

THE PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. LEOPOLDO MONTANTE, DEFENDANT-APPELLANT.

G.R. Nos. 86492-94. December 20, 1990

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

The appellant Leopoldo Montante, 66 years old and widower, was charged by his daughter Lea Montante, 14 years old and single, with three counts of rape purportedly committed on three different occasions, to wit: on September 29, 1978 (Criminal Case No. 36584), on December 24, 1978 (Criminal Case No. 36585), and on September 12, 1978 (Criminal Case No. 36583) all allegedly committed in the evening at the dwelling of the appellant and the private complainant.[1]

The said three complaints all dated May 5, 1980 were filed before the Regional Trial Court of Pasig, Metro Manila, Branch 158.[2]

After trial, the Court a quo rendered a joint decision on all three cases on May 16, 1988, the dispositive portion of which reads as follows:

WHEREFORE, this Court, finding the accused Leopoldo Montante guilty beyond reasonable doubt of the crime of rape on three (3) counts as charged under Criminal Cases Nos. 36583, 36584 and 36585, imposes upon him the penalty of reclusion perpetua in Criminal Case No. 36583, reclusion perpetua in Criminal Case No. 36584 and reclusion perpetua in Criminal Case No. 36585, and to pay the costs. He is likewise ordered to indemnify the victim Lea Montante in the amount of P12,000.00. The accused shall be credited in full of his preventive imprisonment pursuant to Republic Act 6127.

SO ORDERED.[3]

The facts as presented by the prosecution are as follows:

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On September 29, 1978, two days after Lea Montante's mother was buried, she and her three brothers, Leopoldo Montante, Jr., (16 years old), Leonardo Montante (15 years old), and Cesar Montante (9 years old) were sleeping in their house in Sta. Rosa, Pasig (TSN, December 16, 1981, pp. 3-4; TSN January 30, 1982, p. 6). Lea's grandmother and her half brother Billy, who were there for the wake and burial of Lea's mother, were sleeping in another room (TSN, February 16, 1982, p. 3). Lea was then only eleven (11) years old having been born on December 22, 1968 (TSN, January 20, 1982, p. 2). At around midnight, appellant Leopoldo Montante, Lea's father, undressed her and laid on top of her (TSN, December 16, 1981, p. 4). Lea struggled and tried to stop him but appellant succeeded in placing his private parts into Lea's private parts. The rape lasted for ten minutes.

On December 24, 1978, also around midnight the appellant again raped her. The incident was witnessed by Lea's younger brother, Cesar Montante, then only nine (9) years old, who was sleeping a little further from the victim. But Lea did not talk to him as she was ashamed (Id. p. 6). Lea's attempt to run away from home was

thwarted by the appellant who threatened to kill her if she ran away (Id. p. 13).

Lea was raped by the appellant for the third time on September 12, 1979 (Id., p.13). Lea (then 13 years old) was sleeping together with her three brothers, (Id., p. 13). At around 11:00 in the evening, appellant covered Lea's mouth and proceeded to rape her for about fifteen (15) minutes (Id., pp. 13-14). Her brothers were asleep throughout the incident (Id., pp. 14-15). The following day Lea could no longer keep the matter to herself and told her brothers about how their father raped her and to tell their neighbors about it (Id., p. 15). Lea and her brothers were able to tell their neighbors including one Lydia Labosta and one Felicing, the latter being a friend of their mother (Id., p. 15). They all advised Lea to run away (Id., pp. 15-16).

Lea was able to run away to Marikina to work as a maid for a certain Josie (Id., pp. 17). After two days, she left to stay with her cousins in San Joaquin (Id.). On November 10, 1979, Benjamin Asis and Ernesto Supsupin, husbands of her cousins, accompanied her in filing a case against the appellant with the municipal court of Pasig giving a sworn statement before Pfc. Ruben Leano of the Pasig Police Force (Id., p. 18 TSN, June 16, 1983, pp. 4-5; TSN, September 30, 1987, p. 3).

