PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BONIFACIO ARIOLA, ACCUSED-APPELLANT.

G.R. Nos. 142602-05. October 03, 2001

Ponente: MENDOZA, J.

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MENDOZA, J.:

These cases are here on automatic appeal from the decision,[1] dated September 30, 1999, of the Regional Trial Court, branch 36, Santiago City, Isabela, in view of the penalty imposed on accused-appellant who was found guilty of four counts of rape and sentenced to suffer in each case the penalty of death and to pay the victim, Maribel Ariola, the sum of P50,000.00 as indemnity and the costs of suit, without subsidiary imprisonment in case of insolvency.

Except as to the dates of commission of the crime, four informations[2] filed against accused-appellant identically charged-

> That on or about ____,[3] in the City of Santiago, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force, intimidation and with lewd design, did then and there willfully, unlawfully and feloniously lay with and have carnal knowledge with one MARIBEL ARIOLA against her will and consent.
>
> CONTRARY TO LAW.[4]

Accused-appellant entered a plea of not guilty when arraigned on July 14, 1997,[5] whereupon a joint trial of the cases against him was held.

The prosecution presented four witnesses, namely, Maribel Ariola, Zenny Ariola,[6] Maximo Palalay, and Dr. Jeffrey Demano, whose testimonies show the following facts:

On December 16, 1994, Maribel Ariola was alone with her father, accused-appellant Bonifacio Ariola, in their house in Sapang Palay, Mabini, Santiago City, Isabela. Maribel went to sleep at around 8 o'clock that evening, but she was awakened when she felt someone kissing her on the lips. She found it was her father, herein accused-appellant. Maribel tried to push accused-appellant away, but he hit her right leg. He mashed her breasts and later had sexual intercourse with her.

On December 17, 1994, Maribel was again raped by her father. She said she wanted to fight back, but she felt helpless. The next day, December 18, 1994, accused-appellant raped Maribel for the third time. Maribel was completely helpless. All she could do was cry. She was raped by her father a fourth time at around 1 o'clock in the morning of December 19, 1994 in their house.

Maribel said she was afraid her father might kill her if she did not give in to his desires. Accused-appellant was a violent person who once hit her with the scabbard of his bolo and boxed her brother.

At the time of the incidents, Zenny Ariola, Maribel's mother, was working in Madadamian, Echague, Isabela. Her

brother and sister were also not at home during those times. Although her mother and siblings returned home towards Christmas, it was only on March 31, 1997 that Maribel finally told her mother what had happened to her. Maribel was afraid accused-appellant would hurt her again.[7]

When Zenny Ariola learned about her daughter's fate, she immediately took her to the police station at the old city hall. They took the tricycle driven by Maximo Palalay and went to Santiago City. Zenny then accompanied her daughter to the Southern Isabela District in Rosario, Santiago City where she was examined by Dr. Jeffrey Demano. Dr. Demano's findings, as contained in his report, are as follows:

> There were fully developed pubic hair noted. The hymen shows old hymenal lacerations at several positions giving a serrated appearance. The vagina admits 2 fingers with difficulty.
>
> There was minimal whitish vaginal discharge noted.[8]

Dr. Demano explained that the serrated appearance of the hymenal lacerations could be due to the forcible entry of a foreign object into the vagina. However, he said these could also be caused by the passage of large clotted blood during menstruation, by falling on hard and sharp objects, by jumping or running, by the insertion of a medical instrument, by masturbation, the insertion of a foreign object into the vagina, or by a previous operation. Dr. Demano admitted that he could not categorically state whether the lacerations were due to sexual intercourse. He also explained that when the vagina was able to admit two fingers with difficulty, this meant that it was possible that there had been no previous entrance of an object into the vagina or there had been a few, from one to four instances. There could not have been repeated entrance because such would cause the vaginal canal to become loose.

The defense presented accused-appellant as its sole witness. He testified that he had been a tenant-farmer in Batal for the past five years. He acknowledged that Maribel Ariola and Zenny Ariola were his daughter and wife, respectively. He testified that he lived in Sapang Palay, Mabini, Santiago City with his wife and children, namely, Celso, Imelda, Almario, and Maribel. He said that Maribel was 16 years old at the time of his testimony.

