PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SERAPIO REY ALIAS APIONG, ACCUSED-APPELLANT.

G.R. Nos. 134527-28. September 25, 2001

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

SERAPIO REY alias APIONG was found guilty by the court a quo on 30 March 1998 of two (2) counts of rape committed against Karen Fuentes in October 1993 and on 14 May 1995 for which he was sentenced to reclusion perpetua in each count, to indemnify the offended party P100,000.00, and to pay the costs.[1]

The facts: In 1993 Karen Fuentes, then thirteen (13) years old, was living at 100 Gomez St., Lucena City, with Ofelia Rey, live-in partner of her father Montano Fuentes, Karen's older brothers Raymond and Montano Jr., her seven (7)-year old half-sister Malyn, and Ofelia's eleven (11)-year old daughter Jisella. At that time, Montano was a contract worker in Hongkong.

Serapio Rey, then twenty-five (25) years old and brother of Ofelia, would occasionally sleep in their house.

In October of 1993 Karen, Jisella and Malyn slept in the living room where it was cooler than in their bedroom. Karen laid on the wooden floor beside Jisella, while Malyn occupied the folding bed. On that occasion Serapio slept on the sofa. Raymond and Montano Jr. were not home that night. Around midnight, Karen was roused from her sleep when she felt the weight of a person on top of her. It was Serapio. She tried to shout but he immediately covered her mouth with his hand. Instantaneously she felt a pointed instrument on her left side. Her shorts and panty were lowered down to her knees and his penis penetrated her vagina that caused excruciating pain. But he warned her not to report the incident to anyone otherwise he would kill her and her sisters. Then he left the house.

Again, on 14 May 1995 the incident repeated itself. While Karen was sleeping beside Jisella on a mat inside their bedroom, Karen was awakened about midnight by a strange feeling that somebody was on top of her. Indeed there was and she immediately recognized him to be Serapio who then boldly inserted his penis into her vagina and proceeded to perform pumping motions causing extreme pain in her sex organ. After satisfying his lust and with the stupor over, he left the room but not before threatening to kill her if she would tell anyone about what he did.

On 12 June 1995 Karen finally mustered enough courage to narrate her harrowing experience to her close friend Evelyn Wong who lost no time in informing Karen's aunt Amelita Fuentes-Robles about what happened to her niece. Immediately, Karen was brought by her aunt Amelita to the hospital for medical examination. The attending physician found superficial healed hymenal lacerations at 1:00, 3:00 and 5:00 o'clock positions and deep healed hymenal lacerations at 6:00 and 9:00 o'clock positions.

As expected, Serapio Rey denied the charge. He argued that he could not have raped Karen in October 1993 because he was then in Candelaria, Quezon, working as a factory worker.[2] Likewise, he denied the 14 May 1995 rape as he was then in Lopez, Quezon, attending a barangay fiesta. He claimed that during that occasion he stayed in the house of his girlfriend Mary-jean Bete for three (3) days leaving only on 17 May 1995.[3] This was

corroborated by Ligaya Bete, mother of Mary-jean.[4]

Serapio Rey claimed that the sordid tale was merely a concoction of Karen, Amelita Fuentes-Robles, and the other brothers and sisters of Karen's father, as they wanted the latter to be separated from Ofelia, and that the family of Montano had been harboring ill will against Ofelia as they suspected her of giving the remittances of Montano to Ofelia's family instead.[5]

As in a twist of fate, Karen's father was presented as a witness for the defense to disprove the accusation of Karen, or that the rape did not take place. Montano testified that in May 1995 he received two (2) separate telegrams from his brother Orland and his live-in partner Ofelia informing him that Karen had accused Serapio of raping her.[6] He immediately instructed Orland to wait for his arrival since he apparently wanted to address the matter personally. Upon his arrival on 27 November 1995, he talked to Ofelia who told him that she knew nothing of the rape incident.[7] He then demanded from Karen the real story, "Magsabi ka ng totoo, ayaw kong nagsisinungaling ka." Karen answered that her aunt Amie (referring to Amelita Fuentes-Robles with whom she lived after charging Serapio) might get angry, and then she burst into tears.[8]

The trial court found the testimony of Karen authentic and credible and convicted Serapio as it brushed aside his alibi.

