

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTONIO IBAL Y YAKAP, DEFENDANT-APPELLANT.

G.R. Nos. 66010-12. July 31, 1986

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the Regional Trial Court of Quezon City, Branch LXXXIV, finding appellant Antonio Ibal y Yakap guilty beyond reasonable doubt of the crime of rape in all three complaints filed against him and sentencing him in each case to suffer the penalty of reclusion perpetua and to indemnify the offended party Maria Alcaraz, the sum of P15,000.00 as moral damages, P5,000.00 as exemplary damages, P100.00 as nominal damages and to pay the costs.

In the three criminal complaints filed by offended party Maria Alcaraz dated December 16, 1980, appellant Antonio Ibal y Yakap was charged with the crime of rape in each case, as follows:

Criminal Case No. Q-14679

"That on or about the 4th day of April, 1980, in Quezon City, Philippines, the above-named accused with lewd designs and by using force and/or intimidation, did, then and there, wilfully and unlawfully and feloniously have sexual intercourse with MARIA ALCARAZ, a minor, 15 years of age, against her will and without her consent, to her damage and prejudice in such amount as may be awarded to her under the provisions of the Civil Code."

Criminal Case No. Q-14680

"That on or about the 12th day of April, 1980, in Quezon City, Philippines, the above-named accused, with lewd designs and by using force and/or intimidation, did, then and there wilfully, unlawfully and feloniously have sexual intercourse with MARIA ALZARAZ, a minor, 15 years of age, against her will and without her consent, to her damage and prejudice in such amount as may be awarded to her under the provisions of the Civil Code."

Criminal Case No. Q-14681

"That on or about the later part of December, 1979, in Quezon City, Philippines, the above-named accused, with lewd designs, and by using force and/or intimidation, did, then and there, wilfully, unlawfully and feloniously have sexual intercourse with MARIA ALCARAZ, a minor, 15 years of age, against her will and without her consent, to her damage and prejudice in such amount as may be awarded to her under the provisions of the Civil Code."

When arraigned on January 26, 1981, the accused-appellant entered a plea of not guilty in all three cases. Thereafter, upon agreement of the prosecution and the defense, a joint trial was held. After due hearing, the trial court rendered the above-mentioned decision.

The lower court findings as adopted and narrated in the People's brief are as follows:

"The case for the prosecution was principally testified to by the complainant Maria Alcaraz. She was 16 years old and still single when she took the witness stand for the first time on March 9, 1980. Her mother died when she was only 7 months old and her father died when she was 13 years old. She finished only Grade III. After the death of her father, she stayed with her sister Soledad Lacer in Baesa, Quezon City. After two months, she transferred to the place of her aunt Susana Zendon, the mother of Corazon David Ibal who is the wife of the accused. Corazon David Ibal is her first cousin as their mothers were sisters. Susana and her daughter Corazon are neighbors, their houses being only a few meters apart. Subsequently Corazon got her and she started living with her and her husband, the accused, in 1979. She left the house of the accused in February, 1980 because she was being taken advantage of 'ina-asawa ako' -- under threat of a bladed weapon. (tsn., pp. 3-6, March 9, 1981).

"Her virginity was destroyed by the accused for three (3) times. (sic) (tsn., p. 6, March 9, 1981)

"The first was in the latter part of 1979. It happened in the kitchen of the house of the accused. She slept in that kitchen while the accused and his wife Corazon slept in the room. While so sleeping one night, she was awakened and she discovered that the accused was on top of her. A bladed weapon was poked on her neck and as he covered her mouth with a hand, the accused told her not to fight back or shout or else he will kill her. She was then wearing a dress (Exh. "F"), shorts (Exh. "F-1") and a panty (Exh. "F-2") aside from a bra. The accused tore off her shorts and panty. Her shorts was torn from waistline down and her panty was torn 6 inches. The accused then inserted his organ into her private part. She felt pain but she just cried. She could not fight back because of fear of the bladed weapon. Her private part bled. After consummation of the act, the accused threatened her not to report what happened to any relative otherwise he will kill her. (tsn., pp. 6-9, Ibid)

"The second time that the accused abused her was on April 4, 1980 in the house of her aunt Susana Zendon. It was at 1:00 o'clock a.m. and she was sleeping in a wooden bed in the living room. The accused had again a bladed weapon. She was then wearing a skirt (Exh. "G"), a blouse, (Exh. "G-1") and a panty (Exh. "G-2"). Her blouse was torn by 7 inches and her panty by 5 inches. (tsn., pp. 10-11, ibid)

