

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RENATO PUZON Y JUQUIANA, ACCUSED-APPELLANT.

G.R. Nos. 123156-59. August 29, 2000

Ponente: PURISIMA, J.

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PURISIMA, J.:

Appeal from the Decision[1] of Branch 33, Regional Trial Court of La Union, finding appellant Renato Puzon y Juquiana guilty of statutory rape in Criminal Cases Nos. 1708-BG, 1709-BG, 1710-BG, and 1711-BG, for raping his own daughters, and sentencing him, thus:

"WHEREFORE, in view of all the foregoing, the Court finds accused Renato Puzon y Juquiana guilty beyond reasonable doubt of the crimes of Rape, as follows:

1. In Criminal Case No. 1708-BG., the Court sentences Renato Puzon y Juquiana to suffer the penalty of Reclusion Perpetua; and orders him to indemnify the offended party Maria Consuelo Puzon the sum of P30,000.00 as moral damages and P20,000.00 as exemplary damages;
2. In Criminal Case No. 1709-BG., the Court sentences Renato Puzon y Juquiana to suffer the penalty of Reclusion Perpetua; and orders him to indemnify the offended party Maria Consuelo Puzon the sum of P30,000.00 as moral damages and P20,000.00 as exemplary damages;
3. In Criminal Case No. 1710-BG., the Court sentences Renato Puzon y Juquiana to suffer the penalty of Reclusion Perpetua; and orders him to indemnify the offended party Maria Cristina Puzon the sum of P30,000.00 as moral damages and P20,000.00 as exemplary damages; and
4. In Criminal Case No. 1711-BG., the Court sentences Renato Puzon y Juquiana to suffer the penalty of Reclusion Perpetua; and orders him to indemnify the offended party Maria Cristina Puzon the sum of P30,000.00 as moral damages and P20,000.00 as exemplary damages.

The accused is ordered to pay the costs.

SO ORDERED"[2]

Filed on March 21, 1994 by 4th Assistant Provincial Prosecutor Efren V. Basconcillo, the Informations indicting appellant allege:

In Criminal Case No. 1708-BG:

"That on or about the 5th day of November, 1993, in the Municipality of Bauang, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one MARIA CONSUELO PUZON against her will and consent, to the damage and prejudice of the offended party.

CONTRARY TO LAW."[3]

In Criminal Case No. 1709-BG:

"That on or about the 18th day of September, 1993 and several times thereafter, in the Municipality of Bauang, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one MARIA CONSUELO PUZON against her will and consent, to the damage and prejudice of the offended party.

CONTRARY TO LAW."[4]

In Criminal Case No. 1710-BG:

"That on or about the 5th day of November, 1993, in the Municipality of Bauang, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one MARIA CRISTINA PUZON against her will and consent, to the damage and prejudice of the offended party.

CONTRARY TO LAW."[5]

In Criminal Case No. 1711-BG:

"That on or about the 18th day of September, 1993, and several times thereafter, in the Municipality of Bauang, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one MARIA CRISTINA PUZON against her will and consent, to the damage and prejudice of the offended party.

CONTRARY TO LAW."[6]

With appellant pleading not guilty upon arraignment on April 8, 1994, with the assistance of counsel, trial ensued, with the prosecution presenting Walditruces Enriquez, PO3 Elbert de Castro and Dr. Bernardo Parado, and the complainants, as witnesses.

For the defense, appellant testified as the lone witness on his behalf.

The facts and circumstances sued upon are as follows:

Maria Cristina Puzon and Maria Consuelo Puzon, daughters of appellant, were ten (10) years and nine (9) years of age, respectively, when the incidents complained of occurred.[7] When their mother died on January 17, 1992, Elizabeth Moffat, appellant's sister brought them, together with appellant to Pagdangalan Sur, Bauang, La Union. Since then, they lived in a bungalow-type house with two bedrooms. Occupying one of the bedrooms were Maria Cristina and Maria Consuelo, with their four younger brothers and sisters. The other room was used by appellant. Elizabeth Moffat left for Canada.[8]

At about midnight of September 18, 1993, the Puzon children, and the complainants were sleeping inside their room, when the appellant who was drunk, awakened the complainants and brought them to the room he was occupying. Without the slightest inkling of appellant's devious plan, Maria Cristina and Maria Consuelo unsuspectingly entered the room. Thereupon, appellant ordered them to undress. At first, the two refused to remove their clothes but when appellant started to count, they eventually obeyed sensing that he was already mad. After removing his clothes, appellant directed Maria Cristina to lie down on the bed. The room was lighted so that

