

EN BANC

[G.R. NO. 169078, March 10, 2006]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RICARDO B. MIRANDA, APPELLANT.

DECISION

YNARES-SANTIAGO, J.:

Appellant Ricardo B. Miranda was charged with Rape in a criminal complaint which reads:

That on or about the 28th of December 1996, in Barangay San Pedro, Municipality of Guagua, Province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, RICARDO B. MIRANDA, with lewd designs, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with (sic) Joylene O. Balagtas, a five year old minor, against her will and without her consent.

Contrary to law.^[1]

On arraignment, appellant pleaded "not guilty."^[2] Trial on the merits then ensued.

The prosecution presented as witnesses, the victim, 5-year-old Joylene O. Balagtas (Joylene), her mother Georgina^[3] Balagtas and Dr. Carlos P. Mercado.^[4]

Joylene testified that in the afternoon of December 28, 1996, she was playing with her friends Lotlot^[5] and Shasha^[6] near the billiard hall beside appellant's house in San Pedro, Guagua, Pampanga. Appellant who is also known as "Tuko," allegedly approached them and forcibly dragged her inside the house and up the stairs. Upon reaching the second floor, appellant pushed her down on the floor and removed her panties. When Joylene started crying, he covered her mouth with one hand and proceeded to undress himself with the other.

Appellant tried to insert his penis into Joylene's vagina but was not successful so he inserted his finger into her instead. Joylene cried throughout her ordeal. After a while, appellant told Joylene to leave and come back again next time. Joylene went back to her playmates before going home. She relayed the incident to her mother the next morning.^[7]

Georgina testified that upon learning about the incident, she immediately confronted appellant but he denied the accusation. She then proceeded to the house of their Barangay Captain who instructed her to file a report at the police station. Georgina testified that after the incident, Joylene had trouble sleeping, became withdrawn and no longer played with her friends like she used to.^[8] She also testified that Joylene

was born on July 1, 1991 and was 5 years old when the incident happened.^[9]

Dr. Carlos P. Mercado testified that on January 19, 1997, he examined Joylene and found her "conscious, coherent and ambulatory." Her genitals appeared normal except for superficial abrasions on the lateral sides of the labia minora which could have been caused by a hard, sharp object. Her vagina admits a little finger and there were fresh abrasions on her vulva, between her anus and her vagina. Dr. Mercado also noted that Joylene was in a state of trauma and was initially unwilling to relate her ordeal.^[10] When asked whether the abrasions could have been caused by a penis, Dr. Mercado stated that only the fingers were used on the victim.^[11]

The defense presented appellant as its sole witness. He denied the charge against him and maintained that he did not see Joylene on the day of the alleged rape because he stayed home to take care of his children.

Appellant claimed that in the morning of December 29, 1996, Joylene and her sister J.L. called him to their house because their mother wanted him to fetch water for them. Later that same morning, he claimed that Georgina called him again and upon entering the house, the latter physically attacked him and forced him to admit to having raped Joylene.^[12] When he refused, he was brought to the police station. He maintained that he was in good terms with the family of the victim and could not think of any reason why they would accused him of such crime.

After trial, the Regional Trial Court of Guagua, Pampanga, Branch 49 rendered judgment^[13] convicting appellant of the crime of rape, the dispositive portion of which states:

WHEREFORE, judgment is rendered finding the accused Ricardo B. Miranda guilty beyond reasonable doubt of the crime of rape and sentencing him to the extreme penalty of death. Accused is further directed to pay the offended party Joylene Balagtas the amount of P75,000.00 as civil indemnity and P50,000.00 as moral damages.

SO ORDERED.^[14]

Conformably with this Court's decision in *People v. Mateo*^[15] appellant's appeal by way of automatic review was transferred to the Court of Appeals. On June 16, 2005, the appellate court rendered its decision^[16] affirming appellant's conviction.

Appellant raises the following errors in this petition for review:

I.

THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.

II.

GRANTING THAT THE ACCUSED-APPELLANT IS GUILTY OF THE CRIME CHARGED, THE TRIAL COURT, HOWEVER, ERRED IN IMPOSING UPON HIM THE SUPREME PENALTY OF DEATH.^[17]

Appellant maintains that the test of moral certainty and standard of proof beyond reasonable doubt required for conviction in criminal cases have not been satisfactorily attained. He argues that assuming he is found guilty, the evidence adduced by the prosecution only establishes that he inserted his finger in Joylene's vagina, an offense which falls squarely under paragraph 2^[18] of Article 266-A of the Revised Penal Code. He contends that the death penalty imposed upon him should be reduced accordingly pursuant to Article 266-B which provides that "object rape" under paragraph 2 of Article 266-A shall be punished by *prision mayor*.

