

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.EDUARDO CABALLES AND REYNALDO MABINI, ACCUSED, EDUARDO CABALLES, APPELLANT.

G.R. Nos. 102723-24. June 19, 1997

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

This Court is appalled at the unabated commission of heinous crimes in our country. Particularly disheartening is the high incidence of rape perpetrated day by day in urban and rural areas alike.

In this ponencia, the Court finds occasion to clarify existing jurisprudence on the grant of damages in the crime of rape, which is likewise applicable to the crimes of murder, homicide and parricide. Civil indemnity in the amount of P50,000.00 (consistent with prevailing jurisprudence) is automatically granted to the offended party, or his/her heirs in case of the former's death, without need of further evidence other than the fact of the commission of any of the aforementioned crimes. Moral and exemplary damages may be separately granted in addition to indemnity. Moral damages can be awarded only upon sufficient proof that the complainant is entitled thereto in accordance with Article 2217 of the Civil Code, while exemplary damages can be imposed if the crime was committed with one or more aggravating circumstances duly proven. The amounts thereof shall be at the discretion of the courts.

In the case before us, Appellant Eduardo Caballes is charged with two (2) counts of rape allegedly committed in concert with Co-accused Reynaldo Mabini against Miguela Baculi in the evening of September 26, 1987. The two Amended Complaints, both dated October 26, 1987, sworn to by the victim and certified to by 4th Asst. Fiscal Rodolfo G. Ugsad, indicted the accused as follows:

“That on or about the 26th day of September, 1987, at about 8:00 P.M., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conniving and confederating together and mutually helping each other, took turns in having sexual intercourse with the complainant by the use of force and intimidation, that is, while accused Eduardo Caballes was having sexual intercourse with the complainant, accused Reynaldo Mabini who at that time was pointing a knife at the complainant pulled Eduardo on top of the complainant, did then and there wilfully, unlawfully and feloniously have carnal knowledge of the complainant against her will.”[1]

And,

“That on or about the 26th day of September, 1987, at about 8:00 P.M., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conniving and confederating together and mutually helping each other, to wit: while the two accused hold (sic) her body by the use of force, violence and intimidation, accused Reynaldo Mabini hold (sic) her hands and pointing a knife at her, pressing her to the ground, accused Eduardo Caballes did then and there wilfully, unlawfully and feloniously have carnal knowledge of the complainant against her will, and inflicting upon her the following physical injuries:

CONTOUSION (sic) 1 x 1 CM (R) INFRAORBITAL; CONTOUSION (sic) 1 x 1 CM (R) ARM P/3 ANTERIOR;

LINEAR ERUTHEMA (sic) 1 CM CLAVICULAR (L) MEDIAL 3rd-LINEAR ERYTEMA (sic) (L) CM (R) SUBMANDIBULAR, LINEAR ABRASION 0.5 CM (L) UPPER LIP MUCOSA.”[2]

The accused, with the assistance of their counsel de parte,[3] both entered a plea of not guilty during their arraignment on January 13, 1988.[4] Trial ensued in due course in the consolidated cases.[5] Thereafter, on July 16, 1991, Judge Priscila S. Agana of the Regional Trial Court of Cebu, Branch 24, rendered judgment[6] convicting both accused of two counts of rape. The dispositive portion of the assailed Decision is quoted hereinbelow:

“THEREFORE, IN VIEW OF ALL THE FOREGOING PREMISES, accused Eduardo Caballes is hereby sentenced twice to suffer the penalty of RECLUSION PERPETUA. With respect to accused Reynaldo Mabini, he is hereby sentenced twice to suffer an imprisonment ranging from twelve (12) years of prision mayor as minimum to eighteen (18) years of reclusion temporal as maximum, after appreciating minority in his favor. Moral and exemplary damages to be paid jointly and severally by the accused, in the sums of FIFTY THOUSAND PESOS (P50,000.00) and FIFTY THOUSAND PESOS (P50,000.00) respectively, are hereby awarded to the private complainant Miguela Baculi.”[7]

