

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NARDITO ALEMANIA, ACCUSED-APPELLANT.

G.R. Nos. 146521-22. November 13, 2002

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Accused-appellant Nardito Alemania y Pacriz was charged with two counts of rape in two separate Informations by his daughters, Elgie and Lady, both surnamed Alemania. The Informations read as follows:

Criminal Case No. 1203-M-96:

That on or about the 1st day of May, 1996 in the municipality of San Jose del Monte, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the father of the offended party, did then and there willfully, unlawfully and feloniously, by means of force, threats and intimidation and with lewd designs, have carnal knowledge of said Elgie Alemania y Duritan, against her will and without her consent.[1]

Criminal Case No. 1096-M-96:

That on or about the 9th day of May 1996, in the municipality of San Jose del Monte, province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being the father of the offended party, did then and there willfully, unlawfully and feloniously, armed with a knife by means of force, threats and intimidation and with lewd designs, have carnal knowledge of said Lady Alemania y Duritan, against her will and without her consent.[2]

On arraignment, accused-appellant pleaded not guilty to both charges. Thereafter the two cases were consolidated and trial on the merits ensued.

Eighteen year-old Elgie testified that at 10:00 in the morning of May 1, 1996, while she was sleeping alone in her aunt's house at Purok 6, Area B, Barangay Bagong Buhay, San Jose del Monte, Bulacan, she woke up and saw her father, Nardito undressing her. He then kissed her face and her body, lay on top of her and inserted his penis into her private part. When she tried to resist his advances, he threatened her with a knife. She could not do anything but cried and begged for mercy, "Huwag po tatay, maawa po kayo sa akin." Accused-appellant coldly replied, "Bago ka mapunta sa ibang lalaki, sa akin ka muna."

On the other hand, fifteen year-old Lady testified that at 10:00 in the evening of May 9, 1996, while she was asleep in her aunt's house, her father, Nardito went into her room and scared her into silence with a knife. He removed her panties, lay on top of her and inserted his penis into her private part causing pain and making her cry. Thereafter, Nardito kissed Lady on the face and neck and upon satisfying his lust, repeated his warning not to tell on him or else they would all be killed.

However, Elgie and Lady told their aunt, Salvacion Grayda, what their father did to them. Together with their mother, Asuncion Alemania, they went to the police station and filed complaints for rape against

accused-appellant.

Dr. Tomas Suguitan testified on behalf of Dr. Jesusa Vergara who actually conducted the medical examination on both victims but has since resigned and moved to Canada. The medical reports[3] showed that both victims are no longer virgins.

Accused-appellant denied the accusations against him and claimed that it was physically impossible for him to have raped Elgie on May 1, 1996 and Lady on May 9, 1996 for he was in Pawig, Bulan, Sorsogon on those dates. He narrated that Elgie went to Sorsogon only on May 10, 1996. According to him, Elgie filed the complaint for rape against him because he scolded and punished her for having a boyfriend.

He also insisted that he could not have raped Lady on May 9, 1996 for she was in Meycauayan, Bulacan while he was in Sorsogon taking care of his three children, namely, Riza, Vicky and Redan. He explained that he is charged with rape because he hurt his wife during a quarrel. He allegedly went to San Jose del Monte, Bulacan only on June 19, 1996.

The trial court gave credence to the prosecution's evidence and rendered judgment,[4] the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered finding that the prosecution has established the guilt of accused Nardito Alemania herein beyond reasonable doubt of the offense of TWO RAPES as charged in the Informations. Accordingly, accused Nardito Alemania is sentenced to suffer the penalty of reclusion perpetua in Criminal Case No. 1203-M-96 and death sentence in Criminal Case No. 1096-M-96 and to indemnify the two victims in the amount of P50,000.00 each for civil indemnity and P50,000.00 each for moral damages. He is also ordered to pay the costs.

The consolidated cases are now before us on automatic review insofar as the death penalty is concerned, and direct appeal insofar as reclusion perpetua is concerned. Accused-appellant submits the following assignment of errors:

I

DUE TO THE EXISTENCE OF REASONABLE DOUBT, THE TRIAL COURT ERRED SERIOUSLY IN NOT ABSOLVING THE ACCUSED APPELLANT IN CRIMINAL CASE NO. 1203-M-96.

