

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALEXANDER A. QUIDILLA, DEFENDANT-APPELLANT.**

G.R. Nos. 79369-70. October 28, 1988

Ponente: REGALADO, J.

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REGALADO, J.:

The accused-appellant stands charged with two crimes of rape, perpetrated against the same victim on two different occasions, in two sworn complaints both subscribed by the offended party on May 23, 1985 and which, except for the dates of commission, are identically worded, thus:

Criminal Case No. 2856

"That on or about the second week of March, 1985, in the City of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the said accused, Alexander A. Quidilla, by means of force, violence and intimidation, did then and there wilfully and unlawfully and feloniously have carnal knowledge of the complainant, Yaniza G. Sena, a minor girl of 11 yrs. old.

"CONTRARY TO LAW."[1]

Criminal Case No. 2855

"That on or about the third week of March 1985, in the City of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the said accused Alexander Quidilla by means of force, violence, intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge of the complainant, Yaniza C. Sena, a minor girl of 11 years old.

"CONTRARY TO LAW."[2]

Joint trial was conducted, on a plea of not guilty to both indictments, and on June 22, 1987 the trial court[3] rendered a joint decision finding appellant guilty of rape in both cases, the dispositive portion stating:

"WHEREFORE, premises considered the Court finds the accused guilty beyond reasonable doubt of the crime of rape in Crim. Case No. 2856 and Crim. Case No. 2855. Were it not for the provisions of the New Constitution that death penalty could not be imposed, the Court would not hesitate for a moment to impose the death penalty on the accused in Crim. Case No. 2856. The accused is hereby sentenced to suffer the penalty of reclusion perpetua in each case (Crim. Case No. 2856 and Crim. Case No. 2855) to be served successively, with all the disqualifications attached to the penalty. He is hereby ordered to pay the amount of P20,000 as moral damages for each case, or a total of P40,000 to Yaniza Sena. The accused is deemed to have started serving his first sentence on May 25, 1985, when he was detained.

"SO ORDERED."[4]

This case is now before us on the following lone assignment of error, viz:

"THE LOWER COURT ERRED GRAVELY IN CONVICTING THE DEFENDANT APPELLANT FOR

RAPE IN BOTH CASES: INSTEAD OF CONVICTING THE SAID APPELLANT FOR ACTS OF LASCIVIOUSNESS IN THE FIRST INCIDENT AND OF NOT ACQUITTING HIM IN THE SECOND INCIDENT."[5]

As is to be expected in prosecutions for rape, where there are no third-party witnesses and the versions of the offended party and the accused are invariably disparate and conflicting, conviction or acquittal inevitably rests mainly on the credibility of either of the parties,[6] unless there are additional physical evidence or collateral facts of substantial evidentiary weight. Apropos thereto is the settled rule that the factual findings of trial courts are generally not disturbed on appeal in the absence of showing that they have plainly overlooked facts of substance and value which, if considered, may affect the result of the case.[7] On these considerations, the testimonies of the complainant and the appellant are set out at length, being in themselves revelatory of their vulnerability vel non to incisive judicial scrutiny.

The narration by the complainant of the first rape, subject of Criminal Case No. 2856, is reproduced in the aforesaid decision of the Court a quo[8], with the following essential portions culled therefrom:

"q

In the afternoon of the second week of March, 1985, at around 3 o'clock - and this is Criminal Case No. 2856 - do you remember if there was any extraordinary event that transpired in your life?

a Yes, sir.

q Will you kindly tell that extraordinary event which transpired?

a Alexander Quidilla raped me, sir.

q Immediately before that act which you said Alexander Quidilla had raped you, where were you?

a I was in the house of Mr. and Mrs. Mario Carag, sir.

q In what particular place in the house of Mr. and Mrs. Carag were you?

a In a ladies' room, sir.

x x x

q Immediately before that act which you said Alexander Quidilla raped you, did you see Quidilla?

a

Yes, sir.

q Where did you see him?

a When I went to the ladies' room, sir, he was inside.

