PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDUARDO YAOTO, ACCUSED-APPELLANT.

G.R. Nos. 136317-18. November 22, 2001

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Accused-appellant Eduardo Yaoto was charged with two (2) counts of rape in the following Informations which read, thus:

> Criminal Case No. 6203-V-97:
>
> That on or about June 2, 1997 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force and intimidation employed upon the person of one ANGELINE YAOTO, 17 years old, did then and there willfully, unlawfully and feloniously have sexual intercourse with the said ANGELINE YAOTO, against her will and without her consent.
>
> Criminal Case No. 6204-V-97:
>
> That on or about June 7, 1997 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force and intimidation employed upon the person of one ANGELINE YAOTO, 17 years old, did then and there willfully, unlawfully and feloniously have sexual intercourse with the said ANGELINE YAOTO, against her will and without her consent.

Accused-appellant pleaded "not guilty" to both counts. Thereafter, trial on the merits ensued.

The trial court found the following facts:

At 3:00 in the afternoon of June 2, 1997, seventeen-year old Angeline Yaoto and her father, herein accused-appellant Eduardo Yaoto, were the only persons left in the house of Angelina's grandmother, located at No. 4598 Chico Street, Gen. T. de Leon, Valenzuela, Metro Manila. Accused-appellant suddenly hit Angeline with a belt, then tied her hands to the sofa with a piece of rope, removed her shorts, panties, blouse and bra. When Angeline was completely naked, accused-appellant mashed her breasts and kissed her.

Thereafter, accused-appellant undressed himself, spread Angeline's legs, placed himself on top of her and inserted his penis into her vagina. Angeline's resistance proved futile as accused-appellant easily overpowered her. After thirty minutes, accused-appellant untied Angeline, put back her dress and threatened her with harm in case she reveals what had just transpired between them.

After the rape incident, accused-appellant would always carry an ice pick and keep watch on Angeline. Even when she had to go to the comfort room, accused-appellant would follow and watch her. He would even chain her whenever he went out to buy food.

At 10:00 in the morning of June 7, 1997, Angeline was sleeping in the sala when accused-appellant lay down beside her, touched her thighs and whispered his intention to have sexual intercourse with her again. Just like the

first time, he mauled her but this time, he tied her feet when she refused. He then undressed her and again proceeded to have sexual intercourse with her.

Having satisfied his lust, accused-appellant laid down on a mat and placed a bolo beside him. He ordered complainant to lie down with him. When accused-appellant fell asleep, Angeline seized the opportunity to escape. She proceeded to the "Parada," flagged down a tricycle and directed the driver to take her to the Valenzuela Police Station, where she narrated her ordeal at the hands of her father, causing the police authorities to apprehend accused-appellant.

In her medico-genital examination, Dr. Armie M. Soreta-Umil of the National Bureau of Investigation, certified that Angeline suffered genital and extragenital injuries.[1] Angeline's sexual orifice bore lacerations on the fourchette and hymen. The hymenal laceration was at 6:00 position. There were contusions on different parts of her body revealing that Angeline was not only sexually but also physically assaulted.

Accused-appellant denied the charges against him. He claimed that in October 1996, he and Angeline moved into his mother's house where his brother and family also resided. At that time, he was jobless while his wife was working in Saudi Arabia.

Accused-appellant described his relationship with Angeline as typical of a father-daughter relationship. He was, however, against Angeline's relationship with her boyfriend, with whom she eloped sometime in 1996 when she was still in high school.

Accused-appellant claimed that Angeline went on vacation from May 25, 1997 to June 2, 1997, but he did not know where she spent her vacation. Angeline allegedly returned only on June 2, 1997 at about 3:00 in the afternoon, and handed him a marriage license. He tore the paper and in his anger slapped Angeline.

On June 8, 1997, accused-appellant asked Angeline to pawn her wristwatch so they would have money to spend on food. When she failed to pawn her wristwatch, accused-appellant told her that had she not eloped, she might still have a job, to which Angeline retorted: "Why, Papa, is it my obligation to feed you?" Insulted and angered, accused-appellant beat Angeline with his belt.

