

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EMMANUEL AARON, ACCUSED-APPELLANT.

G.R. NOS. 136300-02. September 24, 2002

Ponente: CORONA, J.

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CORONA, J.:

Before us on appeal is the Decision[1] of the Regional Trial Court of Balanga, Bataan, Branch 3, in Criminal Cases Nos. 6730, 6731 and 6732 convicting herein appellant, Emmanuel Aaron, of one count of rape and sentencing him to suffer the penalty of reclusion perpetua and to pay the victim P50,000 as civil indemnity.

The appellant, Emmanuel Aaron y Dizon, was charged with three counts of rape defined and penalized under Articles 266-A and 266-B of the Revised Penal Code,[2] respectively, in three separate criminal complaints filed and signed by the private complainant, Jona G. Grajo, and subscribed and sworn to on January 17, 1998 before 3rd Assistant Provincial Prosecutor Oscar M. Lasam. Save for their docket numbers, the said criminal complaints are identically worded thus:

That on or about 16 January 1998 at Brgy. San Jose, Balanga, Bataan, Philippines and within the jurisdiction of this Honorable Court, the said accused, armed with a knife and by means of force and intimidation, did then and there willfully, unlawfully and feloniously succeed in having sexual intercourse with the offended party JONA G. GRAJO, against the will and consent of the latter, to her damage and prejudice.

Contrary to law.

Upon arraignment on January 30, 1998, the accused, Emmanuel Aaron, assisted by counsel of his choice, entered the plea of “not guilty” to each of the three complaints in Criminal Cases Nos. 6730, 6731 and 6732. Thereafter, joint trial on the merits ensued.

The evidence of the prosecution shows that, on January 16, 1998, at around 7:00 o’clock in the morning, the private complainant, Jona Grajo, was asleep in bed (“papag”) inside her room on the second floor of the apartment unit which she shared with her sister and her brother-in-law, herein appellant Emmanuel Aaron. Jona was wearing only a panty and was covered with a blanket. Sensing that someone was inside her room, Jona opened her eyes and was surprised to find Emmanuel sitting beside her in bed totally naked. Emmanuel immediately went on top of Jona and poked a knife on her neck. Jona’s attempt to cry for help proved futile as Emmanuel quickly covered her mouth with his left hand.[3]

Emmanuel removed her panty and succeeded in having carnal intercourse with Jona who could only manage to cry. Subsequently, Emmanuel withdrew his penis and ordered Jona to lie down on the floor. He inserted his penis into her vagina for the second time with the knife still poked on Jona’s neck. Thereafter, Emmanuel stood up and commanded Jona to lie down near the headboard of the “papag” bed where he inserted his penis into her vagina for the third time, still armed with a knife, and continued making pumping motions (“umiindayog”).[4]

After the incident, Jona pleaded to be released but Emmanuel initially refused. He budged only after Jona told him

that she urgently needed to relieve herself (“Thing-ih na ako, puputok na ang pantog ko.”) but not before warning her not to tell anyone about the incident. Jona quickly put on her panty and hurried down the street in front of the apartment with only a blanket covering herself. Her cries drew the attention of a neighbor, Lilibeth Isidro, who tried to persuade Jona to go back inside the apartment, to no avail, for fear of Emmanuel. Upon the prodding of another neighbor, a certain Agnes, Jona revealed that she was raped by her brother-in-law,[5] the appellant herein.

Jona proceeded to the nearby store of their landlady upon the latter’s arrival from the market and she related the misfortune that had befallen her. At that instance, Emmanuel approached and warned her to be careful with her words. Then he left for the house of Bong Talastas.[6]

After Emmanuel left, Jona went back to their house and dressed up. Thereafter, she went to the police station in Balanga, Bataan to report the incident.[7] Police Officers Rommel Morales and Edgardo Flores proceeded to the residence of the private complainant who appeared very tense but the neighbors informed them that Emmanuel had left. The police officers then proceeded to the house of Bong Talastas in San Jose, Balanga, Bataan, where the victim told them Emmanuel could have possibly gone. On arrival there, they found Emmanuel conversing with Bong Talastas and they immediately arrested the appellant herein upon ascertaining his identity.[8]

After bringing Emmanuel to the police station, Police Officers Morales and Flores accompanied Jona to the provincial hospital in Bataan for physical examination. Thereupon, the attending physician at the Bataan Provincial Hospital, Dra. Emelita Firmacion, M.D., found “multiple healed laceration(s) at 1, 3, 5, 6, 9 o’clock position(s), incomplete type” in Jona Grajo’s private part.

