PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LINO VILLARUEL, ACCUSED-APPELLANT.

G.R. Nos. 133741-42. October 26, 2001

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On appeal is the joint decision[1] dated December 19, 1997, of the Regional Trial Court of Puerto Princesa City, Branch 50, finding appellant Lino Villaruel guilty of two counts of rape and sentencing him to suffer the penalty of reclusion perpetua for each count, and to pay the victim, Jennylinda Pagayona, moral damages in the amount of P50,000 for each of the offenses charged, and to pay the costs.

The facts of this case are as follows:

On April 18, 1994, appellant was charged and arraigned under two informations which read:

> Crim. Case No. 11599
>
> That on or about the 9th day of October, 1993, at Sitio Enojas, Barangay Panacan, Municipality of Narra, Province of Palawan, Philippines the said accused with lewd design and armed with a sharp pointed weapon by means of force, threat and intimidation, did then and there wilfully, unlawfully and feloneously (sic) have carnal knowledge with one JENNYLINDA PAGAYONA, a girl below 12 years old against her will and consent.
>
> CONTRARY TO LAW.[2]
>
> Crim. Case No. 11600
>
> That on or about the 10th day of October, 1993, at Sitio Enojas, Barangay Panacan, Municipality of Narra, Province of Palawan, Philippines the said accused with lewd design and armed with a sharp pointed weapon by means of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with one JENNYLINDA PAGAYONA, a girl below 12 years old against her will and consent.
>
> CONTRARY TO LAW.[3]

The appellant entered pleas of not guilty to both charges.

On March 2, 1995, the prosecution commenced the presentation of its evidence. First to testify was the private complainant, JENNYLINDA PAGAYONA. According to her, on October 9, 1993, she was left alone in their family residence at Panacan, Narra, Palawan, because her mother went to Cabugan Island to purchase some fish for her business. She slept at around 9:00 P.M. At 11:00 P.M., she woke up and to her surprise, she saw that her lampshade which she left open before she went to sleep was turned off. She thought nothing of it since she assumed that it was probably just a brownout. However, when she turned to her side, she noticed that there was somebody beside her. She tried to shout but the person, whom she later identified to be Lino Villaruel, covered her mouth with his hand. Appellant then pointed a knife to her neck and stated, "Sige, sumigaw ka, puputulin ko

ang leeg mo."[4] Appellant then started to kiss her face and lips while she tried vainly to resist. After a few moments of kissing, the appellant mounted her and started removing her panty with his left hand while the right hand was still holding the knife to her neck. Thereafter, he inserted his penis into her vagina and made push and pull motions which lasted from 2 to 3 minutes.[5] At this time, she cried because of the intense pain she felt and tried to push the appellant away. Appellant then started to kiss her again on her face, lips and nipples and even moved downwards to lick her private parts. After satisfying himself, he lay down and rested and threatened her again that he will kill her and her family if she reported what happened to the authorities.[6]

After resting for some time, appellant went on top of her again and inserted his male organ into her female organ and thereafter made push and pull motions.[7] Thereafter, the appellant forced her to turn her body with her face flat on the bed and forcibly inserted his male organ into her anus while he elevated her buttocks by holding her belly. She tried to resist and remove his hands but her efforts proved futile. At this point, he threatened her again by saying that "o sige sumigaw ka oli."[8] Appellant then lay down for a while and thereafter hurriedly wore his clothes and went downstairs to get out of the house through the kitchen door. It was only at this time when Jennylinda recognized her abuser to be Lino Villaruel since despite the appellant's warnings, she managed to turn the lights on and look at his face as he was trying to get out of the door.[9]

She immediately went to her Ate Irma to tell her about her ordeal and to ask her help. Together, they went to the house of Resurreccion Villaruz,[10] who called the police through his hand radio requesting police assistance. Five police officers responded to the said request. She was then brought to the Narra Emergency Hospital where she was physically examined by a certain physician, Dr. Perseverando Tangug.[11]