Maria Cristina saw the erect penis of appellant who placed himself on top of her. Maria Cristina felt an intense pain while the appellant made pumping motions in an effort to insert his penis into her sexual organ. Then, Maria Cristina felt a warm fluid (which she described as "kulay nana") coming out of the penis of appellant. Petrified with fear Maria Cristina neither complained nor even dared to ask appellant why he was sexually molesting her. She just kept on crying. The same was true with Maria Consuelo who was then sitting at the corner of the room and could do nothing but cry while witnessing the ordeal of her sister.[9]

Thereafter, appellant turned to Maria Consuelo. She felt pain and cried while appellant tried to insert his penis into her vagina. She likewise felt a warm fluid emitted by appellant's penis. When appellant was devouring Maria Consuelo, Maria Cristina remained seated on the floor, crying with her head bowed. After satisfying his lust on his own daughters, appellant casually put on his clothes and ordered his daughters to return to their room and sleep.[10]

At around midnight of November 5, 1993, Maria Cristina and Maria Consuelo were sleeping with their four brothers and sisters on the cemented floor of the 6x7 meter room with a single bed, when the two complainants were again suddenly awakened by the appellant, who they recognized despite the darkness of the room. On the bed, appellant removed Maria Cristina's panty, positioned himself on top of her and commenced the coital act. Maria Cristina felt pain. After appellant was through with her, she wiped off the fluid discharged by appellant's penis; and in tears, laid back on the floor pretending to be asleep.[11]

Subsequently, appellant placed himself on top of Maria Consuelo as she laid on the bed. Fearful of the appellant Maria Consuelo just cried in pain when he was sexually abusing her while her younger brothers and sisters were in deep slumber. After appellant was through with her, Maria Consuelo laid down beside Maria Cristina and the two cried over their misfortune.[12]

Both Maria Cristina and Maria Consuelo testified below that the appellant was not able to insert his penis into their vagina because they kept on moving in an effort to evade the sex organ of appellant. However, they recounted that the penis of appellant touched the lips of their vagina and they felt pain, in the process.[13]

On November 7, 1993, when Elizabeth Moffat arrived from Canada, she visited the house occupied by the family of appellant. But she stayed in her house in Calumbaya, Bauang, La Union. The complainants failed to reveal the dastardly act of appellant because according to them, Elizabeth Moffat was very busy. It was only on December 4, 1993 that they mustered enough courage to tell their traumatic experience to Aling Maria (Walditruedes Enriquez), the laundry woman who occasionally went to their house. The next day, Aling Maria told Elizabeth Moffat what the appellant did to the complainants. After learning what happened, Elizabeth Moffat lost no time in reporting the incident to the authorities and she submitted her nieces for medical examination.[14]

In the case of Maria Cristina Puzon, the results of the examination conducted by Municipal Health Officer Dr. Bernardo E. Parado, on December 7, 1993, were as follows:

"EXTERNAL EXAMINATION OF THE FEMALE REPRODUCTIVE ORGAN:

1. The mons veneris is not covered with pubic hair.
2. Labia Majora is noted to have abundant secretion. No hematoma noted. The mucosal lining is erythematous.
3. Labia Minora is moist and reddish in appearance.
4. No abnormality noted at the clitoris.
5. The vaginal opening is abundant with secretion, with erythematous mucosa. The hymen is fimbriated. No bleeding noted.

6. Vagina, noted to have abundant secretion.

INTERNAL EXAMINATION OF THE FEMALE REPRODUCTIVE ORGAN:

1. The vagina admits tip of finger.
2. Lacerations noted at 6 o'clock position with reddish erythematous mucosa.

LABORATORY EXAMINATION:

1. Negative for gram stain for gonococcus. No other laboratory procedure done."[15]

With respect to Maria Consuelo Puzon, the results were the following:

"EXTERNAL EXAMINATION OF THE FEMALE REPRODUCTIVE ORGAN:

1. The mons veneris is not covered with pubic hair.
2. Labia Majora is noted to have abundant secretion. No hematoma noted. Slight erythematous mucosal lining noted.
3. Labia Minora is noted to be moist, reddish appearance.
4. Clitoris, no abnormality noted.
5. Vaginal opening and hymen
 - a. The vaginal opening is noted to have abundant secretions with erythematous mucosa.
 - b. Hymen is fimbriated (sic). No bleeding noted.
6. Vagina, noted to have abundant secretion.

