

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CARMELO FELIX Y RANADA, FELIX POBLETE Y LUMBOY, AND
ARTEMIO FELIX Y ELPEDES, ACCUSED-APPELLANTS.**

G.R. Nos. 62281-82. July 16, 1984

Ponente: RELOVA, J.

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RELOVA, J.:

About 7:25 in the evening of October 14, 1977, a Friday, Marlene R. Donato, left the premises of St. Paul College in Tuguegarao, Cagayan after having finished her examination. She went to her boarding house after which she took a tricycle for Caritan Sur, to see her friend, Consima Calderon, to postpone their trip to Bayabat (Marlene's Barangay) the following day. At the house of Consima were appellants Carmelo Felix, Artemio Felix and Felix Poblete. After about 15 minutes, Marlene left the boarding house of Consima to return to her boarding house in the poblacion. She waited for a tricycle at a place about 15 meters away from the residence of Consima. The three appellants came and Felix Poblete invited her to take a joy ride with them. She declined saying that her sister was waiting for her at the boarding house. Immediately, Carmelo Felix held her, placing his right arm around her and his left hand over her mouth. Felix Poblete stopped a passing tricycle and Marlene was pushed into it. Carmelo Felix placed himself in front of her, while Felix Poblete rode behind the tricycle driver.

They proceeded to Barangay Bunton and upon reaching the bridge, appellants alighted and forced Marlene out of the tricycle. Felix Poblete pushed her as Carmelo Felix held her and Artemio Felix pulled her to the direction leading under the bridge. At that juncture, Pedro Soriano and a friend riding a tricycle came and Soriano saw Marlene waiving in an effort to stop their tricycle. Soriano, instead of coming to the rescue of Marlene, ordered the driver of the tricycle to speed on. Soriano proceeded to the police headquarters and reported the matter to the police. Immediately, Patrolmen Rogelio Aggabao, Renato Bañez and Arthur Plan went to the Bunton bridge.

In the meantime, Carmelo Felix and Artemio Felix had succeeded in pulling Marlene Donato, despite her resistance, below the Bunton bridge. Carmelo Felix pushed and boxed her and gave her a kick. She fell down and Carmelo Felix proceeded to take off her pantie. She resisted by kicking him but this was followed by a blow on her stomach which made her unconscious. After a while, she regained consciousness and saw Carmelo Felix already on top of her with his private parts inserted into hers. After Carmelo Felix had finished his beastly desire, Artemio Felix took his turn and succeeded in also having sexual intercourse with Marlene. All the while, Felix Poblete stayed above the bridge as guard.

Appellant Carmelo Felix and Artemio Felix then took Marlene to the water under the bridge up to the level where the water reached her navel. At that juncture, they heard a gunshot and this caused the two to run away. Patrolmen Aggabao, Bañez and Plan arrived and found the driver of the tricycle used by the appellants still at the bridge and when asked on the whereabouts of his passengers, the tricycle driver pointed below the bridge. Patrolman Aggabao found Marlene crying. When asked what had happened to her, she informed him that she had been abused by Carmelo Felix and Artemio Felix. They helped Marlene out of the water and brought her to the

Cagayan Provincial Hospital where she was examined by Dr. Teresita M. Reyes. Dr. Reyes issued the following medical certificate:

"This is to certify that I have attended to Miss Marlene Donato, 19 years old of Bayabat Durlung, Cagayan, on Oct. 14, 1977 for the following injuries sustained by her:

P.E. FINDINGS =

- No abrasions or erythema noted.
- Presence of soil in the arms and feet, mostly in the elbow region

Z.E. FINDINGS =

- Normal external genitalia With erythema noted in the labia minora
- With incomplete hymenal laceration 4:00 o'clock
- Vagina admits 2 fingers with resistance
- Cervix closed
- Uterus not enlarged
- Adnexae negative

LABORATORY EXAM. = NO SPERM CELLS FOUND." (p. 173, Rollo)

While Marlene was still in the hospital, appellants Carmelo Felix and Felix Poblete were apprehended and brought before her. She promptly pointed to them as the perpetrators, together with Artemio Felix, of the rape committed against her. They were all taken to the police head-quarters where they gave their respective statements.