Accused-appellant claimed that he was in his farm on December 16, 1994 and that he went home only for lunch. He admitted that he went home that night and that only he and Maribel were staying in their house at that time. His wife was in Madadamian, Echague, Isabela, while his son was in Raniag. His other daughter, Imelda, was working in the town proper. However, accused-appellant denied that he raped Maribel on December 16, 17, 18, and 19, 1994. He said that his wife instigated the filing of these cases against him because he wanted to separate from her. He also testified that Maribel filed charges against him because he whipped her for disobeying him and because he scolded her on March 31,1997. Maribel threatened him on that day that she would charge him with rape. He was incarcerated that same day. He said that his wife visited him and brought him food in prison, but Maribel did not visit him. He had no criminal record prior to the filing of rape charges against him.

On cross-examination, accused-appellant stated that he told his wife to leave him after she said that she felt only pity, not love, for him. He admitted that his love for his wife was also waning at that time, but he denied that it was because he was attracted to Maribel. He never felt any physical attraction towards his daughter despite the fact that she was a beautiful young woman, he said. Although he was alone with his daughter on December 16 to 19, 1994, accused-appellant said they slept apart from each other. However, he admitted that their house had only one room.[9]

On September 30, 1999, the trial court rendered a decision, the dispositive portion of which stated:

> AS A CONSEQUENCE OF ALL THE FOREGOING, the Court finds the accused "GUILTY" beyond reasonable doubt of four (4) counts of rape provided for and penalized under Article 335 of the Revised Penal

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> Code, as amended, and hereby sentences the accused to suffer the penalty of DEATH; to pay the victim the sum of FIFTY THOUSAND (P50,000.00) PESOS for each of the four (4) rapes committed against her, or the total sum of TWO HUNDRED THOUSAND (P200,000.00) PESOS, without, however, subsidiary imprisonment in case of insolvency, and to pay the cost.
>
> SO ORDERED.[10]

Hence this appeal. Accused-appellant contends that-

> - THE TRIAL COURT ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE EVIDENCE OF THE PROSECUTION IT APPEARING TO BE INSUFFICIENT, IMPROBABLE AND INCREDIBLE.
>
> - ASSUMING WITHOUT ADMITTING THAT [THE] ACCUSED RAPE[D] THE COMPLAINANT, THE TRIAL COURT ERRED IN IMPOSING THE EXTREME PENALTY OF DEATH CONSIDERING THAT THE FOUR INFORMATIONS DID NOT CHARGE HIM WITH COMMITTING FOUR COUNTS OF QUALIFIED RAPE.[11]

First. Accused-appellant questions the credibility of the prosecution witnesses. He argues that it is improbable for the rapes to have occurred only on December 16 to 19, 1994 and not thereafter. He insists that even complainant did not know the dates of the alleged rapes. Accused-appellant further questions the delay of three years before complainant reported the alleged rapes to her mother. Finally, he contends that the testimonies of Zenny Ariola and Maximo Palalay as regards the manner in which the rape incidents were reported to the police authorities are doubtful and inconsistent.

To begin with, it is well-settled that the conclusions of the trial court with respect to the credibility of the witnesses are generally accorded great respect by this Court because the trial court is in a unique position to observe their demeanor on the witness stand. Only if it is shown that the trial court's evaluation is arbitrary or that the trial court has overlooked, misunderstood, or misapplied some facts or circumstances of weight and substance which, if properly considered, would affect the outcome of the case would its findings be overturned.[12] That is not so in these cases.

Indeed, Maribel's testimony is straightforward, categorical, and convincing. Recounting her ordeal at the hands of accused-appellant, Maribel told the trial court:

> Q
>
> Madam witness, we would like to recall your attention to the last statement when you [were] presented before this court for your direct examination, the question was after mashing your breast what other things did the accused do and your answer was no[ne] sir, the question is what do you mean by your answer nothing more or no more sir?
>
> ....
>
> A
>
> I was just afraid Your Honor.
>
> ....
>
> Q
>
> When you said that you are afraid with whom were you afraid at that time when you made your answer?
>
> A

Bonifacio Ariola, sir.

Q

Now will you tell us if you are still afraid at this particular hour of trial?

A

No more sir.

Q

So, feeling now secured madam witness will you explain then what did your father do after mashing your breast?

....

A

After that he took my virginity.

COURT:

What do you mean by your virginity?

A

No answer from the witness.

