

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BENJAMIN RAZONABLE, ACCUSED-APPELLANT.

G.R. Nos. 128085-87. April 12, 2000

Ponente: PUNO, J.

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PUNO, J.:

This is an appeal from a decision[1] rendered by the Regional Trial Court of Camarines Norte, Branch 39, dated May 3, 1996, in Criminal Cases Nos. 7760, 7761 and 7762, finding appellant Benjamin Razonable guilty beyond reasonable doubt of raping his daughter, Maria Fe Razonable, and sentencing him to suffer the penalties of three (3) reclusion perpetua and to pay the amount of two hundred thousand (P200,000.00) pesos as moral damages.

Appellant was charged in three separate Informations[2] with the crime of rape, which are identically worded, as follows:

"That sometime in the year 1987, at Purok I, Brgy. IV, Mantagbac, Municipality of Daet, Province of Camarines Norte, and within the jurisdiction of this Honorable Court, the above-named accused did then and there wilfully, unlawfully and feloniously have carnal knowledge of his own daughter MARIA FE H. RAZONABLE, against the latter's will and by means of force and intimidation, to her damage and prejudice.

"The crime was committed with the aggravating circumstances of relationship, the accused is the father of the offended party and that said offense was committed in their own dwelling and the offended party not having given provocation for it."

Appellant pleaded not guilty and his case was tried on the merits.

Records show that in the middle of June 1987, just before midnight, complainant Maria Fe was lying down in her room on the second floor of their house in Bgy. IV, Mantagbac, Daet, Camarines Norte. Her father, appellant Benjamin Razonable, suddenly appeared inside her room, covered her mouth and held her hands. While complainant struggled to free herself from his grip, appellant forcibly removed her shirt, skirt and panty. Then appellant took off his shirt and pants, and straddled her. Complainant continued to struggle and tried to shout, but appellant covered her mouth and told her that "hindi naman daw po ako maaano." She cried while appellant was deflowering her, but she could not shout because appellant was covering her mouth. Appellant succeeded in having carnal knowledge of her. Thereafter, appellant repaired to his room downstairs, but not before threatening complainant with death should she report the crime to anybody. As soon as appellant had gone, complainant ran to a friend's house nearby where she cried a river, but did not tell her friend the truth due to her father's threat. Complainant went back home and helplessly cried herself to sleep. At the time of the rape, complainant was 12 years old[3] and was living alone with her father because her parents were then separated.

Then came the following night. While in deep slumber, complainant felt appellant on top of her. He started to remove her shirt and panty. She cried and pleaded with him to stop, but appellant ignored her and when she struggled, he slapped her several times. Appellant once more succeeded in satisfying his lustful desires on her. She felt the pain again, and again her father repeated his threat to kill her if she would reveal the incident.

Complainant's harrowing experience was to be repeated a third time. After one day, at about midnight, she was standing in her room when appellant grabbed her on the arm and forced her to lie inside the room. Appellant forced another intercourse with her.

Complainant was able to disclose the dastardly acts of her father to her elder sister only in February of 1993 because her conscience would not allow her any peace of mind. She also feared recurrence of the bestial acts. Her father often drank with friends inside their house and she was wary that appellant might give her to his friends. Thus, accompanied by her sister Ana Marie, complainant went to the police station and filed a complaint. Then they proceeded to the Camarines Norte Provincial Hospital where complainant was examined by Dr. Arsenio Angeles, Jr. Based on his medical certificate, complainant had, at the time of examination, incompletely healed hymenal lacerations at 5, 6, 7, and 9 o'clock positions.[4]

The defense evidence was anchored on denial and alibi. Appellant Razonable testified that during the times material to the alleged rape incidents, he was at the bakery owned by a certain Mrs. Balane where he worked from 8 p.m. to 10 a.m. In corroboration, witness Wilfredo Francisco declared that in June of 1987, appellant was never absent from work because they were busy preparing for the town fiesta. On cross, however, he admitted that there were times accused did not report for work. He failed to remember the days when appellant worked in June of 1987.