"The act was repeated by the accused for the third time on April 12, 1980 at 1:00 o'clock a.m. The skirt (Exh. "H") and the panty (Exh. "H-2") that she was wearing at the time were torn. She was also then wearing a blouse (Exh. "H-1"). As in the two previous occasions, a bladed weapon was used to silence her and prevent her from fighting back. (tsn., pp. 12-13, ibid)

"After being violated for the third time, she could no longer endure what was being done to her and she reported the matter to her aunt Cristeta Cruz, a sister of her mother and a neighbor, who accompanied her to the police authority. Upon the request of Police Captain Graciano B. Bartolome of Substation 6 of Station 1 of the Northern Police District (Exh. "E"), Maria Alcaraz was examined by Major Desiderio A. Morales, Chief of the Medico-Legal Branch of the Philippine Constabulary Crime Laboratory, on April 21, 1980. (tsn., pp. 14-15, ibid)

"In Medico-Legal Report No. M-81780 (Exh. "E-2"), Major Morales indicated his Findings as follows:

"GENERAL AND EXTRAGENITAL:

"Fairly developed, fairly nourished and coherent female subject. Breasts are hemispherical with pale brown areola and nipples from which no secretion could be pressed out. Abdomen is flat and tight. There are no external signs of recent application of any form of trauma.

"GENITAL:

"There is moderate growth of pubic hair. Labia majora are full, convex and slightly gaping with the dark brown, hypertrophied labia minora presenting in between. On separating the same is disclosed an elastic, fleshy-type hymen with deep, healed lacerations at 6 and 7 and a shallow healed lacerations at 4 o'clock

position. External vagina orifice offers moderate re-sistance to the introduction of the examining index finger and the virgin-sized vaginal speculum. Vaginal canal is narrow with slightly shallowed rugosities. Cervix is normal in size, color and consistency with moderate amount of whitish secretion.

"Vaginal and peri-urethral smears are negative for gram-negative diplococci and for spermatozoa.

"REMARKS:

"Subject is in non-virgin state physically.

"Additionally, it should be stated, as part of the narration of the facts, that on June 18, 1980, after the criminal complaints were filed with the Office of the City Fiscal of Quezon City, complainant was fetched by appellant and her aunt Susana Zendon from a school in Capril, Novaliches, Quezon City. In the house of appellant's co-worker, complainant was threatened to write and sign a statement (Exh. "I") purportedly retracting her accusation against the appellant. Then complainant was taken aboard the car of a certain Atty. Unson to the police station in Novaliches and was made to sign a prepared written statement (Exh. "2", tsn., pp. 5-8. July 15, 1981).

"This incident also became the subject of a case, resulting in the conviction of appellant for the crime of grave coercion by the Metropolitan Trial Court of Quezon City and was sentenced to one (1) month and fifteen (15) days of imprisonment (Exhs. "I" & "J", tsn., p. 1, May 3, 1983)."

The accused-appellant raised the following assign-ment of error in this appeal:

THE COURT A QUO ERRED IN CONVICTING THE ACCUSED-APPELLANT CONSIDERING THAT HIS GUILT WAS NOT ESTABLISHED BEYOND REASONABLE DOUBT.

In many prosecutions for rape, the only two parties who can testify as to the occurrence are the complainant and the accused. The testimony of each, in all likelihood being diametrically opposite as to what really happened, has to be subjected to the most rigid scrutiny (People v. Camarce, 121 SCRA 174).

Thus, due to the intrinsic nature of rape in the above situation, conviction or acquittal depends almost entirely on the credibility of the complainants' testimony (People v. Alcid, 135 SCRA 280; People v. Manzano, 118 SCRA 705). If her uncorroborated testimony is credible and positive, and satisfies the court beyond reasonable doubt then it is sufficient to justify conviction (People v. Alcid, supra; People v. Galicia, 123 SCRA 550).

The resolution of the appellant's contentions hinges on the credibility of the witness. On this issue, it is a well-settled rule that appellate courts will generally not disturb the factual findings of the trial court considering that it is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial, unless the court has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case (People v. Alcid, supra; People v. Macayan, 126 SCRA 322; People v. Santos, 121 SCRA 832; People v. Gamez, 124 SCRA 260; People v. Cielo, 133 SCRA 117; People v. Marzan, 128 SCRA 203; People v. Centeno, 130 SCRA 198; People v. Royeras, 130 SCRA 259; People v. Itura, 129 SCRA 127; People v. Bado, 128 SCRA 38; People v. Atanacio, 128 SCRA 22; and People v. Amoncio, 122 SCRA 686).