ATTY. DELA CRUZ:

We would like to make on record that the witness cannot answer the question.

COURT:

Put it on record that the court also observed that the witness cannot answer the question.

A

He fucked me sir.

Q

You said that the accused fucked you, how did he do that to you?

A

No answer from the witness.

COURT:

She refused to answer the question, ask another question.

Q

What part of your body was used by him in fucking you madam witness?

A

My vagina sir.

Q

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Do you know the reason why he did that to you?

A

I do not know sir.

....

COURT:

When you said that he fucked you did he use his private part?

A

Yes sir.

Q

When he was doing that what did you do then?

A

I was crying sir and when I try to fight back he boxed me.

Q

What part of your body [did] he box?

A

My legs sir.

Q

What leg?

A

My right leg sir.

Q

How many times did he box you on December 16, 1994?

A

Once only sir.

Q

And how many times did he fuck you on that night of December 16, 1994?

....

A

Once only sir.

Q

On December 17, 1994, according to you, he raped you again, is that correct?

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A

Yes sir.

Q

How many times did he fuck you?

A

Once only sir.

Q

Did you give [in] to him voluntarily or not?

A

No sir.

Q

What do you mean by no, what did you do?

A

I wanted to fight back but I cannot really fight back.

Q

Why can you not fight back what did he do to you?

A

He suddenly went over me so I cannot fight back.

Q

What did you feel then at that moment when he was engaging [in] sexual intercourse with you?

A

No answer.

ATTY. DELA CRUZ:

Witness refuse to answer.

COURT:

Make it on record that the witness refused to give her answer.

Q

Again, on December 18, madam witness, what did he do to you on that time?

A

Just the same, he fucked me sir.

Q

Now, how did he engage in the sexual intercourse with you on that day?

A

I just cried and cried because I cannot do anything.

....

COURT:

What do you mean by that you cannot do anything?

A

He held my arms, sir.

Q

When he was holding your arm was his private part inside your vagina?

A

Yes sir.

Q

And what did you do if you did nothing to fight that sexual intercourse on December 18, 1994?

A

I pushed him sir.

Q

Despite that pushing tell us if he succeeded madam witness?

A

Yes sir.

Q

Now we go again on December 19, 1994, madam witness what did your father [do] to you on December 19, 1994?

A

Just the same sir, he engaged me in sexual intercourse.

Q

Where?

A

Inside our house sir.

Q

At what time?

A

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At about 1:00 o'clock in the morning?

Q

All these [consecutive] dates from December 16 to 19, 1994 why you did not shout for help madam witness?

A

I was afraid because he might kill me.

Q

Why you said that he might kill you?

A

Because he is fearless or [a] tyrant (Matapang).

Q

What other thing that makes you candid that he was fearless/tyrant, what did he do to make him fearless/tyrant?

A

Because everytime he hurt us his children it was serious.

COURT:

You mean children you are included among those he punished is that correct?

A

Yes sir.

Q

What are the things, specific things, that he used to do to you and to the other children?

A

He used to box my brother and when he [h]it me he used the scabbard of the bolo.[13]

We have long since held that the lone testimony of the offended party in a rape case, if free from serious and material contradictions, is sufficient to prove the guilt of the accused beyond reasonable doubt.[14] For, in truth, no woman, especially one of tender age, would contrive a charge of sexual abuse and undergo the degradation and humiliation of a public trial, where she would be forced to reveal the lurid details of how she was violated, if she had not actually been raped or been moved by a desire to obtain justice and vindicate her honor. This particularly holds true where, as in these cases, the accusation is directed by the complainant against her own father. Considering the Filipino values, so deeply ingrained in our culture, of respect and reverence for our elders, it is unthinkable for a daughter to invent a sordid tale of incest if such were not true.[15]

In these cases, Maribel's testimony leaves no doubt as to what accused-appellant had done to her. She narrated how accused-appellant repeatedly raped her from December 16 to 19, 1994 when they were alone in their house. To be sure, she once stated in her testimony that accused-appellant did nothing else on December 16, 1994 after he mashed her breasts.[16] But, such lapse in her testimony may be attributed more to fear and shame than to the fact that accused-appellant did not rape her. We note that Maribel refused to answer during her direct examination

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several questions which were embarrassing or shameful to her. As we observed in another case,[17] the failure of the complainant to give direct answers to some questions may be attributed to her innocence and naiveté. Minor lapses in a testimony is to be expected when the victim is narrating a debasing and degrading experience such as rape. Not only may she be unable to remember every detail of her sordid experience but she may choose not to recount it at all as the same may be too painful.

