence in his favor because of the weakness of the prosecution.

We shall affirm his conviction.

The claimed inconsistencies are minor and do not detract from the essential veracity of the testimonies of Mutya and her mother. The Court notes that the two are not possessed of the intelligence that would have enabled them to recall exactly, in perfect detail, the traumatic incident that befell them. Evelyn had not even finished Grade One[8] and Mutya was still in Grade Three.[9] The contradictions in their testimonies - such as the precise moment Mutya lost consciousness and the time she reported the rape to her mother - demonstrate rather than impair their truthfulness and dismiss all suspicion of inventiveness or perjury.

Speaking of another rape victim not unlike Mutya, the Court said in *People v. Baao*: [10]

We do not believe, given the naivete and limited intelligence of the complainant, that she could have fabricated her charges against accused-appellant, weaving a tale of pure fantasy out of mere imagination. She does not appear to have such inventiveness.

Neither do we suspect, again considering what the trial judge described as her "low mentality," that the complainant's testimony was coached and thereafter recited from memory. She would not be capable of such a feat, and let it be added, such deceptiveness.

It is true that there were some inconsistencies in her narration of her ordeal but they do not in our view detract from its basic truthfulness.

The defense stresses that no external injuries were found on Mutya, concluding therefrom that no force had been exerted on her. What she testified to was that she was slapped in the face and boxed in the abdomen, which acts, while violent, would not necessarily cause abrasions or bruises, much less open wounds. In any event, we have held that proof of external injuries on the complainant is not indispensable in a prosecution for rape committed with force or violence.[11] The absence of such injuries does not negate the allegation of such force or violence as long as there is other evidence to support it.

The lacerations in the complainant's hymen and the bloodied panty she submitted as an exhibit[12] explain each other. Nevertheless, the defense wonders how the lacerations could have healed so quickly if they had been caused only the day before. This is not necessarily impossible, for there are many factors that affect the healing process, slowing it in some persons and hastening it in others. The human body does not function with precise predictability but reacts variably to the person's age, sex, diet, activities and even to external conditions like weather and environment.[13] The examining physician suggested, among these factors, "the blood supply of the area lacerated and the absence of infection."

The absence of spermatozoa in Mutya's vagina does not disprove the commission of the rape. Dr. Labutong testified that sperm cells might last only eight hours or they could have been washed away[14] by the rape victim

when she cleaned herself after her violation. The important consideration in rape cases, as we have held repeatedly, is the penetration of the pudenda and not the emission of seminal fluid.[15] Mutya testified to such penetration.

The trial court was correct in rejecting Mohado's allegation that he and Mutya were sweethearts. There is no evidence of this relationship other than his self-serving statement. Mutya has denied the appellant's claim and in fact wants him punished for his attack on her. Even assuming such a relationship, we find no explanation in the record for Mutya's hostile attitude toward her pretended sweetheart.

The evaluation by the trial judge of the credibility of the witnesses is well nigh conclusive on this Court, barring arbitrariness in arriving at his conclusions.[16] There is no reason in the case at bar to reverse such findings. We note that the trial court was especially impressed with the testimony of Mutya, whose "demeanor was closely observed" and who showed "no conduct that could have engendered doubt on the story. She steadfastly maintained it despite the searching cross-examination." To this we will add that there is also a showing at all that she was motivated by malice in bringing the charge against her attacker.

We find with the trial court that Sofio Mohado raped Mutya Ebarvia in the afternoon of July 11, 1990, and that for this offense against her chastity he deserves the penalty of reclusion perpetua as prescribed by law.[17] The civil indemnity will, however be increased to P30,000.00, conformably to the current policy of the Court.

For his loathsome lechery, the 22-year old Sofio will live his life behind prison bars until he is an old and chastised man. This is condign punishment. But fate will be crueler to the innocent Mutya, who will suffer a heavier penalty. She will be imprisoned by the ugly memory of her defilement. Worse, she has been denied the thrill of a first surrender, to the one person freely chosen by her, of her pure and virgin love.

WHEREFORE, the appeal is DISMISSED and the appealed judgment is AFFIRMED except for the civil indemnity, which is increased to P30,000.00. It is so ordered.

Davide, Jr., Bellosillo, and Quason, JJ., concur.

Griño-Aquino, J., on leave.

[1] Information, Rollo, p. 6. Accused with him as an accomplice was Monchito Argayuso, who was acquitted for insufficient evidence.

[2] TSN, November 6, 1990, pp. 1-17.

[3] TSN, November 8, 1990, pp. 2-4.

[4] TSN, November 13, 1990, pp. 1-12.

[5] TSN, December 11, 1990, pp. 1-6.

[6] TSN, December 13, 1990, pp. 2-4.

[7] Rollo, p. 26.

[8] TSN, November 8, 1990, p. 10.

[9] TSN, November 6, 1990, p. 2.

[10] 142 SCRA 476.

[11] People v. Rabanes, 208 SCRA 768.

[12] Exhibit "D" (TSN, November 13, 1990, p. 14) and Exhibit "E", Records, p. 2.

[13] Appellee's brief, p. 30.

[14] TSN, November 13, 1990, p. 6.

[15] People v. Magaluna, 205 Scra 266.

[16] People v. Abugan, 211 SCRA 662.

[17] Article 335 of the Revised Penal Code.

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