Appellant attempted to explain the ill motive of the complainant. He said that complainant filed the cases at bar because he often scolded his children when they stayed out late at night. He even whipped them with his belt. He added that on February 16, 1993, he slapped Marie Fe and her brother Ruben because he caught them sleeping together naked. When he insisted that the two be checked by a doctor, they refused and instead they transferred to the house of their sibling at Pasig, Daet, Camarines Norte. He was not able to discuss with his children these cases because, except for complainant, they already left for Manila.[5]

Felix Razonable, brother of appellant, testified that after the cases were filed, his nieces Ana Marie and Maria Fe saw him at his house and asked for help as they wanted to withdraw the said cases. They went to the Public Attorney's Office to execute an Affidavit of Desistance. She did not, however, proceed for fear that she might be incarcerated.[6] Complainant refuted Felix's story. She explained that the purported execution of affidavit of desistance was insisted upon by appellant's sister.

From the judgment of conviction, appellant is now before us alleging that:

1. The trial court gravely erred in not considering the information insufficient to support a judgment of conviction for its failure to state the precise date of the alleged commission of the offense, it being an essential element of the crime charged; and
2. The lower court gravely erred in finding that the guilt of herein accused-appellant of the three (3) counts of rape has been proven beyond reasonable doubt.

We sustain the conviction.

Appellant contends that the allegation in the Information that the offense was committed "sometime in the year 1987" violates Section 6, Rule 110 of the Revised Rules of Court which provides that the information must state the approximate time of the commission of the offense. The three Informations should therefore be considered fatally defective because the dates of the commission of the offenses charged are too indefinite and denied the appellant an opportunity to prepare his defense. Appellant contends that the defective Informations violated his constitutional right to be informed of the nature and cause of the accusation against him.

Section 11, Rule 110 of the Rules of Court requires that the time of the commission of the offense must be alleged

as near to the actual date as the information or complaint will permit. If the Information does not state the time with sufficient certainty as to inform the accused of the date on which the criminal act is alleged to have been committed, this will run afoul of the constitutionally protected right of the accused to be informed of the nature and cause of the accusation against him.[7]

The rationale of the rule, which is to inform the accused of the nature and cause of the accusation against him, should guide our decision. To claim this substantive right protected by no less than the Bill of Rights, the accused is duty bound to follow our procedural rules which were laid down to assure an orderly administration of justice. Firstly, it behooved the accused to raise the issue of a defective information, on the ground that it does not conform substantially to the prescribed form, in a motion to quash said information or a motion for bill of particulars. An accused who fails to take this seasonable step will be deemed to have waived the defect in said information. The only defects in an information that are not deemed waived are where no offense is charged, lack of jurisdiction of the offense charged, extinction of the offense or penalty and double jeopardy. Corollarily, we have ruled that objections as to matters of form or substance in the information cannot be made for the first time on appeal.[8] In the case at bar, appellant did not raise either in a motion to quash or a motion for bill of particulars the defect in the Information regarding the indefiniteness of the allegation on the date of the commission of the offense.

Secondly, during the trial, the defense never objected to the presentation of evidence by the prosecution to prove that the offense was committed in the middle of June 1987. It has not been shown that appellant was taken by surprise with the testimony of complainant that she was raped in the middle of June 1987, and hence could not properly defend himself. On the contrary, appellant was able to give an alibi as to his whereabouts at that particular time. In fine, appellant cannot pretend that he was unable to defend himself in view of the vagueness of the allegation in the information as to when the crimes at bar were committed.

We now come to appellant's claim that his guilt has not been proven beyond reasonable doubt on the following grounds: (1) the identity of the perpetrator has not been established with certitude since the room was dark and it has not been shown that it was properly illuminated; (2) it was unnatural for the complainant to remain in their house if it was true that she was threatened and intimidated; and (3) there was an unreasonable delay in the filing of the complaint which rendered the rape charges doubtful. We are not persuaded.

