

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MANUEL BATIS, ACCUSED-APPELLANT.

G.R. Nos. 94188-89. December 17, 1992

Ponente: CAMPOS, JR., J.

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CAMPOS, JR., J.:

This is an appeal from the decision* of the Regional Trial Court (RTC) of Palo, Leyte, Branch VIII, in Criminal Cases Nos. 6971-6972, finding the accused-appellant Manuel Batis (appellant for short) guilty beyond reasonable doubt on two counts of rape and sentencing him "to suffer the penalty of reclusion perpetua for each of the two cases with the duration of Thirty (30) years each which must be served successively. Pursuant to Article 70 of the Revised Penal Code, the duration of both the penalty must not exceed forty (40) years; to indemnify Imelda Batis P20,000.00 moral damages under Article 2219 of the Civil Code and to pay the costs".[1]

The Informations, both dated September 3, 1985, filed by the Provincial Fiscal of Leyte, charged appellant as follows:

"That or about the 15th day of June, 1985 in the Municipality of Palo, Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did, then and there, wilfully, unlawfully and feloniously have carnal knowledge with one IMELDA BATIS a 13 years (sic) old against her will and without her consent."[2]

"That on or about the 28th day of June, 1985 in the Municipality of Palo, Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did, then and there, wilfully, unlawfully and feloniously have carnal knowledge with one IMELDA BATIS a 13 years (sic) old against her will and without her consent."[3]

Upon his arraignment in both cases on January 24, 1986, appellant pleaded not guilty.[4]

Complainant, Imelda Batis, is the natural daughter of appellant. This is her version of the incidents:

She is thirteen years old and lived with her Tatay, Nanay, brothers and sisters in Barangay Binog, Palo, Leyte. She and her family slept together in the same room, their house being a one-function room.[5] In the evening of June 15, 1985, she was awakened when somebody holding an icepick and pointing the same at her, got near her. She recognized the person as her father.[6] She was told not to make any noise lest she be killed. Her mother was only about two and a half meters away. Then her father took off her dress and when he put down the icepick, that was the time she shouted for help, calling "Nanay! Nanay!". Her mother was awakened but according to her, she just stared and looked while her father was in the act of sexually abusing her, adding the comment "Good for you".[7] She kept on crying the following morning but again because of fear of her father, she was forced to go with him in gathering tuba, waiting for him for an hour while her father was atop the coconut tree. She considered it useless to complain to her mother considering her reaction the night before, added to her remark that "You and your father should live together as husband and wife".[8]

The second time she was raped was in the evening of June 28, 1985 while she was again asleep, this time alone, since her mother was washing clothes in another house and her brothers and sisters were somewhere else. Her father started kissing her but she resisted, tried to push him away, and kept on calling "Nanay! Nanay!".^[9] She was slapped by her father, took off her dress and then placed himself on top of her. She was again warned not to tell anybody what happened.

On June 29, 1985, while her father just arrived from gathering tuba and she was playing jackstones, her Kuya Miguel and his mother arrived in their house. She informed them of their receipt of a letter from her mother which did not carry any return address.^[10]

At first her father refused to let her go with her Kuya Miguel so she could get her mother's address but relented when told that she would be bringing home some rice and fish for the family.^[11] On this pretext, Miguel brought complainant along with him and while on their way, Miguel confronted her about the news that she was raped by her own father. At first, she was hesitant to confide but then she confirmed it.^[12] She was brought to Miguel's house in Cavite, West Palo, Leyte and not long after they arrived there, her father came. She was not allowed by Miguel to go with her father and before the latter could come back with a policeman, she and Miguel rushed to the Municipal Hall to report the incident. From the Municipal Hall, she was transferred to the hospital where she was examined. Since then on, she never returned to their house but instead lived with Arturo Margallo, an uncle.^[13]