Based on the complaint filed by Marlene Donato, two separate informations were filed with the then Circuit Criminal Court of Tuguegarao, Cagayan, docketed as CCC-I-506 and CCC-I-553, against Carmelo Felix y Ranada, Artemio Felix y Elpedes and Felix Poblete y Lumboy. After trial, the Circuit Criminal Court rendered a decision convicting accused Carmelo Felix and Artemio Felix as principals and sentencing each to suffer the penalty of reclusion perpetua and convicting Felix Poblete as an accomplice and, being a minor, 16 years, 8 months and 18 days when the offense was committed, he was sentenced to suffer imprisonment of 4 years, 2 months and 1 day of prision correccional, as minimum, to 8 years and 1 day of prision mayor, as maximum. Further, in Criminal Case No. CCC-I-506, Carmelo Felix and Felix Poblete were ordered to pay, jointly and severally, Marlene Donato the amount of P10,000.00 as exemplary damages and P10,000.00 as moral damages. In Criminal Case No. CCC-I-553, Artemio Felix and Felix Poblete were ordered to pay, jointly and severally, Marlene Donato the amount of P10,000.00 as exemplary damages and P10,000.00 as moral damages, and all the three accused to pay the costs pro-rata.

Coming to this Court, the accused claim that the court a quo erred (1) in holding that the essential elements of the crime of rape described and penalized by Article 335 (1) of the Revised Penal Code, namely: carnal knowledge of a woman and with force and intimidation have been more than sufficiently established; and, (2) in finding accused-appellants Carmelo Felix and Artemio Felix guilty as principals and Felix Poblete as an accomplice of the crime of rape despite the failure of the prosecution to adduce evidence sufficient to establish their guilt beyond reasonable doubt.

In their defense, appellants contend that Carmelo Felix and Marlene Donato were sweethearts and they used to have sexual intercourse at different places at Tuguegarao, Cagayan long before October 14, 1977. Carmelo's love for Marlene cooled off when he courted and won the love of Consima Calderon whom he eventually married on December 7, 1979.

The three appellants: Carmelo Felix, Artemio Felix and Felix Poblete were in the house of Consima Calderon on the night in question, October 14, 1977, at about 7:30 in the evening. Complainant Marlene Donato arrived and, after a while, she invited the three for a joy ride. They refused because they had no money but then she offered to pay for it and finally they consented. They boarded a tricycle which brought them to Bunton bridge where Marlene invited Carmelo to go down under the bridge where they had been before. They embraced each other and made love. All the while, Artemio Felix and Felix Poblete had their curious eyes on them and were not able to control their laughter. At that juncture, they heard a gunshot and for fear of their lives, appellants scampered leaving Marlene in the dark.

Carmelo Felix and Artemio Felix denied having sexual intercourse with Marlene that night of October 14, 1977.

The defense submits that the crime of rape was not committed on the night in question, October 14, 1977, nor at any time before. They had carnal knowledge many times before that date but these were done with the consent of the complainant.

From the evidence presented by the prosecution and the defense, the trial court considered the People's evidence sufficient to convict the accused, saying:

"x x x this Court fixed its eyes on the manner Marlene related her story. She was a simple college student in a religious oriented school with pleasant looks, a male would want to look at her a second time with no discernable flair for the dramatic. She did not have the making of an actress who could at will shed tears to simulate grief. In the course, however, of her testimony when it came to the point when she narrated how Carmelo and Artemio succeeded to have sexual intercourse with her imposed on her by sheer brute force and strength, her eyes became uncontrollably misty with droplets of tears rolling down her cheeks, her vocal chord choked, indicating a silent message bolder, mightier and louder than words of the humiliation and indignity she was subjected to by Carmelo and Artemio. At one time, she even slapped Carmelo when asked to go down the witness stand to identify her abusers. She should have slapped the rest of the accused were it not for the timely intervention of this Court, held her on direct contempt and ordered to pay a fine. On this occasion it is understandable, women's frail constitution made them to easily fall vulnerable to overpowering emotions and real hurt to their dignity and pride, and most of all to their womanhood. It is not to be understood that this Court would be swayed by a display of emotions, but only by the clarity, straight forwardness, logical sequences, natural and strongly convincing nature of the evidence given by Marlene, ever conscious of the injunctions in the rulings of the Supreme Court in the cases earlier herein cited: 'x x x conviction for such crime (rape or other crime against chastity) should not be sustained without clear and convincing proof of the guilt of the accused.' (People vs. Cueto supra) and 'In rape cases, the complainant's testimony should be subjected to a thorough scrutiny. The reason for this is that, crimes against chastity, by their very nature, usually involve two persons, the complainant and the offender. As a consequence, conviction or acquittal depends entirely on the credibility of the complainant's testimony. Hence, the Court should examine with the greatest care the complainant's story and subject it to thorough scrutiny to determine its veracity in the light of human nature' (Lopez vs. Court of Appeals, supra) and 'insight into human experience' (People vs. Fausto, supra) and this Court is now ready to conclude the veracity of Marlene's story. The principal defense of the accused in Marlene's filing the case is her inordinate desire to force marriage on Carmelo in the light of having given herself wholly to him in the past and Carmelo's feeling toward her cooling that he courted and won the love of Consima Calderon whom he won (and more than two years thereafter he actually married). The love affair between Marlene and Carmelo in spite of the fact that it lasted for more than a year as claimed by