The victim's mother, ERLINDA VILLARUZ, also testified. She recalled that on October 8, 1993, she and her husband went to Cabugan Island and left her daughter, Jennylinda, alone in their house. She was fetched by her brother-in-law the following Sunday, October 10, 1993. Upon arriving home, she learned from her father-in-law that her daughter was raped. When she confronted her daughter, the latter told her that it was Lino Villaruel who abused her. She also testified on her daughter's ordeal.[12]

The next prosecution witness was RESURRECCION VILLARUZ. He testified that he was awakened early morning of October 11, 1993, at around 12:10 A.M. by Irma and Jennylinda. Jennylinda told him that she was raped by Lino Villaruel. He then used his hand-held radio to call for assistance. In response, SPO1 Abuan, Alili and Castro came. They all went to the police station where Jennylinda answered questions. She was later brought to the Narra District Hospital.[13]

Last to testify was DR. PERSEVERANDO TANGUG, who conducted the physical examination on Jennylinda at the Narra District Hospital. He examined Jennylinda early morning of December 10, 1993. His examinations revealed that the victim suffered mucosal irritation located at 6 o'clock and 3 o'clock positions at the vaginal opening. There were no hymenal lacerations and the vaginal opening admits tip of middle finger with pain. On cross-examination, he testified that Jennylinda was still a virgin at the time he examined her.[14]

On March 20, 1996, the defense started presenting its evidence with the testimony of DR. RUDOLF BALADAD, SR. Dr. Baladad testified that mucosal irritation could be caused by many factors, among which are infection, fungal infection, bacterial infection, tight underwear, harsh soap, etc. He also testified that based on the findings of Dr. Tangug, Jennylinda was still a virgin at the time she was examined. Her hymen was still intact and there could have been no penetration by a male sex organ. Upon cross- examination, he testified that a male sex organ can also cause mucosal irritation and that the difficulty of penetrating a woman's vagina depends upon its elasticity.[15]

The next witness for the defense was appellant himself, LINO VILLARUEL. He denied the charges against him.

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According to him, the cases were brought about by an incident, when he slapped private complainant after she cursed him for hitting her dog, which had bit him. Moreover, he stated that Resurreccion Villaruz, the grandfather of Jennylinda, held a grievance against him because of his refusal to accede to a business agreement with him.

He also claimed as an alibi that on the night of the alleged rape incidents, he was staying in the house of Elmar Gustilo to sleep since he was not feeling well at that time.[16]

On December 19, 1997, the trial court rendered its joint decision disposing as follows:

> WHEREFORE, Premises considered, a joint decision is hereby rendered finding the accused LINO VILLARUEL guilty beyond reasonable doubt as principal for two (2) counts of rape, and there being no modifying circumstances appreciated, and not being entitled to the application of the Indeterminate Sentence Law, he is hereby sentenced in CRIMINAL CASE NO 11599 to a penalty of RECLUSION PERPETUA and likewise in CRIMINAL CASE NO. 11600 to a penalty of RECLUSION PERPETUA, with the accessory penalties of civil interdiction for life, and perpetual absolute disqualification to pay JENNYLINDA PAGAYONA moral damages of P50,000.00 for each of the offense charged; and to pay the costs.
>
> SO ORDERED.[17]

Seasonably, appellant interposed this instant appeal, alleging that the trial court committed the following errors:

> - In convicting the accused in spite of lack of proof beyond reasonable doubt;
>
> - In upholding the validity of the proceedings in spite of lack of compliance with the jurisdictional requirement laid down by Article 344 of the Revised Penal Code.[18]

On his first assigned error, appellant argues that the testimony of private complainant that she was raped is hard to believe considering that the medical certificate presented shows that no sign of any laceration can be found in her vagina nor her anus. Appellant stresses the failure of the prosecution to present other physical evidence which would support her bare allegations.

On his second assigned error, appellant assails the jurisdiction of the court. He contends that the complaint filed by the victim was only for the purpose of preliminary investigation, not for commencing judicial trial of the accused.

