

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLLY SEGUI Y RAUSAL, ACCUSED-APPELLANT.

G.R. Nos. 131532-34. November 28, 2000

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision^[1] of the Regional Trial Court, Branch 76, Malolos, Bulacan finding accused-appellant guilty of three counts of rape and ordering him to pay complainant Olive Galman y Damian a total of P150,000.00 in moral damages.

The three informations, all similarly worded except with reference to the dates of the commission of the crimes, charged as follows:

That on or about the 7th day of July, 1990^[2], in the municipality of San Rafael, Province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Rolly Segui y Rausal, did then and there willfully, unlawfully and feloniously, by means of force, intimidation and with lewd design have carnal knowledge of the offended party Olive Galvan y Damian, nine (9) years of age, against her will and without her consent.

CONTRARY TO LAW.^[3]

Accused-appellant pleaded not guilty to the crimes charged, whereupon, the cases were consolidated and jointly tried.

The prosecution presented evidence showing the following:

Olive Galman is the second of three children of Elvira Galman with her husband. Olive's parents are separated and her father is now living with another woman. Accused-appellant, on the other hand, is the live-in partner of Olive's mother, Elvira.

On July 7, 1990, at around 10 a.m., Olive, then nine years old,^[4] was washing clothes by the artesian well just outside their home in Ulingao, San Rafael, Bulacan, when accused-appellant summoned her. Accused-appellant was the only person left in the house with her. When Olive approached him, accused-appellant pulled her inside the room and ordered her to undress and lie down. He told her not to shout or he would kill her and her family. In fear she did as she was bidden. Accused-appellant kissed her and caressed her private parts. He placed himself on top of her and forced his penis inside her vagina, causing Olive to feel intense pain.

Olive's ordeal was repeated on July 15, 1990, also at around 10 a.m., when she was left alone with accused-appellant. Olive's mother, Elvira, a dealer of Avon products, went out to collect payments from her customers. Olive was cooking rice in the kitchen when accused-appellant suddenly carried her to the room and there touched her private parts. He ordered her to undress, which she did. He then kissed her and, afterwards, mounted her and succeeded in having sexual intercourse with her. Olive said that what accused-appellant did caused so much pain to her and felt as if her genitals were being torn.

On July 25, 1990, again at about 10 a.m., Olive was ravished a third time by accused-appellant. Again there was no one else was at the house except she and accused-appellant. Olive was going to wash clothes. As she went inside the house to get the clothes, accused-appellant grabbed her. As on the previous occasions, she was ordered to undress after which she was raped.

Olive never told anyone that she was sexually abused by accused-appellant for fear that the latter might make good his threats.[5]

But on November 12, 1994, at around 6 p.m., Olive's younger sister, Melanie, surprised accused-appellant as he was about to remove Olive's zipper. Melanie roused Olive and then ran to her grandfather's house. She told her grandfather what she had seen. Her grandfather, in turn, told his daughter, Leonora, who reported the matter to the barangay authorities. The next day, accused-appellant was arrested.[6]

Olive was examined by Dr. Edgardo Gueco of the Philippine National Police Crime Laboratory in San Fernando, Pampanga. In his medico-legal report,[7] Dr. Gueco indicated the following findings:

GENERAL AND EXTRA-GENITAL:

Physical Built: Regular built

Mental Status: coherent female subject

Breast: Conical in shape with light brown areolae and nipples from which no secretion could be pressed out.

Abdomen: Flat and firm

Physical Injuries: No external signs of recent application of any form of trauma

GENITAL

Pubic Hair: Moderate growth

Labia Majora: full, convex and coaptated

Labia Minora: Light brown and slightly hypertrophied

Hymen: presence of deep healed lacerations at 1 and 7 o'clock positions and shallow healed laceration at 3 o'clock position.

External Vaginal Orifice: Offers strong resistance to the introduction of the examining index finger.