The FactsVersion of the Prosecution

The prosecution relied heavily on the testimony of the private complainant, Miguela Baculi, twenty-five (25) years of age and married. According to Miguela, on September[8] 26, 1987, while on her way home from work about 7:30 p.m., she was accosted by Accused Eduardo Caballes and Reynaldo Mabini. She recognized both because they had been her neighbors at Sambag 4, Guadalupe, Cebu City for the past eight years. Upon confronting her, Mabini covered her mouth and pointed a knife at her while Caballes held her hands. They led her to a secluded area where they initially molested her. She was able to wriggle herself free and run for a short distance but her abductors caught up with her. She was slapped, punched and strangled before she was brought to another secluded and dark area farther away. While Mabini held her hands and pointed a knife at her, Caballes raised her skirt and removed her underwear. She was forced to lie down. Caballes next took off his own trousers and underwear, mounted Miguela and inserted his erect penis into her vagina. After satisfying his lust, Caballes exchanged positions with Mabini who likewise violated her chastity against her will. Thereafter, Miguela was escorted towards her home by the accused. Mabini threatened to kill her if she reported the incident to the police. After parting from her attackers, the rape victim went home but, not finding her husband, proceeded to the house of his relatives, the Spouses Bernardo and Juanita Jumaoas, to whom she related her shameful experience. It was the Spouses Jumaoas who reported the rape to the police which led to the arrest of the accused that same evening.[9]

Miguela was thereafter examined at the Cebu City Medical Center. The medical doctor who examined her genitalia found her cervix “hyperemic, with edema of the anterior lip” which might have been caused by trauma or forced contact resulting in the rupture of the capillaries, hyperemia and edema. Sperm analysis yielded negative result, but the doctor explained that there might have been no ejaculation or it might have happened outside the vagina.[10] The victim was further observed to have suffered contusions below her right eye and on her right arm just below the shoulder, possibly caused by a blunt object applied with force or a fistic blow, and linear erythema (redness) on the clavicle (collarbone), possibly caused by force applied to induce choking.[11]

Version of the Defense

In their respective testimonies, both accused admitted having had sexual intercourse with Miguela successively in the same evening of September 26, 1987. But they gave contradicting versions. According to Accused Eduardo Caballes, he and Co-accused Reynaldo Mabini attended a dance-affair in the neighboring barrio that evening.

They had consumed about nine or ten bottles of Red Horse beer when they saw Miguela Baculi a few meters away. Reynaldo approached her. From where he was sitting, Eduardo saw his co-accused pulling the arm of Miguela who in turn appeared to be resisting. He approached both and asked what the commotion was about. Miguela expressed her surprise why Reynaldo was pulling her; the latter said that he wanted to tell her something. Eduardo convinced Miguela to walk along with them so they could talk. Miguela allegedly went voluntarily with them. After a distance of about twenty (20) meters, Eduardo told Miguela that he liked her and asked if he could touch her. Miguela replied that she already had a husband. Eduardo assured her that nobody would know. She did not resist when he kissed and embraced her. He then went to gather some banana leaves which they used as a mat. Then they undressed themselves and had sex, while Reynaldo waited about five (5) meters away. Thereafter, at the suggestion of Eduardo, Miguela allegedly agreed to have sex with Reynaldo also. Both accused later walked Miguela to the corner of the road leading to her house. Before parting ways, she allegedly even agreed to meet with them again if nobody would learn about their tryst. Eduardo further testified that he did not know why Miguela filed rape charges against them.[12]

The testimony in court of the other accused, Reynaldo Mabini, was delayed for sometime because he was observed to be suffering from mental disorder. The Psychiatric Evaluation Report of Dr. Renato D. Obra of the Southern Islands Medical Center, Cebu City, however, indicated that he was capable of facing trial.[13] Mabini scantily declared that in the evening of September 26, 1987, he drank beer and Añejo rum with Eduardo Caballes. At around 8:00 p.m., they saw Miguela pass by. The accused admitted that he made a “quick intimidation” of Miguela with the use of a knife, and thus succeeded in having sexual intercourse with her against her will.[14]

The Trial Court’s Decision

In weighing the credibility of the witnesses, the court a quo declared:

