

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RICKY RAMOS, APPELLANT.

G.R. Nos. 155292-93. February 13, 2004

Ponente: AZCUNA, J.

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AZCUNA, J.:

This is an appeal from the decision of the Regional Trial Court (RTC) of Lingayen, Pangasinan, Branch 68,[1] the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, this Court finds the accused Ricky Ramos, guilty beyond reasonable doubt of the crimes charged against him and hereby sentences him to punishment by reclusion perpetua for each of the instant criminal charge filed against him.

Furthermore, he shall indemnify the offended party ANNALIZA CALIMLIM the amount of P50,000 for moral damages, exemplary [damages] of P30,000 and to pay the costs, for each of the instant cases.

SO ORDERED.[2]

Appellant Ricky Ramos was charged in separate informations for two counts of rape. In Criminal Case No. L-6420, the information alleged:

That on or about the 25th day of February, 2000 in the evening, in barangay Malindong, municipality of Binmaley, Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat, and intimidation, did then and there willfully, unlawfully, and feloniously have sexual intercourse with one Analiza A. Calimlim, a minor-16 years of age, against her will and consent, to the damage and prejudice of said Analiza A. Calimlim.

CONTRARY to Art. 335 of the Revised Penal Code, as amended by RA 8353.[3]

A similarly worded information alleging another rape committed on February 26, 2000 was filed in Criminal Case No. L-6421.[4]

Upon being arraigned, appellant pleaded not guilty. A joint trial on the two cases thereafter proceeded.

The prosecution presented as its first witness the complainant, Analiza A. Calimlim, who was eighteen (18) years old when she testified.

Complainant testified that on February 25, 2000, she was inside their house in Barangay Malindong, Binmaley, Pangasinan, with her six-month old niece and seven-year old nephew. At around 9 p.m., while she was lying down and feeding her niece some milk, appellant suddenly banged on the door and forcibly opened it. Appellant was no stranger to her since the former worked as a furniture varnisher for a neighbor, a certain Cesar Vinluan. Upon entering the house, appellant immediately rushed to where complainant was and pointed a kitchen knife at her, threatening her that if she will shout, he will kill her. Thereafter, appellant started pulling her towards another room. Sensing that she could not stop appellant from leading her to the other room, she first patted her niece to

sleep. She also paused to fix the mosquito net covering her sleeping nephew. Once they entered the other room, appellant ordered her to lie down but she hesitated and did not immediately comply. Hence, appellant forced her to lie down and thereafter undressed himself, all the while telling her again that if she will shout, he will kill her niece and nephew. When appellant was completely naked, he ordered her to undress herself. At first, she again hesitated, but she eventually undressed herself, with appellant helping her remove her panties. With both of them already naked, appellant started kissing her lips and face. During her testimony, complainant claimed that she could not resist these acts because of appellant's weight on her. Also, she kept on thinking of the threats made by appellant of killing her and her niece and nephew. Appellant thus got on top of her, and continued to kiss her, on her abdomen and her vagina. Appellant continued kissing her entire body for around five minutes. Then, appellant inserted his penis into her vagina with a repeated push and pull motion, kissing and fondling her breasts at the same time. While appellant was doing this, complainant felt pain and she could feel blood coming out of her vagina. She could not tell for how long this went on, but while appellant was doing these acts, she never shouted and nor did she call out for help.

After that first sexual intercourse, appellant and complainant remained in the room until around 3 a.m. of February 26, 2000, when appellant pulled her up to get a glass of water for him to gargle with. They both left the room and gargled. Thereafter, they returned to the room and this time, appellant sucked her breasts, touched her vagina and asked her to hold his penis. Again, she was not able to shout or run away since appellant continued to point a knife at her. They again engaged in sexual intercourse which lasted for about fifteen minutes, during which she felt pain and noticed that a sticky substance was coming out of her vagina. At around 3:45 a.m., appellant asked that she give him her class schedule at the Pangasinan National High School. Again, appellant pointed his knife at her, so she was forced to do as he wished. Appellant also asked her for her picture and dictated to her the words he wanted her to write at the back of the photograph. Complainant was forced to write at the back of the photograph the following dedication:

To Ricky, [k]eep this as a simple remembrance at (sic) me.

At around 4 a.m., complainant accompanied appellant to the door and was threatened again by the latter not to shout or call for help. Thereafter, appellant stepped out of the door and fled. Complainant went back inside to where her niece and nephew were sleeping.

