

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FREDO MATAMOROSA AND DANNY MAGAPURO, ACCUSED-APPELLANTS.*G.R. Nos. 104996-98. March 28, 1994*

Ponente: KAPUNAN, J.

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After their conviction for the abduction and rape of a 16-year old mental retardate, accused-appellants Fredo Matamorosa and Danny Magapuro appealed to this Court, averring that their identity as the perpetrators of the crime had not been established by proof beyond reasonable doubt.

The records show that at around 11:00 o'clock in the evening of September 16, 1990, Christine Rayandayan, a 16-year old mental retardate, went to church in Ugong, Pasig. After the mass, Salcedo "Poldo" Magapuro followed Christine and brought her to a banca piloted by accused-appellant Alfredo "Fredo" Matamorosa (TSN, August 26, 1991, pp. 3-4; Exhibits "A-1" & "D-1").

On board the banca, while Salcedo Magapuro watched, accused-appellant Fredo Matamorosa undressed the passive Christine, put his body on top of hers, and inserted his penis into her vagina. Thereafter, the two men brought Christine to the other side of the river where she was again raped by accused-appellant Fredo Matamorosa (TSN, June 19, 1991, pp. 2-4).

The banca then returned to shore. While accused-appellant Fredo Matamorosa remained in the banca, Salcedo Magapuro took Christine and brought her to another gangmate, Zaldy Bernardo (Exhibit "A-1"), who brought her to his house at the Bernardo Compound. The other members of the gang, namely, accused-appellant Danny Magapuro (brother of Salcedo Magapuro), Rowel Cruz, and Bernardo Matamorosa (brother of accused-appellant Fredo Matamorosa) soon arrived at Zaldy Bernardo's house, where they took turns in raping the helpless Christine (Exhibit "A-1"; TSN, June 19, 1991, pp. 3-4; TSN, July 12, 1991, pp. 4-6).

After her ordeal, Christine was sent home. However, she instead went to her friend Rosalie's house, and there spent the night. It was in the following morning that Christine went home. By then, Christine's father, Reynaldo Rayandayan, had already learned from a co-worker that Christine had been raped. Christine's swollen mouth and the "kiss marks" on her neck served to confirm the outrage perpetrated upon her (TSN, September 23, 1991, p. 2).

On September 18, 1990, Christine and her father went to the police station, where the latter signed a complaint for the rape of his daughter (Exhibit "C"). The following day, Christine was medically examined at the PC/INP Crime Laboratory at Camp Crame by Dr. Jesusa O. Nievas, who filed the following report:

"There is scanty growth of pubic hair. Labia majora are full, convex and coapted with the pinkish brown labia minora presenting in between. On separating the same are disclosed a congested fourchette and an elastic, fleshy-type hymen with shallow, healing lacerations at 1 and 3 o'clock and deep healing lacerations at 5 and 7 o'clock. External vaginal orifice offers moderate resistance to the introduction of the examining index finger and the virginsized speculum. Vaginal canal is narrow with prominent rugosities. Cervix is normal in size, color and consistency.

"xxx xxx xxx.

"Subject is in non-virgin state physically. There are no external signs of recent application of any form of trauma.

"xxx xxx xxx.

"Vaginal and peri-urethral smears are negative for gram-negative diplococci and for spermatozoa." (Exhibit "E").

After an investigation, a complaint/information for forcible abduction and rape was filed against Salcedo Magapuro, Fredo Matamorosa, Zaldy Bernardo, Danny Magapuro, Rowel Cruz and Bernardo Matamorosa (Crim. Case No. 85915, Records, p. 1). Only accused-appellants Fredo Matamorosa and Danny Magapuro were brought to trial, the other accused being still at large. Both accused pleaded not guilty to the offense charged.

Aside from the testimonies of Christine, her father, and two (2) barangay tanods who saw Christine in the company of the accused at the time that the rape was committed, the prosecution presented Dr. Francianina Gonzales Sanchez and Dr. Cecilia Villegas to testify on the mental capacity of Christine. Both doctors were agreed in their assessment that Christine is a low-grade moron with an IQ of 54, and the mental age of a 7 to 8-year old child; that Christine is passive and was not likely to have resisted the sexual assault upon her; that Christine knows that rape is wrong but is not in a position to realize its consequences; and, that Christine has the capacity to remember her assailants and identify them with reliability (Exhibits "B" & "G", TSN, August 2, 1991, pp. 6-10; TSN, December 18, 1991, pp. 4-10).