“x x x the Court is inclined to believe the testimony of the victim Miguela Baculi to be credible and convincing. No Filipino woman would herself (sic) and be exposed to public ridicule by concocting and inventing a story that she was raped. It would be a great shame on her part if what she has told the court is not true. And it must be noted that in this case Miguela Baculi was crying when she narrated in court her sad story. She told the court how she was accosted by the two accused, Mabini pointing a knife at her and gagging her mouth with his hands and Caballes holding her hands. And then the accused dragged her to a secluded place but on the way she was able to free herself. Unfortunately though, she was caught by the accused only a few faces (sic) and through force and intimidation she was brought to a secluded place where she was raped one at a time by the two accused.”[15]

With respect to the defense witnesses, the trial court characterized their testimonies this wise:

“x x x the testimony of accused Caballes cannot be given any importance at all for it runs counter to the normal course of human nature. For the court cannot believe him when he testified that Miguela Baculi consented to his having sexual intercourse with her. Considering that Miguela is a decent, virtuous and a happily married woman, it would be hard to imagine, nay impossible for her to give her consent to have sexual intercourse with a man who conveyed to her his love for the first time and who was drunk at the time. Moreso (sic), to have carnal knowledge with men one after another voluntarily in the presence of each other accused (sic). The court is inclined to believe that accused Caballes did not tell the truth.

“And to top it all, the other accused Reynaldo Mabini admitted that he raped Miguela Baculi. Although a medical certificate (Exhibit 2-Mabini) was presented and submitted in court regarding the mental capacity of the accused to stand trial, nevertheless the attending (sic) physician (sic) recommended that accused is (sic) ready to stand trial.”[16]

The court a quo further ruled that both accused had conspired in the commission of the offense, observing that

“the two accused planned to commit the crime of rape before complainant showed up and they both executed the heinous act exactly as planned.” It thus held that two counts of rape were committed by each of the accused.

In addition, the trial court held that the crime was “aggravated by the fact that both accused are relatives of the victim’s husband x x x, the commission was planned and premeditated (sic) after the accused finished drinking liquor, with abuse of superior strength and use of a knife, in an uninhabited place and during nighttime.”[17]

From the above decision, only Eduardo Caballes appealed.[18]

Issues

In his appeal brief,[19] Appellant Caballes attributes the following alleged errors upon the trial court:

"I

The trial court erred in finding the accused-appellant guilty beyond reasonable doubt of the crime of rape.

"II

The trial court erred in finding that the accused had pre-planned the alleged act of rape before the complainant showed up and they both executed the heinous act exactly as planned.

"III

The trial court erred in finding that the crime of rape was more aggravated by the fact that both accused are relatives of the victim’s husband and their neighbor.

"IV

The trial court erred in awarding moral and exemplary damages to be paid jointly and severally by the accused in the sum of FIFTY THOUSAND PESOS (P50,000.00) AND FIFTY THOUSAND (P50,000.00) respectively.”[20]

In questioning the sufficiency of the prosecution evidence, Accused-appellant Caballes points to the absence of laceration and sperm in the victim’s vagina, negating forced penetration. Neither could he and his co-accused have preplanned their advances on Miguela considering that they only chanced upon her and were under the influence of liquor. With the above circumstances, appellant avers that at most he could be held guilty only of attempted rape with physical injuries. Furthermore, appellant contends that for relationship to be appreciated as aggravating, it is the victim who should be related by consanguinity to the perpetrator of the act. Finally, citing this Court’s 1990 decision in *People vs. Timbang*,[21] indemnity due the rape victim should not exceed P20,000.00. [22]

The Solicitor General, on the other hand, asserts that the private complainant’s testimony alleging she was raped is sufficient to convict appellant and his co-accused of the offense charged. A married woman will not publicly admit that she had been sexually abused by two men unless that is the truth. Moreover, the contusions on different parts of the complainant’s body support her allegation that force was applied on her by her offenders to make her submit to their abject sexual desires. Besides, the absence of spermatozoa in the complainant’s sexual organ does not negate the commission of rape since it is penetration, however slight, that consummates rape.[23] In addition, the Solicitor General opines that there was conspiracy between the two accused since, while one was ravishing the victim, the other was holding her hands and vice versa, thereby facilitating the commission of rape.[24]

The Court's Ruling

The appeal has no merit.

