

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAIME BACDAD Y CAYADING @ “ALASTE,”
DEFENDANT-APPELLANT.**

G.R. Nos. 71719-20. May 08, 1991

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

In Criminal Cases Nos. U-3547 and U-3548 of the Regional Trial Court, Branch 50, Villasis, Pangasinan Jaime Bacdad y Cayading alias "Alaste" was charged with the crime of rape under two separate complaints filed by Jovita B. Lanas, mother of the victim, Gina Lanas y Bacdad, which read:

"That on or about the 15th day of May 1982 particularly in the afternoon in barangay Labayog, Municipality of Sison, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Jaime Bacdad y Cayading alias 'Alaste' with lewd design, means of force, and intimidation, did then and there willfully, unlawfully and feloniously (sic) have a (sic) carnal knowledge with Gina Lanas against her will inside their (sic) house particularly in the upper floor. That accused take (sic) advantage being only two (sic) in the upper floor suddenly grabbed, embraced, kissed and touched the breast of victim who at the time combing (sic) her hair. Forced her to lie down and place (sic) himself on top, raised her dress and pulled down her panty and introduced his penis into her genital (sic) organ against her will and consent.

"Committed with abused (sic) of superior strength." (Rollo, pp. 13-14)

and

"That on or about the 9th day of June, 1982, more or less 8:00 o'clock in the evening in barangay Labayog, Municipality of Sison, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Jaime Bacdad alias 'Alaste' armed with a knife with lewd (sic) design by means of violence and intimidation, did then and there willfully, unlawfully and feloniously (sic) have a (sic) carnal knowledge with Gina Lanas against her will inside the barangay health center. That while Gina Lanas was urinating outside the house where she was seeing television show (sic) all of a sudden the accused came from behind grabbed her, cover (sic) her mouth and pointing to her a knife at the same time dragging (sic) until the barangay health center. Inside thru (sic) leaning from the walling (sic) of said center in standing position raised her dress introduced his penis into her genital organ against her will.

"Committed with abused (sic) of superior strength and taking advantage to (sic) said victim being a mute." (Rollo, p. 14)

During the arraignment, the accused entered the plea of not guilty to the offenses charged. After a joint trial and after examining the evidence of the parties, the court a quo rendered judgment on February 22, 1984, the dispositive portion of which reads:

"WHEREFORE, the Court finds the accused guilty beyond reasonable doubt of the crime charged in Criminal Case No. U-3548 and sentences him to suffer the penalty of RECLUSION PERPETUA and to pay the costs.

He is further ordered to pay to the offended party the sum of TEN THOUSAND PESOS (P10,000.00) as moral damages.

"In Criminal Case no. U-3547 - the accused is acquitted for insufficiency of evidence.

"The bailbond filed for his provisional liberty is ordered cancelled.

"SO ORDERED." (Rollo, pp. 21-22)

Hence, this appeal from the lower court's decision with the following assignment of errors:

"I

"THAT THE TRIAL COURT ERRED IN FINDING THAT THE ACCUSED EMPLOYED VIOLENCE AND INTIMIDATION AGAINST THE VICTIM TO CONSUMMATE THE RAPE.

"II

"THAT THE TRIAL COURT ERRED IN FINDING THAT THERE WAS PENETRATION AS TO CLASSIFY THE CRIME AS CONSUMMATED RAPE." (Brief for the Accused-Appellant, p. 6; Rollo, p. 46)

The antecedent facts of this case are as follows:

Private complainant, Gina Lanas, is the thirteen-year old mute and slightly deaf daughter of Jovita Lanas while the accused-appellant, Jaime Bacdad, is the cousin of Jovita.

At about 8:00 o'clock in the evening of June 9, 1982, Gina and her 5-year old niece, Baby, watched television in Mrs. Amgao's house in Barangay Labayog, Sison, Pangasinan. Accused, who followed Gina to Mrs. Amgao's house, requested a TV viewer to call Gina. At first, Gina refused to step out. However, on the second call, Gina with Baby went out of the house. Accused then approached the two girls. He gave money to Baby who readily left to buy candy at a nearby store. As soon as Baby had left, accused grabbed Gina and dragged her to the abandoned Health Center about twelve (12) meters away from Mrs. Amgao's house. Accused forced Gina to go inside the Health Center. Unknown to the accused, however, they were followed by Marie Sagudong and Hazel Lanas, Gina's younger sister, who suspected that accused would do something wrong to Gina. Inside the Health Center, the accused pushed Gina to the wall while pointing a knife at the left side of her body. He started kissing Gina then forcibly lowered her panty down to her knees, raised her skirt, held his sexual organ in place and, in a standing position, had sexual intercourse with her. Throughout the incident, Gina struggled to free herself from the accused but to no avail. At this juncture, the accused sensed the presence of Marie and Hazel which prompted the girls to immediately run away and report the incident to Gina's eldest sister, Thelma. However, it was only on the following day that Gina's mother, Jovita, was apprised of the incident. She immediately reported Gina's ravishment to the Station Commander of PC/INP of Sison, Pangasinan. Gina was brought to the Rosario Emergency Hospital at Sison, Pangasinan. The medical examination conducted by Dr. Godofredo Garcia revealed that there was a healing laceration in Gina's vaginal canal. Jovita did not file the complaint at once considering that the accused was her cousin and that they might settle the case in their barangay (TSN, March 14, 1983, p. 5).

