

SECOND DIVISION

[G.R. No. 116234, November 06, 1997]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOEL SOBERANO, ACCUSED-APPELLANT.

DECISION

REGALADO, J.:

Accused-appellant Joel Soberano was charged with serious illegal detention with serious physical injuries in Criminal Case No. 5107 of the Regional Trial Court of Laoag City, Ilocos Norte, under an information dated October 2, 1990, which alleges:

"That about and during the period beginning September 1, 1990 to September 2, 1990 in the Municipality of San Nicolas, province of Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused prompted by resentment because Melba Badua, the herein complaining witness and a former girlfriend parted ways with said accused, did then and there wilfully, unlawfully and feloniously, forced (sic) said Melba Badua, 20 years old to ride in a tricycle and take her to their house where said accused detained and kept (sic) locked in his house for a period of two (2) days under restraint and against her will, and further maltreated her during said period of detention thus inflicting wounds on the different parts of her body which require (sic) seven to ten (7-10) days to heal and incapacitate (sic) the victim in her customary work for the same period of time."^[1]

Upon arraignment, with the assistance of counsel de parte, appellant pleaded to guilty to the charge and the case was tried by Branch 16 of said trial court.

The complaining witness, Melba Badua, testified that she and appellant were once sweethearts and that, although appellant was married in 1987, she did not know of his marital status when she initially got involved with him. She claimed that she decided to break their illicit relations in June, 1990,^[2] because she realized that she would have no future with a married man.

Complainant was holder of a nursing degree and was allegedly hired as a private nurse on October 30, 1990. She claimed that at around 1:00 P.M. on September 30, 1990, she was in front of a Shell gasoline station in San Nicolas, Ilocos Norte, waiting for her employer, one Paul Ng, the establishment's manager who was then talking with his visitors. She was with a companion, Mercedes Domingo, and was supposed to proceed to Manila for a medical checkup. Appellant passed by driving a tricycle. He recognized complainant and shouted in her direction, asking her what she was doing there. Complainant told him not to bother her.

Appellant stopped the tricycle and alighted therefrom. Complainant claimed that appellant forthwith dragged her to the tricycle and forced her to board it.^[3] She was unable to resist him or call for help as he allegedly threatened to kill her if she did so. He then drove them to his home where he supposedly forced her up to the second floor, mauled her, and, in the scuffle, stuffed her shoes in her mouth.^[4] She claimed that appellant manhandled her because she told him that she no longer wanted to have anything to do with him as he was a married man.

Complainant further claimed that at dawn of the following day, appellant again forcibly took her out of the house, and then walked with her to a rice field where they sat on the ground until sunrise. Thereafter, they boarded a passenger jeepney which proceeded to Laoag City where they rode on another passenger jeepney to a house in Vintar. There, they were welcomed by a woman whom appellant called "auntie."

In a room in that house, appellant reportedly made complainant sit on a chair and tied her hands with straw. He left her there the whole day and only returned at lunch time to bring her food. It was only late in the afternoon that he untied her hands. It does not appear that during that entire period she called for help, or attempted to free her hands or go out of the room.

Complainant asserts that appellant later compelled her to walk down the road and board a passenger jeepney which brought them back to Laoag City. They subsequently boarded another passenger jeepney which proceeded to San Nicolas where appellant brought complainant back to the Shell gasoline station from which she had boarded the tricycle he was driving the previous day.^[5]

The following day, complainant's sister, Victoria Badua, accompanied her to a government physician, Dr. Ediseo Bonoan, who examined her injuries. They later went to a lawyer and then to the police to report the matter.^[6]

Victoria Badua testified for the prosecution.^[7] She claimed that at around 7:30 in the evening of September 1, 1990, she was informed by Mercedes Domingo that complainant was dragged by a tricycle driver and was forced to board a tricycle.

She reported the incident to the police and they accompanied her to the house of appellant. Neither appellant nor complainant was there, hence they proceeded to the house of the owner of the tricycle driven by appellant and they found the tricycle parked there. Appellant and complainant were likewise not there. The next time Victoria Badua saw her sister was when the latter came home the following day.

The prosecution presented Dr. Ediseo Bonoan, the Municipal Health Officer of San Nicolas Health Unit, who later testified also for the defense. He explained the nature and extent of the injuries of complainant whom he examined on September 3, 1990. He declared that complainant sustained contusions on the face, side of the head, chest, elbow, palm, and arms.^[8] The physician claimed that the injuries were probably inflicted by a hard object, although it was also possible that they were sustained in the course of a fight. The wound on her palm could have been caused when complainant slapped someone.^[9]

Appellant, in his testimony, admitted that he was a married man and that he and complainant had been having an affair. He stated that he and complainant left the gasoline station in San Nicolas on September 1, 1990, aboard the tricycle which he drove for a living, but he claimed that he did not force complainant to come with him as she did so of her own free will. Neither did he illegally detain her, much less maltreat her, contrary to her assertions in her testimony.