Carmelo and Poblete, is uncorroborated by other evidence except their own testimony, adding thereto Carmelo's wife, Consima and Artemio's all admittedly biased and prejudiced witnesses. The three accused, including Consima indirectly but is substantially affected by what would happen to Carmelo, are on the same boat, all sinking if their boats sink and all float if their boat maintain to float so to say. Could Carmelo be believed that in spite of being Marlene's sweetheart for more than one year they both only engaged in strolling the streets for fresh air and indulging in sex never thinking or planning for their future claiming that he intended to marry Marlene when she answered favorably his offer of love, not even occurring to him to ask what course Marlene was taking in the St. Paul College so together they could adjust and adopt themselves to the future? Marlene on the witness stand answering questions with undisguised sincerity and truthfulness brings to focus what the Supreme Court said, 'Testimonial evidence of the offended party in a rape case is always motivated by an honest desire to have the culprit apprehended and punished' (People vs. Francisquite, 56 SCRA 764) and 'a witness is reliable when her answers are prompt, concise, responsive to interrogatories, out-spoken and entirely devoid of evasion or any semblance of shuffling' (People vs. Francisco, 74 SCRA 158). This characterized Marlene on the witness stand. Women fashioned out of lesser stuff might have kept their misfortunes to themselves, pretend virginity to entice swains to go after them in the matrimonial merry-go-round. However, Marlene is of the sterner type who is 'unmindful of the loss she would incur, the notoriety of the case would reap for her, her honor or that of her family than in the redress she could possibly demand' (People vs. Calamitin, L-16302, August 20, 1954). 'No woman would willingly expose herself of the embarrassment of a public trial wherein she would have not only to admit but also to narrate the violation of her person if such, indeed, were not the case' (People vs. Caoile, 65 SCRA 24), considering the various factors, surprises, unforeseen circumstances and uncertainties of Court trials." (pp. 90-93, Rollo)

But then, appellants claim that Marlene was not subjected to any form of violence because "not a single (external) scratch, abrasion or redness was found in any part of her body." This contention is devoid of merit considering that the blow received by Marlene from Carmelo Felix hit her stomach which caused her to lose consciousness. It is of common knowledge that fist blows in the abdomen seldom, if ever, leave any external mark thereon. Dr. Reyes testified that the redness in the labia minora of Marlene Donato could have been caused by the insertion of a male organ into it and that complainant's vagina "admits of two fingers with resistance." This only proves that she was a virgin at the time she was abused. She pleaded with Carmelo Felix to withdraw his organ from hers because of forced coition.

The fact that during the physical examination of Marlene no spermatozoa was found in her organ does not necessarily mean that she was not raped. Well settled is the rule that in rape the slightest penetration is sufficient to consummate the crime. The absence of spermatozoa inside the vagina of Marlene may be due to the fact that the same could have been washed away when she was pushed by appellants to the water up to her navel.

Appellants submit that upon hearing the shotgun, they scampered away for safety believing that it came from lawless elements. We cannot give credence to that. The fact is, they knew they had done something wrong against the helpless Marlene whom they had left behind to hide from the authorities. For, if they really knew that it came from lawless elements, they would bring her along with them in their flight. They fled from the scene of the crime out of a feeling of guilt for what they had done to Marlene.

Finally, appellants assailed their extra-judicial confessions which they say is violative of Section 20, Article IV of the Constitution. Be that as it may, there is enough evidence to hold them guilty of the crime charged even if the said statements are disregarded. When Carmelo Felix and Felix Poblete were apprehended and brought before Marlene, the latter immediately pointed to them as her abusers.

WHEREFORE, the decision appealed from is AFFIRMED but modified in the sense that appellants are hereby ordered to pay jointly and severally, Marlene Donato the sum of P15,000.00 as moral damages and P12,000.00 as indemnity in both informations. The award of exemplary damages is deleted in the absence of any aggravating

circumstance. SO ORDERED.

Teehankee, (Chairman), Plana, Gutierrez, Jr., and De La Fuente, JJ., concur.

Melencio-Herrera, J., on leave.

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