Accused-appellant argues that complainant's testimony should not be given credence because she could not give the exact dates when accused-appellant allegedly raped her. This argument has no merit. The exact date of the commission of the rape is not an essential element of the crime. What is important is that the prosecution was able to prove that accused-appellant had carnal knowledge of the victim without her consent.[18] In these cases, Maribel's testimony established that accused-appellant forced her to have sex with him for four consecutive nights in December 1994 when she was alone with him in their house. It bears emphasis that accused-appellant himself admitted that he was left alone in the house with Maribel on December 16 to 19, 1994.[19]

Nor can the three-year delay in reporting the crimes committed by accused-appellant be taken against Maribel. Delay in revealing the commission of a crime such as rape does not necessarily render such charge unworthy of belief. This is because the victim may choose to keep quiet rather than expose her defilement to the harsh glare of public scrutiny. Only when the delay is unreasonable or unexplained may it work to discredit the complainant.[20]

Maribel's reluctance to reveal to her mother or to the authorities the atrocities committed against her has been sufficiently explained. She knew her father to be violent. She described him as a tyrant who once hit her with the scabbard of his bolo.

Nor is it probable that Maribel filed these cases against accused-appellant because the latter had scolded her for disobeying him. This is not enough to make a young woman fabricate a charge as serious as rape against her father. It would take a certain kind of psychological depravity for a woman to invent a shameful story of incest that would put the life of her own father at stake simply because he scolded her.[21]

Accused-appellant also makes much of the fact that no other rapes took place after December 16 to 19, 1994. This, however, does not negate Maribel's claim that accused-appellant raped her on those dates. It is probable that she was not raped anymore after those dates because her mother and her siblings had by then arrived for the Christmas holidays.

Accused-appellant points out alleged inconsistencies in the testimonies of Zenny Ariola and Maximo Palalay. He attempts to cast doubt on when Zenny supposedly learned from Maribel about the abuse she suffered at the hands of accused-appellant. He claims that he only wanted to separate from his wife, Zenny, and the latter, out of spite, then instigated Maribel to file the rape charges against him.

Maribel and Zenny Ariola's testimonies were corroborated by Maximo Palalay, the tricycle driver. Both said that it was on March 31, 1997 when Maribel finally decided to tell her mother about the rapes. Whether Zenny Ariola learned of the rapes from Maribel while they were on board the tricycle or beforehand is of no moment. What is important is that, upon learning what her husband had done to their daughter, Zenny Ariola immediately reported the matter to the authorities and accompanied Maribel to a hospital for physical examination. Other alleged inconsistencies pointed out by accused-appellant refer only to minor details and collateral matters that do not affect the veracity and credibility of Zenny Ariola and Maximo Palalay.[22]

Moreover, accused-appellant's insistence that Zenny Ariola instigated the filing of charges against him because he wanted to leave her cannot be believed. No mother would subject her own daughter to the humiliation, not to mention the inconvenience, trauma, and scandal, of a public trial had not her intention been to bring the offender

to justice. It is highly unnatural for a parent to use her own offspring as an engine of malice, especially if it will further expose her to shame and dishonor.[23]

Finally, accused-appellant contends that the medical findings of Dr. Jeffrey Demano do not support complainant's claim that she had been raped. This argument must likewise fail. Dr. Demano found hymenal lacerations in complainant's vagina.[24] His finding that the laxity of complainant's vaginal canal is consistent with a few instances of entrance therein, from one to four,[25] confirms Maribel's testimony that she had been raped by accused-appellant four times, from December 16 to 19, 1994.

In contrast to the evidence of the prosecution, accused-appellant's only defense is denial. A bare denial, if unsupported by clear and convincing evidence, is self-serving and cannot be given greater evidentiary weight than the positive declarations of the complainant.[26]

For the foregoing reasons, we hold that the trial court correctly found accused-appellant guilty of four counts of rape against his daughter, Maribel.