On November 12, 1979, Lea submitted herself for medical examination by [sic] Dr. Dario L. Gajardo of the PC Crime Laboratory of Camp Crame, Quezon City (TSN, September 22, 1982, p. 3). Dr. Gajardo found a healed laceration on Lea's hymen at 4 to 7 o'clock position and of the type produced by sexual intercourse (Id., p. 17).[4]

On the other hand, the defense's version of facts as summarized in its brief for the appellant reads, thus:

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Accused denies having ever raped his daughter. He theorizes that his daughter is falsely charging him with the offense because of his having repeatedly berated her for constant (sic) going out with her gang which would at times have her spend the night outside the family abode. He particularly remembers that the last time she returned home after an unauthorized absence, he meted out a corporal punishment to her. He spanked her while she was lying vertically on the floor with her head on it and her feet up on air. The girl almost died (TSN, 27 July 1987, pp. 2-6; TSN, 29 July 1987, p. 10).

Leopoldo Montante could not have raped Lea on 29 September 1978 because it was only two days after the interment of his wife. At that time, his mother-in-law and the twenty-seven--year-old son of his wife from a former marriage were staying in their house where the alleged rape was supposed to have been committed. On that date, he slept at the ground floor of the house while their two aforementioned guests slept in the same place with all his four older children, under a single mosquito net. It was the third night of the nine nights of prayer for his departed wife (TSN, 27 July 1987, pp. 3-6).

At midnight of 24 December 1978, the accused was in the house of his neighbor with his fourth child Cesar, waiting for his three older children (Leopoldo Jr., Leonardo, and Lea) who heard mass at the Pasig Catholic Church. When the former went home at 1:10 o'clock at dawn of 25 December 1978, his three children were already asleep. At 8:00 o'clock in the morning on that Christmas Day, all his four children went visiting with relatives. The accused was left alone at home (TSN, 29 July 1987, pp. 2-5).

On 12 September 1979 at 11:00 o'clock in the evening, Leopoldo Montante was asleep. When he woke up at dawn, as was his wont as a fisherman, his daughter Lea was still sleeping beside her youngest brother Cesar. The accused then went out to fish with his two older sons as usual. (Id., p. 6).

The accused's sister-in-law, Alice Doyola, Lea's maternal aunt, is supporting the private complainant in her case against him. Alice, thru her son-in-law Benjamin Asis, even visited him in jail and demanded P5,000.00 in exchange for the withdrawal of the case (TSN, 05 August 1989, pp. 9-10).[5]

In this appeal, the appellant interposes the lone assignment of error,[6] to wit:

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED ON THE SOLE BASIS OF THE COMPLAINING WITNESS' INCONGRUOUS TESTIMONY WHICH FALLS SHORT OF THE QUANTUM OF PROOF REQUIREMENT IN CRIMINAL CASES.

We must point out at the very outset that in our appreciation of the evidence presented by both the prosecution and the defense, we are always guided by the principle that "rape is an accusation easy to make, hard to prove, but more difficult for the party accused, though innocent, to defend." [7] Thus, the caveat that the testimony of the injured female should not be received with precipitate credulity. More so when the conviction depends at any vital point upon her uncorroborated testimony. [8]

The Court therefore takes on the painstaking task of scrutinizing in great detail the record of the case in order to ascertain whether or not the quantum of proof necessary to overcome the presumption of innocence and establish the guilt of the appellant beyond reasonable doubt has been clearly demonstrated.

After a careful review of the entire record, we find sufficient evidence pointing to the guilt of the appellant beyond reasonable doubt. We therefore see no cogent reason to disturb the findings of the trial court.

