

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MANUEL MANTIS, APPELLANT.

G.R. Nos. 150613-14. June 29, 2004

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

In its judgment[1] dated October 24, 2001, the Regional Trial Court of Guagua, Pampanga, Branch 52, found appellant, Manuel Mantis, guilty beyond reasonable doubt of two counts of rape and sentenced him for each count to suffer the penalty of death and to indemnify the victim, Mary Jane L. Balbin, the sum of P75,000 as civil indemnity and P75,000 as moral damages.

He was charged in two separate informations, both dated August 25, 1999, by the Office of the Provincial Prosecutor of Pampanga as follows:

(1) Criminal Case No. G-4788

That on or about the 3rd day of April, 1999 in the municipality of Floridablanca, province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, MANUEL MANTIS, did then and there wilfully, unlawfully and feloniously entered (sic) the room of Mary Jane L. Balbin, 12 years old, the daughter of his common-law spouse, and by means of force, threat and intimidation, accused succeeded in having carnal knowledge with Mary Jane L. Balbin, against the latter's will.

Contrary to law.[2]

(2) Criminal Case No. G-4797

That on or about the 16th day of July 1998 in the municipality of Floridablanca, province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, MANUEL MANTIS, did then and there wilfully, unlawfully and feloniously entered (sic) the room of Mary Jane L. Balbin, 11 years old, the daughter of his common-law spouse, and by means of force, threat, and intimidation, accused succeeded in having carnal knowledge with Mary Jane L. Balbin, against the latter's will.

Contrary to law.[3]

With the assistance of counsel, he pleaded not guilty to the foregoing charges. The cases were then jointly heard since they involved the same parties and the same evidence.

The evidence for the prosecution established that:

Private complainant Mary Jane L. Balbin was born on September 28, 1986, as shown by her testimony and a photocopy of her birth certificate.[4] She had known the appellant since she was six (6) years of age since he was the common-law husband ("live-in" partner) of her mother, Merly S. Leona. She had come to consider him as her own father, calling him "Papa".[5] Mary Jane lived with her mother, her siblings, and appellant in a three-bedroom house at Valdez, Floridablanca, Pampanga. At the time of the incident in Criminal Case No.

G-4788, she was a first year high school student at Guillermo D. Mendoza High School in Guagua, Pampanga.[6]

Mary Jane testified that in the afternoon of July 16, 1998, she and her godfather, one Antonio Bartolo, brought her mother to the hospital because she was sick.[7] That evening, appellant fetched Mary Jane from the hospital and took her home to Valdez, Floridablanca.[8] A certain George Nanquil remained at the hospital to watch over Mary Jane's mother.

Once home, Mary Jane entered her room and was preparing for bed, when suddenly the appellant entered her room. To her surprise, appellant was wearing nothing but a t-shirt.[9] Without further ado, appellant grabbed her and removed her shirt, shorts, and panty. She tried to free herself from his tight embrace, but to no avail. Appellant then inserted his phallus inside her private part, causing her much pain.[10] When she continued to struggle, appellant threatened to kill her and her mother should she report what he was doing to her.[11] Appellant's threat cowed her into submission. Fearful of what she or her mother might suffer in the hands of appellant, Mary Jane endured her ordeal in silence.

In the months that followed, Mary Jane did not breathe a single word to anyone about the harrowing experience she suffered. Not to the authorities or her mother, not to her friends, not to her classmates or teachers.[12] Her fearful silence, however, merely emboldened the appellant into repeating his dastardly act.

During the wee hours of April 3, 1999, while Mary Jane was asleep in her room with her two (2) sisters, appellant again entered her room.[13] Mary Jane was awakened when she felt him lie beside her. She saw that he was wearing nothing but a shirt.[14] Appellant swiftly stripped her of her clothes and proceeded to forcibly insert his organ into her vagina.[15] She struggled against the unwanted penile invasion, but her resistance was fruitless as appellant held her very tightly. She did not shout, despite the fact that her mother was in the garage,[16] because she was scared of his threat to kill her and her mother.

Living in fear and shame, Mary Jane would have kept her silence had she not become pregnant. She then divulged to appellant's employer, one Ruben Cabrera, what appellant had done to her.

On July 26, 1999, the victim was examined by Dr. Grace Salinas, medical officer of the Romana Pangan District Hospital in San Jose, Floridablanca, Pampanga. Mary Jane disclosed to Dr. Salinas that appellant had been sexually abusing her since she was seven (7) years old. Dr. Salinas confirmed that she was indeed enceinte. Dr. Salinas' findings, as reduced to writing, are as follows:

...