In addition to reporting the incident to the police authorities, Jovita summoned the sister of the accused, Felipa Bacdad. Upon Felipa's arrival at Jovita's house, Jovita informed Felipa that the accused did something to Gina. Upon Felipa's further inquiry, Jovita merely told Felipa to ask the latter's brother as to what he did to Gina. When Felipa confronted the accused, the latter informed her of his and Gina's agreement to marry (TSN, June 28, 1983, p. 133). Felipa then informed Jovita of the marriage plans of the accused and Gina. However, Jovita refused to discuss the matter until the meeting of the elders. The said meeting of the elders of the barrio was held the following day. At that meeting, aside from the people aforementioned, Patrolman Jovencio Fajarito, the accused,

his sister, Felipa and brother were also among those present (TSN, March 14, 1983, p. 113). Thereat, the accused admitted having sexual intercourse with Gina but explained that they had agreed to marry. Felipa then suggested that the matter be amicably settled between Gina and the accused. However, Jovita refused and instead, demanded P12,000.00 as damages. An amicable settlement was drawn up by Bo. Councilman Jovello Macosi which was signed by Felipa and her brother (Exh. "E-1," Records, p. 76). In that instrument, they obligated themselves to pay for the damages in the sum of P12,000.00 within ten (10) days. At this point, the accused refused to sign because of lack of money and Jovita's refusal to agree to his and Gina's agreement to marry (TSN, June 28, 1983, pp. 10-11, TSN, August 31, 1983, p. 23). Felipa and her brother failed to pay the agreed amount of P12,000.00 as damages (TSN, February 3, 1983). As a result, Jovita in behalf of Gina filed the complaints (TSN, February 3, 1983, p. 99).

For his defense, appellant vehemently denied the charges of rape particularly on the date, time and place charged in the complaint and the allegation that such was committed by the use of force and intimidation. He claimed that he was at the center to have a tryst with Gina (TSN, October 12, 1983, pp. 12-13) and that the sexual intercourse was done through mutual consent.

As earlier stated, the lower court convicted the accused of rape in Criminal Case No. U-3548 but acquitted him in Criminal Case No. U-3547.

After a painstaking study of the records, We reverse the decision under review.

Generally, We accord utmost respect for the factual findings of the trial court. However, such findings may be set aside where the records show that the trial court failed to take into account some significant circumstances in arriving at the findings. The case at bar typifies this situation.

The lower court relied heavily on the testimony of eyewitness Marie Sagudang to establish the guilt of the accused. In *People v. Pascua* (G.R. No. 82303, December 21, 1989, 180 SCRA 472), We held that an allegation or even any testimony that an act was done, should never be hastily accepted as proof that it was really done. Such testimony must be accompanied by a clear and convincing proof beyond reasonable doubt that the accused is guilty of the crime charged. This exacting standard of proof necessarily acquires more relevance in rape charges which are easy to make but hard to prove and harder still to defend by the party accused who may be innocent.

According to the prosecution witness, Marie Sagudang, the appellant dragged Gina towards the Health Center. The pertinent portion of her testimony stated:

"COURT:

"Q

You also said that the accused drag(ged) the victim from the place of Amgao to the health center, is that correct?

"A

Yes, sir.

"Q

Will you demonstrate to the Court how the accused drag(ged) the victim to the health center?

"Fiscal Guillermo

May we ask somebody to take the place of the accused?

(The interpreter of the Court is going to the witness. The witness took the hand of the interpreter (victim) both right hand and left hand of the victim and Gina (witness) struggle (sic) and refuses).

"Atty. Pangasinan

"Q

But Alaste was able to drag her in the health center?

"A

Yes, sir." (TSN, December 14, 1982, p. 22; underscoring supplied)

We entertain serious misgivings about the above-given statements. The records show that the appellant had a congenital deformity of the legs. He could hardly walk or stand. He needed the support of his hands when he walks (Appellant's Brief, p. 4; Rollo, p. 46) which was described as done "in a breast manner" (TSN, October 12, 1983, p. 188). On the other hand, the victim, Gina, appeared to have the full use of her physical powers except that she was slightly deaf and mute from birth (TSN, February 3, 1983, p. 5). She communicated through sounds accompanied by hand signs (TSN, February 3, 1983, p. 15). The Solicitor General maintains that Gina is a mental retardate. This claim cannot be given credence as the same was based on a gratuitous assertion of the Fiscal. In fact, the assailed decision is silent on this point. Taking the above circumstances, We find it difficult to imagine how the accused could have successfully dragged Gina to the indicated place. With both of the victim's hands held firmly by appellant, We are nonplussed on how the latter was able to walk at all. There was no evidence to show that the accused could manage to move about without the aid of his hands.