On cross examination, complainant stated that she worked as a cook for one and a half months starting from May 6, 1985 for the Barangay Captain of Rizal, Dagami, Leyte;^[14] that her mother left for Manila on June 15, 1985;^[15] her father likewise lived in the house of the Barangay Captain in Rizal, Dagami, Leyte; that she returned to Barangay Binog, Palo, Leyte on June 20, 1985 when she was fetched by her mother;^[16] that she went with Miguel Margallo (her Kuya Miguel) to the latter's house in the morning of June 28, 1985;^[17] and that her mother arrived from Manila only after she filed the cases against her father.^[18]

The prosecution tried to corroborate complainant's story with the testimonies of the other witnesses one of whom was Miguel Margallo, complainant's cousin. He testified that on June 29, 1985 he was told by an aunt, Rosa Margallo, to go to Barangay Binog because Manuel Batis and his daughter Imelda were having sexual intercourse. While he brushed this order aside, the information was again told to him on that same day by his two cousins Edgar and Ricky, sons and brothers of appellant and complainant, respectively.^[19] Together with his mother, he proceeded to Barangay Binog. Upon arrival, he found complainant playing jackstones and appellant, who had just come from gathering tuba, was upstairs. After carrying a short conversation with appellant, Miguel Margallo succeeded in persuading him to allow complainant to go with him in the guise of bringing home rice and fish for their family.^[20] On cross examination, he testified that while he claimed to be close to his aunt Salvacion Margallo,^[21] complainant's mother, he did not know when they started living in Barangay Binog, he only came to know that they lived in Barangay Binog through her children and that he never met her since she and her family arrived from Manila.^[22] His trip to Barangay Binog in the morning of June 29, 1985 was his first visit to his aunt's place.^[23] Asked whether complainant ever frequented his house, he replied that she was prevented by her mother from visiting him. Imelda's mother was angry at him, and in the four years that they have lived in Barangay Binog, Imelda never went to their house. He only saw Imelda whenever the former passed by the market on her way to school.^[24]

The third witness presented by the prosecution was Dr. Ofelia Soliva, the doctor who examined complainant on June 29, 1985 and whose findings were contained in a Medical Certificate^[25] dated July 3, 1985.

Significant in her medical examination report were the following points:

Extragenital Physical Exam:

-- No sign of external physical injury.

Genital Exam:

Hymen : Healed lacerations at 6:00 o'clock, 9:00 o'clock, 3:00 o'clock and 1:00 o'clock positions corresponding to the face of a watch.

Hymenal Orifice : Annular, admits one finger easily, 2 fingers with slight resistance.

Vaginal Smear : Positive (+) for spermatozoa.

Conclusion : Genital findings present compatible with sexual intercourse with man.

Dr. Soliva explained that the hymenal lacerations which are now merely rounded scars were inflicted long before the examination, possibly a year ago.[26] The presence of spermatozoa in complainant's vaginal smear, confirms her having had sexual intercourse in the days that recently passed but the same was not through force inasmuch as there was no sign of contusion or external physical injury.[27]

On the other hand, appellant contended that at twelve o'clock noon of June 15, 1985, he found his daughter Imelda Batis with Miguel Margallo in bed and kissing each other in the house of the latter in Barangay Aringit, Cavite, West Palo, Leyte.[28] Upon seeing him, Miguel Margallo broke the flooring and escaped by passing under the house. He then brought his daughter home to Barangay Binog, Palo, Leyte and due to his anger, whipped her with coconut palm.[29] On that same day, he temporarily transferred his children, including Imelda, to Barangay Rizal, Dagami, Leyte, in his cousin's (Vicente Magos) place. They stayed there for nine consecutive nights, although complainant passed the night in the house of a certain Coring Bertuldo.[30]

As early as when complainant was 8 years old, Miguel Margallo, who was at that time living with them, started molesting her. He did not take any legal action against Miguel Margallo in deference to Miguel's being his wife's nephew. Since Imelda and Miguel are cousins, it was not right for them to get romantically involved with each other. This, according to him, was the very reason why he wanted to separate them.[31]