3. Last menstrual period = February 3rd week 1999

4. Breast = conical

5. Internal examination = vagina admits one finger with

ease, healed hymenal laceration

12, 3, 6, 9 o'clock

6. Obstetric ultrasound (7-22-99)

Result - a single live fetus in

breech presentation at about 20

weeks and 1 day AOG[17]

...

Dr. Salinas testified that she could not make a determination as to how many times the victim had been forced to engage in unwanted sexual intercourse, but Mary Jane most likely had a sexual encounter in February 1999, which resulted in her pregnancy.[18]

After her medical examination, Mary Jane filed a sworn complaint with the police authorities alleging that appellant raped her on July 16, 1998 and on April 3, 1999 as well.[19] She likewise attested that prior to April 3, 1999, the appellant had engaged in forcible sex with her several times, but she could no longer recall the dates of these incidents.

On November 29, 1999, Mary Jane gave birth to a baby girl, whom she named Mary Grace. She identified appellant as the father.[20]

Appellant raised the defenses of denial and alibi to both charges. He testified that he was separated from his legal spouse, a certain Purisima Gamboa, and started living in with the victim's mother, Merly Leona in September 27, 1992.[21] Mary Jane came to live with him and Merly sometime in August 1995.

Appellant contended that he could not have raped the victim on the night of July 16, 1998 because he was at the hospital looking after Merly Leona who was then confined. He claimed that he stayed in the hospital from 8:30 p.m. of July 16, 1998 to 3:00 p.m. of the following day.[22] Hence, he could not have raped Mary Jane in their house at Valdez, Floridablanca, Pampanga, as claimed by her.

As to the second rape charge, appellant insisted that it could not have happened, since on April 3, 1999, he was at Maligaya Subdivision, Pulungmasle, Guagua, Pampanga up to 5:00 p.m.[23] He stayed the night at his employer's office as was his wont and only went home at 6:30 a.m. the following day to have breakfast.[24] The appellant explained that he and Merly did not spend their nights at the house where Mary Jane was staying, since they regularly slept at the office of his employer, Ruben Cabrera, located some 600 meters away from said house.[25] He insisted that he never slept one single night in the same house where Mary Jane was staying.[26] Instead he allowed Jorge Mercado, Joel Casupanan, and Roderick Manalansan to sleep in the house where Mary Jane stayed, as she and her siblings had no adult companion at nights.[27] He claimed that Casupanan was Mary Jane's boyfriend.[28] He also made much of the fact that their neighbor, one Rico Pinili, was a frequent visitor of Mary Jane's at night. Appellant tried to portray the victim as a loose and unchaste female who could have been made pregnant by any of the men previously mentioned, as any or all of them could have enjoyed her favors.

In open court, he claimed that he had an ax to grind against Casupanan, whom he suspected of having an affair with Merly Leona. He testified that a few days after he was incarcerated, Merly Leona started living with Casupanan and that he had previously caught them kissing and embracing in the kitchen of his house.[29]

Further, appellant testified that the rape charges against him were concocted by Mary Jane at her mother's behest following a violent scolding he gave them, which prompted them to leave the house. He insisted that the fact that Mary Jane only complained of the alleged rapes after she became pregnant casts doubt upon the veracity of her testimony.

The trial court found the prosecution's evidence weighty and convincing. It declared appellant guilty as charged. Accordingly, it decreed as follows:

WHEREFORE, this court hereby (a) finds accused Manuel Mantis GUILTY beyond reasonable doubt of the crime of rape as charged in Criminal Case No. 4797 and Criminal Case No. 4788; and (b) sentences the accused as follows:

- In Criminal Case No. 4797, to suffer the penalty of death and to indemnify Mary Jane L. Balbin the amount of P75,000.00 and to pay her the additional sum of P75,000.00 for moral damages; and
- In Criminal Case No. 4788, to suffer the penalty of death and to indemnify Mary Jane L. Balbin the amount of P75,000.00 and to pay her the additional sum of P75,000.00 for moral damages.

The records of these cases, including the transcript of stenographic notes, are hereby ordered forwarded to the Honorable Supreme Court for automatic review pursuant to Article 47 of the Revised Penal Code, as amended by Republic Act No. 7659.

With costs against the accused.