First Issue: Sufficiency of Prosecution Evidence

The law provides that carnal knowledge of a woman under any of the following instances constitutes rape: (1) when force or intimidation is used; (2) when the woman is deprived of reason or otherwise unconscious; and (3) when she is under twelve (12) years of age.[25]

It is important to note that both accused admitted having had sexual congress with the private complainant. Appellant claims though that said complainant copulated with him voluntarily. However, the medical findings on the victim, which included contusions on various parts of her body, belie appellant's claim. Rather, they support Miguela's declarations that she was manhandled by the accused before and during her molestation.

It is well-settled that the absence of spermatozoa in the victim's vagina does not necessarily negate the commission of rape.[26] Neither is the existence of laceration indispensable. What is essential is that there be penetration of the sexual organ no matter how slight.[27] In the instant case, the victim gave a spontaneous, positive and unclouded picture of how appellant, with the help of his co-accused, disgustingly consummated the rape:

"Q Now, considering that after you were molested the accused forced (you) to stand up and brought you to a far secluded place, what happened next when you arrived (at) that place?

A Mabini grabbed my hands and pointed a knife at me while Caballes raised my skirt and took off my pantie (sic).

Q Considering that you were being held by the accused Mabini and (he was) pointing a knife at you while this accused Caballes was removing your pantie (sic), what happened next?

A They forced me to lie down on the ground.

Q Now, after you were forced to lie down on the ground, what happened next?

A Mabini lay at my side and pointed a knife at my neck while he was grabbing my hands and Caballes took off his trouser and his brief and expose(d) his organ.

Q After Caballes exposed his organ, what did he do with that?

x x x x x x x x

A He penetrated me with his organ forcefully without my consent."[28]

"Q Now, what was accused Caballes doing while he was inserting his sex organ to your sex organ?

A He made a (sic) push and pull movements."[29]

On the basis of the above testimony, there was penetration of the victim's sexual organ. Forced coitus is further corroborated by the findings of the physician who examined Miguela on the very evening after the sexual abuse was consummated. In his examination of the victim's genitalia, Dr. Gilberto Magallon of the Cebu City Medical Center said that the cervix was "hyperemic with edema of the anterior lip." [30] He added that such condition of the cervical layer was not normal for a woman, and explained that the probable cause thereof was trauma resulting from forced contact applied on the affected part.[31] Gathering from the testimony of the victim, the forceful "push and pull movements" of appellant could well have been the cause of hyperemia in her sexual organ. Clearly then, appellant committed the felony under the first circumstance, i.e., with the use of force and intimidation.

Indeed, no young woman of decent repute would publicly expose herself to the shame and embarrassment of admitting having been sexually abused by two men successively within each other's full view if such were not the

truth.[32] No ulterior motive was offered by the appellant to explain why Miguela would falsely charge him with the serious offense. Neither did appellant attempt to explain the disparity between his testimony and that of his co-accused, a disparity which supported the victim's contentions. The only logical conclusion is that no other reason impelled the complaining witness to come to court than to seek justice for the dastardly crime committed against her virtue.[33] Even her sole testimony which is credible suffices to make a conviction,[34] for when a woman says that she has been raped, she almost always says it all.[35]

Finally, it is doctrinal that the evaluation by the trial court of the testimony of a witness is generally accorded great respect because of its direct opportunity to observe the witness' demeanor on the stand and to determine whether she is telling the truth. Such assessment is generally binding on this Court except when the same was reached arbitrarily or when the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which could have affected the disposition of the case.[36] None of these exceptions is found in the instant case.

Second Issue: Attendance of Aggravating Circumstances

No Evident Premeditation

We find merit in the contention of accused-appellant that the trial court wrongly concluded that the sexual assault was planned and premeditated. For evident premeditation to be appreciated, it is necessary that the prosecution prove the following elements: (1) the time when the accused decided to commit the crime; (2) an overt act showing that the accused clung to their determination to commit the crime; and (3) the lapse of a period of time between the decision and the execution of the crime sufficient to allow the accused to reflect upon the consequences of the act.[37] The prosecution, however, failed to establish with clear and convincing evidence the attendance of any of these elements which cannot be inferred merely from conjectures and suppositions.