COURT:

q He was inside the room?

a Yes, your Honor.

q What was he doing?

a He was watching TV, your Honor.

x x x

q When you were then inside that room looking for something as you said and you saw Alexander Quidilla, what happened?

a Alex pulled me, your Honor.

q Where was Quidilla at the time when as you stated he pulled you?

a He went to the men's room, sir.

q You mean to say you were again in the men's room when he pulled you?

a Yes, your Honor.

q In what place were you when Quidilla pulled you?

a To the door going out to the street, your Honor.

q Where did he bring you?

a In the men's room, your Honor.

x x x

q While he was pulling you to that place you said inside the men's room, did he tell you anything?

a There was, sir.

q What did he tell you, if any?

a "Come and we shall do it (agcastata)."

q When he said that to you, did you understand what he was telling you?

a No, sir.

q Not having understood what he was telling you, what did you say, if any?

a When I was about to go away, sir, he again pulled me.

q After that, what transpired if any?

a He let me lie down, sir.

COURT:

q Where?

a On the cemented floor, your Honor.

q Not on the bed?

a No, your Honor.

FISCAL:

q As he was then letting you lie down or causing you to lie down, what did you do if any?

a I wanted to stand up but he prevented me, sir.

q Was he able to prevent you from standing up?

a

Yes, sir.

q What then again transpired?

a He placed something on my . . . he covered my mouth and he pulled my pantie, sir.

q With what did he cover your mouth?

a His hand, sir.

q You said that he then pulled down your pantie. As he was pulling your pantie, what did you do if any?

a I was struggling, sir.

q Why did you struggle?

a When he let me lie down and pulled my pantie, sir, I was afraid.

q Why were you afraid?

a

He was pulling down his pant, sir.

q What transpired then?

a When he was able to pull down his pant, sir, he mounted his body over me and inserted his penis into my vagina.

q As he was then inserting his penis into your vagina, what did you do?

a I struggled, sir.

q What effect did it have, if any, when he inserted his penis into your vagina?

a I felt pain, sir.

q While his penis was inside your vagina, do you remember what he was doing?

a He was moving up and down and at the same time covering my mouth, sir.

q How about you, during the time that he was moving up and down as you said, what were you doing?

a I continued struggling, sir.

q Aside from feeling the pain because of the insertion of his penis into your vagina, what else did you feel, if any?

a I felt something hot that went inside, sir.

q

After that what transpired, if any?

a When he stood up, sir, he told me, Do not tell anybody and if you tell anybody I will kill you.

(TSN, pages 6-10, August 1, 1986, Rillera)"

Cross-examination on these points was ineffectual and merely served to buttress complainant's aforequoted statements by affording her the opportunity to ramify thereon.

On the other hand, witness the highlights of the insipid denial and explanation of the appellant in his testimony which is likewise detailed in the said decision of the lower Court:[9]

"q On one day of the first two weeks of March, 1985, do you remember having gone there to Room No. 2?

a Yes, sir.

q Why did you go there?

a I went to see the basketball program, sir.

q

At what time did you go?

a Perhaps between 3 and 4 o'clock, sir.

q While you were there in that room, what happened?

a

A lady entered and screened me from my viewing.

q What was your position when you were viewing the TV?

a I was sitting near the door, sir.

q As you were seated and that lady as you said entered ... at any rate, who was that lady?

a

Yaniza, sir.

q

Did you know that Yaniza even before that date?

a Yes, sir.

q Why do you know her?

a She used to go to the house of Mario Carag, sir.

q When she entered, what did she do?

a

She stood in front of me, I said, "Do not block me," and I slapped her.

q What part of the body did you slap her?

a On her hip, sir.

q And what did she do?

a She sat on my lap, sir.

q As she sat on your lap, what happened?

a I embraced her, sir.

q And what did you do?

a I inserted my two fingers (witness indicating his middle finger and forefinger) inside her navel, sir.

q What did she do when you inserted your two fingers inside her navel?

a She did not move, sir; instead, she leaned against my breast.

q

What did she do as she did that position?

