

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DONATO LAGROSA, JR., ACCUSED-APPELLANT.

G.R. Nos. 105956-57. February 23, 1994

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

Angelyn dela Cruz, an eleven-year-old lass and a grade five pupil, assisted by her mother, Araceli V. dela Cruz, filed with the Municipal Circuit Trial Court of Cuyo-Agutaya-Magsaysay in Palawan, a complaint for rape on two counts[1] against her adviser and teacher, Donato Lagrosa, Jr. A preliminary investigation was conducted by the court which found cause to hold the accused for trial and forwarded the records of the case to the Office of the Provincial Prosecutor of Palawan.

On 6 May 1991, the Office of the Provincial Prosecutor filed two separate informations for Rape against the accused with the Regional Trial Court of Palawan which docketed them as Criminal Cases Nos. 9345 and 9346. They were subsequently raffled off to Branch 52 of the said court with seat at Puerto Princesa City.

The accusatory portion of the information in Criminal Case No. 9345 reads:

“That on or about the 28th day of November, 1990, in the morning, at the residence of Mr. Donato Lagrosa, Jr. at Barangay Balading, Municipality of Cuyo, Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, the said accused by lewd design pull ANGELYN V. DELA CRUZ into his bedroom and immediately closed the door and once inside and by means of force did then and there willfully, unlawfully and feloniously have carnal knowledge with said Angelyn V. dela Cruz, a girl of 11 years old and a pupil of the said accused in Grade V at the Balading Elementary School against her will and consent to her damage and prejudice.

CONTRARY TO LAW and committed with aggravating circumstances, the accused have taken advantage of his public position as teacher of the complainant.”[2]

The accusatory portion of the information in Criminal Case No. 9346 is similarly worded,[3] except as to the date and place of the commission of the offense, which are 25 January 1991 and the health corner of the Balading Elementary School.

The accused entered a plea of not guilty in each case during his arraignment on 10 June 1991.[4]

At the joint trial on the merits, the prosecution presented as witnesses the private complainant; her mother, Araceli; Dr. Alejandro Caiña; and Mrs. Ofelia Montojo Fernandez. The defense presented the accused; his son, Donato Lagrosa III; his wife, Eliza; and Roy Villagrancia as its witnesses.

The evidence for the prosecution, which is presented in detail in the decision, is summarized as follows:

In school-year 1990-1991, complainant Angelyn dela Cruz, then eleven years old,[5] was a grade five pupil of the Balading Elementary School in Cuyo, Palawan. The accused was the adviser of her class and her teacher in all her subjects, except Science and Filipino which were handled by the head teacher, Mrs. Ofelia Fernandez.

On 28 November 1990 at around 9:45 a.m., the accused instructed Angelyn to get a “radio-phonograph” from his house, which is about ten meters away from the school, so that his students could practice their dance number for their school’s Christmas program. After a short while, she came back to school with the “radio-phonograph.” However, he sent her back again to his house to get the cover of the battery receptacle of the “radio-phonograph.” Since she was already aware that nobody was in his house, she requested Donato Lagrosa III, her classmate, and the accused’s son, to accompany her. She was leading the way and all the while she thought it was Donato III who was following her. When she turned her back while opening the door of the house, she noticed that it was the accused who had followed her. After they had entered the house, the accused closed the door, held her right forearm, and dragged her inside his bedroom. He pulled down her skirt and panty and pushed her down to his bed. She tried to get up but he pressed down on her stomach with his left hand. Then, with his right hand, he unzipped his pants. He held out his penis and forcibly inserted it into her vagina at least three times. She felt pain and noticed that her vagina was bleeding. He “sucked” her lips. Thereafter, he let her stand to put on her panty and shirt while he zipped his pants. He warned her not to tell her uncles about the sexual assault because they might kill him; if she did so, he would kill her. Then he gave her P5.00 and told her to return to school, but she first went behind the banana plantation near the accused’s house to conceal from her classmates the loathsome experience she went through.[6]

On 25 January 1991 at about 4:00 p.m., after playing with her classmates, Angelyn went to the health corner located in her classroom to drink water. The accused saw her and ordered her to sweep the floor of the health corner which she did so. After she had finished sweeping, the accused got the broom from her and returned it to the broom box. He then blocked her way as she was going out and pulled her inside the health corner where he forcibly pulled down her skirt and panty, tearing them in the process. He held her right shoulder with his left hand and unzipped his pants with his right hand. She cried but he ignored her. While standing with his feet apart from each other, he successfully inserted his penis into her vagina four times. After he had left, she got her school bag and went home.[7]

The complainant continued attending school. On the other hand, the accused showed his fondness towards her by giving her money on several occasions. He also gave her “codigos” or wrote in her test papers the answers to the questions in Math, English, EPP, and Music, as a consequence of which she got high grades therein.[8]

In the meanwhile, Mrs. Ofelia Fernandez, Head Teacher of the Balading Elementary School, had been receiving repeated reports about the attitude of the accused towards Angelyn. As a result, Mrs. Fernandez called the teachers to a meeting to make inquiries. Her co-teachers, Mr. Villagrancia and Ms. Linda Omeda, revealed to her that they saw the accused on two different occasions intimately conversing with Angelyn. The latter’s classmates likewise reported to Mrs. Fernandez that their teacher, accused Donato Lagrosa, Jr., gave special attention and favors to Angelyn.