We have carefully reviewed the records of the case and we find no reason to depart from this established rule

The trial court evaluated the credibility of the complainant Maria Alcaraz as follows:

"The Court has found the story of Maria Alcaraz related on the witness stand in a very straight forward manner. Her deportment evinced truth and sincerity in every word that she spoke."

The appellant alleges inconsistencies in the testimony of the complainant. Alcaraz testified that she was taken

advantage of for the third time in the later part of 1979. In the latter part of her testimony, she testified that this third time was on April 12, 1980. She also testified that she had already sewn or repaired the three panties destroyed on those three occasions. But it turned out upon the presentation of exhibits that the panties had not yet been sewn. Alcaraz testified that she did not meet the accused on June 18, 1980. However, she also testified that she was taken by the accused on the same date to the Quezon City Police Department where she gave her purported retraction.

The inconsistencies pointed out are on minor details that do not affect credibility as they only refer to collateral matters which do not touch the commission of the crime itself (*People v. Jones*, 137 SCRA 166). As a matter of fact, the presence of minor inconsistencies in the testimony of a witness could be an indication of truth. A witness whose testimony is perfect in all aspects, without a flaw and remembering even the minutest details which jibe beautifully with one another, lays herself open to suspicion of having been coached or having memorized statements earlier rehearsed.

It also happens that the appellant himself first asserted that he did not see complainant Maria Alcaraz on June 18, 1980 but later claimed that he was present when the complainant gave her statement at the police station that same day (tsn., pp. 6-7, December 21, 1981).

The appellant questions the failure of complainant to immediately report her defloration.

As held in the case of *People v. Oydoc* (125 SCRA 250, 256):

"One should not expect a fourteen-year old girl to act like an adult or mature and experienced woman who would know what to do under such difficult circumstances and who would have the courage and intelligence to disregard a threat on her life and the members of her family and complain immediately that she had been forcibly deflowered. It is not uncommon for young girls to conceal for sometime the assaults on their virtue because of the rapists' threat on their lives, x x x."

In the case at bar, the complainant Maria Alcaraz is an orphan whose life has been threatened by the husband of her first cousin. One cannot expect her to immediately know what to do or whom to turn to especially as her cousin, Corazon Ibal, wife of the accused lets her stay in their house.

Contrary to the appellant's claim, therefore, it was not unusual that she reported the crimes to her aunt Cristeta Cruz instead of her aunt Susana Zendon as the latter is the mother of Corazon Ibal.

The appellant next questions the failure of the trial court to lend credence to the complainant's retraction - a statement made in her own handwriting. The record shows that said retraction was secured through force and intimidation resulting in the appellant's conviction for the crime of grave coercion. Therefore, the trial court did not err in not giving credence to the retraction repudiating the rape charges against the accused.

The appellant Antonio Ibal denied the charges. He claimed that when the complainant was staying at his house, she slept beside a six-year old niece, that he slept early at 9:00 o'clock p.m. on April 4, 1980 and saw the complainant only at 10:00 o'clock a.m. on April 12, 1980 at the house of his mother-in-law where the complainant had transferred.

As held in the case of *People v. Bihasa* (132 SCRA 62): "Against the positive identification of the accused, alibi is unavailing." The trial court rejected the appellant's denial as weak and unconvincing and declared that it was "convinced beyond a scintilla of doubt that the accused had committed the acts complained of in the three (3) cases."

Appellant himself admits that he does not know of any reason why the complainant should file three charges

against him.

From the records, we find that the complainant has no motive other than to bring to justice the culprit who had grievously wronged her.

We agree with the Solicitor General that:

"x x x [I]t is unthinkable that a 15-year old girl, such as the complainant, would expose herself to embarrassment and humiliation, to a public disclosure that she had been ravished, allow an examination of her private parts and undergo the ordeal of a Court proceeding, if such indeed were not true (People v. Alcantara, 126 SCRA 425 [December 29, 1983]). It would be too preposterous that a guileless teenager like the complainant, whose intelligence quotient is admittedly low, would fabricate a grave charge of rape against the husband of her first cousin and the son-in-law of her aunt, if the accusation was not true. Complainant finished only Grade III. She became orphan at an early age."

It has long been held that no young Filipina of decent repute would publicly admit that she had been criminally abused and ravished, unless, that is the truth. For it is her natural instinct to protect her honor (People v. Gamez, supra; People v. Taño, 109 Phil. 912; and People v. Gan, 46 SCRA 667).

WHEREFORE, the judgment appealed from is AFFIRMED.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Paras, JJ., concur.

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