The two accused-appellants denied the charges against them claiming that they do not know of any reason why they were charged with having abducted and raped Christine since the latter was not known to them. They also cannot find any reason why Christine and her family would want to file such serious charges against them. Danilo Magapuro asserted that in the evening of September 16, 1990, he was at home watching television until nine o'clock, after which he went to sleep (TSN, January 28, 1992, pp. 4-8). On the other hand, Fredo Matamorosa admitted having piloted a banca on the night of September 16, 1990 and having ferried a man and a woman across the river, but claimed that he did not know the identity of his passengers. (TSN, January 28, 1992, pp. 12-18).

Judge Martin S. Villarama, Jr. of the Regional Trial Court of Pasig, Branch 156, disbelieved the accused and found them guilty as charged. The conspirators were each sentenced to RECLUSION PERPETUA and held solidarily liable to the complainant for P30,000.00, as civil indemnity, and to pay their proportionate shares of the costs (Decision, p. 9; Records, p. 206).

In this appeal, accused-appellants attack the credibility of the prosecution witnesses. Accused-appellants question Christine's identification of Fredo Matamorosa as among the persons who raped her pointing out that during the trial held on June 4, 1991, when both accused-appellants were present in the courtroom, she declared that the person who followed her from the church and brought her to the banca was not present in the courtroom; whereas, during the trial held on June 19, 1991. Christine declared that it was Fredo Matamorosa who brought her to a banca, undressed her, and raped her.

The contradiction in Christine's testimony is more apparent than real. During the June 4 trial, Christine's testimony proceeded as follows:

"Q While walking do you recall of any incident that happened?

"A Somebody followed me, sir.

"Q Do you know who is that person who followed you?

"A Yes, sir.

"Q Will you point to him?

"A He is not around, sir.

"Q What happened after you were followed by that person?

"A He brought me in the center, sir.

"Fiscal Suyat:

We just want to manifest that there are six (6) persons in-volved in this incident but only two were under the jurisdiction of the Court.

"COURT:

Noted.

"Q How many persons brought you to the center?

"A Only one, sir.

"Q What center is that?

"A A big one, sir.

"Q At the center, what happened?

"A I was brought in a banca, sir.

"Q By whom?

"A By the male persons, sir.

"Q What happened at the banca?

"A They undressed me, sir." (TSN, June 4, pp. 2-3).

While on June 19, Christine testified in the following manner:

"Fiscal Suyat:

"Q In the last hearing you testi-fied that Fredo Matamorosa brought you in a banca. Do you remember that?

"A Yes, sir.

"Q And who was with Fredo Matamorosa in the banca?

"A I do not know the persons, sir.

"Q Then what happened when you reached the banca?

"A He undressed me, sir.

"Q Who undressed you?

"A Fredo, sir.

"Q After undressing you, what did he do?

"A He put his body on top of me, sir.

"Q What else?

"A He kissed me, sir.

"Q After kissing you what else did he do?

"A He inserted his private parts into my private parts, sir.

"Q At the time he inserted his private parts inside your private parts what was his other companion doing?

"A None, sir. He Just looked at us."

(TSN, June 19, 1991, pp. 1-2.)

Clearly, there is no contradiction between testimonies. Contrary to accused-appellants' contention, there was never any mention during the June 19 hearing, of Fredo Matamorosa following Christine before bringing her to a banca. Rather, Fiscal Suyat asked Christine if it was Fredo Matamorosa who brought her in a banca. In view of her low mental capacity, Christine must have thought that the question asked was whether it was Fredo Matamorosa who ferried her in the banca, that is, whether it was Fredo Matamorosa who piloted said banca.

Considering that accused-appellants had admitted that Fredo Matamorosa is a "bankero" or banca operator (TSN, January 28, 1992, p. 12), and since his own sister, Emma Matamorosa, testified that she saw Christine and an unidentified man being ferried by Fredo Matamorosa across the river on the night in question (TSN, February 17, 1992, p. 7), Christine's assent to Fiscal Suyat's question cannot be taken as a contradiction of her earlier testimony regarding the identity of the person who followed her from church and brought her to the banca. Obviously Christine's answers to those two questions were different because they called for different answers. In response to the question who followed her from church and brought her to the banca, Christine's answer was clear: she does not know his name and he is not among the accused-appellants. As to the question of who ferried her in the banca, Christine's response was equally plain: Fredo Matamorosa.