a I inserted my two fingers (witness indicating her (sic) middle finger and forefinger) to her vagina.

q As you did that, what did she do?

a She just gazed at me and closed her eyes, sir.

q Were you only two then?

a There was a child, sir.

q How old was that child?

a I am not sure, sir, but I think he was two years old.

q

Do you know the name of that child?

a

No, sir.

q Where was that child as you inserted your fingers?

a

He was on the bed playing, sir.

q And once you were successful in inserting your two fingers inside the vagina of Yaniza, what did you do with your two fingers?

a I moved them around, sir.

q As you were moving your fingers inside, what was the reaction of Yaniza?

a She was raising her buttocks, sir.

x x x

q How could you insert your fingers inside her vagina when she was wearing her pantie?

a Her shorts was with garter, sir, so I just inserted my fingers.

q How about her pantie?

a The pantie was with garter but I easily inserted my fingers, sir.

q As you were inserting your fingers into her vagina, what was the position of Yaniza?

a She sat on my lap and I placed my left hand around her shoulders, sir; then I inserted my right two fingers.

q That is what you did, but I am asking you what was the position of Yaniza as you were holding her in that manner?

a Her legs were spread and she sat on my lap, sir.

q How about her body?

a She leaned on my stomach, sir.

q How long a time did you, or were your fingers inserted in her vagina?

a Less than a minute, sir.

q

After that what happened?

a

I closed the TV and went to the bodega, sir.

(TSN, pages 87-89, supra)"

Yet according to the appellant, on that very occasion there were four housemates in the nearby kitchen "in direct full view of the place where (he) and the complaining witness were" while he was embracing the latter, fondling her nipples and inserting his fingers in her private parts.[10] It does not require extended ratiocination to stigmatize appellant's version as an absurdity which does violence to human experience and intellectual acceptability. Furthermore, and with a touch of irony, appellant's baseless attempt to downgrade his liability to abusos deshonestos only proves that he did harbor lustful designs on the complainant.

Again, on the second offense of rape subject of Criminal Case No. 2855 the decision of the trial court likewise quotes complainant's testimony:[11]

"q

At around 7 o'clock in the evening of the third week of March, 1985, do you remember if there was again an unusual event which transpired to you?

a Yes, sir.

q

Will you tell the Court what that extraordinary event was that transpired again to you?

a He raped me again, sir.

x x x

q In what specific place did Quidilla rape you as you said?

a

In the bodega, sir, of Mr. and Mrs. Carag.

q In relation to the place where he first raped you, where is that bodega of Mr. and Mrs. Carag as you said Quidilla raped you?

a A little bit east of the house of Mr. Carag, sir.

x x x

q Would you tell the Court how he raped you?

a I was waiting for my friends who went away riding a bicycle, sir; then Quidilla appeared and went out of the bodega.

q When you saw Quidilla, what did you do?

a I wanted to run, sir.

q

What did Quidilla do when as you said you wanted to run?

a He ran after me and pulled me inside the bodega, sir.

q

When you were both inside the bodega, what transpired?

a He again pulled down my pantie, sir.

q

As he was pulling down your pantie, what did you do?

a I wanted to run but he prevented me, sir.

q Was he able to prevent you from running away from him?

a Yes, sir.

q Having prevented you from running away, what did he do?

a

He let me lie down on the cemented floor, sir.

q As he was letting you lie down on the cemented floor, what did you do?

a He again covered my mouth, sir.

q

With what did he cover your mouth?

a His hand, sir.

q While his hand was placed over your mouth to cover it, what did he do?

a Then he pulled down his pant, sir.

q What did he do after having pulled down his pant?

a

He lay on top of me, sir.

q What did he do when he was able to mount you?

a He was again moving up and down, sir.

COURT:

q How about his penis, what did he do with it?

a He inserted his penis into my vagina, your Honor.

q What did you feel, if any, when he inserted his penis into your vagina?

a It was very painful, your Honor.

q After that what transpired?

a

When he heard the calling of my friend, he released me, your Honor.