Degree of Relationship Between the Parties Not Aggravating

In order that the alternative circumstance of relationship may be taken into consideration in the imposition of the proper penalty, the offended party must either be the (a) spouse, (b) ascendant, (c) descendant, (d) legitimate, natural or adopted brother or sister, or (e) relative by affinity in the same degree, of the offender.[38] The complaining witness simply stated that accused-appellant was related to her husband through their grandparents.[39] And although appellant admitted being related with the private complainant's husband, he said that he was a third-degree cousin of the former's grandmother.[40] Neither the prosecution nor defense counsel attempted to clarify the witnesses' statements. We cannot positively conclude from such bare declarations that appellant is an ascendant or descendant by affinity of the complainant. It seems rather doubtful that the relationship between the offended party and the offender falls within the statutorily defined concept of relationship determinative of the penalty to be imposed. Since the degree of relationship was not clearly established to be one of those provided for by law, we cannot use such circumstance against the accused.

Abuse of Superior Strength, Nighttime, and Uninhabited Place

The trial court further said that the crime was also aggravated by "abuse of superior strength and use of a knife, in an uninhabited place and during nighttime." [41] Scouring the evidence on record, we do not find any evidence by the prosecution to support the unexplained conclusion of the trial court.

The prosecution merely showed that the crime was committed at nighttime and in an uninhabited place. These circumstances, by themselves, do not aggravate the offense. Nighttime[42] and uninhabited place,[43] to be appreciated, must have been purposely sought and taken advantage of in order to facilitate the commission of the offense. There is nothing in the records, however, to show that appellants had deliberately chosen or used these

circumstances to their advantage.

Furthermore, the trial court erred in appreciating the aggravating circumstance of abuse of superior strength. Although the trial court did not elaborate on the basis of its conclusion, it relied apparently on the finding that the crime was committed by two persons who also used a knife to terrorize the victim into submission. We cannot sustain this view. The use of a knife or the commission of the crime by two persons cannot be considered as generic aggravating circumstances in rape, for they are included as an integral part of the crime. Article 335 of the Revised Penal Code provides that “[w]henever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.” (Underscoring supplied.)

Third Issue: Damages

The trial court ordered the two accused separately to pay P50,000.00 as moral and exemplary damages to the victim. In effect, the trial court imposed the amount of P25,000.00 as exemplary damages and another P25,000.00 as moral damages for each count of rape.

The trial court correctly awarded moral damages to the victim, pursuant to Articles 2217 and 2219 of the Civil Code. Miguela testified in court that as a consequence of the vicious and detestable act perpetrated upon her by the accused, she suffered from depression, shock and sleepless nights.[44] The award of exemplary damages is not justified, however, in view of the failure of the prosecution to prove one or more aggravating circumstances.[45]

In view of the above discussion, the amount of moral damages should be increased to P50,000.00 for each count of rape, but the award of exemplary damages should be deleted.

The trial court further erred in not granting civil indemnity to the private complainant which, as we explained at the outset, is automatically imposed upon the accused without need of proof other than the fact of the commission of the offense. Indemnity of P50,000.00 should, therefore, be reckoned for each count of rape committed by the accused.

In the exercise of our discretion, and since an appeal in a criminal case throws the whole case open for review, it is proper for this Court to impose additional damages upon appellant. Appellant is therefore liable for the increased amount of P50,000.00 as moral damages for each count of rape. He is additionally liable to Miguela Baculi in the amount of P100,000.00 as indemnity for the two counts of rape committed against her.

The same cannot apply, however, in the case of Reynaldo Mabini who did not appeal his conviction. Additional penalties cannot prejudice him, but modifications to the judgment beneficial to him are considered in his favor.[46] Because of the deletion of the award of exemplary damages, he is only liable, jointly and severally with appellant Caballes, for the sum of P50,000.00 as moral damages for the two counts of rape as adjudged by the trial court. Moreover, he is not affected by the increase in the amount of the said award. In the same vein that the additional moral damages can no longer be imposed upon Reynaldo Mabini, so we cannot order him to pay civil indemnity.