INTERNAL EXAMINATION OF THE FEMALE REPRODUCTIVE ORGANS:

1. The vagina admits tip of finger.
2. Lacerations noted at 3 o'clock position with reddish erythematous mucosa.

LABORATORY EXAMINATION:

1. Negative for gram stain for gonococcus. No other laboratory procedure done."[16]

Appellant vehemently denied the accusations against him; theorizing that it was impossible for him to rape his daughters on September 18, 1993 because he was then very drunk and he fell asleep at the balcony of their house. As regards the alleged November 5, 1993 rape, he theorized that he could not have perpetrated it considering that his sister, Elizabeth Moffat, was in their house, after arriving from Canada at around 10:00 o'clock in the morning of November 5, 1993.

On October 25, 1995, after trial, the lower court found the People's version credible and handed down the judgment of conviction under review.

Dissatisfied therewith, appellant found his way to this Court; contending, that:

I

THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT RENATO PUZON Y JUQUIANA GUILTY BEYOND REASONABLE DOUBT OF THE CHARGES OF RAPE DESPITE THE CONTRADICTING EVIDENCES FOR THE PROSECUTION.

II

THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT RENATO PUZON Y JUQUIANA GUILTY BEYOND REASONABLE DOUBT OF THE CHARGES OF RAPE DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[17]

The trial court convicted appellant of the crime of statutory rape, defined by paragraph 3 of Article 335 of the Revised Penal Code, ratiocinating thus:

"The accused was charged with the crime of statutory rape under paragraph 3 of Article 335 of the Revised Penal Code. The gravamen of this offense is the carnal knowledge of a woman below twelve years of age. In these cases, the fact of carnal knowledge by the accused was established by their testimonies to the effect that Maria Cristina Puzon was 11 years old and that Maria Consuelo Puzon was 10 years old when the crimes were perpetrated and more importantly is the fact that the accused is their father.

In view of the foregoing circumstances, it is clear that first and third paragraphs of Article 335 of the Revised Penal Code are present in these cases. First, the accused had carnal knowledge of a woman; the offended parties in these cases are his two (2) daughters and second, the woman is under 12 years of age; the offended parties are under 12 years of age."[18]

It bears stressing that the Informations against the appellant indicted him for the crime of rape with force and intimidation under paragraph 1 of Article 335, although the prosecution established that the complainants were below 12 years old at the time of the rape. If the prosecution was seeking to convict appellant for statutory rape, conviction thereof is not possible under the Informations which averred that: "xxx the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one xxx against her will and consent, to the damage and prejudice of the offended party." Therein, there was no mention of the age of the complainants.

Section 6, Rule 110 of the Rules on Criminal Procedure, provides:

"SEC. 6. Sufficiency of complaint or information. - A complaint or information is sufficient if it states the name of the accused; the designation of the offense by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate time of the commission of the offense, and the place wherein the offense was committed.

When an offense is committed by more than one person, all of them shall be included in the complaint or information."

Citing the aforecited provision in point, the Court in *People vs. Bayya*[19] held:

"The purpose of the above-quoted rule is to inform the accused of the nature and cause of the accusation against him, a right guaranteed by no less than the fundamental law of the land. Elaborating on the defendant's right to be informed, the Court held in *Pecho vs. People* that the objectives of this right are:

1. To furnish the accused with such a description of the charge against him as will enable him to make the defense;
2. To avail himself of his conviction or acquittal for protection against a further prosecution for the same cause; and
3. To inform the court of the facts alleged, so that it may decide whether they are sufficient in law to support a conviction, if one should be had.