On June 25, 1985, they returned to Barangay Binog, Palo, Leyte, reaching the place at around 5 o'clock in the afternoon. He left his children for a while to buy some food from the market but when he came back, complainant was no longer home. The next morning, a policeman, together with Miguel Margallo, fetched him at seven o'clock and since then up to now, has been imprisoned.[32]

The trial court held that the "x x x testimony of the complainant Imelda Batis is more credible than the mere denials and avoidance of the accused and his witnesses. Her testimony is straightforward, strong and sufficient to sustain a conviction".[33] Findings of the trial court with respect to the credibility of witnesses should not be disturbed on appeal.[34] But in rape cases, this rule should yield to the following basic principles: (1) an accusation for rape can be made with facility; it is difficult to prove, but more difficult for the person accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime where only two (2) persons are usually involved, the testimony of the complainant must be scrutinized with great caution; and (3) 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.[35]

There are certain facts of substance and value that militate against an affirmation of the findings of guilt of the trial court, particularly when the evidentiary rule is recalled that in crimes against chastity wherein conviction or acquittal depends almost entirely on the credibility of the complainant's testimony,[36] the testimony of the injured woman should not be received with precipitate credulity.[37]

We take note of the following circumstances which detract from the credibility of complainant.

1. Both complainant and the appellant testified that Salvacion Margallo, complainant's mother and appellant's wife, left for Manila on June 15, 1985.[38] It was in the evening of June 15, 1985 that the complainant was allegedly first raped by appellant. Yet, complainant testified that her mother was only about two and a half meters away from her when the appellant allegedly sexually abused her. When asked about what her mother's reaction to the incident was, complainant replied:

Q: When you shouted for help calling your mother, "Nanay, Nanay!", was your mother awoken (sic)?

A: Yes, sir.

Q: When your mother was awoken (sic), what did she do?

A: She kept on looking.

Q: When you said your father had sexual intercourses (sic) with you on June 15, 1985, what did your mother do aside from looking at your?

A: She said "good for you", or (hiyokat in waray dialect).[39]

implying that she did not lift a finger to rescue her daughter or that she even consented to what happened. Apparently, there are two inconsistencies arising from this testimony of complainant: First, how could it have been possible for complainant's mother to be around at that time when she had already left for Manila in the morning of June 15, 1985? No evidence whatsoever was adduced to rebut the statement. Second, complainant's mother's reaction and comment are at odds with natural human experience. It is unthinkable for a mother to countenance such an occurrence, right before her very eyes.

2. Having testified that her mother left for Manila on June 15, 1985 and came home only after these cases were already filed,[40] therefore it would have been impossible for her mother to be washing clothes in a nearby house in the evening of June 28, 1985[41] when she claimed she was again raped by her father.

3. Prescinding from her allegations that her mother was washing clothes in another house in the evening of June 28, 1985, giving the impression that the place was not far from where their house was located, what need was there for her mother to send them a letter through mail?[42]

4. She testified on cross examination that she served as a cook at Barangay Dagami, Leyte for one and one half months starting on May 6, 1985. She further stated that her father also lived in the Barangay Captain's house where she was serving as a cook.[43] If these were so, how could she have been raped in the evening of June 15, 1985 in their house in Barangay Binog, Palo, Leyte?

Based on the foregoing facts and circumstances, We find it difficult to let our mind rest easy on the certainty of guilt of appellant as found by the trial court. Not even the corroborative testimonies of prosecution witness Miguel Margallo could serve to cure the inconsistencies in complainant's testimonies. On the contrary, Miguel Margallo's testimonies served to cast doubt on complainant's already irrational statements. Again, consider the following:

I. Miguel Margallo, on Cross Examination

Q: And neither did Imelda Batis tell you on June 29, 1985 that she was raped, am I correct?

A: She told me that she was raped.

Q: When were you told by Imelda Batis?

A: When she went to the doctor.

Q: When?

A: On June 29, 1985.

Q: Where were you told by Imelda Batis that she was raped?

A: In the municipal hall of Palo, Leyte.

Q: Did she tell you voluntary or you asked it from her?