According to appellant, his relationship with complainant was no secret to his relatives, such that when he brought her to his house on September 1, 1990, her presence was not considered unusual by the several household members therein who were his relatives.^[10]

He said that they later went to the house of the owner of the tricycle to park the vehicle there before returning to his house. The following day, they took a passenger jeepney to the house of the appellant's aunt in Vintar and they stayed with her that day. In the afternoon, they boarded another passenger jeepney to Laoag City and, from there, they boarded a passenger jeepney which brought them back to San Nicolas where they parted.^[11]

Magdalena Soberano, a sister of appellant, testified for the defense. She claimed that she was at their house in San Nicolas when appellant arrived with complainant in the afternoon of September 1, 1990. They left for a moment to park the tricycle but returned and stayed in the house.^[12] The witness claimed that she did not find the conduct of the couple odd and said that it was customary for the complainant to spend time at their house.

Finally, Rosemella Agtarap, the aunt of appellant, testified that she was attending to her household chores when appellant and the complainant stayed in her house in Vintar on September 2, 1990. She did not notice anything unusual about their behavior and it certainly did not appear to her that the complainant was being held against her will.^[13]

While the evidence presented by the parties were consistent as regards the sequence of events, they were contradictory with respect to the circumstances surrounding the charge. The prosecution sought to prove that complainant was illegally detained by appellant from September 1 to 2 1990, and that he inflicted the injuries found on her person. Al contrario, the defense declared that appellant neither detained the complainant nor maltreated her but that, instead, the complainant spent the time involved in the company of appellant on her own volition.

On June 21, 1994, judgment was rendered by the trial court convicting appellant of serious illegal detention. Appellant was sentenced to suffer the penalty of reclusion perpetua, to indemnify the offended party in the sum of P50,000.00, without subsidiary imprisonment in case of insolvency, and to pay the costs.^[14]

In this appeal, appellant avers that the trial court erred in finding him guilty beyond reasonable doubt, on the lone assignment of error that the evidence of the prosecution is not worthy of credence since it is tainted with inconsistencies, is contrary to human experience and lacks credibility.^[15]

We find merit in the appeal at bar.

It is fundamental in criminal prosecutions that before the accused may be convicted of a crime, his guilt must be proven beyond reasonable doubt. If there are substantial facts which were overlooked by the trial court but which could alter the results of the case in favor of the accused, such facts should be taken into account by this Court as a reviewing tribunal.^[16] The Court has thoroughly delved into the records of the instant case and painstakingly assayed the evidence adduced by the parties. We find the evidence of the prosecution grossly insufficient to sustain a conviction.

Under the pertinent provisions of Article 267 of the Revised Penal Code which were in force when the crime charged in this case was committed in 1990, kidnapping and serious illegal detention is committed by any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, under any of the following circumstances, vis: (1) If the kidnapping or detention shall have lasted more than five days; (2) If it shall have been committed simulating public authority; (3) If any serious physical injuries shall have been inflicted upon the person kidnapped or detained, or if threats to kill him shall have been made; (4) If the person kidnapped or detained shall be a minor, female or a public officer.^[17]

Serious illegal detention is committed where the following elements of the crime concur: (1) that the offender is a private individual; (2) that he kidnaps or detains another, or in any other manner deprives the latter of his liberty; (3) that the act of detention is done with any of the circumstances in the foregoing paragraph.^[18]

Appellant was convicted of serious illegal detention under Art. 267(4) of the Revised Penal Code. The essential element of the offense is that the victim was restrained or deprived of his liberty^[19] and there must be a showing of actual confinement or restriction of his person.^[20] There is no serious illegal detention where the fact of detention was not clearly established.^[21]

In addition, it is necessary that there be indubitable proof that such deprivation of liberty was the actual intent of the accused.^[22] There must be a purposeful or knowing action by the accused to forcibly restrain the victim^[23] because taking coupled with intent completes the offense.^[24] In the present case, there is no showing that the complainant was forcefully transported away, locked up, restrained of her freedom, or prevented from communicating with anyone. Neither has it been established that such was the intention of appellant.

There are several circumstances reflecting facts and raising questions which refute the conclusion of the lower court that appellant is guilty of serious illegal detention. Objectively and subjectively considered, they point towards appellant's innocence and are incompatible with attributions of guilt.

First. There is no clear evidence that the complainant was forcibly taken while she was in the gasoline station on September 1, 1990. The alleged eyewitness, Mercedes Domingo, was never presented in court because the prosecution did not think that her testimony would be necessary.^[25] In the absence of the actual