At the trial, Dra. Firmacion identified her signature[9] appearing on the lower right portion of the medical certificate[10] and affirmed the medical findings contained therein. The multiple hymenal lacerations sustained by Jona which were respectively indicated in the medical certificate as 1 o’clock, 3 o’clock, 5 o’clock, 6 o’clock and 9 o’clock could have been caused by sexual intercourse, masturbation, strenuous exercises or penetration of any hard object. The appearance of a lacerated hymen could indicate the approximate time when the laceration was sustained. In the case of Jona Grajo, her hymenal lacerations were completely healed, indicating that the same were sustained at least one month before she was examined on January 16, 1998. However, it was possible that she had sexual intercourse immediately before the said examination.[11]

The defense denied any liability for the three counts of rape charged. Appellant Emmanuel Aaron testified that he and his wife were residing in an apartment unit together with his sister-in-law, herein private complainant, Jona Grajo.[12] Jona occupied a room on the second floor while the couple stayed at the ground floor.[13]

On the date of the incident, Emmanuel admitted that he and Jona were the only persons inside the apartment. He had just arrived from work as a night-shift waiter at Base One restaurant in Balanga, Bataan. He had earlier met Bong Talastas at 7:00 o’clock in the morning as Bong was preparing to leave his house while his wife had gone to the market. Emmanuel changed his clothes upstairs where the cabinet was located opposite the room occupied by Jona. Emmanuel noticed that the door of Jona’s room was partly open so he peeped through the narrow opening and saw her wearing only a panty. He was about to close the door when Jona woke up and began shouting.[14]

Emmanuel did not know why Jona kept on shouting. She even followed as Emmanuel descended the stairs and she proceeded to the nearby store of their landlady. Emmanuel went her to the store to caution Jona about her words (“Ayusin mo ang sinasabi mo”) because she was telling their landlady that he raped her. However, Jona ignored him so he left and decided to see Bong Talastas in San Jose, Balanga, Bataan to inquire from the latter why Jona was accusing him of having raped her. Emmanuel denied that he was armed with a knife during the incident, much less threatened Jona with it.[15]

On October 14, 1998, the trial court rendered a decision,[16] the dispositive portion of which read:

WHEREFORE, the guilt of the accused for the single act of rape having been proved beyond reasonable doubt, the accused is sentenced to suffer the penalty of reclusion perpetua with the accessory penalty provided by law. The accused is further required to indemnify the complainant the sum of P50,000.00 and to pay the costs.

SO ORDERED.

Dissatisfied with the decision of the trial court, Emmanuel Aaron interposed the instant appeal. In his Brief,[17] appellant raised a single assignment of error:

THE TRIAL COURT ERRED IN FINDING THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT

Appellant argues that the account of the private complainant, Jona Grajo, of the alleged incidents of rape appears incredible and contrary to common human experience. Based on her testimony, the appellant suddenly placed himself on top of her with his right hand poking a knife on her neck and with his left hand covering her mouth. Subsequently, the appellant removed her panty and succeeded in inserting his penis into her private part even without previously opening his zipper or removing his pants. Likewise, the private complainant did not offer any resistance although she could have done so. After the alleged acts of rape, the victim did not even complain to her sister who, by then, had already arrived from the market. The uncharacteristic behavior of the private complainant could only be explained by the fact that she admittedly had several sexual experiences in the past with her boyfriend and live-in partner Bong Talastas. The appellant theorizes that private complainant wanted to get back at him for the embarrassment of being seen by him in her panty after her boyfriend, Bong Talastas, left the apartment. Appellant downplays the testimony of PO1 Rommel Morales as not worthy of credence for lack of corroborative evidence. [18]