From then on, since appellant already had complainant's class schedule, he would follow her to school where he would be refused entry by the school guards. Whenever she would see appellant in front of the school gate, she would run away. She did not tell anyone about appellant's alleged nefarious acts since she still remembered appellant's threats of killing her, her niece and her nephew. However, on February 28, 2000, she related her experience to her sister-in-law, Lorna Calimlim, the wife of her brother who is a policeman, Pedro Calimlim, Jr. When her husband arrived home, Lorna Calimlim immediately told him about what complainant related to her. During her testimony, complainant said that her brother got angry and slapped her three times. On February 29, 2000, her brother and sister-in-law brought her to the Region I Medical Center in Dagupan City where they had her examined. On March 2, 2000, she was again accompanied by her brother to the police station in Binmaley, Pangasinan where she executed a sworn statement charging appellant for rape.[5]

The prosecution also presented Dr. Ma. Luisa F. Cayabyab, 40 years old, married, and a resident physician of the Region I Medical Center. She testified that she examined complainant on February 29, 2001 and her examination revealed that complainant has healed superficial hymenal lacerations at the three, nine, and eleven o'clock positions of her vagina. A hard and blunt object, such as an erect penis, may have caused these lacerations.[6] Her report reads, thus:

— Menarche at 13 yrs.

— Go

LMP=February 18-21, 2000

PMP=January 6-8, 2000

Conscious, coherent, ambulatory BP= 100/70

HEENT: Pinkish palpebral conjunctiva

ABD: Soft, non-tender

Perenium: With healed superficial hymenal laceration at 3, 9, 11 o'clock position vagina admits 1 finger, cervix close, uterus small, adnexa free, no bleeding

— Request for cervico-vaginal smear for presen[c]e of spermatozoa

— Result: "Negative for spermatozoa"[7]

In his defense, appellant Ricky Ramos claimed that he and complainant were sweethearts and that the sexual intercourse between them was consensual. Appellant, 31 years old, a furniture varnisher, and a resident of Malindong, Binmaley, Pangasinan, testified that he came to know complainant since he worked near the latter's house. They became sweethearts on January, 1999. Ever since they became sweethearts, complainant would invite him over to her house where they would embrace each other. Complainant would also sometimes go to his workplace to visit him. On February 14, 1999 or Valentine's Day, to show his love for complainant, he gave her a t-shirt, face towel, and a ring which he bought for P1,300. Once, they went to Dagupan with complainant's nephew and niece and there they watched a movie. Inside the moviehouse, they kissed and embraced each other. Appellant also testified that it was complainant who gave him her picture with her handwritten note at the back. Complainant gave him her class schedule so that he could fetch her everyday from the Pangasinan National High School. They also went out on dates about three times a week, usually for a meal in Uncle Sam's Restaurant in Lingayen, Pangasinan. In 1999, before Christmas, they were able to attend five dawn masses. He also brought complainant with him to visit his uncle, Eugenio Osete, in Barangay Cayanga, Bugallon, Pangasinan.

On February 25, 2000, upon complainant's invitation, he spent the night in her house. They engaged in sexual intercourse that night and in the early morning of the next day. They both consented to the said act. After leaving complainant's house at around four o'clock in the morning of February 26, 2000, he met Diego Arrieta, complainant's uncle, who asked him where he had been. When he replied that he came from complainant's house, Diego Arrieta only looked at him sharply.

Soon thereafter, complainant's brother who is a policeman, Pedro Calimlim, Jr., went to him and confronted him by poking his pistol at him. He tried assuring complainant's brother that he loves complainant and intends to marry her. He also told complainant's brother that they made love with the complainant's consent. Though his confrontation with complainant's brother left him frightened and afraid, he did not report the incident to the authorities. After that incident, he did not encounter complainant's brother anymore.[8]

The defense also presented other witnesses to support their assertion that complainant and appellant were sweethearts and that the sexual intercourse between the two was consensual.

Rodrigo Ramos, 54 years old, a carpenter, and appellant's father, testified that he knows complainant since she is their neighbor and the girlfriend of their son, appellant herein. Complainant allegedly had already visited their house twice. During these visits, he would see complainant and his son seated together and embracing and kissing each other. Because of this, he assumed that the two were lovers. He was also shown by his son a picture of

complainant, but he did not know how his son got the said picture.

He knew that complainant and his son were already planning to get married. Thus, when he learned of the filing of the two cases for rape against his son, he went to the house of complainant and proposed that the wedding push through. During that visit to complainant's house, he brought with him Barangay Captain Bong Merrera, Jun Vinluan, Gabriel Vinluan, former Barangay Captain Teofilo Fernandez, and Kagawad Doman. Pedro Calimlim, Jr., refused to talk to them. He tried, on another date, to talk to complainant's brother, to no avail. After the cases for rape had been filed and trial therefor was ongoing, he again tried to speak to complainant's brother. This time, complainant's brother demanded that they pay one million pesos. As he said this, he pushed the witness down to kneel in front of him. The witness pleaded with complainant's brother and told him that they could not afford such an amount.[9]

