

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. HENRY BARELA Y DOE, ACCUSED-APPELLANT.

G.R. Nos. 145163-65. June 05, 2002

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision,[1] dated July 14, 2000, of the Regional Trial Court, Branch 35, Iriga City, convicting accused-appellant Henry Barela of three counts of rape against complainant Helen Plotado, a 14-year old minor, and sentencing him to suffer the penalty of reclusion perpetua and to pay P150,000.00 as indemnity and the costs of suit.

The facts are as follows:

Complainant Helen Plotado filed several complaints for rape against accused-appellant,[2] on the basis of which three separate informations were filed against him before the Regional Trial Court, Branch 35, Iriga City. In Criminal Case No. 5013, the information charged —

That on or about 3:00 o'clock in the early morning of May 6, 1999, at Sitio Burias, La Purisima, Nabua, Camarines Sur, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, and while armed with a bladed instrument, did then and there, willfully, unlawfully and feloniously, entered the room then occupied by Helen Plotado y Bombase, a fourteen-year old lass, thereafter, by means of force, threats and intimidation, that is – by poking his knife at said victim and threatening to kill her if she will not submit herself to his carnal desire, and thus, succeeded in having sexual intercourse with the said private complainant against her will and without her consent, to her damage and prejudice.

ACTS CONTRARY TO LAW.[3]

In Criminal Case No. 5014, the information alleged —

That on or about 4:00 o'clock in the early morning of May 7, 1999, at Sitio Burias, La Purisima, Nabua, Camarines Sur, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, with lewd design, and while armed with a bladed instrument, did then and there, willfully, unlawfully and feloniously, entered the room then occupied by Helen Plotado y Bombase, a fourteen-year old lass, thereafter, by means of force, threat and intimidation, that is – by poking his knife at said victim and threatening to kill her if she will not submit herself to his carnal desire, and thus, succeeded in having sexual intercourse with the said private complainant against her will and without her consent, to her damage and prejudice.

ACTS CONTRARY TO LAW.[4]

In Criminal Case No. 5015, the information recited —

That about 8:30 o'clock in the evening of May 9, 1999 at Sitio Burias, La Purisima, Nabua, Camarines Sur, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, with lewd design and while armed with a bladed instrument, did then and there, willfully, unlawfully and feloniously, blocked

the way of Helen Plotado y Bombase, a fourteen-year old lass while on the way home, thereafter, by means of force, threats and intimidation, that is – by poking his knife at said victim and threatening to kill her if she will not submit to his carnal desire, and thus, succeeded in having sexual intercourse with said private complainant against her will and without her consent to her damage and prejudice.

ACTS CONTRARY TO LAW.[5]

When arraigned on October 1, 1999, accused-appellant, assisted by counsel, pleaded not guilty to charges against him,[6] whereupon trial ensued.

The following testified for the prosecution: complainant Helen Plotado, her mother Natividad Plotado, Dr. Stephen A. Beltran, the health officer who examined complainant, Gemalil Bonaobra, a social worker, Glicerio Bonador, a barangay tanod, and SPO1 Adonis Lomatoa.

Complainant Helen Plotado testified that at around 3 o'clock in the morning of May 6, 1999, she and her two sisters, aged nine and 11 years old, were sleeping in a room inside their house in Burias, La Purisima, Nabua, Camarines Sur. Complainant was awakened when accused-appellant sneaked into their house and, at knifepoint, undressed her. According to complainant, accused-appellant inserted his finger into her private parts and then had sexual intercourse with her, after which he left.

The second rape took place at around 4 o'clock in the morning of May 7, 1999, also in their house in Burias, La Purisima, Nabua, Camarines Sur. Accused-appellant again entered their house and at knifepoint forced complainant to have sexual intercourse with him.

The third rape took place at around 8:30 p.m. of May 9, 1999. Complainant was coming home from a neighbor's house after watching television when accused-appellant blocked her way. He pulled her towards a dark area, and, again at knifepoint, he forced complainant to stand against a tree and undressed her. In a standing position, accused-appellant succeeded in having sex with complainant.