On the other hand, the prosecution showed that the appellant was already naked even before the private complainant was awakened by his presence; that the private complainant could not effectively offer any resistance as the appellant was armed with a knife which he used to intimidate her; and that the private complainant's being a non-virgin did not discount rape on January 16, 1998.[19]

Article 266-A of the Revised Penal Code provides:

Article 266-A. Rape; When And How Committed.-- Rape is committed -

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat, or intimidation;

b) When the offended party is deprived of reason or otherwise unconscious;

c) By means of fraudulent machinations or grave abuse of authority; and

d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above are present.

2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice or any instrument or object, into the genital or anal orifice of another person.

Article 266-B of the same Code provides:

Article 266-B. Penalties.—Rape under paragraph 1 of the next preceding article shall be punished by reclusion

perpetua.

Whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

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It should be stressed that in the review of rape cases, this Court is almost invariably guided by three principles: (1) an accusation of rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant is scrutinized with extreme caution and (3) the evidence of the prosecution stands or falls on its own merits and cannot be allowed to draw strength from the weakness of the defense.[20] In other words, the credibility of the private complainant is determinative of the outcome of these cases for rape. Her consistency on material points, or lack of it, that can sustain or negate conviction, becomes the single most important matter in inquiry.[21]

After a thorough review, we find that the testimony of private complainant, Jona Grajo, sufficiently established all the elements of rape committed under Article 266-A, paragraph (1) (a) of the Revised Penal Code, namely: a) that the offender, who must be a man, had carnal knowledge of a woman and (b) that such act is accomplished by using force or intimidation.[22] The gist of private complainant's testimony clearly shows that the appellant, Emmanuel Aaron, forced himself on her at around 7:00 o'clock in the morning on January 16, 1998. The sexual assault started on the "papag" bed inside her room on the second floor of their apartment unit. After going on top of the private complainant, the appellant succeeded in inserting his penis into her vagina after which he made pumping motions while poking a knife on her neck. He then succeeded in inserting his penis into her vagina two more times on the same occasion after transferring locations inside the room, with the knife continuously poked on her neck.

We also find no reason to disturb the assessment of the trial court of private complainant's credibility. Her testimony during the trial was completely credible as it was given in an honest and straightforward manner. As noted above, she gave a lucid and consistent account of the commission of the crime and did not waiver in pinpointing her brother-in-law, herein appellant, as the perpetrator thereof. Likewise, her actuation after the incident vividly portrayed a confused and traumatized woman typical of victims of rape. Thus, after she broke free of the appellant on the pretense that she urgently needed to relieve herself, the private complainant quickly put on her panty and rushed to the street with only a blanket to cover her naked body. Her neighbors took note of her obviously troubled condition and admonished her to go back inside the apartment but she refused, claiming that she had been raped. She sought refuge at the nearby store of their landlady to whom she confided that she was raped by her brother-in-law. Private complainant hurried back to their apartment to get dressed only upon making sure that the appellant had already left the place. Without losing time, she proceeded directly to the police station and lodged a complaint for rape against the appellant.

Prosecution witness PO1 Rommel Morales of Balanga, Bataan, who was the police officer on duty at the time Jona Grajo came to the police station, recounted during the trial that the private complainant was crying and trembling on arrival at the Balanga, Bataan police station on January 16, 1998. Private complainant took time to answer the queries of the police officer since she was crying uncontrollably. When she finally got hold of herself, the private complainant reported that she had been raped by the appellant who was subsequently arrested by the police. The actuations of the private complainant immediately after the incident may be considered as part of the *res gestae* that substantially strengthens her claim of sexual assault by the appellant.[23]

On the other hand, all the appellant can offer in his defense is bare denial. He claims that he had just changed his

clothes on the second floor of their apartment where his cabinet was located when he chanced upon the private complainant naked inside her room as the door was then slightly ajar. He did not do anything further as the private complainant was awakened and she already started shouting. In view of the positive and convincing testimony of the private complainant, however, the defense of denial must fail. It is well-settled that denial is an intrinsically weak defense which must be buttressed by strong evidence of non-culpability to merit credibility.[24]

The appellant argues that it was impossible for him to have inserted his penis into the private part of the complainant without first opening his zipper or removing his pants. This argument of the appellant is misleading for the reason that, per the testimony of the private complainant, the appellant was already naked when his presence roused her from her sleep:

PROS. LASAM:

Q: While you were in your room on that time and date, do you remember of any incident that happened?