We sustain the ruling of the trial court. In rape cases, the evaluation of the credibility of witnesses is addressed to the sound determination of the trial court the conclusion of which deserves much weight and respect.[9] Moreover, courts usually give credence to the testimony of a girl who is a victim of sexual assault. Normally, no person would be willing to undergo the humiliation of a public trial and to testify on the details of her ordeal were it not to condemn an injustice and punish the perpetrator.[10] Karen narrated the incidents of her sexual abuse in a clear, positive and straightforward manner. Thus -

> Q:
>
> Sometime in the middle of October 1993, could you recall anything unusual that happened to you?
>
> A:
>
> Yes, sir.
>
> Q:
>
> Will you please tell that to the court?
>
> A:
>
> When Serapio Rey took advantage of me (pinagsamantalahan po ako), sir.
>
> Q:
>
> When you said that Serapio Rey took advantage of you, what do you mean by that?
>
> PROS. MAGKAWAS: We make it of record that the witness on the stand cannot speak because she is crying, Your Honor.
>
> A:
>
> Iniyot po ako, sir. (He had sexual intercourse with me).
>
> Q:
>
> How did he do it?

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A:

He inserted his penis into my vagina, sir.

PROS. MAGKAWAS: What time was it more or less when Serapio Rey allegedly raped you?

A:

That was midnight, sir.

Q:

Where were you?

A:

I was in the sala of our house, sir x x x x

Q:

Will you now relay to the court what Serapio Rey did to you?

A:

I was sleeping in the living room of our house when I was awakened because of the weight of a person on top of me, sir x x x x

Q:

When you felt that somebody was on top of you, what did you do?

A:

As I opened my mouth and was about to resist Serapio Rey covered my mouth with his palm and I felt something poked at my left side, sir.

Q:

What happened next?

A:

Then I felt pain in my vagina, sir.

Q:

x x x x Why did you feel pain in your vagina?

A:

Because his penis was inserted inside my vagina, sir.

Q:

When you said he inserted his penis into your vagina was it the full penis?

A:

Yes, sir.

Q:

What happened after that x x x x

PROS. MAGKAWAS: She cannot answer my question because she is crying, Your Honor.

A:

He had sexual intercourse with me, sir x x x x

Q:

While he was on top of you what happened? Aside from having sexual intercourse with you?

A:

While he was on top of me he warned me not to report to anybody what he had done to me, sir or else he will (sic) kill me and my sisters x x x x[11]

Q:

On May 14, 1995 can you recall anything unusual that happened to you?

A:

Yes, sir.

Q:

What was it?

A:

That was the last time that Serapio Rey raped me, sir.

Q:

Where did it happen?

A:

In my room at our house x x x x

Q:

Can you recall what time was it when the accused raped you on that occasion?

A:

Midnight, sir x x x x

Q:

At the time that Serapio Rey raped you were you asleep or were you awake?

A:

I was asleep, sir x x x x

Q:

What time did you wake up?

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A:

I cannot recall, sir.

Q:

What was the cause of your waking up?

A:

I was awakened because I was again raped, sir.

Q:

By whom?

A:

Serapio Rey, sir x x x x

Q:

What did this accused really do to you on May 14, 1995?

A:

I was awakened when I felt that somebody was on top of me, sir.

Q:

What was that somebody doing on top of you?

A:

He pumped (kinanyog) his body on me. He inserted his penis to my vagina, sir.

PROS. C. MAGKAWAS: Then what did you do after he inserted his penis into your vagina?

A:

He made a pumping motion, sir.

Q:

What did you feel if any?

A:

I felt pain in my genitalia, sir x x x x

Q:

Then afterwards what did he do, what happened after that?

A:

After getting what he wanted (nang makuha na niya ang gusto niya), he threatened me again, sir.

Q:

What were the exact words uttered by Serapio Rey if you can recall?

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A:

He told me if he finds out that I made a report of what he did to me, he will (sic) kill me, sir.[12]

Her account of her horrible ordeal evinced sincerity and truthfulness. As observed by the trial court, "Karen Fuentes x x x was choked with emotion; this was no acting, the pain, the bitterness of recollecting her traumatic experience in the hands of the accused was unmistakably etched on Karen's face."[13] We therefore submit to the sound assessment of the trial court, as we likewise find Karen's testimony truthful and reliable.

