

SECOND DIVISION

[G.R. No. 139833, February 28, 2003]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOEL GABAWA Y BANGGAY, ACCUSED-APPELLANT.

DECISION

AUSTRIA-MARTINEZ, J.:

Before us is an appeal from the decision, dated January 12, 1999, rendered by the Regional Trial Court of Iloilo City (Branch 30), convicting accused Joel Gabawa y Banggay of rape in Criminal Case No. 46933, sentencing him to suffer *reclusion perpetua* and ordering him to indemnify the offended party in the amount of Fifty Thousand Pesos (P50,000.00).

In a criminal complaint dated August 30, 1996, AAA, 35 years old, assisted by her mother [REDACTED], accused Joel Gabawa y Banggay of rape, committed as follows:

"That on or about the 10th day of July, 1996, in the Municipality of [REDACTED], Province of [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, taking advantage of the mental derangement of the undersigned, did then and there willfully, unlawfully and feloniously have sexual intercourse with her who could not freely consent to the sexual act on account of her mental state.

"CONTRARY TO LAW."^[1]

On January 8, 1997, accused was arraigned and pleaded not guilty. Thereafter, trial ensued.

The prosecution presented its witnesses namely: Teresita C. Alarba, Dr. Sharon Faith B. Pagunsan, Dr. Mariano Hembra, private complainant AAA and SPO2 Ma. Mae Palabrica.

Teresita C. Alarba of Barangay Paga, San Enrique, Iloilo testified that: on July 10, 1996, private complainant AAA spent the day washing clothes for her; around 5:00 o'clock in the afternoon, her nephew, Randy Cabaging and accused Joel Gabawa came by and drank coffee; AAA ate supper at her house; AAA complained of body aches, and the accused, a bone setter (hilot), massaged AAA's shoulders and chest; AAA and the accused left her house together at about 7:00 o'clock in the evening; the following morning, she saw AAA in her kitchen which is separated from her house, lying in a fetal position and "bloody in her female organ"; AAA's underwear and short pants were bloody; she changed AAA's clothes before sending her home; she knew AAA even before the incident on July 10, 1996 because AAA used to roam around; AAA was not in a proper state of mind, and she talked nonsense.^[2]

Dr. Sharon Faith B. Pagunsan, the Rural Health Physician of San Enrique, Iloilo, testified as follows: On July 11, 1996 she examined AAA on which basis, she issued a Medical Report with the following findings:

"Physical Findings:

- "- came in ambulatory, oriented as to time, place and person
- "- kempt, non-violent, non-agitated, inappropriate affect (apathetic)
- "- (+) delusions – "na-apektuhan ang bata, nag-gua ang dugo, kag nagsakit ang kilid ko"; "santol man lang ang gin-kaon ko, ti acid man na, paano mag-form sang human—ang dugo halin to ya sa likod ko nga bukol kag nag-gua sa obaryo"
- "- (+) flight of ideas
- "- Head and Extremities: no remarkable findings
- "- Chest and Abdomen: no remarkable findings
- "- Breasts: no remarkable findings
- "- External Genitalia: -labia gape a little exposing the open hymen with single orifice (+) fresh blood coming from a lacerated fourchette at 6 o'clock position, 1st-degree laceration extending from the rim outwards is about 1 cm. and from the rim inwards is about 0.6 cm."^[3]

When she examined AAA's genitalia, she saw fresh blood coming from it. It is consistent with the injuries having been inflicted within the first 24 hours and it is possible that the injury was caused by sexual intercourse with a man.^[4] Four days later, or July 15, 1996, she conducted further examination of AAA and issued a Medical Report, portions of which are herein quoted verbatim:

- "- Genitalia:-Thick hymen with circular opening: (+) complete laceration at 7 o'clock position
 - "Internal examination: admits 2 fingers with ease Cervix firm, closed, posteriorly located, non-tender Vaginal wall slightly lax with vaginal rugosities, smooth surface except on posterior portion proximal third of vaginal wall
 - (+) blood on examining fingers
 - "Speculum examination: cervix, posteriorly located, slightly pinkish, non-violaceous, (-) erosions, (-) discharges (+) clotted blood on the posterior vaginal vault (+) erythematous abrasions at the posterior wall proximal third of vaginal wall, triangular in shape about 3.5 X 5 cm. diameter, which bled on pressure
 - "Diagnosis: Fist Degree Laceration of Fourchette at 6 o'clock position, Complete Laceration of Hymen at 7 o'clock position, Abrasions at Proximal Third of Posterior Vaginal Wall."^[5]

