

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDUARDO G. MONTEFALCON ALIAS EDWIN MONTEFALCON, ACCUSED-APPELLANT.

G.R. Nos. 111944-47. April 21, 1995

Ponente: FELICIANO, J.

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FELICIANO, J.:

Eduardo Montefalcon was charged in four (4) criminal cases with raping a 10-year old female on four (4) different occasions. Four (4) separate informations were filed, setting forth allegations identical save for the dates of the commission of the several offenses:

"That on or about the 22nd day of February, 1993 [(in Criminal Case No. 10704) on the 4th day of March, 1993 (in Criminal Case No. 10739) on the 2nd day of March, 1993 (in Criminal Case No. 10740) and on the 27th day of February, 1993 (in Criminal Case No. 10745)] in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force and intimidation did then and there, wilfully, unlawfully and feloniously lie, and succeeded in having carnal knowledge with one Sharon Saing, a minor, 10 years of age, against her will."[1]

At arraignment, the accused pleaded not guilty. The four (4) criminal cases were jointly tried and thereafter, the trial court rendered a decision dated 24 August 1993, disposing of the four (4) cases in the following manner:

"Wherefore, the Court finds Accused Eduardo G. Montefalcon a.k.a. Edwin Montefalcon, guilty beyond reasonable doubt of the offense of Rape, defined and penalized in Article 335 of the Revised Penal Code in all the above-entitled four (4) cases, and in the absence of modifying circumstances, he is hereby sentenced to suffer the penalty of Reclusion Perpetua with the accessory penalties provided by law, in each of the above 4 cases, which he must serve simultaneously pursuant to Article 70 of the Revised Penal Code, to indemnify Sharon Saing in the total amount of P120,000.00 and to pay the costs.

SO ORDERED."[2]

In his appeal, Montefalcon claims that the trial court erred:

(a)

"in giving full weight and credence to the conflicting and improbable testimonies of the prosecution witness Sharon Saing; and

(b)

"in finding the accused guilty beyond reasonable doubt despite insufficiency of evidence to prove his guilt beyond reasonable doubt."[3]

The relevant facts as presented by the prosecution were summed up by the trial court in the following manner:

"Appellant Eduardo G. Montefalcon, a.k.a. Edwin Montefalcon, lives in the same house where the 10-year old

complainant and her parents also live located at Batinguel, Dumaguete City. Appellant was given a room in the said house as his quarters by the owner of the house, Dr. Orbeta who hired him as a 'cock-handler' of some fighting cocks (p. 7, tsn, Aug. 20, 1993).

On the evening of February 22, 1993, the parents of the complainant-minor, as usual, were both out of the house because of their respective jobs, with her mother working as a waitress at a disco bar located also in Dumaguete City and her father driving a tricycle which is 'for hire' (p. 3, tsn, June 10, 1993). At around 9:00 o'clock in the evening of the said date, while the complainant was sleeping inside her bedroom together with her 8-year old brother, she was awakened by somebody removing her shorts and panty (ibid.). It turned out that this somebody was appellant who pressed a pillow on top of her face to prevent her from shouting (ibid.) Thereafter, appellant inserted his sexual organ into the private part of the minor, and after satisfying his lustful desires which lasted for about three (3) hours, he warned the minor not to tell anyone about what happened otherwise she would be killed (pp.3-4, tsn, ibid.). This sexual abuse made by appellant on the minor happened for three more nights, i.e., on the nights of February 27, March 2 and finally, on March 4, 1993 (pp. 6, 8 & 11, tsn, ibid.). During all these succeeding occasions, appellant was covering the face of the minor with a pillow while sexually abusing her to keep her from shouting, and after every abuse, the minor was threatened that she would be killed if she would tell her parents about these abuses made on her (ibid., p. 7, tsn, ibid.).