According to complainant, she did not make an outcry on each of the three occasions she was molested because accused-appellant threatened to kill her and her family if she told them what happened to her.[7] But, according to Natividad Plotado, at around 4 o'clock in the morning of May 10, 1999, a day after the third time that she was raped, complainant tried to run away from their house, but she (Natividad Plotado) saw her and stopped her and forced her to say what the matter was. It was then that complainant disclosed what had happened to her. Complainant and her mother then went to the barangay tanod and thereafter reported the rape incidents to the police.[8]

Natividad Plotado testified about an incident which took place at around midnight of May 9, 1999,[9] prior to the occurrence of the third rape against complainant. She said that at that time a man entered their house and went to the room where complainant was sleeping. Natividad recognized the intruder to be accused-appellant because of the light from a gas lamp which was kept lighted throughout the night. Natividad said she wanted to hit accused-appellant with a bolo, but she became nervous so she fainted. She and her husband later went to the house of the chief of the barangay tanods, Glicerio Bonador, and reported the incident.[10]

Natividad's testimony was corroborated by Glicerio Bonador, who testified that Natividad went to his house at around 1 o'clock in the morning of May 9, 1999 to denounce accused-appellant for entering their house that night. Glicerio said that the next day, on May 10, 1999, Natividad went back to his house and reported that her daughter, Helen, had been raped by accused-appellant Henry Barela.[11]

Gemalil Bonaobra, a social worker, identified the Social Case Study Report (Exh. B), dated March 15, 2000, which she prepared containing her observations of the behavior and character of complainant Helen Plotado.[12]

On the other hand, Dr. Stephen A. Beltran, municipal health officer of Nabua, issued a medical report (Exh. A) on the result of the physical examination of complainant Helen Plotado. Dr. Beltran's report states in pertinent parts:

NOI - SEXUAL ABUSE

TOI - 4:00 A.M.

DOI - May 7, 1999

POI - La Purisima, Nabua, Cam. Sur

POE - Municipal Health Office, Nabua, Cam. Sur

DOE - May 11, 1999

FINDINGS:

= VAGINAL EXAMINATION:

(+) – Healed hymenal laceration at 9:00 o'clock position

IMPRESSION:

Vaginal penetration, complete.[13]

Dr. Beltran testified that complainant Helen Plotado sustained a hymenal laceration at the 9 o'clock position, which could possibly have been caused by the penetration of a hard object, such as an erect penis, into the vagina of the victim. He said that the hymenal laceration sustained by the victim was already healed when he examined the latter on May 11, 1999. He explained that a single hymenal laceration did not mean that there was only one incident of sexual intercourse.[14]

The prosecution also presented in evidence the certificate of birth of Helen Plotado (Exh. C), showing that the latter was born on June 25, 1985.[15]

Accused-appellant denied the charges against him. He said that he was arrested by several men, accompanied by complainant's father Mamerto Plotado, at around 3 o'clock in the morning of May 9, 1999 while he was in his friend's house. He claimed that he was not informed of the reason for his arrest, but was simply taken to complainant's house and there beaten up by members of the arresting team, some of whom were drunk. He testified that he was later taken to the barangay tanod outpost in La Purisima, Nabua, Camarines Sur, where he was questioned by the barangay captain about the alleged rape of Helen Plotado. He was later taken to the PNP Headquarters of Nabua Poblacion, but the policeman, Patrolman Lomatoa, sent him home. He claimed that he stayed home after May 9, 1999, but he was again taken into custody on May 13, 1999 by police officers, who informed him that there was a warrant for his arrest. When he asked what was the charge against him, the police told him it was for the rape of complainant Helen Plotado. Accused-appellant denied that he owned a knife or that he forced complainant to have sex with him on three occasions.

On cross-examination, accused-appellant said that he did not go to a doctor after he had been beaten up by the men who arrested and brought him to complainant's house. He denied that the reason for his arrest on May 9, 1999 was for entering complainant's house earlier that day. He said that he was never questioned by the police regarding his alleged illegal entry into the house of complainant on that date, but that he was already charged with rape at that time. Accused-appellant said that he did not know of any reason for complainant and her parents to trump up charges against him. He admitted that he had known complainant and her parents prior to May 1999.[16]

The prosecution presented as a rebuttal witness SPO1 Adonis Lomatoa of the PNP in Nabua, Camarines Sur. SPO1 Lomatoa testified that on May 12, 1999, he received a report from complainant and her mother charging accused-appellant of the crime of rape. He said accused-appellant was brought to their station in Nabua,

Camarines Sur by the police at the Tandaay police station.[17]

Based on the evidence presented by the parties, the trial court rendered a decision on July 14, 2000, the dispositive portion of which states:

WHEREFORE, the Court finds the accused Henry Barela guilty beyond reasonable doubt of three (3) counts of rape, as principal, under criminal cases No. 5013, 5014, & 5015 as penalized under Art. 335 of the Revised Penal Code, as amended, and accordingly sentences accused to suffer the penalty of Reclusion Perpetua in each case or a total of three penalties, to indemnify Helen Plotado the total sum of P150,000.00 and to pay the costs.