A: Yes, sir.

Q: What was that incident?

A: While I was inside my room, I sensed that there was a person inside my room and when I opened my eyes, I saw that he is my brother-in-law.

Q: And that brother-in-law of yours is the person whom you pointed a while ago. Is that correct?

A: Yes, sir.

Q: How does he look when you saw him inside your room?

A: He was naked sitting beside me. [25]

That the private complainant did not offer sustained resistance despite having been ordered twice by the appellant to change location inside the room can easily be explained by the fact that the appellant was threatening to stab her if she resisted. The private complainant was obviously overwhelmed by intense fear when she woke up with a knife pointed at her neck. The continuing intimidation of private complainant cowed her into helpless submission to appellant's lechery. She could only express her disgust over the sexual attack of her brother-in-law silently in tears. In this connection, it has been ruled that physical resistance need not be established in rape when intimidation is used on the victim and the latter submits herself, against her will, to the rapist's embrace because of fear for her life and personal safety.[26]

The failure of the private complainant to confide the sexual assault to her sister who, appellant claimed, had arrived from the market before she (private complainant) went to report the matter to the police is quite understandable and far from being uncharacteristic of a rape victim, as what appellant would like to make it appear. The workings of the human mind which is under a great deal of emotional and psychological stress are unpredictable and different people will react differently to a given situation.[27] Besides, the private complainant did not want to drag her sister into the controversy and hurt her in the process. During the trial, the private complainant revealed that she kept from her sister the previous sexual advances of the appellant in order not to destroy their good relationship. Private complainant explained that she did not leave the apartment despite the said harassments of the appellant inasmuch as she had no other place to go. However, she confided her ordeal to their landlady, a certain Elsa Navarro. At any rate, what is important is that the private complainant reported the rape immediately to the police.

Admittedly, private complainant was having an affair with a certain Bong Talastas[28] and that she was not

innocent to the ways of the world. However, such fact alone does not negate the commission of rape by the appellant against her. Dra. Firmacion testified that although the lacerations found in the private part of Jona Grajo were completely healed, such fact did not discount the possibility that she was sexually molested immediately before she was examined on January 16, 1998. We emphasize that moral character is immaterial in the prosecution and conviction of the offender in the crime of rape. The Court has ruled time and again that even a prostitute can be a victim of rape[29] as the essence is the victim's lack of consent to the sexual act.

Significantly, the appellant failed to advance any credible motive that could have impelled the private complainant to testify falsely against him.[30] In a desperate attempt to avoid any responsibility for his crime, however, the appellant theorizes that the private complainant merely wanted to exact revenge from him for the embarrassment she experienced when he chanced upon her clad merely in a panty inside her room. This alleged motive on the part of the private complainant is too shallow to merit even scant consideration from this Court. If appellant were to be believed, would not private complainant have instead opted to keep quiet about the incident to spare herself from further embarrassment? Common experience dictates that no woman, especially one of tender age, will concoct a rape complaint, allow a gynecological examination and permit herself to be subjected to public trial if she is not motivated solely by the desire to have the culprit apprehended and punished.[31] Indeed, coming out in the open with the accusation of sexual assault on her by her brother-in-law inevitably entailed risking her relationship with her boyfriend, Bong Talastas, and with her sister. However, the rape simply proved too much for her to bear.