SO ORDERED.[30]

Hence, this automatic review pursuant to Art. VIII, Sec. 5 (2d)[31] of the Constitution and Rule 122, Sec. 3 (c) and Sec. 10 of the Rules of Court.[32] Before us, appellant assigns the following errors:

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME OF RAPE WHEN HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT GRAVELY ERRED IN IMPOSING THE SUPREME PENALTY OF DEATH WHEN THE INFORMATION DID NOT STATE WITH SPECIFICITY THE QUALIFYING CIRCUMSTANCES OF AGE AND RELATIONSHIP.[33]

Simply stated, the issues for our resolution concern: (1) the sufficiency of the prosecution's evidence to establish the appellant's guilt beyond reasonable doubt; and (2) assuming that appellant is guilty as charged, the propriety of the penalties imposed upon him.

On the first issue, appellant contends that it was error for the trial court to find him guilty of rape committed "by means of force, threat, or intimidation" in Criminal Case No. G-4788 since a perusal of the prosecution's evidence, including the victim's own testimony, would clearly show that there was no use of force on his part, and that the victim did not offer the good faith resistance required by law and jurisprudence against sexual assault. He avers that a closer examination of the private complainant's statements in open court as to what transpired that evening of April 3, 1999, would clearly show that she never shouted for help when she noticed appellant's presence beside her, notwithstanding that her two sisters were sleeping beside her and her mother was in the garage. Nor did she create any commotion of any sort which could have at least caused her sleeping sisters who were in the same room to wake up or cause her mother to rush to her room and find out what was wrong. Appellant insists that this was unusual, considering that he was unarmed at the time and there is no showing that he covered the victim's mouth to prevent her from shouting. Appellant submits that the foregoing circumstances taken together, far from showing that the sexual act was committed by means of force, instead show that the complaining witness had voluntarily consented to the sexual act.

For the appellee, the Office of the Solicitor General (OSG) counters that the appellant's theory of consensual sex is so preposterous as to strain credulity. The OSG points out that in Criminal Case No. G-4797, the Information charged appellant with ravishing Mary Jane on July 16, 1998, when she was but eleven (11) years old. In other words, appellant was indicted for statutory rape. The Solicitor General stresses that under prevailing law, sexual intercourse with a woman below the age of twelve (12) years is statutory rape and her consent to the intercourse, is conclusively presumed by law to be involuntary, as she is considered to have no will of her own.

Anent Criminal Case No. G-4788, the OSG points out that the evidence on record shows that the victim tried to free herself from the appellant's unwanted clutches, but was unsuccessful as he held her tightly. Nor should she be faulted for her failure to shout, says the OSG. The reason she did not shout is that appellant threatened to kill her and her mother if she shouted.

The Solicitor General submits that in this case, the jurisprudential rule – that the degree of force required in rape cases is relative and need not be overpowering or irresistible – should be applied. All that is necessary to show is that the force employed was sufficient to consummate the purpose which the accused had in mind. Furthermore, the law does not impose upon the victim the burden of proving resistance.

We find that the appellant's last-ditch arguments to persuade us of his innocence are far from convincing. His defense is without merit.

Appellant's change of theory on appeal cannot exculpate him. In the proceedings below, appellant raised the defense of alibi and denied having any sexual relations with the private complainant. Before us, appellant now admits having carnal knowledge of her but maintains that it was consensual all along. His shift of theory does not, however, aid his cause.

Consensual sexual congress as an affirmative defense needs convincing proof such as love notes, mementos, and credible witnesses attesting to the consensual romantic relationship between the offender and his supposed victim.[34] Having admitted to carnal knowledge of the complainant, the burden shifts to the appellant to prove his defense by substantial evidence.[35] In the instant cases, however, we find that other than appellant's preposterous tale, there is no scintilla of evidence whatsoever to support his changed theory based on the victim's alleged consent. Furthermore, even assuming arguendo, that there was some form of amorous relationship, such averment will not necessarily rule out the use of force or intimidation by appellant to have sex against her will.[36]

Appellant's claim that Mary Jane consented to the sex act, without his use of force or intimidation, is not supported by the evidence on record. Mary Jane categorically and forthrightly testified that she resisted appellant's advances, but was unsuccessful because the appellant was holding her tightly. The amount of force required in rape cases is relative. It need not be overpowering or irresistible. All that is necessary is that the force employed as an element of the offense be sufficient to consummate the purpose which the accused had in mind.[37]