Second. We likewise hold, however, that the trial court erred in sentencing accused-appellant to death. To warrant the imposition of the death penalty, the minority of the victim and her relationship to the offender must be both alleged and proved. It would be a denial of the right of the accused to due process and to be informed of the charges against him if he is charged with simple rape and thereafter convicted of rape in its qualified form.[27] It is the concurrence of the victim's minority and her relationship to the accused which qualifies the rape as a heinous crime and warrants the imposition of the supreme penalty of death.[28]

In these cases, the informations alleged neither the minority of complainant nor her relationship to accused-appellant. Hence, accused-appellant can only be found guilty of simple rape punishable under Art. 335 of the Revised Penal Code, as amended by R.A. No. 7659, with reclusion perpetua.

With respect to the award of damages, we find the P50,000.00 indemnity given by the trial court in favor of Maribel Ariola for each count of rape to be in accordance with current case law.[29] In addition, however, moral damages in the amount of P50,000.00 for each count of rape should likewise be awarded to Maribel. In rape cases, the moral sufferings of the victim are presumed and need not be proved.[30] On the other hand, the generic aggravating circumstance of relationship, although proven by the prosecution and admitted by accused-appellant in these cases, cannot justify the award of exemplary damages for lack of allegation of this fact in the informations.

WHEREFORE, the decision of the Regional Trial Court, Branch 36, Santiago City, finding accused-appellant Bonifacio Ariola guilty of four counts of rape, is AFFIRMED with the MODIFICATION that accused-appellant is sentenced to suffer the penalty of reclusion perpetua and to pay the victim, Maribel Ariola, the amount of P50,000.00 as civil indemnity and P50,000.00 as moral damages for each count of rape.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Panganiban, Quisumbing, Pardo, Buena, Ynares-Santiago, De Leon, Jr., and Sandoval-Gutierrez, JJ., concur.
Kapunan, J., on official leave.

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[1] Per Judge Wilfredo Tumaliuan.

[2] Crim. Case Nos. 36-2353-56.

[3] The dates given were December 16 to 19, 1994 for Crim. Case Nos. 36-2353-56, respectively.

[4] Records, (Crim. Case No. 36-2353), p. 1; Records (Crim. Case No. 36-2354), p. 1; Records (Crim. Case No. 36-2355), p. 1; Records (Crim. Case No. 2356), p. 1.

[5] Records (Crim. Case No. 36-2353), p. 23.

[6] Also spelled as Areola in the transcript of stenographic notes.

[7] TSN (Maribel Ariola), pp. 2-11, Sept. 22, 1997.

[8] Exh. B; Records (Crim. Case No. 36-2353), p. 42.

[9] TSN (Bonifacio Ariola), pp. 2-17, Oct. 23, 1997.

[10] Decision, p. 14; Records (Crim. Case No. 36-2353), p. 86.

[11] Brief for the Accused-Appellant, p. 1; Rollo, p. 49.

[12] People v. Bumidang, G.R. No. 130630, Dec. 4, 2000.

[13] TSN (Maribel Ariola), pp. 2-9, Sept. 22, 1997.

[14] People v. Perez, G.R. No. 113265, March 5, 2001.

[15] People v. Pecayo, Sr., G.R. No. 132047, Dec. 14, 2000.

[16] TSN (Maribel Ariola), p. 8, Sept. 4, 1997.

[17] See People v. Tabanggay, 334 SCRA 575 (2000).

[18] People v. Garcia, G.R. No. 117406, Jan. 16, 2001.

[19] TSN (Bonifacio Ariola), p. 14, Oct. 23, 1997.

[20] People v. Baway, G.R. No. 130406, Jan. 22, 2001.

[21] People v. Pecayo, Sr., G.R. No. 132047, Dec. 14, 2000.

[22] People v. Bato, 325 SCRA 671 (2000).

[23] People v. Yparraguire, 335 SCRA 69 (2000).

[24] TSN (Dr. Jeffrey Demano), p. 5, Aug. 22, 1997.

[25] Id., p. 12.

[26] People v. Quilatan, G.R. No. 132725, Sept. 28, 2000.

[27] People v. Ybañez, G.R. No. 136257, Feb. 14, 2001.

[28] People v. De Guzman, G.R. Nos. 134844-45, Jan. 17, 2001.

[29] People v. Baniguid, G.R. No. 137714, Sept. 8, 2000.

[30] People v. Rafales, 323 SCRA 13 (2000).

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