This Court further agrees with the trial court's assessment that Christine's straightforward and clear testimony inculcating accused-appellant Fredo Matamorosa, as among the persons who raped her, deserves full faith and credence. It is axiomatic that the trial court's evaluation of the testimony of a witness is accorded with the highest respect because it is the trial court that has the direct opportunity to observe the witnesses on the stand and determine if they are telling the truth or not (*People v. de la Cruz*, G.R. No. 108180, February 8, 1994). Further, well-entrenched is the rule that the testimony of a rape victim is credible where she has no motive to testify against the accused (*People v. Palicte*, G.R. No. 101088, January 27, 1994; *People v. Cabilao*, 210 SCRA 326 [1992]) - - as, in fact, it had been admitted by accused-appellants that they know of no reason why Christine and her family would want to falsely impute the heinous crime of rape to them.

Manifestly, therefore, Christine was able to relate her harrowing experience to the court in a consistent and clear manner despite her mental limitations. This is but to be expected considering that the two doctors who examined her were unanimous in their assessment that although Christine has the mental age of a 7 to 8-year old child, she has the capacity to remember her assailants and to identify them with reliability (see TSN, August 2, 1991, pp. 6-10; TSN, December 18, 1991, pp. 4-10).

At any rate, Christine's testimony is supported by the corroborative declarations of the two barangay tanods, Bernie Cruz and Lorenzo Bernardo, who both saw Salcedo "Poldo" Magapuro (brother of accused-appellant Danny Magapuro) follow Christine from church and bring her to accused-appellant Fredo Matamorosa's banca (Exhibits "A-1" & "D-1"). Barangay Tanod, Bernie Cruz's testimony also buttresses Christine's narration of the events which followed her rape in the banca and fleshes it out by his identification of the other gang members

who raped Christine, namely: accused-appellant Danny Magapuro, Zaldy Bernardo, Rowel Cruz, and Bernardo Matamorosa (see TSN, July 12, 1991, pp. 4-6; Exhibit "A-1").

There is no merit in accused-appellant's contention that Bernie Cruz's testimony is unreliable because he declared at first that it was Zaldy Bernardo whom he saw with Christine but later he claimed that it was Salcedo "Poldo" Magapuro who was with her. As will soon become apparent, there is no contradiction here.

During direct examination, Bernie Cruz's testimony proceeded as follows:

"Q Did you see the complainant on that day and time?

"A Yes, sir.

"Q Was she alone?

"A Yes, sir.

"Q What time did you see her alone?

"A More or less 1:00 o'clock, sir.

"Q When you saw her alone, did you talk to her?

"A No, sir.

"Q Where did she go?

"A She was on her way home, sir.

"Q Do you know a person by the name of Zaldy Bernardo?

"A Yes, sir.

"Q Why do you know him?

"A He is a neighbor, sir.

"Q Did you not see him in that early morning of September 17, 1990?

"A I saw him, sir.

"Q Where did you see him?

"A In the street, sir.

"Q Was he alone?

"A Yes, sir.

"Q So you saw Zaldy Bernardo and the complainant on that same night?

"A Yes, sir.

"Q But they were not together?

"A They were together, sir.

"Q You said they were together, earlier you said Bernado was alone and com-plainant Christine was alone. Will you please explain that to the Court?

"A On that night, Zaldy was with Christine, sir.

"Q What time was that when they were together?

"A 1:00 o'clock, sir.

"Q And where did they go?

"A In the interior, sir. 'Sa looban nila Zaldy.'

"Q And what happened after Christine was brought to this 'looban' which you mentioned?

"A Zaldy went out. Danny was there together with Rowel Cruz, sir.

"Q Where was Danny and Rowel Cruz?

"A They were also outside, sir.

"Q Outside of what?

"A In the street, sir.

"Q And then what happened after that?

"A Zaldy went out then Rowel and Danny followed him.

"Q Where did they go?

"A They went also to the 'looban' with Zaldy.

"Q Are these persons whom you mentioned are in the courtroom?

"A The two are present, sir.

"Q Will you please point out to them?

"Interpreter:

Witness was pointing to persons who identified themselves as Danny Magapuro and Fredo Matamorosa, the two accused in these cases. "(TSN, July 12, 1991, pp. 3-4; underscoring supplied.)