In the successive service of his sentence, accused shall be credited with the full period of his preventive imprisonment if the conditions under Art. 29 of the Revised Penal Code are complied with.

SO ORDERED.[18]

In his lone assignment of error, accused-appellant contends that —

THE LOWER COURT ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME OF RAPE ALTHOUGH THE PROSECUTION FAILED TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[19]

Accused-appellant contends that the prosecution evidence does not satisfy the requirement of proof beyond reasonable doubt in criminal cases to sustain a conviction. He questions his identification by complainant based only on the hairstyle (spiked) she allegedly saw the intruder to have when he molested her.

We find accused-appellant's contentions to be meritorious. We have carefully reviewed the evidence and have come to the conclusion that it is so insufficient as to create some reasonable doubt as to the guilt of accused-appellant. The whole episode is simply so unnatural that we entertain reasonable doubt as to its verisimilitude.

First. Complainant Helen Plotado pointed to accused-appellant as the person who had raped her on three occasions on May 6, 7, and 9, 1999. But she had no basis for thinking that the person who had raped her was accused-appellant other than the latter having a spiked hairstyle. Many times she was asked for her reason for thinking that accused-appellant was the malefactor. Each time complainant said it was because the malefactor was wearing a spiked hairstyle similar to that of accused-appellant. Otherwise, she had no reason for identifying accused-appellant as her assailant. Thus, complainant testified:

COURT:

And how were you able to recognize him when you claim that the room was dark?

WITNESS:

I recognized that person through his hair.

COURT:

Despite the darkness of the room?

WITNESS:

Yes, Your Honor.

COURT:

You mean to convey to the court that it was only through his hair that you were able to recognize the accused?

WITNESS:

Yes, Your Honor.

COURT:

Not because of his face and his figure?

WITNESS:

Yes, Your Honor.

COURT:

Alright, what was in his hair that made you recognize him?

WITNESS:

His hair looks like spikes.

COURT:

Why, you only were able to recognize him because you were able to touch his hair?

WITNESS:

Yes, Your Honor.

COURT:

How about on May 7, 1999 were you able to recognize the person who entered your house?

WITNESS:

Yes, Your Honor.

COURT:

And who was that person?

WITNESS:

Henry.

COURT:

And you again recognized him because of his hair?

WITNESS:

Yes, Your Honor.

COURT:

So, the court is now convinced that on this May 6 and 7 you were only able to recognize the accused because of his hair?

WITNESS:

Yes, Your Honor.

COURT:

And does the court understand that person in your place has the only spike hair in your place because the guilt of the accused is resting on what you say. Because the court is interested here because it involves the life of a person.

WITNESS:

Yes, Your Honor.

COURT:

Alright, how about on May 9, 1999 were you able to recognize the person who met you along the way and pull you to that place?

WITNESS:

Yes, Your Honor.

COURT:

And who was that person who pulled you?

WITNESS:

Henry.

COURT:

And again you were able to recognize the accused as Henry because of his hair?

WITNESS:

Yes, Your Honor.[20]

Thus, despite repeated questioning by the trial judge, complainant insisted on her answer: She recognized accused-appellant not because of his facial features and body built but because of his hairstyle. However, as noted by the defense counsel and made of record during the trial, the hairstyle of accused-appellant was not at all distinctive, unusual, or out of the ordinary.[21] Indeed, accused-appellant had been a neighbor of the Plotados for a year prior to the incident. His house was only 30 to 40 meters from that of the complainant.[22] In fact, according to Natividad Plotado, accused-appellant's house was just three houses away from theirs. For one who had been their neighbor for a long time, it is surprising that complainant could not identify accused-appellant as her attacker except through his hairstyle. Complainant could very well have seen another man sporting a hairstyle similar to that of accused-appellant. As in all criminal prosecutions, the identification of accused-appellant is crucial for his conviction.[23]

Second. With regard to the third alleged rape on May 9, 1999, although complainant testified that she recognized the assailant to be accused-appellant because she saw his face, her claim that she was raped by him while both of them were in a standing position is improbable. Complainant is much shorter than accused-appellant. Why accused-appellant should allegedly do this when the crime could have more easily been committed if accused-appellant had forced her to lie down is difficult to believe.