It is thus imperative that the Information filed with the trial court be complete - to the end that the accused may suitably prepare his defense. Corollary to this, an indictment must fully state the elements of the specific offense alleged to have been committed as it is the recital of the essentials of a crime which delineates the nature and cause of accusation against the accused." [20]

Clearly, conviction of appellant for statutory rape (absent any allegation in the information that the complainants were below 12 years of age at the time of the rape), and not for rape through force or intimidation, which was the method alleged - would violate the right of the appellant to be informed of the nature of the accusation against him; which right is granted by the Constitution to every accused to the end that he could prepare an adequate defense for the offenses charged against him. Convicting appellant of a crime not alleged while he is concentrating his defense against the offense alleged would be unfair and underhanded. [21]

Similarly, in *People vs. Bugtong*, [22] the Court ruled:

"There is merit in this contention. While the conviction of accused-appellant under paragraphs (1) and (2) of Article 335 of the Revised Penal Code appear to be an innocuous error as these paragraphs refer merely to the modes of commission of the same crime of rape punishable by the same penalty of reclusion perpetua, the harm inflicted upon accused-appellant gains considerable proportion when we consider not only the no-win situation in which appellant was placed by reason of such conviction, but more importantly, the surprise attendant to his conviction for a crime under a mode of commission different from that alleged in the information.

Having been charged with Rape allegedly committed thru force or intimidation, it is to be expected that appellant should focus his defense on showing that the sexual intercourse complained of was the result of mutual consent, rather than of force or intimidation. This defense, however, has been rendered futile and ineffective by the appellant's further conviction under par. (2) of Art. 335, for even if he should succeed in convincing us that the sexual act under consideration was born out of mutual consent, he nonetheless remains liable under par. (2) of Art. 335, wherein consent of the offended party is not a defense, the latter being considered to be legally incapable of giving her consent.

Furthermore, and more importantly, as herein appellant was tried on an information charging him with rape committed thru force and intimidation, his conviction for rape committed when the woman is deprived of reason or otherwise unconscious would be violative of his constitutional right as an accused to be informed of the nature and cause of the accusation against him" [23]

Nevertheless, appellant is not entitled to an acquittal. Under paragraph (1) of Article 335 of the Revised Penal Code (which was the applicable law at the time of the commission of the crime), [24] the force or intimidation employed by the culprit and the resistance put up by the victim are necessary for the conviction of the perpetrator. However, in incestuous rape, as in the present case, the absence of violence or offer of resistance by the victim would not matter because of the overpowering and overbearing moral ascendancy of the father over his daughter, which fact takes the place of violence and offer of resistance required in rape cases committed by the offender having no blood relationship with the victim. [25]

Thus, in the case under scrutiny even if the prosecution failed to prove that the appellant employed force and intimidation to cow his daughters into submission, his conviction is affirmable because as father of the victims, his moral ascendancy over them satisfied the element of violence or intimidation. Moral ascendancy necessarily flowed from appellant's parental authority, which subjugated his daughters' will, thereby forcing them to submit to whatever he wanted. [26]

Alluding to alleged inconsistency in the evidence introduced by the prosecution, appellant maintains that his guilt

has not been proven beyond reasonable doubt. He claims that the testimonies of Maria Cristina and Maria Consuelo that his penis was not able to penetrate their sex organ in the course of the rape complained of, contradict the results of the medical examination conducted on the complainants indicating that Maria Cristina and Maria Consuelo sustained laceration in their sex organ at 6:00 o'clock and 3:00 o'clock positions, respectively. Such inconsistency militates against the credibility of complainants; appellant argued.

Appellant's contention is untenable. The complainants testified that the penis of appellant was able to touch the lips of their vagina and they felt an intense pain when appellant forcibly tried to insert his penis into their sex organ. Undoubtedly, it must have been the forceful attempt by appellant to sexually abuse the complainants that brought about the said lacerations.

Anyway, lack of penetration cannot exculpate appellant. Settled is the rule that complete penetration is not essential. The slightest touching of the lips of the female organ or labia of the pudendum constitutes rape.[27]

Furthermore, the testimony of the victim of rape alone may be the anchor of the prosecution of the appellant and his conviction consistent with the well-entrenched doctrine that no woman, especially one of tender age, would concoct a story of her defloration, allow an examination of her private parts and let herself subjected to a public trial, if not motivated solely by a desire to have the culprit apprehended and punished.[28]

Indeed, it would be improbable for Maria Cristina and Maria Consuelo to fabricate a charge of rape too humiliating to themselves and their family, as well, had they not been truly victimized by the pain and harrowing experience of sexual abuse.[29]

The trial court correctly disregarded the defenses put up by appellant. Verily, it was not improbable for the appellant to have raped his daughters under the influence of alcohol. Whether or not Elizabeth Moffat was already in the house at the time the rape was perpetrated on November 5, 1993 did not rule out the commission of the rape complained of.