While on cross-examination, this is what Bernie Cruz said - -

"Q After buying cigarette, where did you go?

"A Near a jeepney, sir.

"Q Also in the vicinity of the church?

"A Near the church, Sir.

"Q And what time more or less was that?

"A About 12:00 o'clock, sir.

"Q And what were you doing in that place?

"A We were talking, sir.

"Q You and your companion continued conversing with each other?

"A Yes, sir.

"Q And how long did this conversation last?

"A Just a few minutes, sir.

"Q After that, where did you go?

"A We saw Christine on her way home, sir.

"Q Where did Christine come from at that time, if you know?

"A I do not know where she came from, sir.

"Q Where was she heading at that time?

"A On her way home, sir.

"Q Did she take a ride?

"A No, sir.

"Q Do you know the house of Christine?

"A No, sir.

"Q Why did you say that Christine was on her way home at that time?

"A I know the Purok where she lives but I do not know the house.

"Q What Purok?

"A Purok V, sir.

"Q And you saw Christine going to that direction?

"A She passed by Purok III. After that, I saw her together with Poldo, sir.

"Q Who is this Poldo?

"A Elder brother of Danny, sir." (TSN, July 12, 1991, pp. 8-9; under-scoring supplied)

Taking Bernie Cruz's testimony in its totality, it is readily apparent that what he said was that at twelve midnight, he saw Christine with Salcedo "Poldo" Magapuro, and, thereafter, at 1:00 a.m., he saw her again but, this time, with Zaldy Bernardo. Instead of weakening the case of the prosecution, Bernie Cruz's testimony, in fact, strengthens it because his testimony confirms the sequence of events narrated by Christine and establishes the identity of the man who followed Christine from church - Salcedo "Poldo" Magapuro - - as well as the identities of the other persons who raped her in Zaldy Bernardo's house, notable among them, accused-appellant Danilo Magapuro.

Finally, we find accused-appellants' argument that Danilo Magapuro was implicated in Christine's rape because he was standing near the scene of the crime, to be too feeble to merit consideration. Christine positively identified accused-appellant Danilo Magapuro as among her assailants and she distinctly stated the extent of his participation in the crime, as follows:

"Q Do you know a place Bernardo Compound?

"A Yes, sir.

"Q On what side of the river?

"A In front of the dumping area (basurahan), sir.

"Q Why do you know this Bernardo's Compound?

"A That was the place where he brought me, sir.

"Q Who brought you there?

"A Bernardo, sir.

"Q Who else?

"A Danny, sir.

"Q Do you know the full name of this Danny?

"A No, sir.

"Q If he is in the courtroom will you point out to him?

"A Yes, sir.

"Interpreter:

Witness went down from the witness stand and pointing to a person who answered in the name of Danny Magapuro, one of the accused in this case.

"Q By the way, for purposes of clarification, you said this Fredo was the one who brought you in the banca. Is this Fredo inside the courtroom?

"A Yes, sir.

"Q Will you please point to him also.

"Interpreter:

Witness went down from the witness stand and pointing to a person who identified himself as Alfredo Matamorosa, another accused in this case.

"Q You stated Danilo Magapuro brought you to Bernardo's Compound. Who was his companion?

"A His gangmates, sir.

"Q How many were they?

"A Five, sir.

"Q What happened at this Bernardo's Compound?

"A He undressed me, sir.

"Q Who undressed you?

"A Bernardo, sir.

"Q How about Danilo what did he do?

"A He inserted his private parts into my private parts, sir.

"Q You said Danny and his several companions. Do you know the names of these five companions of Danny Magapuro?

"A No, sir.

"Q But if you see them will you be able to recognize them?

"A Yes, sir.

"Q Who else inserted his private parts into your private part aside from Danny Magapuro?

"A They, sir.

"Q All his five companions?

"A Yes, sir.

"Q How many times were you raped by the companions of Danny Magapuro?

"A Once, sir.

"Q So each of them did it only once?

"A Yes, sir." (TSN, June 19, 1991, pp. 3-4).

From the foregoing, it is beyond cavil that the prosecution has firmly established the identities of accused-appellants as among those who participated in the abduction and rape of Christine.

WHEREFORE, the appeal is DISMISSED and the challenged decision is AFFIRMED in toto, with costs against accused-appellants.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., Bellosillo, and Quiason, JJ., concur.

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