

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BRYAN FERDINAND DY Y LA MADRID AND GIOVAN BERNARDINO Y GARCIA, ACCUSED-APPELLANTS.

G.R. Nos. 115236-37. January 16, 2003

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Accused-appellants Bryan Ferdinand Dy and Giovan Bernardino filed separate motions for reconsideration of our Decision[1] which affirmed the judgment of the Regional Trial Court of Baguio City, Branch 5, finding them guilty of rape and acts of lasciviousness.

In his motion, accused-appellant Dy submits that our decision should have been merely recommendatory, in view of the provision of Article VIII, Section 5 (2) (d) of the Constitution which provides that the Supreme Court sitting en banc has jurisdiction over “[a]ll criminal cases in which the penalty imposed is reclusion perpetua or higher.” He contends that Supreme Court Circular No. 2-89 which provides that death penalty cases shall be within the jurisdiction of the Court en banc is incongruous and incompatible with the aforementioned constitutional provision.

The contention is misleading. Under Article VIII, Section 4 (1) of the Constitution, the Supreme Court may sit en banc or, in its discretion, in divisions of three, five, or seven Members. At present, it is made up of three divisions. However, the divisions of the Supreme Court are not to be considered as separate and distinct courts. Actions considered in any of these divisions and decisions rendered therein are, in effect, by the same Tribunal. The divisions are not to be considered as separate and distinct courts, but as divisions of one and the same court.[2]

Accused-appellant Dy further contends that: (1) the sexual intercourse between him and complainant AAA was consensual; (2) there is no evidence of rape except for AAA’s bare claim; (3) there is no conclusive evidence that AAA and Tennican were drugged which caused them to black out and become unaware of what was happening to them; (4) Bernardino did not commit acts of lasciviousness; and (5) there is no conclusive proof of conspiracy between the two accused-appellants.

The issues raised by accused-appellant Dy have been exhaustively considered and discussed in our Decision and there is no need to reassess them or reconsider our stand.

Bernardino, on the other hand, alleges that: (1) accused-appellants were not accorded their right to a fair, unbiased resolution of the preliminary investigation when the reviewing prosecutor unilaterally reversed the findings of the three-man investigating panel that recommended the dismissal of the charges against them; (2) the right to be arraigned is not among the rights that are susceptible to waiver or estoppel, thus the lack of arraignment cannot be deemed cured by their participation in the trial; (3) the erroneous decision of the trial judge to hold an expedited trial effectively deprived them of proper preparation for and presentation of an adequate defense; (4) the evidence presented by the prosecution was insufficient to establish his guilt with moral certainty; (5) the trial court erroneously allowed accused-appellant Dy to remain at liberty even after promulgation of judgment on the

strength of the same bail bond posted by him during trial, while denying accused-appellant Bernardino's petition for bail; (6) the legal doctrines cited in our Decision do not apply in this case since the premises upon which these principles lie are not present herein; and (7) as a matter of equity, the significant delay in the resolution of this appeal should at least merit our attention to the peculiar effects of the decision in this case particularly as regards accused-appellant Bernardino.

We find that the points raised by Bernardino on matters of substance and procedure have likewise been extensively discussed in our Decision.

However, two points raised by accused-appellant Bernardino must be clarified.

First, the allegation that there was no valid arraignment is misleading and betrays a lack of comprehension regarding the procedural requirements of arraignment in the context of the constitutional right of an accused to be informed of the nature and cause of the accusation against him. In our decision, we stated:

Concededly, the right to be informed of the nature and cause of the accusation may not be waived. Indeed, the defense may waive their right to enter a plea and let the court enter a plea of "not guilty" in their behalf. However, it becomes altogether a different matter if the accused themselves refuse to be informed of the nature and cause of the accusation against them. The defense can not hold hostage the court by their refusal to the reading of the complaint or information.

Second, Bernardino argues that the circumstances obtaining in the case at bar are not on all fours with the doctrine that findings of fact of the trial court are best left undisturbed on appeal; and that no woman would concoct a story of defloration, allow examination of her private parts and subject herself to trial and ridicule if she has not, in truth, been a victim of rape and impelled to seek justice for the wrong done to her. He claims that we should have disregarded the findings of the trial court for the reason that the haste with which the trial was conducted necessarily casts a cloud of doubt over the validity of the proceedings; that the conflicting findings of the investigating panel and the reviewing prosecutor should have alerted us to varying interpretations of the facts at hand; and that there was no independent proof that complainant was drugged aside from self-serving documents relied upon by medical experts who did not examine complainant.

The records show that the proceedings were not hastily conducted. While the proceedings might have been of short duration than usual, they were nevertheless conducted with due regard to the right of each party to due process. The trial court should even be commended for conducting a speedy trial, which should be the rule, rather than the exception. What is of prime consideration is not the speed by which the trial was conducted but the manner by which the procedural and substantial requirements were complied with. The records show that these requirements were adequately met.

We do not see any irregularity in the conflicting findings of the investigating panel vis-à-vis those of the reviewing prosecutor. It is the prerogative of the reviewing prosecutor to overturn the findings of the investigating panel depending on how he appreciates the evidence.

Bernardino further claims that the principle that no woman would concoct a story of defloration is largely an interpretation rooted in the Philippine context where in a number of cases, we have taken judicial notice of the Filipina's inbred modesty and shyness and her antipathy in publicly airing acts which blemish her honor and virtue. We do not agree. The outrage and cry for justice of rape victims are universal and are not limited to or the exclusive prerogatives of any one race or culture.

IN VIEW OF THE FOREGOING, the Motions for Reconsideration filed by accused-appellants Bryan Ferdinand Dy and Giovan Bernardino are DENIED WITH FINALITY.

Let a warrant of arrest be issued against accused-appellant Bryan Ferdinand Dy. In this connection, the National Bureau of Investigation is DIRECTED to serve the warrant of arrest against him, to make a report thereon and submit the same to this Court within five (5) days after serving the same.

SO ORDERED.

Davide, Jr., C.J., (Chairman), and Puno, J., concur.

[1] Promulgated on January 29, 2002 by the First Division of the Supreme Court.

[2] Bayan Telecommunications (Bayantel), Inc. v. Express Telecommunication Co., Inc. (Extelcom), et al., G.R. No. 147210, January 15, 2002.

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