Vaginal Canal: Narrow with prominent rugosities

Cervix: Normal in shape, color and consistency

Peri-Urethral and Vaginal Smears: Negative for the presence of spermatozoa

REMARKS: Subject is in non-virgin state physically.[8]

Dr. Gueco testified that the healed hymenal lacerations indicated that Olive was no longer a virgin. He opined that such lacerations had been inflicted at least two months before his examination of the victim and were most probably caused by sexual intercourse. He added that the lacerations, whether they were inflicted months or years ago, would have the same appearance.[9]

After the prosecution rested its case, accused-appellant testified in his defense. He claimed that in 1990, when the three counts of rape had been allegedly committed, he had not yet known Elvira Galman or any of the latter's children for he allegedly met Elvira only on April 24, 1991. Prior to meeting her, he claimed that he was working in Brgy. Sto. Niño, Baliwag, Bulacan, sharing living quarters with his childhood friend, Merlando Auriada. He later eloped with Elvira and, on September 25, 1991, he moved in with her family in Ulingao, San Rafael,

Bulacan. His story was corroborated by Auriada who testified that accused-appellant only met Elvira during the fiesta of the Sto. Niño in Baliwag, Bulacan on April 23 to 24, 1991.[10]

Accused-appellant testified that the cases were filed against him because Leonora Galman was angry at him for living with her sister Elvira. He also stated that after the reconciliation of Elvira and her husband, Olive's father, the latter instigated Olive to make the accusations.[11]

On October 15, 1997, the trial court rendered its decision, the dispositive portion of which reads:

WHEREFORE, finding the accused guilty beyond reasonable doubt for the crimes of rape, accused ROLLY SEGUI y RAUSAL, is hereby sentenced to suffer,

IN CRIMINAL CASE NO. 234-M-95

The penalty of reclusion perpetua and to pay the amount of P50,000.00, as moral damages.

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IN CRIMINAL CASE NO. 236-M-95

The penalty of reclusion perpetua and to pay the amount of P50,000.00, as moral damages.

SO ORDERED.[12]

The trial court held:

The defense set up by the accused that it is impossible for him to rape the victim in 1990 considering that the mother of the victim was introduced to him on April 24, 1991, is without merit. From the testimonies given by the parties including their witnesses it was established that the mother of the victim and the accused were already living-in as husband and wife when the latter raped the victim in 1990. The allegations/defense set up by the accused that he did not know yet the victim because it was only on April 24, 1991 that he met the mother of the victim is the weakest defense like an alibi. Denial is self-serving negative evidence that cannot be given greater weight than the declaration of credible witnesses who testified on affirmative matters (*People v. Carizo*, 253 SCRA 687). Denial by the accused, much like an alibi, is inherently weak defense and cannot prevail over his positive identification (*People v. Vivar*, 235 SCRA 257).

In rape cases, the issue boils down to the credibility of the victim (*People v. Jaca*, 229 SCRA 332). The testimony of the complaining witness as observed by this court is natural, convincing, and consistent with human nature. It is inconceivable that a mother would draw her young daughter into a rape scam, with all its attendant scandal and humiliation just because of a supposed feud (*People v. Sabellian*, 238 SCRA 492).[13]

Hence, this appeal. Accused-appellant makes the following assignment of errors:

I. THE HONORABLE COURT ERRED IN CONVICTING THE ACCUSED.

II. THAT THE TESTIMONIES OF THE DEFENSE'S WITNESSES HAVE NOT BEEN GIVEN MUCH WEIGHT.[14]

After due consideration of the evidence in this case, we find no basis for reversing accused-appellant's conviction.

First. Accused-appellant argues that if Olive had indeed been sexually abused at such tender age, it would have been impossible for her to hide such fact, considering that she had allegedly been raped thrice. He contends that her mother should have noticed some changes in her behavior, particularly her attitude towards him.