(TSN, pages 10-13, supra)"

This testimony of the complainant was not touched upon in her cross-examination. The defense of the appellant to this second charge was one of alibi, that is, that he locked and left the bodega at 5:30 that afternoon and at the time of the alleged rape he was already in his house at Nabutas, supposedly some five kilometers away.[12]

It is hard to believe that complainant, who was then only a little over eleven years of age, naive and inexperienced in the ways of the world, would fabricate these charges of rape against the appellant[13], especially in the complete absence of any reason or motive whatsoever for her to do so. As this Court has observed, it has long been a matter of judicial experience that no young Filipina of decent repute will publicly admit that she has been criminally ravished unless that is the truth,[14] for her natural instinct is to protect her honor,[15] and there is nothing to even intimate that the complainant is an exception.

The insinuations of appellant that the complainant consented to the liberties on her person is a futile and inutile subterfuge; it completely loses sight of the fact that being less than twelve years of age, such consent produces no legal effect in a prosecution for rape, even assuming *ex gratia argumenti* that it was given by complainant.[16]

The defense of alibi of the appellant on the second charge is just as unavailing. Alibi cannot be given credence where there is a clear and positive identification of the culprit by the victim. This is especially true where it has not been established that it was physically impossible for the accused to be at the scene of the crime at the time of

its commission.[17] As a specific refutation of the alibi of appellant, it has been held that the defense of alibi cannot be believed where the distance at that time between the alleged whereabouts of the accused and the scene of the crime was only eight kilometers.[18]

All things considered, the tender age of the complainant further lends credibility to her testimony. For as this Court has held: "Moreover, if there is, anything apparent from our past decisions on rape cases, with the offended parties being young and immature girls from the ages of twelve to sixteen, it is that there is considerable receptivity on the part of this Tribunal to lend credence to their version of what transpired, considering not only their relative vulnerability but also the shame and embarrassment to which such a gruelling experience as a court trial, where they are called upon to lay bare what perhaps should be shrouded in secrecy, did expose them to. This is not to say that an uncritical acceptance should be the rule. It is only to emphasize that skepticism should be kept under control." [19]

Uncompromising judicial sanctions should stem the growing tide of paraphilia that seeks the youth for its victims, leaving inevitable traumatic and psychological scars on their young and innocent lives.

WHEREFORE, the decision appealed from is hereby AFFIRMED, with costs against the accused-appellant.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Sarmiento, JJ., concur.

[1] Exhibit B.

[2] Exhibit C.

[3] Regional Trial Court of Ilocos Norte & Laoag City, Branch XI (Judge Felipe G. Pacquing).

[4] Rollo, 40-41.

[5] Brief for Appellant, 1; Rollo, 47.

[6] *People vs. Alcid*, 135 SCRA 280 (1985); *People vs. Manzano*, 118 SCRA 705 (1982).

[7] *People vs. Cielo, et al.*, 133 SCRA 117 (1984); *People vs. Marzan*, 128 SCRA 203 (1984); *People vs. Sibayan*, 116 SCRA 180 (1982).

[8] Rollo, 20-26.

[9] *Ibid.*, 27-29.

[10] *Ibid.*, 31-34.

[11] *Ibid.*, 36-39

[12] Brief for Appellant, 5-6.

[13] *People vs. Ausan*, 152 SCRA 52 (1987).

[14] *People vs. Gomez*, 124 SCRA 260 (1983).

[15] *People vs. Ibal*, 143 SCRA 317 (1986).

[16] *People vs. Conchada*, 88 SCRA 683 (1979); Art. 335, Revised Penal Code, as amended.

[17] *People vs. Pacada, et al.*, 142 SCRA 427 (1986); *People vs. Aquino*, 133 SCRA, 283 (1984); *People vs. Baniaga*, 1 SCRA 283 (1961).

[18] *People vs. Marasigan*, 56 SCRA 31 (1974); *People vs. Ausan*, *supra* (1987).

[19] *People vs. Egot*, 130 SCRA 134 (1984); *People vs. Molina*, 53 SCRA 495 (1973).

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