To verify these reports, Mrs. Fernandez gave a summative test in Science; Angelyn obtained the lowest grade in this test. When Mrs. Fernandez was asked by one of her pupils why the complainant got the lowest score in her class but obtained the highest scores in the subjects handled by the accused, she questioned her pupil, Marita Belmonte, on why she got high grades in the other subjects. Marita divulged to her that in connection with the examinations in Math and English, she saw the accused writing the answers on a small sheet of paper and giving the said answers to Angelyn who also passed them to her (Marita).[9] On 29 March 1991, Mrs. Fernandez advised Angelyn’s mother, Araceli, to watch closely her daughter.[10] Araceli confronted Angelyn about the reports that the accused had been giving unusual attention to her. Angelyn initially denied these reports. Araceli kept on asking her specially because the accused had been coming to her house during the months of February and March, 1991. Finally, in the evening of 30 March 1991, Angelyn confided to her mother that she was sexually abused by

the accused on 28 November 1990 and on 25 January 1991.[11]

On 1 April 1991, Angelyn and her mother went to the house of the Barangay Captain of Balading to report the incidents. The Barangay Captain informed them that he could not solve the matter. He, however, accompanied them to the District Hospital of Cuyo, Palawan, for the physical examination of Angelyn. Thereafter, they proceeded to the Municipal Hall to file a complaint against the accused.[12]

Dr. Alejandro Caiña, Medical Officer III of the Cuyo District Hospital, examined Angelyn. Although he found no fresh hymenal laceration, he positively declared that Angelyn had previous sexual intercourse because he found an “old hymenal scar and her female organ admitted two fingers with ease.”[13]

The accused denied having raped Angelyn on 28 November 1990. According to him, he did not send her to his house to get the radio-phonograph or the cover of its battery receptacle. His grade five students then had not yet started rehearsing their dance number for the Christmas program. He also declared that he could not have committed the rape on 25 January 1991 because at the time of its alleged commission, he was with his wife and other co-teachers in the office of Mrs. Ofelia Fernandez celebrating his birthday. For that reason, he had earlier dismissed his grade five students at 3:30 p.m. and instructed them to water the plants and to go home thereafter. At about 3:45 p.m., he proceeded to the room of Mrs. Fernandez and stayed there until 4:15 p.m. Then, together with Mr. Villagrancia and Amado Timbancaya, he went to his house. After his companions left at 4:45 p.m., he attended to his household chores. He did not return to his office from the time he went to the office of Mrs. Fernandez until the succeeding school day. He also denied having given money and “codigos” or prepared answers to Angelyn.[14]

Finally, he claimed that the cases against him were filed through the instigation of Mrs. Ofelia Fernandez who hated him because of his unfavorable comments and criticisms against the official conduct, of her husband, the Barangay Captain of Balading. The Fernandezes wanted him removed as a teacher of the Balading Elementary School.[15]

On 21 May 1992, the court promulgated its joint decision[16] finding the accused guilty in Criminal Case No. 9345 but acquitting him in Criminal Case No. 9346. The decretal portion of the decision reads:

“WHEREFORE, premises considered, a joint judgment is hereby rendered:

A. CRIMINAL CASE NO. 9345 -- Finding the accused DONATO LAGROSA, JR. guilty beyond reasonable doubt as principal of the crime of statutory rape committed against Angelyn dela Cruz, a female child only 11 years of age, and there being no modifying circumstances appreciated, and not being entitled to the benefits of the Indeterminate Sentence Law, he is hereby sentenced to reclusion perpetua; to pay the offended party, Angelyn dela Cruz, moral damages of P50,000.00, and the costs.

B. CRIMINAL CASE NO. 9346 -- On grounds of reasonable doubt, engendered by a finding that the evidence of commission of the offense charged in Criminal Case No. 9346 has not been impressed with that degree of credence sufficient to prove with moral certainty the guilt of the accused, he is hereby acquitted of the offense charged.