II

ALSO, THE TRIAL COURT COMMITTED A REVERSIBLE AND GRAVE ERROR IN NOT EXCULPATING THE APPELLANT IN CRIMINAL CASE NO. 1096-M-96 BECAUSE OF THE PRESENCE OF DOUBTS BELEAGUERING THE CHARGE THEREIN.

In reviewing rape cases, this Court has always been guided by three well-entrenched principles: (a) that 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; (b) that in view of the intrinsic nature of the crime which usually involves two persons, the testimony of the complainant must be scrutinized with extreme caution; and (c) that the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of evidence of the defense. Accordingly, the essential consideration in determining the crime of rape is the credibility of the complainant's testimony.[5]

In convicting accused-appellant, the trial court found that the prosecution's version is more credible than the theory given by the defense.

We affirm the trial court's findings. As we have consistently observed in countless incestuous rape cases, "[a]

daughter would not concoct a story of defloration against her father, accuse him of so grave a crime as rape, allow an examination of her private parts, submit herself to public humiliation and scrutiny via an open public trial, if she were not truly aggrieved or her sordid tale was not true and her sole motivation was not to have the culprit apprehended and punished. In short, a teenage unmarried lass would not file a rape case against anybody, much less her own father, if it were not true.”[6]

During her direct and cross examinations, Lady could not contain her anguish and thus cried four times when forced to recount what her father did to her.[7] The same is true with Elgie. She cried during her direct and cross examinations when she was forced to recall the bitter experience forced on her by her father.[8] The victims’ act of weeping during their testimonies bolsters the credibility of the rape charges with the verity born out of human nature and experience.[9]

Credible witness and credible testimony are the two essential elements in evaluating the weight of a particular testimony. This principle could not ring any truer where the prosecution relies mainly on the testimony of the complainant, corroborated by the medico-legal findings of a physician. The accused-appellant may be convicted on the basis of the lone, uncorroborated testimony of the rape victim, provided that her testimony is clear, convincing and otherwise consistent with human nature.[10]

This is a matter best assigned to the trial court which had the first-hand opportunity to hear the testimonies of the witnesses and observe their demeanor, conduct, and attitude during cross-examination. Such matters cannot be gathered from a mere reading of the transcripts of stenographic notes. Hence, the trial court’s findings carry great weight and substance.[11]

It is settled jurisprudence that when a woman says that she has been raped, she says in effect all that is necessary to show that rape was indeed committed.[12] A woman would think twice before she concocts a story of rape unless she is motivated by a patent desire to seek justice for the wrong committed against her.[13]

Indeed, if an accused had really nothing to do with the crime, it is against the natural order of events and human nature and against the presumption of good faith that the prosecution witness would falsely testify against the former.[14]

While there may, indeed, be inconsistencies in the prosecution witnesses’ testimonies, they only pertain to collateral or minor incidents of the case and they do not affect the real issue, which is, that accused-appellant raped her two daughters. In reconstructing the events that led to the incident in question, courts should not expect the narration or presentation to be strictly chronological. Factors such as memory, length of time, intelligence, articulateness, and emotional condition all affect a witness’ narration of events. As long as the witness was found to be credible by the trial court, especially after undergoing a rigid cross-examination, any apparent inconsistency may be overlooked. This is especially true if the lapses concern trivial matters.[15]

In Criminal Case No. 1096-M-96, the trial court sentenced accused-appellant to death by lethal injection without mention of any attendant circumstance that qualified the crime.