The intimidation employed by the malefactor in rape must be viewed in the light of the victim's perception and judgment at the time of the offense and not by any hard-and-fast rule or standard. All that is required is that the intimidation be sufficient to produce fear in the victim, a fear that if she does not yield to the brute demands of the appellant, something injurious would happen to her. This Court has previously observed that victims of tender age are easily intimidated and cowed into silence even by the mildest threat against their lives.[38] Appellant himself admits that he had played a father role to Mary Jane since her childhood. Appellant exercised moral ascendancy and influence over her. Well established is the rule, that in instances of rape committed by a father, or a father's surrogate, his moral ascendancy and influence over the victim sufficiently substitutes for the elements of violence and intimidation.[39]

Appellant casts doubt on Mary Jane's credibility as a witness when she testified that she was raped on July 16, 1998 and on April 3, 1999, basing on the expert opinion of Dr. Salinas that the sexual intercourse which caused Mary Jane's pregnancy must have occurred in February 1999. But for the appellee, the OSG counters that the medical examination of the rape victim, as well as the medical certificate which ensues, is merely corroborative in character and is not an indispensable element for conviction of the rapist. The resulting pregnancy is not an

element of rape. In this case, appellant's contention is debunked by Mary Jane's testimony in open court. She testified that appellant raped her not only on the dates stated in the charge sheets, but also on several other occasions. She could not be faulted if she could not recall the precise dates of these incidents, considering her age and the trauma she suffered. Victims certainly do not cherish keeping in their memory an accurate account of the dates, number of times, and the manner in which they were sexually violated.[40]

Appellant contends that the private complainant's delay in reporting the rape in Criminal Case No. G-4797 for a period of one (1) year and six (6) days, and her admission that she only divulged the rapes because she discovered she was pregnant and was ashamed to be pregnant at such a young age, destroyed her credibility. However, the OSG stresses that delay in reporting rape does not undermine the charge if such delay is satisfactorily explained. Here, the delay is explained by the death threats made by the appellant against the victim and her mother. It is not uncommon for a young girl to be intimidated and cowed into silence and conceal for some time the violation of her honor, even by the mildest threat against her life.[41] Mary Jane's testimony is not discredited simply because she failed to immediately report to her mother or the authorities the abuses she suffered in the hands of the appellant. A rape victim cannot, after all, be expected to summon the courage to report a sexual assault committed against her person, where the act was accompanied by a death threat.[42]

It bears stressing that the trial court gave full credence and probative value to the private complainant's testimony, finding that she testified in a straightforward and positive manner when she disclosed the details of her ravishment. Appellant has not come up with any justifiable reason for us to overturn the trial court's findings. Thus, we sustain the trial court ruling that appellant's guilt has been proved in each case by the prosecution beyond reasonable doubt.

We agree, however, that the death sentence imposed upon him by the trial court in each case is erroneous and ought to be reduced to reclusion perpetua.

In these cases, private complainant testified that she was born on September 28, 1986. Her testimony was supported by a photocopy of her "Certificate of Live Birth" showing that she was born in September 1986. But an examination of the prosecution's exhibits shows that the prosecution has failed to present in evidence the original copy of Mary Jane's birth certificate. Further, there is no showing that the original certificate of birth was lost or destroyed, or was unavailable, without the fault of the prosecution. Decisions of this Court relating to the rape of minors invariably state that in order to justify the imposition of the death penalty, there must be independent evidence proving the age of the victim, other than the testimonies of prosecution witnesses and the absence of denial by the accused. A certified true copy of the certificate of live birth showing the complainant's age or some other authentic document such as a baptismal certificate or a school record has been recognized as competent evidence.[43] A mere photocopy of said certificate, however, does not prove the victim's minority, for said photocopy does not qualify as competent evidence for that purpose. As repeatedly held by this Court, in a capital case, we are bound by the standards of strict scrutiny, given the gravity of the death sentence and the irreversibility of its execution. Hence, appellant herein could be held liable only for two counts of simple rape and the sentence of death imposed upon him for each count of rape must be reduced to reclusion perpetua.

Further, pursuant to current jurisprudence, the award of civil indemnity ought to be reduced, in each count, from P75,000 to P50,000 only. Similarly, the award of moral damages in each count should also be reduced from P75,000 to P50,000 only. But, in each count, by way of public example in order to protect young children from molestation and abuse by perverse elders, the award to the victim of P25,000 as exemplary damages is in order.