Well-settled is the rule, which is applicable in this case, that appellate courts will generally not disturb the findings of the trial court on the issue of credibility of witnesses, unless certain facts of substance and value have clearly and plainly been overlooked or neglected and that, if considered, might affect the result of the case. [9] Thus, conviction by the trial court of the accused in rape cases based on the sole testimony of the offended party has, in quite a number of instances, been sustained by us on appeal. [10]

The appellant, however, argues that the foregoing rule is not applicable in this case on the ground that another judge, other than Judge Zenaida S. Baltazar, the one who penned the decision, presided when the complaining witness gave her testimony, citing *People v. Escalante*, 131 SCRA 237, and that therefore the latter judge was not in a position to decide on the credibility of the private complainant's testimony. But as correctly pointed out in the brief for the appellee, "the appellant conveniently fails to state that, unlike the *Escalante* case where the trial judge did not try any part of the case at all and relied solely on the records, in the case at bar, Judge Zenaida Baltazar was the presiding judge during the latter half of the trial of the case. She started presiding when it was the defense's turn to present evidence and during the prosecution's rebuttal." [11]

Moreover, although another judge other than Judge Zenaida S. Baltazar was present at the hearing of the complaining witness, there are however attendant circumstances other than the demeanor of the said witness in court which convincingly establish the "believability" of her testimony. The said chain of circumstances as succinctly put by the Solicitor General, reads thus:

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First, the complaining witness, Lea Montante, was barely fourteen (14) years old when she testified on December 16, 1981. Such a tender age of the victim lends credibility to her testimony (*People vs. Egot*, 130 SCRA 134). It is difficult to believe that she could deliberately perjure herself and fabricate such a detailed testimony.

Second, it can be immediately gleaned from the transcript of stenographic notes (tsn) that Lea Montante's testimony is replete with details including that of the sexual act (such as the sucking and fondling of the female breast, secretion from the male organ, and the significance of menstruation subsequent to sexual intercourse) not normally within the knowledge and imagination of a girl who is barely fourteen years old. The detailed narration of the victim, a young girl, of how she was repeatedly raped by her father is worthy of credence (*People vs. Muñoz*, 101 SCRA 704; *People vs. Baao*, 142 SCRA 476).

Third, the appellant is the complainant's own flesh and blood. The appellant correctly points out that only a

father of warped moral values can engage in carnal relations with his own child. But by the same token, it is unimaginable that a 14-year old daughter would charge her own father with rape unless the same is true. It requires guile and craft to charge one's father with rape (People vs. Muñoz, 101 SCRA 704). The defense never adduced evidence to show that Lea Montante, at her age, was possessed of guile and craft characteristic of scheming adult women of loose morals.

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Fourth, the charge of rape is inherently, socially and emotionally destructive of the complainant. It is difficult to believe that a chaste woman, much less a young girl, would go through the troubles and humiliation of a medical examination and a rape trial unless the rape charge is true (People vs. Campesino, 143 SCRA 56), more so if it is one against her own father. The attendant publicity, humiliation, and personal anguish that a rape trial necessarily entails deter most rape victims from seeking legal redress.

Appellant alleges that in charging him with rape, the complainant was merely seeking revenge for the corporeal punishment he inflicted on her as a disciplinary measure. Judge Zenaida Baltazar correctly held that this is "flimsy and untenable". The complainant could have charged her father with any other crime which would have been just as effective in putting him away to prison but surely not rape. A rape charge would also destroy her with a stigma that will haunt her. There can only be one rational explanation why she had to charge her father with rape. It really did happen. And for three times.

Fifth, the complaining witness submitted herself willingly to a medical examination where she was undressed and her private parts scrutinized by a male doctor. The willingness of a rape victim to submit to medical examination is eloquent testimony of the truth of the charge (People vs. Clarin, 108 SCRA 680).[12]

Besides the simple denial, the appellant asserts that the charges against him were fabricated at the instance of the aunt of the private complainant who, purportedly though her nephew, visited the appellant in jail and demanded P5,000.00 in exchange for the dropping of the case.[13] But upon cross-examination of the said aunt and nephew who were both presented as the prosecution's rebuttal witnesses, the defense counsel nowhere succeeded in obtaining an admission or suggestion of any visit by either to the appellant in jail.

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Q According to you, you never visited the accused at the jail here in the capitol compound and you also said that neither did Benjamin Asis or Ernesto Supsupin visited him, are you sure that these two sons-in-law of yours never visited the accused?