The Office of the Solicitor General (OSG), for the State, points out that the victim testified that the penis of the appellant did not entirely penetrate her vagina. Thus, her testimony was consistent with the medical findings that there were no hymenal lacerations. Furthermore, the OSG adds "that it is highly inconceivable for a young barrio lass, inexperienced with the ways of the world, to fabricate a charge of defloration, undergo medical examination of her private parts, subject herself to public trial and tarnish her family's honor and reputation unless she was motivated by a potent desire to seek justice for the wrong committed against her."[19] Further, the OSG stresses that the findings of the trial court, especially on the credibility of witnesses, are generally accorded great weight and respect on appeal, as the trial court is in the best position to make an honest determination of the witnesses' deportment during trial.[20]

On appellant's allegation that the trial court did not acquire jurisdiction because of the insufficiency of the complaint, the OSG argues that the rule requiring that the complaint referred to in Article 344[21] of the Revised Penal Code be filed with the court has already been relaxed by more recent cases. The filing of said complaint mentioned in Article 344 is not what confers jurisdiction. It is merely a condition precedent to the exercise of the power to prosecute the guilty parties. It is the Judiciary Law that vests jurisdiction on the courts.[22] In any case, the OSG adds, the private complainant in this case had already initiated the prosecution for rape when she filed a complaint for purposes of the preliminary investigation against the appellant before the municipal trial court in

Narra, Palawan. She no longer had to file another complaint in the trial court nor sign the information filed by the public prosecutor for the regional trial court in Puerto Princesa to acquire jurisdiction over her case.[23]

In his Reply Brief, appellant reiterates that the physical evidence presented in court belied the allegations of Jennylinda that her vagina and anus were penetrated by him and thus inconsistent with the elements of rape. He also cited People vs. Santos, 101 Phil. 798, 803 (1957), which held that a complaint for rape should be a complaint filed in court for purposes of commencing a judicial proceeding and not filed before the public prosecutor.[24]

The main issues for resolution here are: (1) whether the complaint filed by the alleged victim in this case suffices to confer jurisdiction upon the regional trial court; and (2) whether the prosecution evidence suffices to convict appellant on two counts of rape beyond reasonable doubt.

On the sufficiency of the complaint, appellant urges this Court to apply the ruling in People vs. Santos, 101 Phil 798 (1957), that the complaint filed in court, and not the "salaysay" filed with the fiscal, commences the criminal proceedings.[25] But as early as Valdepeñas vs. People, 16 SCRA 871 (1966), this ruling was already modified. We clarified it more recently in People vs. Bugtong, 169 SCRA 797 (1989), and People vs. Tañada, 166 SCRA 360 (1988), and later cases,[26] that the complaint mentioned in Article 344 of the Revised Penal Code does not confer jurisdiction upon the trial court. It is the law that confers jurisdiction. The salaysay or complaint is merely a condition precedent to the exercise by the proper authorities of the power to prosecute the guilty parties.[27]

In this case, the complaint executed by the offended party Jennylinda Pagayona did not only narrate the facts and circumstances constituting the crime of rape, but it also explicitly and categorically charged appellant Lino Villaruel with said offense. This is unlike the Santos case where complainant's salaysay was a mere narration of how the rape was committed. In Santos, the fiscal did not even mention the offended party in the opening statement of the information. In the present case, however, the prosecutor expressly stated that the two informations were being instituted upon the sworn complaint of Jennylinda Pagayona against the appellant, Lino Villaruel. The substantial requirements of Article 344 were complied with, and we find the complaint in this case sufficient to vest jurisdiction on the regional trial court.