A: She told me that she was raped when she was in the municipal hall of Palo, Leyte.[44]

II. Imelda Batis, on Direct Examination

Q: Did you tell anybody about what happened to you?

A: No, sir.

Q: Even up to this time you did not tell anybody?

A: I told somebody.

Q: Whom did you tell?

A: Papa Arturo.

Q: Who is this "Papa Arturo"?

A: He is the brother of my mother.

Q: When did you tell your uncle about this?

A: On June 29, 1985.

Q: What did your Papa Arturo do after you told him of what happened to you?

A: I was brought to his house.

Q: After you were brought to his house, what happened?

A: I was brought to the municipal hall, Palo, Leyte.[45]

III. Miguel Margallo, on Cross Examination

Q: Who brought Imelda Batis to your house?

A: I brought her to the house of my uncle.

Q: What is the name of your uncle?

A: Arturo Margallo.

Q: What did you tell your uncle upon reaching his house?

A: I told him that Imelda was raped.

Q: What was your purpose in telling your uncle that Imelda Batis was raped?

A: I told him because Imelda Batis was examined by the doctor.

Q: The attending physician who attended Imelda Batis told you that Imelda was raped?

A: No, Sir, we were only given the examination result of the child.

Q: You mean that the examination result was given to you right at that time, June 29, 1985?

A: Not yet, the following day.

Q: When you said that the examination result was given on the following day, how did you know that Imelda Batis was raped and that was the basis of telling your uncle that she was raped?

A: Because I had something from the doctor.

Q: What was that something from the doctor?

A: The result of the rape case.

Q: Was the examination contained in the paper?

A: We were not able to copy it.

Q: If only to recapitulate things, the attending physician never told you that Imelda Batis was raped, am I correct?

A: No, Sir.[46]

IV. Imelda Batis, on Direct Examination

Q: What happened next?

A: When Kuya Miguel and I reached the fence, we stopped and he said:

"Imelda, tell the truth. Is it true that you were raped by your father?" I said: "Yes" and I was brought by Kuya Miguel to their house.

Q: Where is their house?

A: In Cavite West.

Q: After he brought you to their house, what happened?

A: He said: "Tell everything to me what happened to you," and I told him everything.[47]

V. Miguel Margallo, on Direct Examination

Q: After you told Manuel Batis, the accused in this case, that you will bring Imelda Batis because you are going to give him rice and fish, what did Manuel Batis do?

A: He allowed Imelda Batis to go with me.

Q: Did you actually bring Imelda Margallo Batis with you on that day?

A: Yes, I brought her to the municipal hall.

Q: Of what municipality?

A: Palo, Leyte.[48]

Q: On that day, did you return Imelda Batis to the house of Manuel Batis, the accused in this case?

A: No, Sir.

Q: Where did you bring Imelda Batis on that day?

A: I brought her to my uncle.[49] (Underscoring supplied).

The trial court went on to state that "x x x the fact of sexual intercourse was substantially corroborated by the medical findings of Dr. Soliva who conducted the examination. It goes to show that it is not incredible for a man to rape his own flesh and blood daughter. Neither was it impossible to commit rape in a small space which was occupied by members of a family especially with a callous mother and the rapist was the father".[50]

Such sweeping statements of the trial court creates the impression that rape and sexual intercourse mean one and the same thing when in fact they are not. That a female is found to have had sexual intercourse does not necessarily mean that she was raped. In rape, carnal knowledge of a woman by a man must be unlawful. That is, without her consent and against her utmost resistance. The presence or absence of traces of spermatozoa is immaterial, since it is penetration, however slight, and not ejaculation, that makes it rape.[51] The element of force and intimidation is absent in sexual intercourse. Besides, in sexual intercourse, carnal copulation of a male and a female usually imply actual penetration of the organs of the former and latter.[52]

In fine, the medical report adds nothing to bolster the prosecution's claim that complainant was raped by appellant. Rather, it merely confirms that as early as one year ago, the complainant has already engaged in sexual intercourse. While this confirmation does not discount the possibility that the appellant could have taken advantage of complainant on the stated dates, the evidence adduced at the trial is not sufficient to pass the test of moral certainty which is sufficient to convict the accused.