Further, Marie Sagudang testified on the positions of the appellant and Gina at the time of the coitus, to wit:

"Fiscal Guillermo

"Q

What did you notice in the persons of the accused at that time?

"A

He was holding a knife, sir.

"Q

What was he doing in (sic) that knife?

"A

He pointed the knife to the side of Gina.

"Q

You said that he was (sic) it to the body of Gina, was it pointed on (sic) the left side of Gina?

"A

Yes, sir.

"Q

When he pulled down the pantry (sic) of Gina, was the accused still pointing that knife to Gina?

"A

Yes, sir.

"Q

When he raised (sic) the skirt of Gina did he point the knife?

"A

Yes, sir.

"Q

After the accused has already raised the skirt of Gina as he was pulling down the panty, how did he pull down the panty, was it entirely removed from the body of Gina?

"A

He pulled the panty up (sic) to the knees, sir.

"COURT

"Q

When the accused pulled down the panty up (sic) to the knees was the victim standing or lying down?

"A

He (sic) was standing and struggling, sir.

"Fiscal Guillermo

"Q

What did the accuse do if any after he lowered the panty of the victim?

"A

He has (sic) sexual intercourse with Gina, sir.

"Q

What was the attire of the accused at that time?

"A

He was wearing T-shirt with writing 'MORE.'

"Q

What was the accused (sic) pants at that time?

"A

Brown pants, sir.

"Q

Was it long pants of (sic) or short pants?

"A

Long pants, sir.

"Q

After he pulled down the panty what if any the accused do with his pants since it was long?

"A

The zipper was opened, sir.

"Q

What did you notice if you notice(d) anything in the place where the zipper of the accused was opened at that time?

"A

I saw his pennis (sic), sir.

"Q

After he lowered his pennies (sic) what did the accused do?

"A

He had sexual intercourse with Gina, sir.

"COURT

"Q

Why do you know that he has (sic) sexual intercourse with Gina?

"A

Because he made push and pull, sir.

"Q

When he was doing that pull and push movement, where they standing or lying down?

"A

They are (sic) standing, sir.

"Q

Both of them?

"A

Yes, sir.

"Q

Did you notice if Gina is leaning to any structure like post or wall while the accused was moving push and pull?

"A

There was a cemented wall, sir.

"Q

As the accused moving (sic) the push and pull movement, what did Gina do?

"A

He was pushing the man and struggling, sir.

". . ." (TSN, November 18, 1982, pp. 16-18)

It boggles Our mind on how appellant with his handicap could sustain sexual assault in a standing position against a struggling victim without using any prop. There being no indication as to the built of the appellant and the victim to guide Us, We could not be morally certain that the appellant had actually perpetrated the detestable act.

Moreover, We are even more perplexed at the reaction of the two eyewitnesses of sufficient discernment, Marie and the victim's sister, Hazel, towards the plight of Gina. If indeed the rape was committed by the appellant, their demeanor ran counter to human experience given the situation of this case. We note that Hazel, aged 12, already had an inkling of appellant's bad intention for Gina. She disclosed her suspicion to Marie, aged 14 (TSN,

November 18, 1982, pp. 8-9). So the two girls followed the appellant to find out what he was up to. Yet, at that time when the struggling Gina was allegedly dragged by the appellant towards the Health Center, Marie and Hazel did nothing to prevent the implementation of appellant's bad intention. Marie claimed that Hazel was afraid of the appellant because he always carried a knife. But at that precise moment, the appellant was not seen with a weapon. And, even granting that fear, they could have easily asked for help from the TV viewers at Mrs. Amgao's house considering that the distance between the place where appellant initially dragged Gina and the house of Mrs. Amgao was only two meters away. (Appellant's Brief, p. 12, Rollo, p. 46, TSN, January 5, 1983, p. 1). It would have been natural for Hazel to resent the wrong done to her sister and for her immediately cry out for succor to save her sister's honor. Instead, they went ahead of appellant, hid themselves at the center and then watched the whole proceedings. With such behavior, it is not farfetched for Us to suspect that the scene they have actually witnessed was not what they would want Us to believe. They could have stumbled upon a secret lovers' tryst which the appellant claimed to have occurred on that fateful day.

All the foregoing considerations have cast a cloud of doubt on the culpability of the appellant. It bears repeating at this point that only upon proof beyond reasonable doubt (which requires moral certainty: a certainty that convinces and satisfies the reason and conscience of those who are to act upon it) may the presumption of innocence be overcome (People v. Padilla, G.R. No. 72709, August 31, 1989, 177 SCRA 129). Sadly, the prosecution has failed to present an airtight case against the appellant. It is a fundamental principle in rape cases that the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense (People vs. Quintal, L-49656, November 25, 1983, 125 SCRA 734). Without the requisite quantum of proof of guilt beyond reasonable doubt, the conviction of appellant can not be sustained.

ACCORDINGLY, the judgment of the trial court dated February 22, 1984 in Criminal Case No. U-3548 is REVERSED and appellant Jaime Bacdad y Cayading is hereby ACQUITTED on reasonable doubt. Costs de officio.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Griño-Aquino, JJ., concur.

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