Eugenio Oseta, 75 years old and a farmer, testified that appellant is his wife's nephew. In 1999, sometime before Holy Week, appellant paid them a visit at their house in Barangay Cayanga, Bugallon, Pangasinan. Appellant brought with him complainant whom he introduced as his girlfriend. During the visit, Oseta would see appellant and complainant embracing and kissing each other, which strengthened his belief that, indeed, the two were sweethearts.[10]

Rafael Vinluan, 66 years old, married, and a barangay kagawad of Malindong, Binmaley, Pangasinan, testified that he knows both appellant and complainant since they live in the same barangay. On February 20, 2000, appellant's father approached him and asked that he accompany him to the house of complainant's brother since his son was there. He was informed by appellant's father that his son and complainant were lovers and that they were going to the house of complainant's brother to talk about their marriage. Vinluan sought the help of the other barangay officials and together, they went to the house of complainant's brother. When they got there, they told complainant's brother that they should settle the matter amicably and brought up the proposal of marriage. However, complainant's brother answered that he does not want any amicable settlement and that they will instead see each other in court. They left the house soon thereafter. Seeing this attitude of complainant's brother, Vinluan thought it best not to return to the house. Later, he learned that a case was filed in court by complainant against appellant.[11]

Rufino Merrera, Jr., 46 years old, married, and the barangay captain of Malindong, Binmaley, Pangasinan, testified that he knows both the complainant and appellant since they live in his barangay. He was one of the barangay officials who accompanied appellant's father to the house of Pedro Calimlim, Jr., complainant's brother. It was there where appellant and complainant revealed that they were lovers. After they made this revelation, complainant's brother and her other relatives present got angry. Merrera, together with the other barangay officials, soon left the house thereafter. [12]

Victorino Tibalao, 61 years old, widower, and a barangay kagawad of Malindong, Binmaley, Pangasinan, testified that he lives in the same barangay as complainant and appellant. He was one of those barangay officials present at the house of complainant's brother when appellant's father tried settling the matter between appellant and complainant. While there, complainant was asked if appellant was her lover. When complainant gave a positive answer, Tibalao saw complainant's brother frown and make a gesture as if to start slapping complainant. After seeing the brother's reaction and upon the suggestion of Kagawad Vinluan, they immediately left the house.[13]

As stated at the outset, the trial court convicted the appellant on two counts of rape. He took this appeal from the conviction.

We agree with the Solicitor General when he states in his Brief that there are several circumstances creating reasonable doubt as to Ricky Ramos' guilt of the crimes charged.[14]

First, appellant and complainant were widely known in their community to be sweethearts, as evidenced by the testimonies of the witnesses for the defense, which was not rebutted by the prosecution. The aforementioned witnesses also revealed that complainant herself even admitted in the presence of the officials in their barangay that appellant was her lover. As stated, complainant did not refute these assertions.

Second, complainant's testimony is replete with details inconsistent with a situation of a woman sexually abused. For instance, complainant alleged that the appellant forced the door open on the night when the alleged rape occurred. If indeed the presence of appellant made her fear for her life and the lives of her niece and nephew, she would not have readily let the violent intruder cross their threshold. She would have called for help from neighbors who could hear her. Also, after appellant allegedly barged in with a deadly weapon held in his hand, she would not have had the time to put her niece to sleep and check on her slumbering nephew before going with him into the other room. As stated by the Solicitor General, complainant's conduct was contrary to the normal behavior of a person who claims to have been raped under threat of death. Indeed, it is strange for a victim of rape still to have time first to put her niece to sleep and then to fix her nephew's mosquito net before facing an armed aggressor demanding to have intercourse with her.[15]

Third, the Solicitor General also correctly pointed out that, normally, a rapist who is pressed for time and seeking to avoid being caught, would not leisurely engage in sexual intercourse with his victim.[16] Based on the account of complainant herself, the alleged crime was done at an unhurried and somewhat relaxed pace. Appellant waited while complainant put her niece to sleep. He waited again while complainant checked on her sleeping nephew. When they were finally alone in the other room, appellant took his time for some foreplay before engaging in actual intercourse. At dawn the next day, appellant and complainant took time to freshen their breaths by gargling before again engaging in sexual intercourse. Appellant even had the time to wait around and allegedly threaten complainant into writing for him her class schedule and a short note dedicated to him at the back of her photograph. From 9 p.m. of February 25, 2000 to 4 a.m. of February 26, 2000, appellant lingered in the house of complainant. It is quite impossible that in the seven hours appellant spent in complainant's house, the latter did not find any opportunity to call or even signal for help. We note that the family of complainant's brother lives right next to the house of complainant. Complainant herself testified that her sister-in-law and her children were in the house next door on that fateful night. Moreover, about two and a half meters away from the room where the alleged rape occurred is the house of another neighbor, a certain Jackie Mendoza.[17]

Finally, we note that the reaction of complainant's brother, Pedro Calimlim, Jr., after being told that his sister was allegedly raped, is more consistent than that of a brother who discovers that his sister had premarital sex. Complainant herself testified that she was slapped by her brother after she revealed to him the alleged rape:

Q: And since he was very angry[,] he told you to report the incident to the police station and have you medically examined [at] the hospital?