Accused-appellant claims that Karen's allegation that during the first rape she was asleep is hard to believe because, as explained by the examining physician, it was impossible for a woman, especially a virgin like Karen, to remain asleep while being raped. But the claim misleads. Karen did not allege that she was asleep while being abused for the first time. Rather, her narration was clear that while asleep she was awakened when she felt a person on top of her who then raped her. In any case, as correctly held by the court a quo, this does not affect nor destroy the case for the prosecution as the gravamen of the offense of rape is sexual intercourse without consent.[14]

Accused-appellant next argues that he could not have threatened to kill the sister of Karen because the sister referred to is his own niece. We are not persuaded. It appears that with such warning, accused-appellant's main concern was to cause a mental disequilibrium on Karen without placing much thought that, in the process, he also threatened to kill his own niece Malyn.

Lastly, accused-appellant attempts to diminish Karen's credibility by capitalizing on Montano's testimony that upon his admonition that she tell the truth Karen replied that her Aunt Amie might get angry and suddenly burst into tears. In effect, accused-appellant would like the Court to believe that the story was a fib and that Karen was a coached witness.

We are not persuaded. Indeed, the above statement, taken by itself, might lead an indiscriminating observer to doubt the veracity of Karen's claims. However, Montano's testimony, viewed in its entirety, would dispel any doubt.

Upon his return to the country, Montano apparently lost no time in inquiring about the incident. At the airport and on the way to Lucena City, his brother Orland immediately informed him that Karen was really raped by Serapio.[15] Karen in turn gave him a faithful account of how she was raped by accused-appellant.[16] A visit to Evelyn confirmed Karen's sad experience in his hands.[17] There is no question as to where the sympathies of the other siblings of Montano lie as they thereafter took Karen under their wing.

In fine, everyone who was consulted by Montano told him that Karen was indeed raped by accused-appellant; none told him that she was not. Ofelia herself did not categorically deny that it happened; she merely said that she knew nothing at all.[18] Any imputation that the incident did not occur as Karen seemed to have buckled under the interrogation of her father on one occasion thus loses significance in light of the unwavering assertions by other individuals and Karen herself at other times.

For sure, Montano had no personal knowledge of the incident. What he knew was what was fed to him by the opposing parties. Indeed, upon questioning by the trial court, Montano admitted that he was at a loss on what to do. On one side was his own daughter, while the other party was the brother of his live-in partner. Judging from his discourse, it seems that Ofelia finally prevailed upon him as he admitted that it was she who asked him to testify in favor of her brother. In view of Montano's peculiar relationship to the parties, especially to Ofelia, with whom he lives and even begot a child, we cannot help concluding that his testimony was divined to suit the defense and exculpate Serapio.

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Indeed, we can only sympathize with Montano in the predicament he found himself. However, when a daughter of tender years cries out that she has been sexually abused, the lines of kinship must not blur the truth nor quell one's screaming rage. The offender must be held accountable for his acts, nothwithstanding the strain on family ties in order that justice may prevail.

Accordingly, the trial court correctly found accused-appellant guilty beyond reasonable doubt of two (2) counts of rape and held liable to his victim for P100,000.00 as civil indemnity. However, in accordance with settled jurisprudence, we award the additional amount of P50,000.00 as moral damages and P25,000.00 as exemplary damages for each rape.

WHEREFORE, the Decision appealed from finding accused-appellant SERAPIO REY alias APIONG guilty of two (2) counts of rape and sentencing him to reclusion perpetua in each and ordering him to pay Karen Fuentes P100,000.00 for civil indemnity plus costs is AFFIRMED. In addition, accused-appellant is ordered to pay his victim P50,000.00 for moral damages and P25,000.00 for exemplary damages for each rape. Costs against accused-appellant.

SO ORDERED.

Mendoza, Quisumbing, Buena, and De Leon, Jr., JJ., concur.

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[1] Decision penned by Judge Guillermo R. Andaya, RTC-Br. 53, Lucena City; Rollo, pp. 21-29.

[2] TSN, 7 January 1998, p. 6.

[3] Id., p. 7.

[4] TSN, 14 January 1998, pp. 3-4.

[5] Id., pp. 9-10.

[6] TSN, 23 February 1998, p. 3.

[7] Id., p. 8.

[8] Id., p. 4.

[9] People v. Venerable, G. R. No. 110110, 13 May 1998, 290 SCRA 15.

[10] People v. Lusa, G. R. No. 122246, 27 March 1998, 288 SCRA 296.

[11] TSN, 9 September 1997, pp. 5-8.

[12] TSN, 11 September 1997, pp. 3-6.

[13] Rollo, p. 26.

[14] Ibid, p. 26.

[15] See Note 6, pp. 4 and 7.

[16] Id., pp. 7-8.

[17] Id., p. 5.

[18] Id., p. 10.

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