As repeatedly held by the Court, rape can be committed in places where people congregate, in parks, along the roadside, within school premises and even inside a house with other occupants. Lust is no respecter of time or place.[30]

The trial court erred in not awarding indemnity ex delicto to the victims, in accordance with Articles 100[31] and 104[32] of the Revised Penal Code. As regards the award of P30,000.00 for moral damages and P20,000.00 for exemplary damages, the same should be increased to P50,000.00 and P25,000.00, respectively, in line with prevailing jurisprudence.[33]

WHEREFORE, the decision of Branch 33, Regional Trial Court, Bauang, La Union, finding appellant Renato Puzon y Juquiana guilty of rape under paragraph one (1) of Article 335 of the Revised Penal Code and sentencing him to suffer the penalty of Reclusion Perpetua, is **AFFIRMED**, and appellant is hereby ordered to pay the complainant, Maria Consuelo Puzon, in Criminal Cases Nos. 1708-BG and 1709-BG, and Maria Cristina Puzon, in Criminal Cases Nos. 1710-BG and 1711-BG, the amount of P50,000.00 each, as indemnity ex delicto. The amount of moral damages awarded below is increased to P50,000.00 but the award for exemplary damages is deleted for lack of any basis. Costs against the appellant.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Gonzaga-Reyes, JJ., concur.

[1] Penned by Judge Fortunato V. Panganiban.

[2] Decision, Rollo, p. 33.

[3] Original Records (O.R.), p. 10.

[4] Rollo, p. 12.

[5] Rollo, p. 11.

[6] Rollo, p. 10.

[7] The trial court erroneously found Maria Cristina to be 10 and Maria Consuelo to be 11 years of age at the time of the rape. The fact is, they were of such ages when they testified in May/June of 1994, Maria Cristina having been born on December 6, 1982 and Maria Consuelo on October 29, 1983.

[8] Direct Examination of Maria Cristina Puzon, May 18, 1994, TSN, O.R. pp. 96-99 and 110.

[9] Rollo, pp. 99 - 106. See also TSN, OR, p. 142.

[10] TSN, O.R. pp. 104-106 and 143-146.

[11] TSN, pp. 110-113.

[12] TSN, p. 112-114 and pp. 157-160.

[13] TSN, p.103 and pp. 143-144.

[14] TSN, p.108 and pp. 115-117.

[15] Exhibit "B"; Original Records (O.R.), p. 2.

[16] Exhibit "C"; Original Records (O.R.), p. 6.

[17] Brief for the accused-appellant, Rollo, p. 58.

[18] Decision, Rollo, p. 32.

[19] G.R. No. 127845, March 10, 2000; citing: Art. III, Sec. 14 (2), 1987 Constitution; *People vs. Pecho*, 262 SCRA 518; and *People vs. Ramos*, 296 SCRA 559.

[20] *Supra*.

[21] *People vs. Palinao*, 169 SCRA 649, pp. 653-654.

[22] 169 SCRA 797, pp. 805-806; citing: Sec. 19, Art. IV, 1973 Constitution; Sec. 14 Art. III, 1987 Constitution.

[23] *Ibid*.

[24] Art. 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 next two preceding paragraphs shall be present.

The crime of rape shall be punished by reclusion perpetua.

[25] People vs. Bartolome, 296 SCRA 615, p. 624; citing: People vs. Mabunga, 215 SCRA 694.

[26] Ibid., pp. 624-625; citing: People vs. Matrimonio, 215 SCRA 613.

[27] People vs. Clopino, 290 SCRA 432, pp. 442-443; citing: People vs. Castromero, G.R. No. 118992, October 9, 1997.

[28] People vs. Ramirez, 266 SCRA 335, p.352; citing: People vs. Sanchez, 250 SCRA 14; and People vs. Magallanes, 218 SCRA 109.

[29] People vs. Cabillan, 267 SCRA 258, p. 265; citing: People vs. Vitor, 245 SCRA 392.

[30] People vs. Codilla, 224 SCRA 104, p. 120; citing: People vs. Villorente, 210 SCRA 647.

[31] ART. 100. Civil liability of a person guilty of felony. - Every person criminally liable for a felony is also civilly liable.

[32] ART. 104. What is included in civil liability. - The civil liability established in Articles 100, 101, 102, and 103 of this Code includes:

1. Restitution;
2. Reparation of the damage caused;
3. Indemnification for consequential damages.

[33] People vs. Guiwan, G.R. No. 117324, April 27, 2000.

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