Article 335 of the revised Penal Code provides that whenever the crime of rape is committed by two or more persons, the penalty shall be reclusion perpetua to death. Considering that appellant is answerable for two counts of rape, we find no error in the imposition by the trial court of the double penalty of reclusion perpetua upon him.[47]

WHEREFORE, all premises considered, the assailed Decision of the trial court convicting Appellant Eduardo Caballes of the crime of rape on two counts and sentencing him to reclusion perpetua for each count is hereby

AFFIRMED subject to the modification that, in addition to his joint and several liability with Accused Eduardo Mabini for P50,00.00 as moral damages imposed by the trial court, appellant shall further pay the following amounts to Miguela Baculi:

1. Additional amount of P25,000.00 as moral damages for each count of rape, or a total of P50,000.00; and
2. Civil indemnity in the amount of P50,000.00 for each count of rape or a total of P100,000.00.

SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., and Melo, JJ., concur.

Francisco, J., on leave.

[1] Rollo, pp. 2-3. (Underscoring in the original text.)

[2] Ibid., pp. 4-5.

[3] Atty. Romeo Cañada.

[4] Records, p. 31.

[5] Criminal Case Nos. CBU-11780 and CBU-11781.

[6] Rollo, pp. 24-34.

[7] Ibid., p. 34.

[8] In the transcripts of stenographic notes, the month of “February” instead of “September” is sometimes indicated as the date of the incident. But no corrections or objections in relation thereto were manifested by either party.

[9] TSN, April 15, 1988, pp. 6-25; August 3, 1988, pp. 6-17.

[10] TSN, November 25, 1988, pp. 4-5.

[11] Ibid., pp. 10-11.

[12] TSN, July 9, 1990, pp. 3-13.

[13] Exhibit “2”; records, p. 162.

[14] TSN, January 8, 1991, pp. 4-6.

[15] Assailed Decision, pp. 7-8; rollo, pp.30-31.

[16] Ibid., p. 8; rollo, p. 31.

[17] Ibid., p. 10; rollo, p. 33.

[18] Records, p. 195.

[19] Rollo, pp. 67-78.

[20] Ibid.,p.69.

[21] 189 SCRA 279, August 30, 1993.

[22] Appellants’ Brief, pp. 7-10; rollo, pp. 75-78.

- [23] Appellee's Brief, pp. 9-10; rollo, pp. 108-109.
- [24] Ibid., pp. 12-13; rollo, pp. 111-112.
- [25] Article 335, Revised Penal Code; People vs. Diaz, G.R. No. 117323, October 4, 1993.
- [26] People vs. Digno, Jr., 250 SCRA 237, 242, November 23, 1995.
- [27] People vs. Andan, G.R. No. 116437, March 3, 1997.
- [28] TSN, April 15, 1988, pp. 14-16.
- [29] Ibid., p. 19.
- [30] Exhibit "A"; records, p. 95.
- [31] TSN, November 25, 1988, pp. 4-5.
- [32] People vs. Apilo, G.R. No. 101213-14, October 28, 1996.
- [33] People vs. Saguban, 231 SCRA 744, April 25, 1994.
- [34] People vs. Peralta, 251 SCRA 6, December 7, 1995.
- [35] People vs. Dela Cruz, 251 SCRA 77, December 8, 1995.
- [36] People vs. Atuel, G.R. No. 106962, September 3, 1996.
- [37] People vs. Layno, G.R. No. 110833, November 21, 1996.
- [38] Article 15, Revised Penal Code.
- [39] TSN, May 27, 1988, p.20.
- [40] TSN, July 10, 1990, p.2.
- [41] Assailed Decision, p.10; rollo, p.88.
- [42] People vs. Rosario, 246 SCRA 658, July 18, 1995.
- [43] People vs. Cabiles, 248 SCRA 207, 220, September 14, 1995.
- [44] TSN, May 27, 1988, p. 7.
- [45] Article 2230, Civil Code.
- [46] Section 11, Rule 122, Rules of Court.
- [47] People vs. Villanueva, 254 SCRA 202, February 28, 1996.

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