

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUDY IGNACIO Y CAMSON, ACCUSED-APPELLANT.

G.R. Nos. 106644-45. June 07, 1994

Ponente: CRUZ, J.

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CRUZ, J.:

Rudy Ignacio was convicted of twice raping Gloriann Tibayan, the twelve-year old daughter of his common-law wife. In seeking reversal of the judgment, he argues that the evidence of the prosecution is far too implausible to support his conviction.

Ignacio is the live-in partner of Flory Tibayan, by whom he has two children. Flory has two other older children by her separated husband, namely Gloriann and Ryan, who was 9 years old at the time of the alleged incident. Gloriann is the complainant in this case.

Gloriann claims that she was first raped sometime in June, 1991, at the residence of the accused in San Roque II, Bagong Pag-asa, Quezon City.[1] The offense was repeated two months later under practically the same circumstances as the first except that he was discovered this time.[2]

The trial court found that at around four o'clock in the morning of August 10, 1991, Gloriann woke up and found Ignacio poking a knife at her neck. He covered her mouth and twisted her arm to discourage her resistance. He then removed her panty and mounted her, causing her intense pain as he penetrated her maidenhood. The deed done, Ignacio whispered to her, as he had done the first time, that he would kill her family if she reported the incident to her mother[3].

As he rose from the bed, however, he found himself face to face with a nonplussed Flory, who had awakened to go to the bathroom.[4] Sensing something wrong, she asked Ignacio what he was doing there. Ignacio replied that he was checking through the window if there was a robber. But he did not sound convincing enough.[5]

When he left the room, Flory asked Gloriann why she seemed to be afraid. The girl did not immediately answer. In her anger, Flory hit Gloriann with a hanger. She could not believe that nothing had happened because her daughter was covering her body with a blanket. After a while, Gloriann finally revealed that she had just been raped by Ignacio and that this was the second time he had done this.[6]

That same day, Flory took Gloriann to the PNP Crime Laboratory for examination. She was found by Dr. Dario Gajardo to be a non-virgin as indicated by the healed deep laceration in her hymen.[7]

The above narration was made by Gloriann and Flory in their respective testimonies. Dr. Gajardo, who affirmed his written report of Gloriann's medical examination,[8] explained at the trial that among Filipino women, laceration of the hymen after the first intercourse takes seven to fourteen days to heal.[9]

The sole witness for the defense was Ignacio himself, who denied the two rapes. He claimed that in the early morning of August 10, 1991, he heard the dogs barking and stood up to peep through the window, which was near

Gloriann's bed. It was then that Flory saw him and jumped to her erroneous conclusion. He said that the only reason he could think of for Gloriann's false accusation was his strictness toward her as a stepfather.[10]

The trial court, disbelieving him, sentenced him to suffer the penalty of reclusion perpetua for each of the two counts of rape. He was also required to indemnify the victim in the amount of P50,000.00 for each offense.[11]

In this appeal, Ignacio argues that 1) the testimony of Gloriann regarding the date she reported the rape to her mother was not consistent with the date given by her mother; 2) the rapes could not have been committed undetected by the other occupants of the small room; 3) assuming that he had carnal knowledge of Gloriann, the same was with the latter's consent; and 4) that it was in fact only through the prodding of Gloriann's mother that the complaint was lodged against him.

We note at the onset the absence of any ill motive on the part of the complainant and her mother for imputing to the appellant the serious crime of rape. The allegation that Gloriann resented his strictness, even assuming this to be true, is not in our view a sufficient inducement for such a serious charge. It is not believable that, simply to get even with Ignacio for his supposed strictness, Gloriann would agree to suffer the indignities of a physical examination of her private parts and the embarrassment of a public trial where she would be required to relate the sordid details of her violation.

It is also difficult to understand why the mother would herself initiate the prosecution of her own common-law spouse, whose second child by her she was carrying in her womb at the time. We are convinced that Flory would not have filed the complaint out of sheer malice, knowing that it would expose her own daughter to humiliation and public curiosity and could send the father of two of her children to prison for the rest of his life.

Gloriann's failure to report the first incident cannot be construed as consent to her defilement. The plain fact is that she was afraid because of Ignacio's threat to kill her and her family if she complained. Gloriann was barely over twelve at the time, besides being, as the trial judge observed, rather slow mentally.[12] As we observed in one case:[13]

One should not expect a fourteen-year old girl to act like an adult or mature and experienced woman who would know what to do under such difficult circumstances and who would have the courage and intelligence to disregard a threat on her life and the members of her family and complain immediately that she had been forcibly deflowered. It is not uncommon for young girls to conceal for some time the assaults on their virtue because of the rapist's threat on their lives, more so when the rapist is the child's own stepfather living with her.

