

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROGELIO TALAVERA Y RULLODA, SPO3 ROLANDO MENDOZA (DISMISSED), PO3 ALBERTO TRAJANO (AT LARGE), PO3 RICO SUAREZ (AT LARGE) & PO3 GODOFREDO...

G.R. Nos. 150983-84. November 21, 2003

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Appellant Rogelio Talavera y Rulloda, together with SPO3 Rolando Mendoza, PO3 Alberto Trajano, PO3 Rico Suarez and PO3 Godofredo Bautista, was charged under two (2) separate informations with the crime of rape and robbery, to wit:

Criminal Case No. 96-148521:

That on or about January 10, 1996, Manila, Philippines and within the jurisdiction of this Honorable Court, said accused Rogelio R. Talavera, by means of force, threat and intimidation, by then and there boxing her in her stomach thereby making her weak and unable to resist, willfully, unlawfully and feloniously did then and there succeeded in having carnal knowledge of one Grace Nodalo y Pareja, seventeen (17) years old against her will and consent, to her damage and prejudice; that the above-named accused SPO3 Rolando Mendoza, PO3 Rico Suarez and PO3 Godofredo Bautista, conspiring and confederating and helping one another, by taking advantage of their position as police officers, by having knowledge of the commission of the rape, did then and there willfully, unlawfully and feloniously concur with the rape committed by the said Rogelio Talavera who was their errand boy, by not doing anything to stop him from raping Grace Nodalo but on the contrary encouraged by telling to do it quickly, thus affording moral aid to Rogelio Talavera in the execution of the crime of rape.[1]

Criminal Case No. 96-148522:

That on or about January 10, 1996 in Manila, Philippines and within the jurisdiction of this Honorable Court, said accused Rogelio Talavera, SPO3 Rolando Mendoza, PO3 Alberto Trajano, PO3 Rico Suarez and PO3 Godofredo Bautista, conspiring and confederating and helping one another, did then and there willfully, unlawfully and feloniously with intent to gain and by means of force, violence and intimidation, and taking advantage of their position as public officers, take, rob and carry away Philippine currency in the amount of One hundred pesos (P100.00) belonging to Grace Nodalo y Pareja against her will and consent to her damage and prejudice.[2]

Only appellant and SPO3 Rolando Mendoza were arraigned. They both entered a plea of "not guilty." The rest of the accused remain at large. Trial on the merits ensued as against appellant and SPO3 Mendoza.

It appears from the evidence on record that in the early morning of January 10, 1996, Grace Nodalo and her live-in partner, Nonilo Abarca, were arrested for vagrancy by elements of the Luneta police detachment. They were brought to the police station at the back of the Luneta grandstand, where Abarca was detained.

While she was at the police station, Nodalo approached appellant, whom she believed to be a police officer, and pleaded for Abarca's release. Appellant refused and ordered Nodalo to go inside the female cell. As she was on her way to the cell, appellant pulled her into the comfort room and locked the door.

Nodalo struggled, but appellant punched her on the stomach causing her to feel weak. He lowered her undergarments as well as his pants and briefs. He pushed her against the wall, spread her legs with his right leg, lifted her buttocks with his left hand, then inserted his penis inside her vagina. After a while, Nodalo felt something drip on her left leg. Having satisfied his lust, appellant put on his pants and briefs then asked Nodalo to give him P100.00, which she did.

That same morning, Nodalo and Abarca were released from police custody. They immediately proceeded to the National Bureau of Investigation (NBI) to report the incident. Nodalo also underwent medico-legal examination.

In his defense, appellant denied raping and robbing Nodalo. He claimed that he was only an errand boy at the police station. In the early morning of January 10, 1996, police officers Alberto Trajano, Godofredo Bautista and Rico Suarez arrived at the police detachment with about thirty persons whom they have arrested for vagrancy. Among those arrested were Nodalo and Abarca. Appellant informed those arrested that they would be released in exchange for P100.00 each. However, the police found a fan knife in Abarca's possession, so they told him that he had to pay P1,000.00 for his release. However, Abarca did not have that amount. Grace Nodalo then propositioned appellant that she will have sexual intercourse with him if he will help in Abarca's release.

Appellant and Nodalo met inside the comfort room. Nodalo voluntarily removed her pants and panties. Appellant also lowered his pants and briefs, but claimed that he was unable to perform the sexual act because he heard a noise coming from the direction of the lockers. He thought someone was coming, so he hurriedly put on his clothes. Appellant immediately returned to his table. Later, he asked Nodalo to give him P100.00 in exchange for her release. Even though he was unable to have sexual intercourse with Nodalo, he caused the release of Abarca.

The trial court gave credence to the prosecution's version. On November 7, 2001, the Regional Trial Court of Manila, Branch 11, rendered a decision,[3] the dispositive portion of which reads:

WHEREFORE, the prosecution having proved the guilt of accused Rogelio Talavera y Rulloda beyond reasonable doubt in Criminal Case No. 96-148521 of the crime of Rape, defined and penalized under Article 335, Revised Penal Code, as amended by R.A. 7659 in relation to R.A. 7610, without any mitigating nor aggravating circumstances, said accused is hereby sentenced to suffer the penalty of imprisonment of Reclusion Perpetua and to indemnify the victim Grace Nodalo the amount of P50,000.00, moral damages of P50,000.00 and costs of suit. For failure of the prosecution, however, to prove the guilt of the accused beyond reasonable doubt in Criminal Case No. 96-148522 of the crime of Robbery, defined and penalized under Article 293 of the Revised Penal Code, accused is hereby acquitted.