WHEREFORE, the decision dated October 24, 2001, of the Regional Trial Court of Guagua, Pampanga, Branch 52, in Criminal Cases Nos. G-4788 and G-4797, finding appellant MANUEL MANTIS GUILTY of two counts of

rape is hereby AFFIRMED with MODIFICATION. The death sentence imposed upon the appellant for each count of rape is hereby reduced to reclusion perpetua. Appellant is DIRECTED to pay the private complainant, Mary Jane Balbin, the amount of P50,000.00 as civil indemnity, another P50,000.00 as moral damages and P25,000.00 as exemplary damages for each count of rape. Costs de officio.

SO ORDERED.

Davide Jr., Puno, Panganiban, Sandoval-Gutierrez, Carpio, Corona, Carpio Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

Vitug, J., on official leave.

Ynares-Santiago, and Austria-Martinez, JJ., on leave.

[1] Records, Crim. Case No. G-4788, pp. 99-130.

[2] Id. at 3.

[3] Records, Crim. Case No. G-4797, p. 3.

[4] TSN, 15 December 1999, p. 3; Exh. "C," Folder of Exhibits, p. 3.

[5] Id. at 12.

[6] TSN, 19 January 2000, p. 2.

[7] TSN, 12 January 2000, p. 9.

[8] Id. at 10.

[9] Supra, note 4, at 6.

[10] Ibid.

[11] Ibid.

[12] TSN, 19 January 2000, pp. 2-3.

[13] TSN, 15 December 1999, p. 7.

[14] Id. at 8.

[15] Ibid.

[16] Id. at 7-9.

[17] Exh. "A" and sub-markings, Folder of Exhibits, p. 1.

[18] TSN, 9 February 2000, pp. 5-6.

[19] Exh. "B," Folder of Exhibits, p. 2.

[20] See Exh. "D," Folder of Exhibits, p. 4.

[21] TSN, 21 June 2000, pp. 2-4; TSN, 19 July 2000, p. 2.

[22] TSN, 21 June 2000, p. 3.

[23] Id. at 9.

[24] Id. at 11.

[25] Id. at 5.

[26] TSN, 19 July 2000, pp. 8-9.

[27] TSN, 21 June 2000, pp. 7-8.

[28] Id. at 12-14.

[29] TSN, 19 July 2000, pp. 6-7.

[30] Records, Crim. Case No. G-4788, pp. 129-130.

[31] Section 5. The Supreme Court shall have the following powers:

...

(2)

Review, revise, reverse, modify, or affirm on appeal or certiorari, as the law or the Rules of Court may provide, final judgments and orders of lower courts in:

...

(d) All criminal cases in which the penalty imposed is reclusion perpetua or higher.

[32] SEC. 3. How appeal taken –

(c)

The appeal to the Supreme Court in cases where the penalty imposed by the Regional Trial Court is reclusion perpetua or life imprisonment, or where a lesser penalty is imposed but for offenses committed on the same occasion or which arose out of the same occurrence that gave rise to the more serious offense for which the penalty of death, reclusion perpetua, or life imprisonment is imposed, shall be by filing a notice of appeal in accordance with paragraph (a) of this section.

SEC. 10. Transmission of records in case of death penalty. – In all cases where the death penalty is imposed by the trial court, the records shall be forwarded to the Supreme Court for automatic review and judgment within five (5) days after the fifteenth (15) day following the promulgation of the judgment or notice of denial of a motion for new trial or reconsideration. The transcript shall also be forwarded within ten (10) days after the filing thereof by the stenographic report.

[33] Rollo, p. 67.

[34] People v. Bayron, G.R. No. 122732, 7 September 1999, 313 SCRA 727, 734.

[35] People v. Cepeda, G.R. No. 124832, 1 February 2000, 324 SCRA 290, 297.

[36] People v. De Lara, G.R. No. 124703, 27 June 2000, 334 SCRA 414, 424.

[37] People v. Lo-ar, G.R. No. 118935, 6 October 1997, 280 SCRA 207, 219-220.

[38] People v. Clado, G.R. Nos. 135699-700 & 139103, 19 October 2000, 343 SCRA 729, 740.

[39] People v. Dulay, G.R. Nos. 144082-83, 18 April 2002, 381 SCRA 346, 352.

[40] People v. Historillo, G.R. No. 130408, 16 June 2000, 333 SCRA 615, 623.

[41] People v. Bea, Jr., G.R. No. 109618, 5 May 1999, 306 SCRA 653, 659.

[42] People v. Satioquia, G.R. No. 125689, 23 October 2003, p. 7.

[43] People v. Rata, G.R. Nos. 145523-24, 11 December 2003, p. 19.

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