Proof beyond reasonable doubt is required to convict an accused. By reasonable doubt is not meant that which of possibility may arise, but it is that doubt engendered by an investigation of the whole proof and an inability, after such investigation, to let the mind rest easy upon the certainty of guilt. Absolute certainty of guilt is not demanded by the law to convict one of any criminal charge but moral certainty is required, and this certainty is required as to every proposition of proof requisite to constitute the offense.[53]

Here, the prosecution failed to overcome the constitutional presumption of innocence by proof beyond reasonable doubt.

Consequently, the decision of the trial court is hereby REVERSED and SET ASIDE. Accused-appellant Manuel Batis is ACQUITTED of the charges of rape on both counts and is ordered released from prison immediately.

SO ORDERED.

Narvasa, C.J., (Chairman), Feliciano, Regalado, and Nocon, JJ., concur.

* Penned by Judge Lolita O. Gal-lang.

[1] Records, p. 104.

[2] Records of Criminal Case No. 6971, p. 1.

[3] Records of Criminal Case No. 6972, p. 1.

[4] Records, p. 6.

[5] TSN, June 19, 1986, pp. 4-5.

[6] Ibid.

[7] TSN, June 19, 1986, pp. 6-7.

- [8] Ibid., p. 9.
- [9] Ibid., p. 13.
- [10] Ibid., p. 15.
- [11] TSN, June 19, 1986, pp. 16-17.
- [12] Ibid., p. 18.
- [13] Ibid., pp. 19-21.
- [14] TSN, June 9, 1987, pp. 2-3.
- [15] Ibid., p. 4.
- [16] Ibid., p. 3.
- [17] Ibid., p. 6.
- [18] Ibid., p. 7.
- [19] TSN, April 7, 1986, pp. 3-5.
- [20] Ibid., pp. 6-8.
- [21] Ibid., p. 10.
- [22] Ibid., pp. 12-13.
- [23] Ibid., p. 16.
- [24] Ibid., pp. 22-25.
- [25] Exhibit A for prosecution, Rollo, p. 60.
- [26] TSN, July 21, 1987, p. 9.
- [27] Ibid., pp. 7-8.
- [28] TSN, February 17, 1988, p. 6.
- [29] Ibid., p. 7.
- [30] Ibid., pp. 10-11.
- [31] Ibid., pp. 8-10.
- [32] Ibid., pp. 11-12.
- [33] Rollo, p. 28.
- [34] *People vs. Custodio*, 197 SCRA 538 (1991).
- [35] *People vs. Tismo*, 204 SCRA 535 (1991).
- [36] *People vs. Soliao*, 194 SCRA 250 (1991).
- [37] *People vs. Fausto*, 51 Phil. 852 (1928); *People vs. Mendiguarin*, 92 SCRA 679 (1979).
- [38] TSN, June 9, 1987, pp. 3-4; TSN, February 17, 1988, p. 14.

[39] TSN, June 19, 1986, pp. 6-7.

[40] TSN, June 9, 1987, p. 7.

[41] TSN, June 19, 1986, p. 13.

[42] Ibid., p. 15.

[43] TSN, June 9, 1987, pp. 2-3.

[44] TSN, April 7, 1986, p. 35.

[45] TSN, June 19, 1986, pp. 10-11.

[46] TSN, April 7, 1986, pp. 33-35.

[47] TSN, June 19, 1986, p. 18.

[48] TSN, April 7, 1986, pp. 7-8.

[49] Ibid., p. 9.

[50] Rollo, pp. 28-29.

[51] People vs. Gerones, 193 SCRA 263 (1991).

[52] Black's Law Dictionary, Fourth Edition, p. 1541 citing Williams v. State, 92 Fla. 125, 109 So. 305, 306 (1926).

[53] People vs. Dramayo, 45 SCRA 59 (1971).

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