It is highly inconceivable that complainant would not recognize her own father with whom she has been living alone for a long time. For one, we have ruled that it is the most natural reaction for victims of criminal violence to strive to see the appearance of their assailant and observe the manner in which the crime was committed. Most often, the face and body movements of the assailant create a lasting impression which cannot be easily erased from their memory.[9] The impression becomes more profound where the malefactor is the victim's own father. Also, complainant categorically testified that it was her father who raped her. It is unthinkable, if not completely preposterous, that a daughter would concoct a story of rape against her father, taking to mind the reverence and respect for elders that is too deeply ingrained in Filipino children.[10]

The delay in the filing of the cases at bar does not necessarily impair the credibility of the victim. Experience teaches us that many victims of rape never complain or file criminal charges against the rapist, for they prefer to silently bear the ignominy and pain, rather than reveal their shame to the world or risk the offender's making good on his threats.[11] In the case at bar, complainant initially preferred to conceal her dishonor and suffer in silence because her honor's violator was her father, her own flesh and blood.[12] It must be remembered that complainant was threatened by the appellant with death if she reported his dastardly act. The debilitating fear that was inculcated in her young mind, considering specially that the threat came from her father who has moral ascendancy over her, is enough to cow her into silence and submissiveness. In *People vs. Melivo*,[13] we said:

"A rape victim's actions are oftentimes overwhelmed by fear rather than by reason. It is this fear, springing from the initial rape, that the perpetrator hopes to build a climate of extreme psychological terror, which would, he hopes, numb his victim into silence and submissiveness. Incestuous rape magnifies this terror, because the perpetrator is a person normally expected to give solace and protection to the victim. Furthermore, in incest, access to the victim is guaranteed by the blood relationship, proximity magnifying the sense of helplessness and the degree of fear.

x x x. The rapist perverts whatever moral ascendancy and influence he has over his victim in order to intimidate and force the latter to submit to repeated acts of rape over a period of time. In many instances, he succeeds and the crime is forever kept on a lid. In a few cases, the victim suddenly finds the will to summon unknown sources of courage to cry out for help and bring her depraved malefactor to justice.

x x x x x x x x

In all of these and other cases of incestuous rape, the perpetrator takes full advantage of his blood relationship, ascendancy, and influence over his victim, both to commit the sexual assault and to intimidate the victim into silence. Unfortunately for some perpetrators of incestuous rape, their victims manage to break out from the cycle of fear and terror. x x x [A]n intimidated person cowed into submitting to a series of repulsive acts may acquire some courage as she grows older and finally state that enough is enough, the depraved malefactor must be punished."

In *People v. Sevilla*,^[14] where the child victim did not report the incident to her mother until after eight years, the Court held that:

"The fact that Myra did not complain to her mother or her aunts about the sexual abuses committed by her father against her for eight long years, is of no moment. Myra, who was of a very tender age when the horrible events in her life began to unfold, could have, in all probability, been confused and bewildered by her experience that for more than half of her young life, she was shocked into utter insensibility."

The fact that complainant continued to live with appellant will not likewise crumple her credibility. At the time of the incident, complainant was a simple, naïve and hapless child of twelve years. She was living by her lonesome self with her father, entirely dependent on him for all her needs. Her mother was in Isabela and her nearest sibling lived in another town. It could hardly be expected that such a child of tender age would know what to do and where to go under the circumstances. It is not proper to judge the actions of children who have undergone traumatic experiences by the norms of behavior expected under the circumstances from mature persons.^[15] There is no standard form of human behavioral response when one has just been confronted with a strange, startling or frightful experience as heinous as the crime of rape and not every victim to a crime can be expected to act reasonably and conformably with the expectation of mankind.^[16]

Appellant's defense hinges primarily on denial and alibi. No jurisprudence is more settled than that alibi is the weakest of all defenses, for which reason it is generally rejected especially when the complaining witness sufficiently and positively established the identity of the accused.^[17] It must be buttressed by strong evidence of non-culpability to merit a serious consideration. Affirmative testimony like that of the victim is stronger than a negative one. Furthermore, a rape victim's testimony is entitled to greater weight when she accuses a close relative of having raped her, as in the case of a daughter against her father.^[18]

Appellant's alibi that he was in his place of work from 8:00 p.m. to 10:00 a.m. when the crime was committed cannot be given credence. How he could have exactly remembered, five years after the incident, that he was never absent from work for the whole month of June 1987, hardly inspires belief. For alibi to prosper, the accused must establish that he was so far away that he could not have been physically present at the place of the crime, or its immediate vicinity, at the time of its commission. Where there is even the least chance for the accused to be

present at the crime scene, the alibi seldom will hold water.[19]

