

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RANILO BOSTRE Y MONES AND ROGELIO GARCIA Y DE LEON, ACCUSED-APPELLANT.

G.R. Nos. 94301-02. February 18, 1994

Ponente: VITUG, J.

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VITUG, J.:

A Japanese national, Nishiguchi Mayu, accused the herein appellants of having raped her. She filed two verified complaints, both dated 04 June 1990, which gave rise to the filing with the Regional Trial Court of Manila of two separate informations; viz:

Criminal Case No. 90-84498:

“That on or about May 1, 1990, in the City of Manila, Philippines, the said accused RANILO BOSTRE y MONES, conspiring and confederating with accused ROGELIO GARCIA y DE LEON, who stood as guard, with lewd designs, by means of threats, force and intimidation, to wit: by poking a gun at the undersigned, a Japanese national, while inside ECA Pension House located at 1248 J. Bocobo St., Ermita, this City, threatening that she could not leave for Japan should she resist and forcibly undressing her, did then and there wilfully, unlawfully and feloniously succeed in having carnal knowledge of her, against her will and consent.

“Contrary to law.”[1]

Criminal Case No. 90-84499

“That on or about May 1, 1990, in the City of Manila, Philippines, the said accused Rogelio Garcia y de Leon, conspiring and confederating with accused Ranilo Bostre y Mones who stood as guard, with lewd designs, by means of threats, force and intimidation, to wit: by poking a gun at the undersigned, a Japanese national, while inside ECA Pension House located at 1248 J. Bocobo, Ermita, this City, threatening that she could not leave for Japan should she desist and forcibly undressing her, did then and there wilfully, unlawfully and feloniously succeed in having carnal knowledge of her, against her will and consent.

“Contrary to law.”[2]

The two cases, on 07 June 1990, were referred to Branch 28. On the following day, or on 08 June 1990, the cases were set jointly for “arraignment and trial.” The trial started at 8:30 in the morning, following pleas of “not guilty,” and continued until 8:45 in the evening. At 11:45 that same evening, the trial court was able to finish with its draft of the decision, and it forthwith promulgated the sentence; viz:

“WHEREFORE, the Court finds the two herein accused ROGELIO GARCIA y DE LEON and RANILO BOSTRE y MONES GUILTY beyond reasonable doubt of the crime of RAPE punishable under Art. 335 of the Revised Penal Code and hereby sentences them to suffer a penalty of imprisonment of RECLUSION PERPETUA each and to pay the private complainant the following sum of money:

“1. The sum of P30,000.00 as exemplary damages.

“No pronouncement as to costs.

“SO ORDERED.”[3]

The trial court, in hastily disposing of the cases, felt obliged under General Order No. 39, amending General Order No. 12, which mandated courts to resolve cases committed against tourists and transients within twenty-four hours.

Appellants contend that the trial court committed the following errors:

“1. The trial court erred in overlooking certain facts of substance and value which if considered would affect the result of the case. (People vs. Castro, G.R. No. L-42478, Oct. 4, 1989).

“2. The trial court erred in failing to observe due process and to take into consideration the defense of the accused-appellants and in convicting them.”[4]

The conviction by the trial court rested on its findings of fact hereunder summarized.

In the afternoon of 01 May 1990, Nishiguchi Mayu and her boyfriend were at the Ninoy Aquino International Airport (“NAIA”) preparatory to boarding a flight for Japan. The two figured in some kind of a “quarrel,” until she ultimately decided to instead continue her stay in the country. While still at the departure area, she met accused Rogelio Garcia and Ranilo Bostre. She had no apprehension at all about the chance meeting, for Garcia could speak Niponggo and Bostre sported what appeared to her to be a policeman’s tag. She even agreed to be accompanied by the two accused to look for a cheaper place to stay than a hotel. She checked in finally at the ECA Pension House. After she paid the initial bill, the threesome decided to go for a brief stroll. At nearby Shakey’s Pizza Parlor, they partook of beer. From there, they went back to the pension house where they had a few additional rounds of drink. After a while, she went to the comfort room; when she returned, she found the lights turned off and the room door locked. Shortly thereafter, the two accused, one after the other, succeeded in having sexual intercourse with her. Bostre was the first to consummate the act, which she resisted until she became weak and exhausted. When it was over, Garcia took his turn while Bostre stood guard. They all spent the night together in the same room. When they woke up the following morning, she was invited by accused Garcia to stay in his house in Parañaque. She agreed. Mayu stayed in Garcia’s house from 02 May until 06 May, 1990, when her friend, Lilibeth Paradina, and airport policeman Edgardo Isaac came to fetch her. She felt relieved and happy to live thereafter with Paradina. Mayu related the incident to Paradina. Later, she decided to file her complaint against the two accused.