The argument is without merit. Different people act differently to a given stimulus and there is no standard form of behavioral responses when one is confronted with a strange or frightful experience.[15] More importantly, it is not proper to judge the actions of children who have undergone a traumatic experience by norms of behavior expected under the circumstances from mature people.[16] As a matter of fact, our case law is replete with rulings that young girls usually conceal their ordeal for some time, especially when threatened against revealing the offense.[17]

Olive was aware of accused-appellant's violent temper. She testified that he was always shouting in the house and that she had even seen him slap her sister Melanie. She herself had been threatened by accused-appellant that he would kill her and her family if she told them about her ordeal.[18]

Melanie likewise attested to the existence of the threat applied to Olive and to the members of her family even during accused-appellant's detention. She testified that while in jail, accused-appellant wrote her mother a letter threatening to kill her as soon as he got out of prison.[19]

Moreover, accused-appellant has not shown that, prior to the commission of the crime, he and the victim had an intimate relationship such that Elvira would notice a substantial change in her daughter's attitude towards accused-appellant as a result of the offense committed against her daughter. To the contrary, accused-appellant himself testified that Olive never regarded him as a father and that she showed no appreciation towards him even during the times he bought her clothes. Therefore, it is clear that Olive had always shown aversion towards accused-appellant and her mother would not have considered her hostility towards accused-appellant as indicative of any offense committed by him.

Second. Accused-appellant contends that if Olive had indeed been raped four years prior to her medico-legal examination, the lacerations in her hymen would no longer appear.

This is untenable. A medical examination of the victim as well as the medical certificate is merely corroborative and is not an indispensable element of rape.[20] Neither is the existence of hymenal laceration required as it is not an element of rape. It is sufficient that there was sexual congress which is consummated by the slightest introduction of the male organ into the labia of the pudendum.[21]

In this case, Dr. Gueco found lacerations in Olive's hymen which he said was most probably caused by sexual intercourse. The fact that the lacerations were already healed shows that they were not of recent origin. As Dr. Gueco explained, the appearance of the lacerations reveals that they were inflicted a long time ago, even four years prior to his examination. Such only bolsters the plausibility of Olive's charge of rape against accused-appellant. As we have held in another case, when the victim's testimony of her violation is corroborated by the physical findings of penetration, there is sufficient foundation for concluding that there was carnal knowledge.[22]

Third. Accused-appellant further contends that it was impossible for him to have raped Olive in 1990 since he only knew her mother on April 24, 1991.

Accused-appellant's alibi that in 1990 he was working and living in another town when the incident transpired cannot be taken seriously. To be sure, alibi is an inherently weak defense because it is easy to fabricate and difficult to disprove. It cannot prevail over the positive identification by Olive of accused-appellant as the perpetrator of the crime as it was not shown that she had any ill motive to testify falsely against him.[23] Furthermore, it is a cardinal rule that for alibi to prosper, the accused must prove that he was somewhere else when the crime was committed and that it was physically impossible for him to have been at the scene of the crime.[24] This accused-appellant failed to do.

Accused-appellant claimed that he met Olive's mother on April 24, 1991 through a certain Evangeline Carabello on the occasion of the feast of the Sto. Niño in Baliwag, Bulacan. It is surprising that accused-appellant did not present Evangeline Carabello to corroborate his testimony and his failure to do so weakens his testimony.[25] Instead, accused-appellant presented his childhood friend, Merlando Auriada, to corroborate his alibi. Merlando's account, however, is very limited. It boggles the mind how Merlando could remember the date when accused-appellant and Elvira were introduced to each other, but could not say how he came to know of the introduction of the two. Merlando never said he was present when accused-appellant and Olive's mother were introduced. Nor did he ever mention Evangeline Carabello who supposedly introduced the two.