On June 9, 1997, Angeline was nowhere to be found. Accused-appellant claimed that on that date, Angeline went to the police station accompanied by her boyfriend and reported that she was raped by her father.

The trial court rendered a decision,[2] the dispositive portion of which reads:

> WHEREFORE, finding the accused EDUARDO YAOTO GUILTY beyond reasonable doubt of the offense charged:
>
> CRIM. CASE NO. 6203-V-97
>
> Accused Eduardo Yaoto is hereby sentenced to DEATH. He is likewise condemned to indemnify the victim the amount of P50,000.00.
>
> CRIM.CASE NO. 6204-V-97
>
> Accused Eduardo Yaoto is hereby sentenced to DEATH. He is ordered to indemnify the victim the amount of P50,000.00.
>
> Costs against the accused.
>
> Let the complete records of the case be immediately forwarded to the Honorable Supreme Court for automatic review pursuant to Article 47 of the Revised Penal Code as amended by Section 22 of Republic Act 7659.

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Hence, this automatic review. Accused-appellant contends that the trial court erred:

- IN GIVING FULL CREDENCE TO THE TESTIMONY OF THE COMPLAINANT;

- IN NOT GIVING EVEN AN IOTA OF WEIGHT TO THE TESTIMONY OF THE ACCUSED; AND

- IN IMPOSING THE DEATH PENALTY IN THE CASE AT BAR.

Basically, accused-appellant assails the credibility of Angeline. He argues that based on Angeline's testimony: 1) it is improbable for accused-appellant to forcibly remove her blouse and bra while her hands were tied during the June 2, 1997 incident; 2) it is improbable for accused-appellant to remove her shorts and panty while her feet were tied together during the June 7, 1997 incident; 3) it is almost impossible for accused-appellant to spread the legs of Angeline and insert his private organ into her vagina while her feet were tied with a rope; and 4) it is highly improbable for accused-appellant to dress Angeline before untying her.

In addition, accused-appellant submits that "it is beyond normal human condition for a man's penis to remain erect for thirty minutes inside the vagina of a woman during sexual intercourse, taking into consideration the age of the accused in this case."[3]

Accused-appellant also questions Angeline's testimony that he guarded her whenever she went to the comfort room, chained her whenever he went out to buy food, and did not allow her to go out of the house from June 2, 1997 to June 7, 1997. According to accused-appellant, those were "unnatural behavior" that would have aroused the suspicion of household members, particularly, his brother's family.[4]

Likewise, accused-appellant assails Angeline's testimony that he had a bolo and an ice pick with which he threatened her. He maintains that Angeline's testimony on the matter was doubtful considering the failure of the prosecution to offer said items in evidence, including the rope with which he allegedly tied her.

Lastly, accused-appellant tries to discredit the medical findings on Angeline. He insists that the healing lacerations in complainant's genitals were caused by the latter's having sexual intercourse with her boyfriend.

The arguments of accused-appellant are not meritorious.

Accused-appellant asserts that it was highly improbable for him to have forcibly removed Angeline's blouse and bra since her hands were tied with a rope on a sofa.

The validity of this argument, however, rests on the assumption that to remove the blouse and bra means to take them off completely as what accused-appellant claims. At most, the argument is merely an assumption which is not supported by the evidence on record.

While this Court disfavors engaging in assumptions and conjectures, it is possible that accused-appellant removed Angeline's blouse and bra but not completely. According to Angeline, during the June 2, 1997 incident, accused-appellant undressed her after her hands were tied. It was not specified however whether she was undressed completely or only partially. In fact in her affidavit, she stated under oath the following:

> x x x [N]aganap po ito noong June 2, 1997 sa ganap na ika-alas 3:00 ng hapon sa loob ng aming bahay, pinaggugulpi po ako at saka ako po ay hiniga sa sofa, itinali po ang aking mga kamay at ang ginawa po niya sa akin ay ginulpi at pinalo ng sinturon at habang ako po ay nanlalata na sa kagugulpi ay inililis po ang aking damit at nilamas ang aking suso, x x x.[5]

In Filipino, the term ililis means to roll up, pull or lift up.[6] Hence, what Angeline was actually referring to when she declared "inililis po ang aking damit" was that her blouse and bra were only either rolled up, pulled up or lifted up to the point where her breasts were exposed to make it possible for accused-appellant to mash them.