A It is true sir that none of us visited Leopoldo Montante in jail not even one of us. I am sure of that sir.[14]

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Finally, the appellant alleges inconsistencies in the evidence for the prosecution. In particular, the appellant assails the testimony of the private complainant where she indicated that she and her father were alone in the house during the first alleged rape on September 29, 1978. The appellant contends that the said allegation was highly improbable inasmuch as the said date was the second day of the nine-day novena for her deceased mother and that aside from her brothers, her grandmother and a half brother were in their house as guests.[15]

The said alleged inconsistency is however belied by the evidence on record which shows that the private complainant positively stated that on the first alleged rape, her grandmother and half brother were sleeping in another room inside their house six meters from the room where she and her brothers were sleeping.[16] The appellant likewise assumes without any supporting evidence that the novena stretched until midnight when the first alleged rape took place.

On another aspect, the appellant makes much of the "stoicism" shown by the private complainant when the following day after the alleged incidents of rape, she refused to tell anybody, not even her grandmother or her brothers when she had the opportunity to do so,[17] but that she merely cleaned the house immediately thereafter and went to school.[18]

But the trial court, in correctly interpreting the said acts of the private complainant, stated, thus:

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In fact, Lea even testified that she kept to herself what happened to her on the first and second occasions because she was ashamed for others to know it. It was only on the third occasion that she had the courage to reveal to her brothers, who were also minors like her, as to what their father did to her. It was thru the advice of a neighbor and a friend of her mother that she was able to collect herself and finally run away from home which she failed to do before because of the threat on her life by her father.

Lea preferred to keep to herself her sad and embarrassing experience as she could not even face her brother, Cesar, who saw what her father did to her on December 24, 1978 when he was awakened from his sleep (page 11, TSN of December 16, 1981). These acts of the complainant convincingly show that she is a typical Filipina girl who is ashamed to let the public know that she was molested and sexually abused, more so by her own father.[19]

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In any case, whatever inconsistencies there are refer only to minor details and "do not, in actuality, touch upon the basic aspects of the who, the how, and the when, of the crimes committed." [20] On the contrary, minor discrepancies in the testimonies of two or more witnesses are but natural and would even enhance their credibility as witnesses, because these indicate that the responses given were honest and unrehearsed.[21]

The bottomline is that the simple denial and flimsy defense of the father uncorroborated by any other witness can not prevail over the straightforward and unequivocal testimony of his teen-age daughter. It is most ironic that at the very moment when the young girl needed greater love and care upon the loss of her mother, her father instead inflicted upon her this tragic fate that is often times worse than death itself. She must have wished rather that she had joined her departed mother.

"When beasts prey on the flesh of their own kind, they must be slain. If they cannot be slain, they must be caged--for good." [22]

WHEREFORE, the judgment appealed from is hereby AFFIRMED with the MODIFICATION that the indemnity is increased to THIRTY THOUSAND PESOS (P30,000.00). With costs against the appellant.

SO ORDERED.

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

[1] Rollo, 41-42.

[2] Hon. Zenaida S. Baltazar, Presiding Judge.

[3] Rollo, 29.

[4] Id., 61 (3-5).

[5] Id., 43-44.

- [6] Id., 41.
- [7] People vs. Manuel Cui, Jr. y Caballes, G.R. No. L-48084, June 20, 1988.
- [8] Id.
- [9] People v. Bartolome Galang, G.R. No. 70713, June 29, 1989.
- [10] People v. Vicente Managbanag, G.R. No. 66550, November 27, 1987.
- [11] Rollo, 61 (6).
- [12] Id., 61 (7-10)
- [13] TSN, August 5, 1987, 98-100.
- [14] TSN, September 30, 1987, 113.
- [15] Rollo, 46.
- [16] TSN, 28-29, February 16, 1982.
- [17] TSN, 38, March 7, 1982.
- [18] TSN, 5, 8, December 16, 1978.
- [19] Rollo,, 28-29.
- [20] People v. Pableo Cabeltes, G.R. Nos. L-38145-48, June 29, 1979 (91 SCRA 208).
- [21] Peole v. Antonio Agudo, et al., G.R. No. L-23796, July 15, 1985 (137 SCRA 516).
- [22] Rollo, 61 (13).

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