PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMON LOGMAO Y NUÑEZ, ACCUSED-APPELLANT.

G.R. Nos. 134831-32 (Formerly UDK-12479-80). July 31, 2001

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

RAMON LOGMAO y NUÑEZ was convicted by the trial court of two (2) counts of rape, sentenced to reclusion perpetua in each count, and to pay ADELINA RELANO y REY P50,000.00 as indemnity in each. He now seeks the reversal of his conviction on the ground inter alia that the testimony of private complainant is riddled with contradictions and that her conduct in the aftermath of the alleged rape incidents inspires suspicion and disbelief.[1]

The evidence for the prosecution shows that on 13 January 1990 at around 11:00 o'clock in the morning Adelina Relano, eleven (11) years of age, niece of Ramon Logmao, was alone in their house in Barangay Lusok, Sta. Cruz, Marinduque. Earlier that day her parents and siblings went upland to work. Adelina was in the terrace idling her time away when Ramon Logmao suddenly appeared, grabbed her and dragged her towards the bedroom. She wriggled to forcibly free herself but could only do so much to resist the overwhelming strength of her attacker. She screamed, "Nanay, Nanay," but the accused gagged her with his left hand and restrained her arms with the other hand. Removing his hand from her mouth, he took off her shorts and panty, and inserted his organ into hers. He pushed and pulled on top of her, and in no time a white sticky substance flowed from him into her bleeding vagina. After attaining orgasmic satiety, Ramon stood up and told Adelina to dress up because her mother might arrive anytime. When her mother arrived together with other members of her family, she casually asked her daughter, "Naaano ka?" but Adelina made no reply.

Again, on 21 January 1990 Adelina was alone in her grandmother's house watching television when the accused upon seeing her through the window asked her to buy ice for him. She did, and when she returned moments later she placed the ice on top of the table. At this juncture, with bolo in hand, the accused entered the house and seized Adelina's throat with his left hand. He pointed the bolo menacingly at her throat, and with his free hand removed his clothes. He drew his penis out of his pants and without shame inserted it into her mouth; he warned her however not to bite. He then carried her to the room, laid her on the bed and gorged once again on her youthful body. The sexual outrage lasted briefly after which, like before, the accused stood and dressed himself up while she also put on her shorts and panty. She hurriedly went home, a mere thirty (30) meters away from her grandparents' shanty. From then on she stayed away from the accused and never talked to him again. His threats to kill her prevented her from divulging her sad tale to anyone.[2]

Adelina's misfortune however was not meant to be enshrouded forever. When her father was advising her about the pitfalls of premature sexual relationships, she unwittingly blurted, "Alam ko na po yon," and thereafter revealed to her father her painful experiences with her uncle Ramon.[3]

Dr. Teodolfo J. Rejano, Rural Health Physician and OIC Municipal Health Officer of Sta. Cruz, Marinduque,

examined Adelina on 7 August 1996 and found (a) no signs of external physical injuries; (b) healed hymenal lacerations at 12:00 o'clock, 3:00 o'clock, 6:00 o'clock, 9:00 o'clock and 11:00 o'clock position indicating that the patient had had previous penetrations; and, (c) it was possible that her hymenal lacerations were sustained in the past few months or years or inflicted after two (2) vaginal lacerations.[4]

Accused-appellant Ramon Logmao dismissed as lies Adelina's accusations against him. He narrated that beginning 11 March 1986 he and his wife Adelfa Logmao stayed with his father-in-law (private complainant's grandfather) in Barangay Lusok, Sta. Cruz, Marinduque, until he was driven out of the house by the latter on 4 January 1994. Although he could not exactly pinpoint the reason why his father-in-law detested him so much, he speculated that his ugliness aggravated by his humble station in life might have induced his father-in-law to believe that he was ill-suited for his daughter. Contrary to the assertions of the prosecution, on the dates of the alleged rape incidents, i.e., 13 and 21 January 1990, he was busy making repairs in his mother's house in Barangay Sumangga, Mogpog, Marinduque. His friends and neighbors could attest to the veracity of his claim that he was nowhere near the place of the incident on the dates in question. He claimed that even after the alleged rapes, the private complainant continued to drop by his house to play with his younger sister Dalia. He likewise revealed that on 6 August 1996, the day before the complaints were filed against him, Rodolfo Relano, the father of Adelina, attempted to stab him while a brother went to his house and destroyed some pieces of furniture.