Third. Despite the fact that she had been allegedly molested twice, complainant did not seem to have taken precautions to prevent a repetition of the incident for the third time. To the contrary, she stayed out late at night by going to a neighbor's house to watch television and went home alone, making it possible, if she is to be believed,

for her molestations to take place. Her conduct, after twice being allegedly abused, betrays her claim that she did not tell her parents about the crimes because she was afraid accused-appellant would harm her and her family.

On the other hand, Natividad Plotado claimed that she caught accused-appellant at midnight of May 9, 1999 attempting to enter the room where complainant slept. This should have forewarned her that accused-appellant had evil designs either against her family or complainant in particular. Yet, she allowed her daughter to leave the house at 7 o'clock in the evening of the same day just so the latter could watch television.

Fourth. Complainant claimed that after she was allegedly raped a third time, she decided to leave their house and it was only because her mother saw her that she stayed and that it was then when she decided to tell her mother what had happened. We cannot understand why complainant should want to leave home because she had been raped. If she had become afraid as a result of her experiences, she should all the more have stayed at home.

In deciding rape cases, this Court has been guided by three principles, to wit: (1) an accusation for 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 nature of the crime in which only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.[24] Applying these principles to these cases, we think that the prosecution evidence is on the whole improbable. An accused in a rape case may be convicted even on the sole testimony of the victim, but such testimony must be credible, natural, convincing, and consistent with human nature and the normal course of things.[25] In these cases, one can speculate on how complainant sustained a hymenal laceration as a result of a "vaginal penetration, complete," but speculations and probabilities cannot take the place of the proof required to establish the guilt of accused-appellant beyond reasonable doubt.[26]

WHEREFORE, the decision of the Regional Trial Court, Branch 35, Iriga City, finding accused-appellant Henry Barela guilty of three counts of rape, is hereby REVERSED and accused-appellant is ACQUITTED of the charges against him on the ground of reasonable doubt.

The Director of Prisons is hereby directed to forthwith cause the release of accused-appellant unless the latter is being lawfully held for another cause and to inform the Court accordingly within ten (10) days from notice.

SO ORDERED.

Bellosillo, (Acting C.J.), (Chairman), Quisumbing, De Leon, Jr., and Corona, JJ., concur.

[1] Per Acting Judge Ernesto B. Amisola.

[2] Records (Crim. Case No. 5013), p. 2; Records (Crim. Case No. 5014), p. 2; Records (Crim. Case No. 5015), p. 2.

[3] Records (Crim. Case No. 5013), p. 1.

[4] Records (Crim. Case No. 5014), p. 1.

[5] Records (Crim. Case No. 5015), p. 1.

[6] Records (Crim. Case No. 5013), p. 34.

[7] TSN, pp. 3-10, 14, 16, May 4, 2000.

[8] TSN, March 9, 1999, pp. 17-18, 20-21.

[9] Although Natividad Plotado testified that the incident took place on May 8, 1999, it appears from a reading of the stenographic notes that the incident took place on May 9, 1999.

[10] TSN, pp. 15-16, 24, March 9, 1999.

[11] TSN, pp. 3-4, April 6, 2000.

[12] TSN, pp. 5-7, March 23, 2000.

[13] Records (Crim. Case No. 5013), p. 4.

[14] TSN, pp. 5-13, March 9, 2000.

[15] Records (Crim. Case No. 5013), p. 88.

[16] TSN, pp. 2-24, May 19, 2000.

[17] TSN, pp. 3-6, June 1, 2000.

[18] Decision, pp. 8-9; Records (Crim. Case No. 5013), pp. 126-127.

[19] Brief for the Accused-Appellant, p. 1; Rollo, p. 55.

[20] TSN, pp. 33-36, May 4, 2000 (emphasis added).

[21] Id.

[22] TSN, pp. 21-22, Mar. 9, 1999.

[23] See *People v. Arapok*, 347 SCRA 479 (2000).

[24] E.g., *People v. Gopio*, 346 SCRA 408 (2000); *People v. Malacura*, 346 SCRA 781 (2000); *People v. Sala*, 345 SCRA 490 (2000); *People v. Restoles*, 339 SCRA 40 (2000); *People v. Watimar*, 338 SCRA 173 (2000); *People v. Sapinosa*, 328 SCRA 649 (2000); *People v. Barcelona*, 325 SCRA 168 (2000).

[25] *People v. Bayona*, 327 SCRA 190 (2000).

[26] See *People v. Tayag*, 329 SCRA 491 (2000).

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