Unfortunately for appellant who seemed to have pushed his luck too far, after sexually abusing the minor for the fourth time on the night of March 4, 1993, he was too drunk that he fell asleep beside his victim (p. 11, tsn, ibid.). At around 3:00 o'clock of the following morning, the minor's father arrived home from work and after opening the light of their bedroom, he was very surprised to see appellant sleeping beside his 10-year old daughter (p. 16, tsn, July 5, 1993). The father, thus, immediately woke up and asked appellant why was he sleeping there, to which appellant responded by saying that he lost his way going to his room because he was drunk (ibid.) After appellant had left the room, the father, who had suspected that his young daughter might have been sexually abused, removed the shorts and panty of his daughter who was then still sleeping (p. 17, tsn, ibid.).

Thereupon, the father found out that there are some fluids on the private part of his daughter, thus, confirming his initial suspicion (ibid.). He, then, woke up his daughter who later cried and told him about the many sexual abuses made on her by appellant (ibid.).

After the matter was reported to the police authorities, the minor was subjected to a physical examination by Dr. Edna Aguilar Tabaloc, a Medical Officer of the Negros Oriental Provincial Hospital located in Dumaguete City, who later prepared a Medical Certificate (Exh. 'B') containing the following findings:

1. Physical exam. - No sign of external injuries.

2. Vaginal exam:

a. Old lacerations at 9, 2 & 4 o'clock positions.

3. Vaginal smear for spermatozoa - negative (Exh. 'B-1', p. 17, Rec., Crim. Case No. 10704)."[4]

Appellant Montefalcon's defenses were denial and alibi. He claimed he was somewhere else, not in the victim's family residence, on the nights of 22 and 27 February 1993 and of 2, and 4 March 1993:

"x x x that on February 22 and 27, 1993 at around 8:00 o'clock in the evening, the accused Eduardo Montefalcon went to the place where his brother Narciso Montefalcon works and stayed there until 11:00 o'clock in the evening. He arrived at Batinguel, Dumaguete at around 11:30 o'clock in the evening.

On March 2, 1993 he went out at around 8:30 o'clock in the evening to watch a movie at Park Theater and went back at about 11:45 o'clock in the evening.

On March 4, 1993 at around 8:30 o'clock in the evening, he went out alone for a stroll at the beach in Dumaguete City. At around 10:00 o'clock in the evening, he met Clemente Saing, and invited Clemente to a place called 'Office' where they had a drinking spree until 11:45 o'clock in the evening. After drinking Clemente and Eduardo went home."[5]

Article 335 of the Revised Penal Code provides in relevant part:

"Article 335. When and how rape is committed. — Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age, even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present.

The crime of rape shall be punished by reclusion perpetua.

xxx xxx xxx"

(Emphases supplied).

When the victim is under 12 years of age, the law recognizes that any consent to the carnal embrace that the female minor may have manifested, or is alleged to have manifested, would be irrelevant. Such consent if any is conclusively presumed to be non-intelligent consent on the part of the woman under 12 years of age.[6]

The informations charged that Montefalcon had "by means of force and intimidation," succeeded in having carnal knowledge of Sharon Saing "a minor, 10 years of age, against her will." The prosecution had, of course, to prove that the victim Sharon was 10 years of age at the time of the commission of the four (4) instances of rape. Once this fact was established, it became quite unnecessary for the prosecution to prove also that the sexual intercourse had been inflicted upon the victim against her will.

Sharon Saing testified that at the time of the sexual assaults she was 10 years of age. This testimony was not disputed by the defense[7] and must, therefore, be regarded as sufficient to prove that fact. Accordingly, the only other circumstance that the prosecution had indispensably to establish beyond reasonable doubt was that appellant Montefalcon did in fact have carnal knowledge of Sharon Saing four (4) times as alleged in the several informations.