Adelfa Logmao, wife of the accused, corroborated the testimony of her husband that on 21 January 1990 he never went to Barangay Lusok but was in fact in his mother's house in Sumangga. Moreover, on 7 August 1996 she went to the police station after learning that a complaint had been filed against her husband. Thereat she was told by a sister that the rape incident occurred sometime in January 1991 and even remarked, "Hayaan mo na lang makulong yang asawa mo, mag-asawa ka ng iba."

The defense also presented Jesus Rocha who testified that he, together with the accused, started working in the house of the latter's mother from 8 to 30 January 1990 in Barangay Sumangga, Mogpog. He further said that he and the mother of the accused were neighbors and he frequently saw the accused in the area. He corroborated the presence of the accused in his mother's house on 21 January 1990.

Dahlia Nuñez, sister of the accused, testified that on weekends of 1990-1993 she often visited the house of her brother Ramon Logmao in Lusok, Sta. Cruz, Marinduque, to play with the complaining witness and her sister Annalisa. During those periods complainant Adelina never exhibited anything abnormal in her actions.

But the trial court distrusted the alibi of the accused as it observed that the youth and immaturity of Adelina and her relationship with the accused were more than sufficient to seal her lips even in the absence of a continuing threat. These adequately explained the long delay in the filing of the cases against the accused. More so that Adelina recounted her tormenting experience in a spontaneous and straightforward manner. The tears that she shed and her demeanor during the trial were demonstrative, according to the court a quo, of a consuming hatred gnawing at the very core of her entire being. As regards the contention of the accused that he was in Barangay Sumangga at the time of the rape, the lower court said that the accused failed to show cleary and convincingly that Barangay Sumangga and Barangay Lusok could not be traversed on the same day considering that the roads were passable and means of transportation were available.[5]

Accused-appellant presents issues which according to him the trial court failed to satisfactorily resolve: (a) that it committed a reversible error when it ruled that the sworn statement of the offended party appended to the Informations could not be considered because the same were not formally offered in evidence; (b) that there were stark contradictions between the testimony of the complaining witness in her sworn statement and those she made on the witness stand; (c) that there was unreasonable delay in the filing of the cases in court; (d) that the medical

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certificate and the testimony of the examining physician created some doubt on the story of the offended party; and, (e) that the testimony of the offended party and her conduct after being allegedly raped left much room for doubt on her credibility.

First. Accused-appellant argues that although the public prosecutor failed to present and formally offer in evidence the sworn statements of the offended party the same should still be admitted in evidence, contrary to the holding by the trial court, because the trial court took judicial notice of the criminal complaints where the sworn statements were attached. It was therefore erroneous for the trial court to rule that the sworn statements of the offended party should not be properly admitted in evidence.

Second. Accused-appellant also underscores the alleged discrepancies between the affidavits or sworn statements of the offended party and her testimony in court.

The first and second errors assigned being interrelated will be discussed jointly hereunder.

We hold that the trial court was correct in not considering the affidavits of private complainant. The rule is that no evidence shall be admitted which has not been formally offered. The so-called sworn statements of the offended party were neither identified nor offered in evidence. The documentary evidence of the prosecution for admission consisted mainly of Exh. "A," the medical certificate. Neither can we consider the affidavits on the assertion alone of the defense that the same had been appended to the criminal complaints, nor on the ground that their existence had been admitted by the prosecution. Formal offer of evidence is essential because the decision of a judge must rest solely and strictly upon the evidence presented during the trial, and no finding of fact can be sustained without a solid footing on evidence. Stripping the courts of the power to rule on the admissibility of documents and other evidence will effectively cripple judicial processes and render our rules on evidence nugatory.

Consequently, we need not dwell on the alleged contradictions between the affidavits of the offended party and her statements made during the trial. Needless to say, extrajudicial declarations have probative value inferior to those made in open court. Being taken ex parte, an affidavit should not be given undue importance because it is almost always incomplete and often plagued with inaccuracies. In comparing and contrasting the testimony of the private complainant and her affidavits, however, we failed to discern any material and essential discrepancies which would effectively erode her credibility.

Third. Accused-appellant decries the failure of the trial court to take into account the delay by the complaining witness in filing the cases in court. According to him, the twin Informations for rape allege that Adelina R. Relano was raped on 13 January 1990 and 21 January 1990, while the complaint was filed only in August 1996. Since the sexual abuses allegedly occurred in January 1990, it took the offended party more than six (6) years and seven (7) months before she divulged her agonizing experience to her family and the police.