We agree with the trial court that the appellant should be convicted of only one count of rape. It may appear from the facts that the appellant thrice succeeded in inserting his penis into the private part of Jona Grajo. However, the three penetrations occurred during one continuing act of rape in which the appellant was obviously motivated by a single criminal intent. There is no indication in the records, as the trial court correctly observed, from which it can be inferred that the appellant decided to commit those separate and distinct acts of sexual assault other than his lustful desire to change positions inside the room where the crime was committed.

Considering that the crime of rape was committed by the appellant with the use of a deadly weapon, the imposable penalty under Article 266-B is reclusion perpetua to death. In the absence of any mitigating nor aggravating circumstance, the trial court correctly imposed the penalty of reclusion perpetua on the appellant. She is also entitled to a civil indemnity of fifty thousand pesos (P50,000). And due to the emotional distress suffered by the private complainant who was only nineteen years old at the time of the rape, she is also entitled to an award of moral damages in the amount of fifty thousand pesos (P50,000).[32]

WHEREFORE, the judgment of the court a quo convicting the appellant Emmanuel Aaron of one count of rape and sentencing him to suffer the penalty of reclusion perpetua and to pay the private complainant the amount of fifty thousand pesos (P50,000) as civil indemnity is hereby **AFFIRMED** with the **MODIFICATION** that said appellant shall pay an additional fifty thousand pesos (P50,000) by way of moral damages.

SO ORDERED.

Puno, (Chairman), Panganiban, Sandoval-Gutierrez, and Morales, JJ., concur.

[1] Penned by Judge Lorenzo R. Silva, Jr., Rollo, pp. 25-30.

[2] Article 335 of the Revised Penal Code on rape was repealed by Section 4 of Republic Act No. 8353, otherwise known as the Anti-Rape Law of 1997 that took effect on October 22, 1997. The act expanded the definition rape which was reclassified as a crime against persons and incorporated into Title VIII under Chapter III of the

Revised Penal Code as Articles 266-A, 266-B, 266-C and 266-D.

[3] TSN, dated February 6, 1998, pp. 4-6.

[4] Id., pp.7-11.

[5] Id., pp. 12-15.

[6] Id., pp. 16-19.

[7] Id., pp. 19-20.

[8] TSN, dated March 20, 1998, pp. 3-6.

[9] Exhibit "A-1".

[10] Exhibit "A"; also Exhibit "1-a" for the defense.

[11] TSN, dated February 27, 1998, pp. 3-8.

[12] TSN, dated June 9, 1998, p. 8.

[13] Id., p. 11.

[14] Id., pp. 4-6; 12.

[15] Id., pp. 6-7.

[16] See Note No. 1.

[17] Rollo, pp. 60-73.

[18] Appellant's Brief, Rollo, pp. 68-69.

[19] Appellee's Brief, Rollo, pp. 97-108.

[20] *People v. Peres*, 270 SCRA 526, 531 (1997); *People v. Florendo*, 230 SCRA 599, 602-603 (1994).

[21] *People v. Pajarillo*, G.R. No. 143755-58, February 20, 2002 citing *People v. Malabago*, 271 SCRA 464, 475 (1997); *People v. Quitariano*, 266 SCRA 373, 376 (1997).

[22] *The Revised Penal Code* by Luis B. Reyes, Book II, Fourteenth Edition, 1998, p. 528.

[23] *People v. Jaca*, 229 SCRA 332, 337 (1994).

[24] *People v. Burce*, 269 SCRA 293, 314 (1997).

[25] TSN, dated February 6, 1998, p. 5.

[26] *People v. Quiamco*, 268 SCRA 516, 527 (1997); *People v. Angeles*, 222 SCRA 451, 462 (1993).

[27] *People v. San Juan*, 270 SCRA 693,706 (1997); *People v. Gecomoo*, 254 SCRA 82, 97 (1996).

[28] TSN, dated February 6, 1998, p. 26.

[29] *People v. Edualino*, 271 SCRA 189, 199 (1997).

[30] TSN, dated June 9, 1998, p. 9.

[31] *People v. Abad*, 268 SCRA 246, 256 (1997).

[32] People v. Tabalesma, 277 SCRA 536, 549 (1997); People v. Joya, 227 SCRA 9, 28 (1993)

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