A: Yes sir.

Q: As a matter of fact he boxed you?

A: Yes sir.

Q: And you were hurt, is that correct?

A: Yes sir.

Q: And he even dragged you towards the door before going to the hospital?

A: Yes sir.

Q: And how many times did your brother boxed [sic] you?

A: He did not boxed [sic] me, he just got angry [at] me, sir.

Q: How many times were you slapped?

A: Three (3) times, sir.

Q: And you were very much afraid of him because he is your elder brother?

A:

Yes sir.[18]

We have found in some cases that a supposed victim, or her relatives, resort to filing unfounded complaints for rape in an attempt to redeem the lost honor of the complainant, the latter having been caught in pre-marital intercourse with her alleged rapist.[19] Here, it is apparent that appellant and complainant were discovered to have engaged in pre-marital intercourse by complainant's brother who disapproved of their relationship.

We also do not agree with the court a quo when it premised the conviction, thus:

No woman would concoct a story of defloration, allow an examination of her private parts and expose herself to the stigma and humiliation of a public trial if she is not motivated by a desire to seek justice against the one who had defiled her.[20]

The *presumptio hominis* that a young Filipina will not falsely charge a person with rape and subject herself to the indignities of physical examination cannot stand in the face of clear and convincing evidence to the contrary. The paramount constitutional presumption that an accused is deemed innocent until proven otherwise would, therefore, prevail in this case.

True, the lone testimony of the victim in the crime of rape, if credible, is sufficient to sustain a conviction. This is so because from the nature of the offense, the only evidence that can oftentimes be offered to establish the guilt of the accused is the complainant's testimony.[21] On the other hand, the presumption of innocence is founded upon the first principles of justice and is a substantial part of the law. It is not overcome by mere suspicion, conjecture, or a probability that the defendant committed the crime. The standard has always been proof beyond reasonable doubt. Accusation, therefore, should never be equated with guilt.[22]

In the case herein, complainant's testimony, considered with other relevant facts, does not suffice, to overcome the constitutional presumption of innocence. Hence, if reasonable doubt exists, the accused not only has the right to be freed, but more than that, it is our constitutional duty to acquit him.

WHEREFORE, the Decision appealed from is hereby REVERSED and SET ASIDE. Appellant Ricky Ramos is hereby ACQUITTED of the charge of two counts of rape in Criminal Case Nos. L-6420 and L-6421 of the Regional Trial Court of Lingayen, Pangasinan, Branch 68. The Director of Prisons is hereby directed forthwith to cause the release of appellant unless the latter is being lawfully held for another cause and to inform the Court

accordingly within ten (10) days from notice hereof.

Cost de oficio.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Panganiban, Ynares-Santiago, and Carpio, JJ., concur.

[1] Penned by Judge Salvador P. Vedaña .

[2] Assailed Decision, p. 14; Rollo, 26-39.

[3] Rollo, p. 10.

[4] Rollo, p. 11.

[5] Testimony of Annaliza Calimlim, June 26, 2001, June 29, 2001, August 10, 2001, August 27, 2001, September 3, 2001.

[6] Testimony of Dr. Ma. Luisa F. Cayabyab, November 26, 2002.

[7] Medical Legal Certificate dated March 1, 2000; Exhibit “A” of Prosecution.

[8] Testimony of Ricky Ramos, January 4, 2002.

[9] Testimony of Rodrigo Ramos, January 4, 2002.

[10] Testimony of Eugenio Oseta, January 4, 2002.

[11] Testimony of Rafael Vinluan, January 4, 2002.

[12] Testimony of Rufino Merrera, February 1, 2002.

[13] Testimony of Victorino Tibalao, April 12, 2002.

[14] Rollo, pp. 96-114, 100.

[15] Id., p. 104.

[16] People v. Amogis, 368 SCRA 232, 242 (2001).

[17] Cross Examination of Annaliza Calimlim, August 10, 2001, pp. 7-9.

[18] Cross Examination of Annaliza Calimlim, August 27, 2001, pp. 16-17.

[19] People v. Domogoy, 305 SCRA 75, 88 (1999) citing People v. Castillon, 217 SCRA 76 (1993).

[20] RTC Decision, p. 13; rollo, p. 38.

[21] People v. Lao, 249 SCRA 137 (1995).

[22] People v. Dramayo, 42 SCRA 59, 64 (1971).

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