Consistently, she also testified that after raping her, accused-appellant put her dress back on her before untying her. This means that her blouse and bra were not completely taken off her body.

During the second rape incident, accused-appellant likewise assumes that for Angeline to be able to remove her shorts and panty, said articles of clothing should be taken off completely. Thus, he argues that it would be impossible to remove Angeline's shorts and panties if her feet were tied. However, this is a mere assumption, which does not find support in the recorded evidence. As testified by Angeline:

Q:

And how were you mauled?

A:

Also the same. He beat me with a belt and tied my feet.

Q:

To where were your hands and feet tied?

A:

My feet.

Q:

In other words, you would like to convey to this court that your feet were tied to each other?

A:

Yes, sir.

Q:

What about your hands?

A:

My hands were being held by his two hands.

Q:

And after your feet were tied to each other, and after your hands were being held by the accused, what happened next?

A:

He undressed me again.

Q:

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What was the first part of your clothing that was removed by the accused?

A:

My shorts.

Q:

And what was the next?

A:

Panty.

Q:

Then?

A:

Blouse.

Q:

And after everything was removed from you, what did the accused do?

A:

He did what he did. He mashed my breast and simultaneously kissed me.[7] (Italics supplied)

Nowhere in Angeline's testimony was it mentioned that her shorts and panty were completely taken off her body. All she said was that accused-appellant removed her shorts and panty.

Accused-appellant likewise makes an assumption when he said that it is "beyond normal human condition for a man's penis to remain erect for thirty minutes inside the vagina of a woman during sexual intercourse, taking into consideration the age of the accused in this case."[8] He assumes that accused-appellant, considering his age, was no longer capable of maintaining an erection inside the vagina of a woman for thirty minutes. It should be noted, however, that Angeline only gave an estimate of "about thirty minutes."

Accused-appellant further assails Angeline's credibility by arguing that if the rape incidents did really happen, then family members would have been alerted to her "unnatural behavior" during the period between the two rape incidents. There is nothing unnatural in Angeline's behavior from June 2, 1997 to June 7, 1997, the period between the two rape incidents, that would have alerted other family members. On the contrary, what appeared to be unusual and therefore unnatural was accused-appellant's own behavior. During that time, he guarded Angeline while armed with deadly weapons, chained her whenever he went out to buy something, and prevented her from going out of the house.

In a further attempt to erode Angeline's credibility, accused-appellant points out the failure of the prosecution to offer the bolo, ice pick, the chains and even the rope used to tie her as physical evidence.

Needless to say, the prosecution is not bound to offer them in evidence if only to prove the truthfulness or

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credibility of Angeline's testimony. The prosecution has the discretion as to what testimonial, physical or documentary evidence to offer. In fact, it has the option to choose only those pieces by evidence it deems necessary to establish its cause.

Moreover, those items are not really necessary or crucial in proving the element of force and intimidation, as said element has been amply established by Angeline's testimony, which was in fact, corroborated by the physical examination conducted by Medico-Legal Officer Dr. Armie Soreta-Umil.

Accused-appellant next tries to cast doubt as to who caused the lacerations in her genitals. He attributes the healing lacerations in Angeline's genitals to her having sexual intercourse with her boyfriend.