Briefly, appellant insists that the trial court erred in giving credence to the testimony of the 10 year old victim which he described as conflicting and improbable. Appellant claims that the credibility of Sharon Saing is suspect because her actions after the alleged sexual intercourse were not the "normal behavior of a girl whose virtue has been damaged." [8] More specifically, he points out that Sharon testified that she went back to sleep although she had suffered excruciating pain in the course of the sexual penetration and that, while Sharon testified that the appellant had forced her to submit to his sexual embraces four (4) times, she never advised her parents of such outrage although she had opportunities to do so. Appellant stresses that it was only after he was discovered by Sharon's father asleep beside her in her bedroom on the fourth occasion that she finally informed her father that she had been violated by Montefalcon on three (3) previous occasions. Also telling, according to the appellant, is the fact that after the first alleged rape, she did not lock the door of her bedroom when she went to sleep on the succeeding nights.[9]

The Court is not persuaded by these contentions. We have had occasion to state and reiterate that "different people react differently to a given situation or type of situation, and there is no standard form of human behavioral

response where one is confronted with a strange or startling or frightful experience." [10] The victim's failure to tell her parents more promptly of the sexual assaults upon her did not, by itself, diminish her credibility. The silence of the offended party in a case of coerced coitus, or her failure to disclose her defilement without loss of time to persons close to her and to report the matter to the police authorities, do not necessarily compel the conclusion that she had not in fact been sexually assailed and that "her charges against the accused are all baseless, untrue and fabricated." [11] This Court has also observed that "it is not uncommon for young girls to conceal for sometime the assaults on their virtues because of the rapist's threat on their lives." The victim here is of tender age and limited schooling and her actions under such difficult and trying circumstances were understandably dominated more by fear than by reason. She could not be expected to have such exceptional courage as to disregard an explicit threat on her life. [12]

Relevant portions of her testimony on cross-examination follow:

"Q:

Was there any instance [where] you and your parents were alone and Edwin was not there?

A:

Yes.

Q:

Now, during those instances, did you not tell your parents that you were afraid that Edwin would come back and abuse you again?

A:

I did not tell them.

Q:

Why?

A:

Because I was afraid.

Q:

But, Edwin was not there anymore? / Was Edwin always at your side after those incidents?

A:

No.

Q:

Now, you did not take courage to tell your parents since Edwin was out?

A:

I wanted to talk to them.

Q:

Why did you not?

A:

Because I was afraid.

x x x x x x x x"[13]

On redirect examination, the victim further clarified:

"Q:

Now, you stated that you were sexually assaulted by the accused on Feb. 22, Feb. 27, Mar. 2 and Mar. 4, all of 1995 and you stated that you were afraid to tell your parents of the incident that happened [to] you, can you tell the court what were you afraid of?

A:

Yes.

Q:

Please tell the court.

A:

I was afraid of Edwin Montefalcon.

Q:

Why were you afraid of Edwin Montefalcon?

A:

I was afraid to tell my parents because during those times Edwin Montefalcon was around.

Q:

Was there any word uttered by Edwin Montefalcon that you were afraid of?

A:

Yes.

Q:

What were those words, please tell the court.

A:

[He] told me that if I report the incident to my parents he will kill me.

x x x x x x x x"[14]

Similarly, the fact that the victim Sharon failed to lock her bedroom door at night after the first sexual assault does not argue that she had not been raped at all. Her responses to queries regarding this point reveal only that she was a very young woman and, faced with a particular situation at hand, was unable to address her problem with the rationality and logic which might be expected of a mature woman. She chose to leave the door to her room unlocked while she slept so that she would not need to wake up and unlock the door for her father and mother when they would come home from work at early morning.[15]

In respect of the credibility of witnesses, it has countless times been held that the findings of trial courts are properly accorded great respect and as such are not generally disturbed on appeal, "unless there are substantial facts and circumstances which have been overlooked and which, if properly considered, might affect the result of the case." [16] We find no reason for overturning the findings of the trial court in this case. Sharon testified that appellant Montefalcon had sexually imposed himself upon her four (4) times on four (4) different occasions. That testimony on this matter, upon which the trial court relied heavily, was clear and convincing and forthright in manner, identifying the accused and the time and place and manner in which he had imposed himself on her sexually.