The trial court imposed the death penalty considering that accused-appellant was the father of the victim who was only fifteen years old then. However, the Information only alleged the relationship of the offender to the victim but made no mention of her age. Republic Act No. 7659, which was in effect at the time of the commission of the crimes, amended Article 335 of the Revised Penal Code which provided seven special qualifying circumstances in rape, the attendance of which warrants the imposition of the death penalty. One qualifying circumstance is when the rape 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. The concurrence of the minority of the victim and her relationship to the offender must be both alleged

and proved with certainty, otherwise the death penalty cannot be imposed.[16]

It is fundamental that every element of an offense must be alleged in the complaint or information. The purpose of the rule is to enable the accused to suitably prepare his defense. He is presumed to have no independent knowledge of the facts that constitute the offense. The conviction of an accused of a crime in its qualified form, where the information failed to specify the circumstance that qualified the crime, is a denial of his right to be informed of the nature of the accusation against him and, consequently, a denial of due process.[17]

As stated above, the information in this case only alleged the offender's relationship to the victim but failed to mention the victim's minority. Consequently, accused-appellant can only be held liable for simple rape, for which the penalty prescribed is reclusion perpetua.

Anent the matter of damages, the trial court was correct in ordering the accused-appellant to pay P50,000.00 as civil indemnity and another P50,000.00 as moral damages to each of the victims. The award of civil indemnity in the amount of P50,000.00 is in accordance with the latest jurisprudence for rape not effectively qualified by any circumstance under which death penalty is authorized by the present amended law.[18] Moral damages is also awarded pursuant to Article 2219 of the Civil Code, without the necessity of additional pleading or proof other than the fact of rape. Moral damages is granted in recognition of the victim's injury as being inherently concomitant with and necessarily resulting from the abhorrent crime of rape, especially where the rape victim is an innocent child whose life is forever tainted by a foul and traumatic experience.[19]

In addition, accused-appellant is ordered to pay each of his victims P25,000.00 as exemplary damages, considering his relationship as father of the rape victims, Elgie and Lady.[20]

WHEREFORE, in view of the foregoing, the Decision of the Regional Trial Court of Malolos, Bulacan, Branch 80, is AFFIRMED with the following MODIFICATIONS:

In Criminal Case No. 1096-M-96, accused-appellant Nardito Alemania y Pacriz is found GUILTY beyond reasonable doubt of the crime of rape. He is sentenced to the reduced penalty of Reclusion Perpetua, and ORDERED to pay the offended party, Lady Alemania y Duritan, the sums of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages.

In Criminal Case No. 1203-M-96 accused-appellant Nardito Alemania y Pacriz is found GUILTY beyond reasonable doubt of the crime of rape. He is sentenced to Reclusion Perpetua, and ORDERED to pay the offended party, Elgie Alemania y Duritan, the sums of P50,000.00 as civil indemnity, P50,000.00 as moral damages, P25,000.00 as exemplary damages.

Costs de officio.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Mendoza, Panganiban, Quisumbing, Sandoval-Gutierrez, Carpio, Corona, Carpio-Morales, Callejo, Sr., and Azcuna, JJ., concur. Austria-Martinez, J., on leave.

[1] Rollo, p. 10.

[2] Rollo, p. 8.

[3] Exhibits "B" and "D", Records, pp. 180 and 184.

[4] Penned by Judge Caesar A. Casanova of the Regional Trial Court of Malolos, Bulacan, Branch 80.

[5] People v. Reyes, G.R. Nos. 140642-46, August 7, 2002.

[6] Ibid.

[7] TSN, July 7, 1997, p. 5; TSN, July 14, 1997, p. 3; TSN, August 11, 1997, pp. 2 and 4.

[8] TSN, July 14, 1997, p. 10; TSN, October 6, 1997, p. 6.

[9] People v. Dy, G.R. Nos. 115236-37, January 29, 2002.

[10] People v. Belga, 349 SCRA 678 [2001].

[11] People v. Dy, supra.

[12] People v. Lachica, G.R. No. 143677, May 9, 2002,

[13] People v. De Guzman, 343 SCRA 267[2000] .

[14] People v. Samson, G.R. No. 124666, February 15, 2002.

[15] People v. dela Cuesta, 342 SCRA 166 [2000] .

[16] People v. Miclat, G.R. No. 137024, August 7, 2002.

[17] People v. Dela Peña, G.R. Nos. 138358-59, November 19, 2001.

[18] People v. Quinson, G.R. No. 139753, May 7, 2002.

[19] People v. Parocha, G.R. No. 138866, March 6, 2002.

[20] People v. Dogaojo, G.R. Nos. 137834-40. December 3, 2001.

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