Any review of a rape case begins with the settled reality that accusing a person of this crime can be done with facility. Thus, the testimony of the complainant must always be scrutinized with great caution. It may not be easy for her to prove the commission of rape; yet it is even more difficult for the accused, though innocent, to disprove his guilt. This principle must be viewed in relation to that which holds that the evidence for the prosecution must stand or fall on its own merits; it cannot draw strength from the weakness of the evidence for the defense.^[19]

Where the life of another human being hangs on the balance, nothing but proof beyond reasonable doubt of every fact necessary to constitute the crime with which the accused is charged must be established in order for the corresponding penalty thereto to be upheld.^[20]

Findings of facts of the trial courts carry great weight and will not be disturbed on appeal unless shown to be contrary to facts or circumstances of weight and substance in the record. For, generally, the evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by trial courts, because of their unique opportunity to observe the witnesses and their demeanor, conduct, and attitude, especially under cross-examination.^[21]

In this case, however, we have to depart from this settled rule because the evidence on record does not fully sustain the trial court's findings and conclusions.

During direct examination, Joylene testified that:

Q Do you know the nickname of the accused?

A His nickname is "Tuko", sir.

Q On December 28, 1996, where were you?

A I was then playing with my playmates near the billiard hall, sir.

Q Where is this billiard hall located?

A It is located beside the house of Tuko, sir.

Q And that house of Tuko and your house were located at San Pedro, Guagua, Pampanga?

A Yes, sir.

Q While you were playing somewhere or near the billiard hall, was there any unusual incident that happened?

A Yes, sir.

- Q What was that?
A Tuko brought me to their house, sir, I refused to climb the stairs but he pulled my hands.
- Q When Tuko pulled your hands was he able to you (sic) in their house?
A Yes, sir.
- Q After you were brought in the house of Tuko, what happened?
A Tuko removed my panty and he also removed his pants, sir.
- Q After Tuko removed your panty and he also removed his pants, what else did he do, if he did anything?
A Yes, sir.
- Q What did he do?
A Tuko inserted his penis in my vagina but he was not able to do so and instead he inserted his finger in my vagina, sir.
- Q Before Tuko, the accused, inserted his penis to your vagina and when he failed to do so he inserted his finger, what did he do to you?
A I was lying down then, sir.
- Q What about Tuko?
A He was standing and sitting, sir.
- Q While you were lying down and when Tuko was inserting his penis, what was his position?
A He was sitting, sir.
- Q After that what happened?
A After than he told me to come back next time, sir.
- Q What else did he do?
A No more, sir.
- Q What did you feel when he inserted his penis and inserted his fingers?
A I cried out very loud, sir.
- Q Why?
A Because I was hurt by his finger, sir.
- Q After Tuko told you to come back next time, what else happened?
A No more, sir.^[22]

On cross examination, Joylene further stated that:

- Q You said that Tuko removed your panty and also he removed his pants and he did not succeeded (sic) in

penetrating his penis into your vagina?

A No, sir.

Q He did not actually placed his penis to your vagina?

A No, sir.

Q You did not get hurt?

A I get hurt, sir.

Q Is it not that you only cried because you felt pain when Tuko inserted his penis inside you?

A Yes, sir.

Q But not when he attempted or trying to insert his penis, is it not?

A Yes, sir.

x x x x

Q By the way, you said that Tuko inserted his finger inside your vagina, do you know if he was able to penetrate his finger inside your vagina?

A Yes, sir.

Q Why do you know that?

A Because he inserted it, sir.

Q Do you know the finger he use (sic)?

A One of his fingers, sir.

Court:

Left or right hand?

A Left, sir.

Q Why do you say that his finger penetrated you, what did you feel?

A I got hurt, sir.

Q He only inserted his finger momentarily after which he removed it already?

A Yes, sir.

Q And then he removed his finger and let you go home?

A Yes, sir. ^[23]

On the other hand, the examining physician declared that:

Q How about your genital examination on the victim?

A I found the victim's genitalia appears to be normal except for abrasions on lateral sides of labia minora, fourchet and urethral meatus which means that the abrasions are only on the superficial layer of the skin and can be caused by hard, sharp object.