As already noted, Montefalcon merely denied having raped Sharon Saing four (4) times and raised the defense of alibi. The repeated teaching of this Court is that alibi is an inherently weak defense and, unless supported by clear and convincing evidence, cannot prevail over the positive identification by the victim of the offender.[17] Moreover, if alibi is to be given credence by the trial court, it is not enough to prove that the accused was not at the scene of the crime when it allegedly happened, but that it was impossible for him to be there, or be within the immediate vicinity, at the time of the commission of the offense or offenses.[18] It is noteworthy that the defense's claim of alibi is not supported by any evidence other than the bare assertion of appellant himself. He offered no corroboration of his own statements, even though persons who might naturally have been expected to corroborate his testimony were mentioned by appellant himself. For instance, Montefalcon could have presented his brother with whom he claims to have been on the nights of 22 and 27 February 1993; or the ticket seller of the movie house ("Park Theater") where he says he watched a movie on the night of 2 March 1993; or an employee or customer of the "Office," the beerhouse where he allegedly spent the night of 4 March 1993 drinking away. Montefalcon's testimony is completely self-serving and uncorroborated and consequently of negligible probative value.

WHEREFORE, for all the foregoing, the appealed decision of the trial court is hereby AFFIRMED in toto.

SO ORDERED.

Romero, Melo, Vitug, and Francisco, JJ., concur.

[1] Record in Criminal Case No. 10704; p. 3; Record in Criminal Case No. 10739, p. 2; Record in Criminal Case No. 10740, p. 2; Record in Criminal Case No. 10745, p. 4. Brackets supplied

[2] Rollo, pp. 17-24.

[3] Id., p. 43.

[4] Appellee's Brief, pp. 3-7; Rollo, p. 68.

[5] TSN, 20 August 1993, pp. 4-11.

[6] People v. Repollo, 7 October 1994, G.R. No. 108872; People v. Buyo, 235 SCRA 623 (1994); People v. Ibay, 233 SCRA 15 (1994); People v. Lucas, 232 SCRA 539 (1994); People v. Espino, 230 SCRA 788 (1994); People v. Montes, 230 SCRA 753 (1994); People v. Lagrosa, 230 SCRA 298 (1994); People v. Palicte, 229 SCRA 543 (1994).

[7] TSN, Cross-examination of Sharon Saing, 10 June 1993, pp. 13-19; TSN, 5 July 1993, pp. 3-15.

[8] Rollo, p. 43; Appellant's Brief, p. 5.

[9] Id., p. 44; Appellant's Brief, p. 6.

[10] People v. Raptus, 198 SCRA 425, 432 (1991); People v. Ronquillo, 184 SCRA 236, 244 (1990).

[11] People v. Yambao, 193 SCRA 571, 579 (1991).

[12] People v. Raptus, 198 SCRA 425, 432-433 (1991).

[13] TSN, 10 June 1993, p. 9.

[14] TSN, 5 July 1993, p. 13.

[15] Id., p. 3.

[16] People v. Pamor, G.R. No. 108599, 7 October 1994, p. 8; People v. Repollo, G.R. No. 108872, 7 October 1994, pp. 5-6; People v. Retuta, G.R. No. 95758, 2 August 1994; p. 12.

[17] People v. Saballe, G.R. No. 98704, 8 September 1994, p. 5; People v. Tayco, G.R. No. 100283, 25 August 1994, p. 14; People v. Apa-ap, G.R. No. 110993, 17 August 1994; p. 8; People v. Jimenez, et al., G.R. No. 108773, 15 August 1994, p. 7.

[18] People v. Muyano, G.R. Nos. 105621-23, 5 August 1994, p. 7; People v. Singson, G.R. No. 92502, 4 August 1994, p. 10; People v. Retuta, G.R. No. 95758, 2 August 1994, pp. 14-15; People v. Devaras, 205 SCRA 676 (1992).

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