There was no contradiction between Gloriann and Flory regarding the date the daughter reported the first abuse to her mother. While it is true that Gloriann stated during her direct examination that she immediately told her mother about the first rape, she corrected this during her cross-examination. She said then that it was on August 10, 1991, after the second rape, that she told her mother of the earlier rape in June.[14]

The strongest argument of the appellant is the implausibility of the alleged manner and place of the commission of the offenses. The defense focuses on the room where Gloriann was allegedly raped twice at a time when it was occupied by all the other members of the family. It is stressed that there were in all five persons then in that room, which was partitioned only with a television set and a cassette recorder. On one side was the bed of Ignacio and Flory (and presumably their 4-year old child) and on the other side by the window was the bed of Gloriann and her brother, Ryan. It was by no means a big room, measuring only 8 x 8 square feet.[15]

The defense maintains that in such a small and crowded room, with Flory sleeping beside him and Gloriann just a few feet away with her 9-year old brother, Ignacio would not even have dared, let alone actually committed, the rape of the 12-year old Gloriann. Such an act, not to say acts, would be contrary to human nature and can only

invite disbelief.

True. The acts of Ignacio are really contrary to human nature and well nigh incredible. They are indeed unnatural. The appellant himself testified that he raised the girl from the time she was six years old and that she herself looked up to him as her real father. Nevertheless, that relationship - and her tender age - did not deter him from forcing his lust on her, rupturing her innocence and shattering her child-like confidence in him. That is really hard to believe.

If such strong moral considerations could not deter him from his evil acts, it is easy to understand that the physical inhibitions were less dissuasive. The man had lust in his heart. Lechery had befogged his mind. He was willing to take chances and in fact eluded discovery the first time. But he pushed his recklessness too far when he raped the girl again, for he was this time almost caught in flagrante. As well he might have expected had he been thinking clearly. His improbable defense now seems to be that he would not have attempted the rape at all because he knew he would surely have been detected. In effect, he is now claiming, *reductio ad absurdum*, that the discovery of the second offense is proof of his innocence.

The Court may take judicial notice of the interesting fact that among poor couples with big families living in small quarters, copulation does not seem to be a problem despite the presence of other persons around them. One may also suppose that growing children sleep more soundly than grown-ups and are not easily awakened by adult exertions and suspirations in the night. Ryan may not have been roused from his deep sleep as Ignacio violated Gloriann, but Ignacio did not reckon with the adult Flory, who was more sensitive to the sounds in the dark.

It also occurs to the Court that the very implausibility of the commission of the rapes is itself strong evidence of its truthfulness. Had the charge been merely concocted as the defense suggests, Flory and Gloriann would have made it more acceptable by inventing more believable circumstances not encumbered by the presence of all the members of the family in the room when the rapes were committed. The fact that they did not choose to do so suggests that they related the events as they really happened, without omission or embellishment, even if they might appear improbable.

It remains to de-bunk the alternative defense that, assuming there was sexual intercourse between Ignacio and Gloriann, the same was consensual. This is ridiculous. This kind of argument insults the intelligence of the Court and sorely tests its patience. This is not even a case of consenting adults for Gloriann was barely over twelve years old at the time of the rapes; and at any rate there is no evidence whatsoever of any romantic relationship between her and the appellant. Attys. Al A. Castro and Virgilio M. Villanueva are warned against a repetition of this fatuity. While the lawyer is expected to exert his best efforts on behalf of his client, he must nevertheless do so within the bounds of reason and common sense. Excess of zeal cannot justify paucity of logic and can only prejudice rather than advance a client's cause.

What possessed Rudy Ignacio to commit the beastly acts upon the twelve-year old child who trusted him and looked upon him as her real father is beyond the comprehension of this Court. Hardened as we are to the depravity of many persons we have been called upon to convict, we have yet to be inured to the cynical wickedness of a grown man forcing his lasciviousness upon an innocent child, lacerating not only her chastity but also her faith in human nature. We can only hope, given the resiliency of youth, that the trauma is not irreparable.

WHEREFORE, the appeal is DISMISSED and the challenged decision is AFFIRMED in toto, with costs against the appellant. It is so ordered.

Davide, Jr., Bellosillo, Quiason, and Kapunan, JJ., concur.

- [1] TSN, Nov. 18, 1991, pp. 3-4.
- [2] Ibid, pp. 5-6.
- [3] TSN, Nov. 18, 1991, pp. 3-6.
- [4] TSN, Jan. 29, 1992, p. 11.
- [5] Ibid., p. 4.
- [6] Id., pp. 5 and 8.
- [7] TSN, Jan. 22, 1992, p. 3.
- [8] Exhibit B.
- [9] TSN, Jan. 22, 1992, p. 4.
- [10] TSN, Feb. 21, 1992, pp. 5-6.
- [11] Decision, p. 5. Penned by Judge Monina Arevalo Zeñarosa.
- [12] Ibid.,
- [13] People vs. Sonico 156 SCRA 419 citing People vs. Odyoc, 125 SCRA 250.
- [14] TSN, Jan. 22, 1992, p. 8.
- [15] TSN, Feb. 11, 1992, p. 5.

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