Coming now to the second issue. In reviewing convictions for rape, we are guided by the following principles: (a) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused, although innocent, to disprove; (b) considering the intrinsic nature of the crime, only two persons being usually involved, the testimony of the complainant should be scrutinized with great caution; and (c) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[28]

Private complainant in this case has categorically identified her abuser to be no other than appellant Lino Villaruel. Although she did not recognize him at first, because the light was turned off, she categorically declared that after switching the lights on, she clearly saw his face and recognized him and his attire as he was dressing up and was about to leave by the kitchen door of her house. We see no reason for her to lie about her ordeal and subject herself and her family to the harrowing experience of a public trial. No young girl of good repute would allow an examination of her private parts or subject herself to the shame, embarrassment and humiliation of a public trial, if she has not in fact been raped.[29]

Appellant avers that the reason she charged him of rape was that he had slapped the girl for cursing him after he hit her dog for biting him. No one, however, corroborated his assertion. Appellant did not bother to produce any proof that he was indeed bitten by a dog. No bite mark on his leg or any part of his body was shown. Neither did he present another witness to corroborate his story.

Appellant also claims that he was being framed because of ill feelings harbored by her grandfather, Resurreccion Villaruz, against him. Again, this allegation is unsubstantiated. Appellant did not present any proof to corroborate this self-serving declaration that he was being forced by Resurreccion to enter into an unfair business agreement, whose nature remained undisclosed.

In sum, no improper motive was shown on the part of the private complainant and her witnesses to show why she allegedly just invented the accusations against appellant. Absent such motive, the testimonies of the victim and other prosecution witnesses deserve full faith and credence.[30]

Appellant contends that the medical findings are inconsistent with and do not support the charges of rape. As admitted by his own expert witness, Dr. Baladad, the mucosal irritation found in complainant's private organ may be attributed to any hard object, including a hard penis placed on the vaginal opening.[31] He likewise stated that a large penis may not be able to easily penetrate the sexual organ of a female especially if the vagina is not sufficiently elastic.[32] This means that a male organ may be able to penetrate the opening of the labia but may not necessarily cause any laceration to the vagina and/or the hymen. This could explain why no lacerations were found on her female organ. This is also consistent with the testimony of the victim that the penis of the appellant was not able to completely penetrate her private organ.[33] As law and jurisprudence now stand, however, complete penetration of the female genitalia is not required for a finding that rape was committed on a girl. Much less is there a need to pierce the hymen and thereby destroy her virginity. Penile contact with the female organ's labia suffices to consummate rape.[34]

As a rule, factual findings of the trial court are conclusive upon this Court and its evaluation regarding the credibility of witnesses are given great weight and respect unless there is a showing that the trial court had overlooked, misunderstood or misapplied some fact or circumstance of weight and substance that would have affected the result of the case.[35] Absent any credible evidence to the contrary, we are constrained to sustain the trial court's findings regarding the credibility of the prosecution's witnesses and the weight or value of their testimonies.

In this case, we agree with the trial court that appellant is guilty of two counts of rape beyond reasonable doubt. Pursuant to Article 355 of the Revised Penal Code, as amended, there being no aggravating or mitigating circumstances, he should be sentenced to reclusion perpetua for each count. But with regard to the civil aspect, the decision ought to be modified. For each count, he should pay to the victim, pursuant to current jurisprudence, the amount of P50,000 as civil indemnity, P50,000 as moral damages, and P25,000 as exemplary damages.

WHEREFORE, the assailed decision dated December 19, 1997, of the Regional Trial Court of Puerto Princesa City, Branch 50, is AFFIRMED with MODIFICATION. Appellant Lino Villaruel is found guilty beyond reasonable doubt of two counts of rape. For each count, he is sentenced to suffer the penalty of reclusion perpetua, and pay to the victim, Jennylinda Pagayona, P50,000 as civil indemnity,[36] P50,000 as moral damages[37] and P25,000 as exemplary damages, as well as the costs.

SO ORDERED.

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

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[1] Rollo, pp. 15-27.

[2] Id. at 4.

[3] Id. at 5.

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[4] TSN, March 2, 1995, p. 14. "Go ahead, shout and I will cut your neck."

[5] Id. at 18-19.

[6] Id. at 10-22.

[7] Id. at 22.

[8] Id. at 22-26. "Oh go ahead, shout again."

[9] Id. at 26-28.