The appellants, in their testimony, did not deny having met complainant Mayu at the NAIA and later in having accompanied her to the pension house where, after some rounds of beer, they stayed together in the same room for the rest of the evening. They contradicted, however, that part of Mayu’s story about the rape. The two claimed that they did not in any way bother Mayu who slept alone in one bed, that Bostre took another, while Garcia slept on top of a table. The following day, Mayu agreed to live in the house of Garcia and his wife for a few days.

We have belabored on the case to see which of the two conflicting versions would really so conform to what the trial court referred to as consistent to “human experience.” In many respects, of course, the parties have no disagreement; the derailing part of their respective narrations is when the complainant, in her case, claims to have been forced and intimidated to undergo the sexual intercourse, and where the accused-appellants, on their part, say they did not even go so far as to touch her during the night. While we do not consider it all that unlikely for the accused-appellants to have had, in fact, sexual intercourse with the complainant, the surrounding circumstances, however, occurring prior to and following the incident do not auger well for a probable tale of rape. Unfortunately for the complainant, an accused, under our law is entitled to an acquittal unless his guilt is

proved beyond reasonable doubt. That burden lies with the prosecution, whose various pieces of evidence, at least in this case, just do not seem to fit together to be fully convincing.

First. Dr. Marcial Ceñido, Medico-Legal Officer of the Western Police District of Manila, testified that he would not be in a position to determine whether complainant was indeed raped, his medical examination having been conducted one month after the alleged incident had occurred.[5]

Second. In her Sinumpaang Salaysay, dated 31 May 1990, before PFC Gregorio Mendoza and Patrolman Leopoldo Lozada of the Western Police District, Manila, Mayu claimed that the accused Ranilo Bostre and Rogelio Garcia actually forced her to go with them to the pension house.[6] During the trial, however, it was a totally different story. She testified that she had gone with the accused unhesitatingly with whom she admittedly “felt very safe.”[7]

Third. Mayu stated that the appellants forced her to drink beer. When asked, however, to demonstrate how she was forced to partake of the drink, she said Bostre simply placed the glass on her mouth but “he did not touch”[8] her.

Fourth. Complainant asseverated that she could not do anything to defend herself, except to kick and push accused Bostre, because she was afraid of him, seeing that he had his gun “near the bed.”[9] The statement she gave, however, during the investigation, on the basis of which the two informations against the appellants were filed, was that the accused had poked a gun on her.

Most importantly, we find it to be somewhat an unnatural behavior for one who has just been a victim of so dastardly a crime as rape to nonchalantly accept forthwith an invitation to sojourn with her offender. While Mayu did testify at one point that she only has been forced to live with the Garcias,[10] enough evidence, however, would suggest otherwise. Her 5-day stay with Garcia and his wife has been without so much as a single word of complaint from her, and it might even be described as pleasant. She would accompany the wife of Roger in “shopping”[11] or in “playing mahjong,”[12] and she could leave or go out on her own, without having to ask for any kind of permission from the spouses.[13]

Rape is truly an abominable crime but there must be moral certainty of its having been, in fact, committed to warrant a conviction therefor. That moral certainty, in our view, has not been sufficiently established in this case.

WHEREFORE, the decision of the trial court is REVERSED and SET ASIDE, and the accused-appellants are ACQUITTED of the offense charged. Their immediate release from confinement is hereby ordered, provided, of course, that their continued detention is solely on account of their conviction by the court a quo.

SO ORDERED.

Feliciano, (Chairman), Bidin, Romero, and Melo, JJ., concur.

[1] Rollo, 5.

[2] Rollo, 6.

[3] Rollo, 22-23.

[4] Rollo, 34.

[5] Ceñido, TSN, 8 June 1990, 9-10.

[6] Paragraph 08, 1.

[7] Mayu, TSN, 59-60.

[8] Mayu, TSN, 74.

[9] Ibid., 82.

[10] Ibid., 104.

[11] Ibid., 107, 109.

[12] This fact was stipulated upon by the parties, TSN, 203.

[13] Mayu, TSN, 175.

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