SO ORDERED.”[17]

From the above adverse decision in Criminal Case No. 9345, the accused appealed to us. He seeks its reversal on the basis of his lone assignment of error:

“THE TRIAL COURT ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN NOT ACQUITTING ACCUSED DESPITE COMPLAINANT’S MANIFESTLY DOUBTFUL ACCOUNT OF THE ALLEGED RAPE OF 28 NOVEMBER 1990.”[18]

To convince us, he contends that (a) the complainant's testimony is incredible and improbable because if she was earlier accompanied by her classmate, Donato Lagrosa III, the latter could not have transmogrified into Mr. Donato Lagrosa, Jr., the accused;[19] (b) certain extrinsic facts, such as the 4-month delay in reporting the alleged rape, which is quite unnatural for a girl who was a victim of an assault on her virtue,[20] and the complainant's unnatural conduct in showing up inside her classroom in the morning of 28 November 1990 immediately after the alleged rape[21] negate her account of rape; (c) since he was acquitted in Criminal Case No. 9346 because "the trial court saw it fit to disbelieve Angelyn's account" of the incident therein, such a disbelief "certainly argues against her credibility in general as well as specifically concerns her account of the alleged rape of 28 November 1990." [22]

The appellee urges us to reject this appeal and to affirm in toto the challenged decision because the arguments in support of the lone assignment of error are weak and untenable.[23]

We find the appeal to be bereft of merit.

At the outset, it must be emphasized that since Angelyn was under 12 years of age, carnal knowledge alone of her is rape. It is not required that the assailant used force or intimidation, or that she is deprived of reason or is otherwise unconscious.[24]

The resolution of this appeal hinges on the credibility of Angelyn. It is a settled rule that this Court will not interfere with the judgment of the trial court in determining the credibility of witnesses, unless there appears in the record some fact or circumstance of weight and influence which has been overlooked or the significance of which has been misinterpreted.[25] The reason for this is that the trial court is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial.[26] It has the direct opportunity to observe the witnesses on the stand and detect if they are telling the truth or lying through their teeth.[27] There are certain matters that aid the trial court in assessing the credibility of a witness which are not available to the appellate court such as, the emphasis, gesture, and the inflection of the voice of the witness.[28] In the instant case, the trial court had the distinct opportunity to make such observations and to avail of such aids while Angelyn was on the witness stand. We find no reason to dispute the trial court's judgment on the credibility of Angelyn.

Our own reading of her testimony discloses a pure and simple barrio lass who, despite her traumatic experience, weathered the lengthy and rigorous cross-examination in an unfamiliar, if not unfriendly, courtroom atmosphere. She remained unshaken and her responsive and concise answers only enhanced the truthfulness of her story of defloration. This was not the only ordeal she underwent after the assault on her virtue and the desecration of her chastity; earlier, she allowed her private organ to be thoroughly examined by a doctor if only to have medical proof that she was indeed raped. Time and again, this Court had said that no unmarried woman would tell a story of defloration, allow the examination of her private part, and thereafter permit herself to be the subject of a public trial unless she was really ravished and she wants justice to be done.[29] This is specially true of a female below twelve years of age, like Angelyn, who is still unaffected by mundane wiles.

Angelyn's delay in reporting the crime does not cast doubt on her credibility. At her tender age, she could not be expected to react like a mature person. She was in a quandary because her own assailant was her teacher and adviser who not only had ascendancy and control over her success or failure in school but also threatened to kill her if she would report what he did to her. Fear, more than reason, dominated her. It has been held that delay in reporting a rape incident due to death threats cannot be taken against the victim.[30] It is not uncommon for young girls to conceal for sometime the assaults on their virtue because of the rapists' threat on their lives.[31]

The claimed transmogrification of Donato III into Donato Jr. is a play on the imagination. As explained by

Angelyn, although she had requested Donato III to accompany her the second time the accused directed her to go to his house, she discovered when she opened the door of the house that it was the accused who had followed her. It was not impossible for him to have followed the victim without her noticing and it was established beyond doubt that he indeed raped her inside the room of his house.

The accused's allegation that Angelyn showed up inside her classroom that same morning of 28 November 1990 after the rape incident is a misrepresentation of fact. Angelyn testified that after she was raped on 28 November 1990, she first hid herself behind the banana plantation and cried.[32] She did not immediately return to her classroom because she was not yet ready to face her classmates. Thus, her conduct conformed to the natural reaction of a bewildered victim of a sexual assault.

Nor can the accused's acquittal in Criminal Case No. 9346 be a ground for his acquittal in Criminal Case No. 9345. Such acquittal was based on reasonable doubt. The circumstances in Criminal Case No. 9346 mentioned by the trial court in its decision are not attendant in Criminal Case No. 9345 where the accused had the unhampered opportunity to satisfy his bestial lust on 28 November 1990 because only he and the complainant were in his house at that time and Angelyn was lying down while he was on top of her.