[10] Also referred to as Sorik/Surek Villaruz in the Records.

[11] Id. at 32-41.

[12] TSN, March 3, 1995, pp. 25-31.

[13] TSN, July 7, 1995, pp. 5-12.

[14] TSN, September 15, 1995, pp. 3-12.

[15] TSN, March 20, 1996, pp. 3-17.

[16] TSN, August 12, 1996, pp. 4-39.

[17] Rollo, p. 27.

[18] Id. at 42.

[19] People vs. Esguerra, G.R. No. 117482, 256 SCRA 657, 664 (1996).

[20] Rollo, p. 84.

[21] ART. 344. Prosecution of the crimes of adultery, concubinage, seduction, abduction, rape and acts of lasciviousness. - The crimes of adultery and concubinage shall not be prosecuted except upon a complaint filed by the offended spouse.

The offended party cannot institute criminal prosecution without including both the guilty parties, if they are both alive, nor, in any case, if he shall have consented or pardoned the offenders.

The offenses of seduction, abduction, rape or acts of lasciviousness, shall not be prosecuted except upon a complaint filed by the offended party or her parents, grandparents, or guardian, nor, in any case, if the offender has been expressly pardoned by the above named persons, as the case may be.

In cases of seduction, abduction, acts of lasciviousness and rape, the marriage of the offender with the offended party shall extinguish the criminal action or remit the penalty already imposed upon him. The provisions of this paragraph shall also be applicable to the co-principals, accomplices and accessories after the fact of the abovementioned crimes.

[22] People vs. Bugtong, G.R. No. 75853, 169 SCRA 797, 804 (1989); People vs. Cabodac, G.R. Nos. 93929-31, 208 SCRA 787, 797 (1992).

[23] Rollo, p. 89.

[24] Id. at 100.

[25] People, et al. vs. Santos, et al., G.R. No. L-8520, 101 Phil. 798, 800 (1957).

[26] People vs. Babasa, G.R. No. L-38072, 97 SCRA 672, 680 (1980); People vs. Ilarde, G.R. No. L-58595, 125 SCRA 11 (1983).

[27] People vs. Cabodac, G.R. No. 93929-31, 208 SCRA 787, 797 (1992).

[28] People vs. Serrano, G.R. No. 137480, February 28, 2001, p. 8, citing People vs. Gallo, G.R. No. 124736, 284 SCRA 590, 612 (1998); People vs. Barrientos, G.R. No. 119835, 285 SCRA 221, 237-38 (1998); People vs. Balmoria, G.R. Nos. 120620-21, 287 SCRA 687, 698 (1998); People vs. Sta. Ana, G.R. Nos. 115657-59, 291 SCRA 188, 202 (1998); People vs. Perez, G.R. No. 118332, 270 SCRA 526, 531 (1997).

[29] People vs. Tabion, G.R. No. 132715, 317 SCRA 126, 144 (1999).

[30] People vs. Hernandez, G.R. No. 108027, 304 SCRA 186, 194 (1999).

[31] TSN, March 20, 1996, p. 12.

[32] Id. at 13.

[33] TSN, March 2, 1995, p. 25.

[34] People vs. Benjamin Fabia, G.R. No. 134764, June 26, 2001, p. 12; citing People vs. Tirona, G.R. No. 128907, 300 SCRA 431 (1998); People vs. Tagaylo, G.R. Nos. 137108-09, November 20, 2000, p. 8 citing People vs. Dimapilis, 300 SCRA 279, 305 (1998).

[35] People vs. Ablaza, G.R. No. L-27352, 30 SCRA 173, 176 (1969); People vs. Carido, G.R. No. L-32242, 167 SCRA 462, 473 (1988); People vs. Tejada, G.R. No. 81520, 170 SCRA 497, 501-502 (1989).

[36] People vs. Panique, G.R. No. 125763, October 13, 1999, p. 11.

[37] People vs. Prades, G.R. No. 127569, 293 SCRA 411, 430 (1998).

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