Whether Angeline engaged in sexual intercourse with her boyfriend is of no consequence. The fact remains that, as found by the trial court, accused-appellant had carnal knowledge of his daughter without her consent and against her will. Angeline positively identified her own father as the perpetrator of the dastardly deed. As observed by the trial court:

> Angeline Yaoto's testimony is clear and positive and reliable. x x x
>
> Angeline's testimony is sincere. There is no sign that it was fabricated or she falsely testified against her own father/accused. Her testimony was forthright in narrating how she was sexually abused by her father on June 2, 1997 and June 7, 1997 in the house located at No. 4598 Chico St., Gen. T. de Leon, Valenzuela, Metro Manila. She was straight in pointing to her own father as her abuser.[9]

The trial court believed her and there is no reason for this Court not to respect the trial court's assessment of Angeline's credibility as a witness. Ordinarily, this Court will not disturb the findings of the trial court as to the credibility of the witness considering that it is in a better position to observe her candor and behavior on the witness stand. Evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court, because of its unique opportunity to observe the witnesses and their demeanor, conduct, and attitude, especially under cross-examination. Its assessment is respected unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case.[10] None is present in the instant case.

Besides, no woman would concoct a story of defloration, allow an examination of her private parts and submit herself to public humiliation and scrutiny via an open trial, if her sordid tale was not true and her sole motivation was not to have the culprit apprehended and punished. A young girl's revelation that she was raped, coupled with her voluntary submission to medical examination and her willingness to undergo public trial where she could be compelled to give out the details of an assault on her dignity by, as in this case, her own father, cannot be so easily dismissed as a mere concoction. Courts usually give credence to the testimony of a girl who is a victim of sexual assault, particularly if it constitutes incestuous rape because, 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.[11]

This Court, however, does not agree with the trial court's imposition of the death penalty against accused-appellant. The attendant circumstances enumerated in Section 11 of R.A. No. 7659 are in the nature of qualifying circumstances. The pertinent provisions of Article 335 of the Revised Penal Code, as amended by R.A. No. 7659, state that:

> The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:
>
> 1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common law spouse of the parent of the victim. x x x.

While the qualifying circumstance of minority was alleged in the two Informations, accused-appellant's relationship with Angeline was not. The failure to allege in the information the relationship of the victim to the offender concurrently with the minority of the victim bars accused-appellant's conviction for rape in its qualified form. The requisite for the complete allegations on the particulars of the indictment is based on the right of the accused to be fully informed of the nature of the charges against him so that he may adequately prepare for his defense pursuant to the due process clause of the Constitution.[12]

This Court notes that the trial court only awarded civil indemnity to the victim. In addition to civil indemnity, moral damages may likewise be awarded to rape victims.[13] Moral damages are awarded in rape cases without need of showing that the victim suffered from mental, physical, and psychological trauma as these are too obvious to require recital by the victim during the trial.[14]

This Court, however, cannot award exemplary damages since the aggravating circumstance of relationship was not stated in the two Informations, hence, there is no legal basis to award such.[15]

WHEREFORE, the Decision of the Regional Trial Court, Branch 171, Valenzuela, Metro Manila, finding accused-appellant guilty beyond reasonable doubt of the crime of rape, is AFFIRMED with MODIFICATIONS. As modified, accused-appellant is found GUILTY of two (2) counts of simple rape and is sentenced to suffer the penalty of reclusion perpetua for each count. In addition to the award of indemnity ex delicto amounting to P50,000.00 in each case, the amount of P50,000.00 is also awarded as moral damages, for each of the two (2) counts of rape. Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, De Leon, Jr., Sandoval-Gutierrez, and Carpio, JJ., concur.

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[1] Records, p. 7.

[2] Penned by Judge Adriano R. Osorio, Records, p. 93.

[3] Rollo, p. 66.

[4] Ibid.

[5] Records, p. 3.

[6] Tagalog-English Dictionary by Leo James English, 1986.

[7] TSN, July 22, 1997, pp. 8-9.

[8] Rollo, p. 66.

[9] See Note 2.

[10] People v. Cutamora, G.R. Nos. 133448-53, October 6, 2000.

[11] People v. Nardo, G.R. No. 133888, March 1, 2001.

[12] People v. Queigan, G.R. Nos. 133586-603, February 19, 2001.

[13] People v. Hofilena, 334 SCRA 214 [2000].

[14] People v. Rivera, G.R. No. 139180, July 31, 2001.

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[15] People v. Mauricio, G.R. No. 133695, February 28, 2001.

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