Appellant would impute ill-motive on complainant and her siblings in filing these charges against him allegedly because he whipped, scolded, and slapped them. We are not convinced. It would take a most senseless kind of depravity for a young daughter to concoct a story which could put her own father to prison for the rest of his life.[20] It cannot be believed that appellant's very own daughter would allow herself to be perverted if she was not truly motivated by a desire to seek retribution for the abominable violation committed against her by the father. It is extremely unlikely that the victim, presumably a virgin, an innocent and unsophisticated girl, unexposed to the ways of the world, would concoct a reprehensible story of defloration, no less than against her own father, allow an examination of her private parts and then subject herself to the rigors, trouble, inconvenience, ridicule and scandal of a public trial, where she has to bare her harrowing and traumatic experience, unless she was in fact raped and deeply motivated by her sincere desire to do so solely to seek justice and obtain redress for the unforgivable and wicked acts done on her.[21]

The trial court found the victim's sincerity and candor to be free from suspicion. It observed that complainant was in tears while narrating her harrowing experience at the hands of appellant. The trial court's assessment of the credibility of this witness is accorded great respect and we are not inclined to disturb it absent a clear showing that a material or substantial fact has been overlooked or misappreciated which could alter the outcome of the case.[22]

Considering that the acts were committed prior to the effectivity of Republic Act No. 7659, the trial court correctly imposed the penalty of reclusion perpetua in each of the three cases. However, consistent with recent rulings, the amount of P50,000.00 for each count of rape should be awarded by way of moral damages,[23] and hence the award given by the trial court should be reduced to P150,000.00. Likewise, current case law dictates that the victim shall be entitled to civil indemnity in the amount of P50,000.00 for each count of rape.[24]

WHEREFORE, the decision of the Regional Trial Court of Daet, Camarines Norte, Branch 39, in Criminal Cases Nos. 7760, 7761 & 7762, finding accused Benjamin Razonable guilty beyond reasonable doubt of three (3) counts of rape and sentencing him to the penalty of reclusion perpetua on each count, is hereby **AFFIRMED** with the **MODIFICATION** that he is ordered to pay complainant, Maria Fe Razonable, the amount of Fifty Thousand Pesos (P50,000.00) as moral damages and Fifty Thousand Pesos (P50,000.00) as civil indemnity, for each count of rape.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

[1] Per Judge Sancho Dames II; Original Records, 99.

[2] Original Records, Criminal Case No. 7760, p. 1; Criminal Case No. 7761, p. 1; and Criminal Case No. 7762, p. 1.

[3] TSN, July 28, 1993, p. 35; Exhibit "C", Original Record, 73.

[4] Dr. Edmundo Dizon testified on the medical certificate issued by Dr. Arsenio Angeles, Jr. who was no longer connected with the Camarines Norte Provincial Hospital at the time these cases were being tried; TSN, April 26, 1995.

[5] TSN, October 30, 1995, pp. 12-15.

[6] TSN, October 2, 1995, pp. 9-12.

[7] Article III, Section 14 (2), 1987 Constitution.

- [8] People vs. Garcia, 281 SCRA 463 (1997).
- [9] People vs. Apawan, 235 SCRA 355 (1994).
- [10] People vs. Tresballes, G.R. No. 126118, September 21, 1999; People vs. Burce, 269 SCRA 293 (1997).
- [11] People vs. Geromo, G.R. No. 126169, December 21, 1999.
- [12] People vs. De Leon, G.R. No. 130985, December 3, 1999.
- [13] 253 SCRA 347 (1996).
- [14] G.R. No. 126199, December 8, 1999.
- [15] People vs. Remoto, 244 SCRA 506 (1995).
- [16] People vs. Miranda, 262 SCRA 351 (1996).
- [17] People vs. Vaynaco, G.R. No. 126286, March 22, 1999.
- [18] People v. Sevilla, G.R. No. 126199, December 8, 1999.
- [19] People vs. Santiago, G.R. No. 129339, December 2, 1999.
- [20] People vs. Rivera, G.R. No. 130607, November 17, 1999.
- [21] People vs. Sevilla, *supra*.
- [22] People vs. Perez, G.R. Nos. 124366-67, May 19, 1999.
- [23] People vs. Prades, 293 SCRA 411 (1998).
- [24] People vs. Javier, G.R. No. 126096, July 26, 1999.

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