The allegation of the accused that Mrs. Ofelia Fernandez induced Araceli dela Cruz, Angelyn's mother, to file criminal charges so as to remove him as a teacher of Balading Elementary School is not convincing. If a mother would not sacrifice a daughter's honor just to give vent to a grudge as she knows fully well that such an experience would damage her daughter's psyche and taint her for life,[33] nor initiate a complaint for rape, or subject a daughter to a physical examination and the humiliation of a public trial unless she was motivated by an honest desire to have the culprit punished,[34] then with more reason that she would not do so merely upon the instigation of another. There is no showing at all that Araceli was under the overpowering influence of Mrs. Fernandez.

Moreover, there is no evidence that Mrs. Fernandez harbored any ill-motive against the accused which could have moved her to use Araceli to destroy him. He and Mrs. Fernandez were obviously in good terms. He even held his birthday party on 25 January 1991 in her office.[35] Mrs. Ofelia Fernandez also testified that she did not have any grudge against the accused and that she and his wife are the best of friends.[36] Finally, the accused could not attribute to Angelyn and her mother any ulterior or improper motive for charging him with rape. Since no such motive of Angelyn and her mother was shown, their testimonies are entitled to full faith and credit.[37]

The accused took full advantage of his position as teacher and class adviser of Angelyn. Using his ascendancy over her, he made her a victim and a captive of his lust. What he did was highly condemnable. He flouted the public trust character of his office which demanded from him service with utmost responsibility and integrity;[38] and made a mockery of the solemn duties of one exercising special parental authority[39] to educate and instruct his ward by right precept and good example and to provide her with moral and spiritual guidance.[40] He paid no heed to the precept that as a teacher he was to be the paragon of uprightness, morality, and integrity. The educational system is not the place for beasts like him.

WHEREFORE, finding the challenged decision in Criminal Case No. 9345 of Branch 52 of the Regional Trial Court of Palawan to be in accord with the law and fully supported by the facts, this Court hereby AFFIRMS it in toto.

Costs against accused Donato Lagrosa, Jr.

SO ORDERED.

Cruz, (Chairman), Bellosillo, Quason, and Kapunan, JJ., concur.

[1] Original Records, (OR) 21. The complaint is dated 1 April 1991 and is supported by the affidavits of the complainant and her mother taken on the same date.

[2] OR, 1-2; Rollo, 5-6.

[3] Id., 19-20; Id., 7-8.

[4] OR, 35.

[5] She was born on 4 October 1979 (Exhibit “D”; OR, 74); see also, TSN, 14 August 1991, 43.

[6] TSN, 13 August 1991, 3-12; 23-24.

[7] Id., 13-19.

[8] TSN, 13 August 1991, 21-25.

[9] TSN, 21 October 1991, 6-8.

[10] TSN, 14 August 1991, 51-52.

[11] TSN, 14 August 1991, 45-46.

[12] Id., 47-49.

[13] Id., 35-38; Exhibit “C”; OR, 75.

[14] TSN, 24 January 1992, 4-8; 11-15; 28-30.

[15] Id., 21-27; 33-34.

[16] OR, 92-112; Rollo, 19-40. Penned by Judge Filomeno A. Vergara.

[17] OR, 112; Rollo, 40.

[18] Appellant’s Brief, 1.

[19] Id., 4.

[20] Appellant’s Brief, 5.

[21] Id., 5-6.

[22] Id., 6.

[23] Brief for Plaintiff-Appellee, 16, 24; Rollo, 102, 110.

[24] Article 335, Revised Penal Code; *People vs. dela Cruz*, G.R. Nos. 91865--66 and G.R. Nos. 92439-40, 6 July 1993. See also, AQUINO, R.C., *The Revised Penal Code*, vol. 3, 1988 ed., 395-396.

[25] *U.S. vs. Ambrosio*, 17 Phil. 295 [1910]; *People vs. Enciso*, G.R. No. 105361, 25 June 1993.

[26] *People vs. Simon*, 209 SCRA 148 [1992] and a host of cases cited therein.

[27] *People vs. Santito*, 201 SCRA 87 [1991].

[28] *U.S. vs. Macuti*, 26 Phil. 170 [1913].

[29] *People vs. Patilan*, 197 SCRA 354 [1991].

[30] *People vs. Lucas*, 181 SCRA 316 [1990].

[31] *People vs. Oydoc*, 125 SCRA 250 [1983]; *People vs. Munda*, 189 SCRA 425 [1990].

[32] TSN, 13 August 1991, 11.

[33] *People vs. David*, 177 SCRA 551 [1989]; *People vs. Santos*, 183 SCRA 25 [1990]; *People vs. Yambao*, 193 SCRA 571 [1991].

[34] *People vs. Rosell*, 181 SCRA 679 [1990].

[35] TSN, 24 January 1992, 13-14.

[36] TSN, 21 October 1991, 13.

[37] *People vs. Simon*, *supra*.

[38] Section 1, Article XI, 1987 Constitution.

[39] Article 218, The Family Code.

[40] Article 220, *Id*.

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