Hence, this appeal, raising a lone assignment of error, to wit:

THE LOWER COURT ERRED IN FINDING ACCUSED-APPELLANT, ROGELIO TALAVERA, GUILTY BEYOND REASONABLE DOUBT OF THE CONSUMMATED CRIME OF RAPE ON THE BASIS OF COMPLAINANT GRACE NODALO'S IMPLAUSIBLE AND CONTRADICTORY TESTIMONY.[4]

The appeal is without merit.

According to appellant, Nodalo's description of the manner of commission of the rape is unworthy of belief. Understandably, while Nodalo may not exactly be naïve in the ways of sex, she may have been too ashamed to accurately relate the details of the events. It should be borne in mind that this portion of her testimony referred to a harrowing experience which she would rather forget. Besides, no matter how skillful a counsel conducts an

examination, the answers given may not always accurately reflect what really happened or the narration of events may not always exactly hew to the witness' actual experience. This may be due to any or a combination of the following: the sensitivity of the subject matter, the witness' feelings of anger, fear, shame or embarrassment, the witness' maturity or simply the witness' intellectual capacity and level of education.

Appellant also brands as incredible Nodalo's testimony that after appellant pulled down her pants and panties, he succeeded in raping her with his pants and buttons on. This contention is misplaced. The records plainly show that appellant himself testified that he removed his own pants and underwear. Thus:

ATTY. VALDEZ:

q. After she removed her underwear, what happened next?

a. I also removed my pants, Sir.

q. And what else?

a. I also removed my underwear, Sir.[5]

Appellant also points out that Nodalo failed to shout or offer resistance against the sexual attack on her despite the fact that he was unarmed and there were people inside the police station who could have helped her.

This is likewise untenable. The law does not impose upon a rape victim the burden of proving resistance. Physical resistance need not be established in rape when intimidation is exercised upon the victim and she submits herself against her will to the rapist's lust because of fear for life and personal safety.[6]

It is settled 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. 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. Indeed, if an accused had 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.[7]

Besides, appellant has failed to ascribe any motive as to why Nodalo would charge him with rape. We also find no reason why she would file a complaint against appellant, whom she thought to be a police officer, unless it be to seek redress for a legitimate grievance. It is noteworthy that immediately after the incident, Nodalo proceeded to the NBI to file her complaint and submit herself to medical examination. The fact that a rape victim immediately reported to the authorities the evil deed done to her, allowed the examination of her private parts, and thereafter permitted herself to be subjected to a public trial is eloquent proof of the truth of her testimony and of her desire to obtain justice. A rape victim will not come out in the open if her motive is not to obtain justice and to have the culprit apprehended and punished.[8]

Finally, we note from the records that the victim, Grace Nodalo, wept during her direct examination[9] and rebuttal testimony.[10] The victim's act of weeping while testifying only bolsters the credibility of the rape charge with the verity born out of human nature and experience.[11] It is a matter of judicial cognizance that the spontaneous crying of the victim during her testimony is evidence that speaks well of her credibility.[12]

Therefore, we affirm the trial court's finding that appellant's guilt of the crime of rape was established by proof beyond reasonable doubt. Under Article 335 of the Revised Penal Code, which was in effect at the time of commission of the crime in this case, the penalty for rape committed by using force and intimidation is reclusion perpetua. No mitigating or aggravating circumstance was proved at the trial. Hence, the trial court correctly sentenced appellant to suffer the penalty of reclusion perpetua.

Civil indemnity is mandatory upon the finding of the fact of rape. It is automatically imposed upon the accused without need of proof other than the fact of the commission of rape.[13] Hence, the trial court's award of civil indemnity in the amount of P50,000.00 is proper. On the other hand, moral damages is awarded in rape cases to indemnify the victim for the outrage done to her by the accused.[14] This is separate and distinct from the award for civil indemnity. The trial court, therefore, properly awarded moral damages in the amount of P50,000.00.

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Manila, Branch 11, in Criminal Case No. 96-148521 finding appellant Rogelio Talavera y Rulloda guilty beyond reasonable doubt of the crime of Rape, sentencing him to suffer the penalty of reclusion perpetua, and ordering him to pay the sums of P50,000.00 as civil indemnity and P50,000.00 as moral damages, is **AFFIRMED** in toto.

Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Panganiban, Carpio, and Azcuna, JJ., concur.

[1] Records, pp. 4-5.

[2] Id., pp. 7-8.

[3] Penned by Judge Luis J. Arranz.

[4] Rollo, p. 53.

[5] TSN, April 7, 2000, p. 15.

[6] People v. Liwanag, G.R. No. 120468, 15 August 2001.

[7] People v. Alemania, G.R. Nos. 146521-22, 13 November 2002.

[8] People v. Dela Concha, G.R. No. 140205, 3 September 2002.

[9] TSN, March 10, 1997, p. 21.

[10] TSN, March 6, 2001, p. 7.

[11] People v. Alemania, G.R. Nos. 146521-22, 13 November 2002.

[12] People v. Servano, G.R. Nos. 143002-03, 17 July 2003.

[13] People v. Torellos, G.R. No. 143084, 1 April 2003.

[14] People v. Clidoro, et al., G.R. No. 143004, 9 April 2003.

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