Thus, the trial court did not err in giving credence to Olive's testimony especially when the established facts indubitably point to her having been sexually assaulted. Indeed, it is inconceivable that such a young girl would invent a sordid tale of her having been defiled by accused-appellant unless it was the truth. No woman, especially one who is of tender age, would concoct a tale of defloration, allow the examination of her private parts, and undergo the expense, trouble, inconvenience, not to mention the trauma, of a public trial, if she is not motivated solely by the desire to have the culprit apprehended and punished.[26] Olive's testimony is consistent, straightforward, and unwavering. Despite the rigors of the cross-examination, she steadfastly maintained her allegation that accused-appellant abused her.[27]

Well-entrenched is the rule that the trial court's assessment of the credibility of the witnesses, in the absence of bias or grave abuse of discretion, is entitled to great respect on appeal because it had the opportunity to observe the witnesses' deportment on the witness stand.

As regards the issue of damages, the trial court correctly ordered accused-appellant to pay to complainant the amount of P50,000.00 as moral damages for each count of rape. This is in accordance with our recent rulings.[28] Such amount is automatically granted in rape cases without need of proof for it is assumed that the victim has suffered moral injuries entitling her to such an award. However, accused-appellant should also be ordered to pay complainant civil indemnity which is automatically given to the offended party without need of further evidence other than the fact of commission of rape.[29] It is mandatory and is distinct and should not be denominated as moral damages which are based on different jural foundations.[30] Thus, accused-appellant should pay complainant the amount of P50,000.00 for each count of rape by way of civil indemnity.

WHEREFORE, the decision appealed from is AFFIRMED with the MODIFICATION that accused-appellant Rolly Segui y Rausal is ORDERED to pay complainant Olive Galman y Damian the additional amount of P50,000.00 for each count of rape, or the total amount of P150,000.00, as civil indemnity.
SO ORDERED.

Bellosillo, J., (Chairman), Quisumbing, Buena, and De Leon, Jr., JJ., concur.

[1] Per Judge Roland B. Jurado.

[2] Crim. Case No. 234-M-95. In Crim. Case No. 235-M-95, the crime was allegedly committed on July 15, 1990 and in Crim. Case No. 236-M-95, on July 21, 1990.

[3] Rollo, pp. 1, 7 and 9.

[4] Exh. B.

[5] TSN (Olive Galman), pp. 5-23, Apr. 24, 1995.

[6] TSN (Melanie Galvan), pp. 2-3, July 27, 1995.

- [7] Exh. C.
- [8] Records, p. 102.
- [9] TSN (Dr. Edgardo Gueco), p. 6, Apr. 26, 1995.
- [10] TSN (Rolly Segui), pp. 2-6, Aug. 22, 1996; TSN (Merlando Auriada), pp. 4-8, Mar. 13, 1996.
- [11] TSN (Rolly Segui), pp. 5-6, Aug. 22, 1996.
- [12] Rollo, p. 63.
- [13] Id.
- [14] Id., p. 75.
- [15] *People v. Luzorata*, 286 SCRA 487 (1998).
- [16] *People v. Sta. Ana*, 291 SCRA 188 (1998).
- [17] E.g., *People v. Escala*, 292 SCRA 48 (1998); *People v. Medina*, 300 SCRA 98 (1998); *People v. Casil*, 241 SCRA 285 (1995).
- [18] TSN (Olive Galman), pp. 10-11, 15, Apr. 4, 1995.
- [19] TSN (Melanie Galman), pp. 3-4, July 27, 1995.
- [20] *People v. Brandares*, 311 SCRA 159 (1999).
- [21] *People v. Garcia*, 288 SCRA 382 (1998).
- [22] *People v. Bation*, 305 SCRA 253 (1999).
- [23] *People v. Caisip*, 290 SCRA 451 (1998).
- [24] *People v. Magpantay*, 284 SCRA 96 (1997).
- [25] *People v. Taneo*, 284 SCRA 253 (1998).
- [26] *People v. Ranido*, 288 SCRA 369 (1998).
- [27] *People v. Ibalang*, 286 SCRA 387 (1998).
- [28] E.g., *People v. Alba*, 305 SCRA 811 (1999).
- [29] *People v. Bañago*, 309 SCRA 417 (1999).
- [30] *People v. Emocling*, 297 SCRA 214 (1998).

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