Long silence and delay in reporting the crime of rape are not always an indication of false accusation. Private complainant kept mum about her ordeal because accused-appellant's threat was a long sinister shadow that continuously hounded her until August 1996 when her parents cautioned her from entertaining suitors. On this occasion, however, Adelina already a seventeen (17) year adolescent, and now stronger and wiser, mustered enough courage to disclose to her parents her long-kept secret which spurred her father to seek accused-appellant in his residence and exact revenge by trying to stab him.[6]

Admittedly, there was a considerable lapse of time before the private complainant reported the sexual abuses but this should not detract from the fact that the sexual abuses were indeed perpetrated by accused-appellant. Threats and intimidation, coupled with the natural reluctance of Filipina women to report sexual attacks due to shame and fear of the stigma these would carry, can effectively stymie the tongue of a rape victim for a considerable time,

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especially one of tender years.

Fourth. Accused-appellant makes much of the alleged contradictions between the findings of the medico-legal officer and the testimony of the offended party. He argues that despite the finding of five (5) hymenal lacerations there is nothing in the testimony of Adelina which shows that she experienced pain in her private parts. Contrary to ordinary experience, he further suggests, Adelina even went about her normal daily routine as if nothing happened.

Accused-appellant's nitpicking does not sit well with the Court. Despite the inconclusiveness of the medico-legal officer's pronouncements as to the time and cause of the hymenal lacerations, one thing is clear - instead of belying private complainant's testimony, the presence of these lacerations effectively bolstered her claim that she had in fact been raped. Moreover, in the crime of rape, the testimony of the victim, and not the findings of the medico-legal officer, is the most important element to prove that the felony had been committed. Even without a medical report, a medical examination of the victim is not indispensable in a prosecution for rape; the victim's testimony alone if credible is sufficient to convict the accused of the crime.[7]

Finally. Accused-appellant also doubts the credibility of private complainant in view of her alleged incredible and inconsistent statements during the trial. For him the following facts highlight the offended party's unbelievable and untruthful claims: (a) only Adelina testified as to the actual sexual assaults committed on her by the accused; (b) her declaration in her sworn statement that "hindi po ako makatulog, halos di na rin ako makakain, naapektuhan ang aking pag-aaral at halos ako ay mapuhang sa aking pagiisip" was never corroborated by her relatives and friends; and, (c) her conduct after the first and second sexual assaults is perplexing and unnatural because she went about her everyday life as if she had never been raped.

We are not persuaded. As we have mentioned earlier, the testimony of the rape victim if credible is sufficient to convict. As a rule the rapist would pounce on his victim in places with the least possibility of being seen by the public, as in fact the presence of eyewitnesses might even create serious doubts on the credibility of the prosecution evidence. Neither can we gratify accused-appellant's penchant for quibbling on the inconsequentials. Private complainant might not have revealed in her testimony the emotions she felt after the sexual assaults but her disgust and revolting distaste for the outrage done to her was sufficiently manifested when the trial court observed during the trial that "(w)hen she was asked to identify the accused, her facial expression revealed her inner feeling of hate, as she pointed to the accused. She was on the verge of crying. At another point, when asked to quantify the damages, she broke down and tears fell from her eyes."[8] Be that as it may, what is crucial is that the offended party pointed an accusing finger at accused-appellant as the man who virtually crushed her innocence.

Considering, however, that the crimes of rape were committed prior to the effectivity of RA 7659, the penalty of death, specifically for incestuous rape, cannot properly be imposed; instead, the applicable law on the matter is Art. 335 of The Revised Penal Code.

WHEREFORE, the assailed Decision of the Regional Trial Court of Marinduque finding accused-appellant Ramon Logmao y Nuñez guilty of two (2) counts of rape, sentencing him to suffer the penalty of reclusion perpetua and to indemnify the private complainant the amount of P50,000.00 for each count, is AFFIRMED with the MODIFICATION that he is further ordered to pay the private complainant P50,000.00 as moral damages for each count. Costs against accused-appellant.

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SO ORDERED.

Mendoza, Quisumbing, and De Leon, JJ., concur.
Buena, J., abroad, on official business.

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[1] Decision penned by Judge Rodolfo B. Dimaano, RTC-Br. 94, Marinduque.

[2] TSN, 19 February 1997, p. 29.

[3] TSN, id., p. 30.

[4] TSN, 28 January 1997, pp. 18-20.

[5] Rollo, p. 26.

[6] TSN, 19 February 1997, p. 30.

[7] People v. Salazar, G.R. Nos. 98121-22, 5 July 1996, 258 SCRA 55.

[8] Rollo, p. 8.

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