Dr. Mariano Hembra, a psychiatrist of the Western Visayas Medical Center, testified: On July 16, 1996, he was on duty at the Pototan Mental Health Unit and AAA was referred to him by Dr. Pagunsan for evaluation and complete psychiatry examination. The psychiatry examination revealed that AAA was suffering from chronic schizophrenia on July 10, 1996, the date of the alleged rape incident. AAA may be cured if treated and, in fact after undergoing treatment, AAA recovered from chronic schizophrenia sometime in December, 1996. Patients with chronic schizophrenia have good memories and could remember what happened to them after they were cured. The patient, if cured, would be able to remember if the allegation that she was raped is mere hallucination or true.^[6]

The prosecution presented AAA as a witness after she was evaluated by Dr. Hembra as capable and fit to testify in Court.

AAA testified as follows: At around 8:00 o'clock in the morning of July 10, 1996, she went to the house of Teresita Alarba in Barangay Paga, San Enrique, Iloilo to help in washing clothes. Late in the afternoon, Randy Cabaging and accused Joel Gabawa arrived at the house and drank coffee. At about 7:00 o'clock in the evening, she and accused Joel went out of the house and proceeded to a vacant lot at the back of the house. Despite her resistance, accused took off her pants and underwear and was able to rape her because he applied force on her. She tried to resist but the accused was stronger than her. Accused raped her by inserting his penis into her vagina. She felt pain when the penis of the accused was inside her vagina. She did not shout because she was afraid that the accused might box her. Accused had sexual intercourse with her for about 5 minutes, after which, he left her without a word. Despite feeling pain, she did not cry because the rape had already been done. She put on her panty and pants and proceeded to the kitchen of Teresita located in the annex of the house and slept there until she was discovered by Teresita the following morning. She informed her mother, [REDACTED], about what happened to her and she was brought to Dr. Sharon Faith B. Pagunsan at about 4:00 o'clock in the afternoon of July 11, 1996 for examination.^[7]

When asked in open court to identify and point out the accused, AAA positively identified the accused, who was among other detained accused, seated on a bench in the courtroom.^[8]

SPO2 Ma. Mae Palabrica, a member of the Philippine National Police of San Enrique, Iloilo, testified: While on duty on July 11, 1996, she received a report from the mother of private complainant AAA that the latter was raped on the evening of July 10, 1996 by a person who AAA could identify through his face only. She interviewed AAA who seemed incoherent and illogical and referred her to the Rural Health Physician for physical and mental examination. After her physical examination, SPO2 Palabrica and SPO1 Aquilino de Otoy brought AAA, along with her mother and a relative, to Hacienda Edma, Brgy. Paga, San Enrique, Iloilo, where the incident allegedly took place for AAA to point to them the person who allegedly abused her. Before they arrived at Hacienda Edma, they passed by a group of laborers from the sugarcane field and AAA pointed to a person, telling them that he was the perpetrator. SPO1 de Otoy called the person and asked him if he knew AAA who was sitting at the back of the jeep and his answer was that he did not rape her. The person pinpointed by AAA is the accused Joel Gabawa.^[9]

The prosecution rested its case after having offered its documentary evidence.

Thereafter, despite being given sufficient time to prepare for its evidence, the defense presented no witnesses but simply offered the Medical Report of Dr. Pagunsan as its evidence.^[10]

On January 12, 1999, the trial court rendered its verdict in this wise:

"IN VIEW THEREOF, this Court finds Joel Gabawa y Banggay guilty beyond reasonable doubt of the crime of Rape committed under paragraph 3, Art. 335 of the Revised Penal Code as amended by R.A. No. 7659 and hereby sentences him to suffer the penalty of RECLUSION PERPETUA and to pay the victim the amount of P50,000.00 as indemnity.

"SO ORDERED."^[11]

Hence, herein appeal on a lone assignment of error:

"THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT OF THE "CRIME OF RAPE DESPITE THE INSUFFICIENCY OF THE PROSECUTION'S EVIDENCE."^[12]

Appellant assails the finding of the trial court that the prosecution has presented enough evidence to prove beyond reasonable doubt that appellant is guilty of rape by having sexual intercourse with complainant AAA on July 10, 1996 on the following grounds:

(a) Complainant was suffering from chronic schizophrenia. AAA would have no capacity to remember later on what happened several months back if she was then afflicted with chronic schizophrenia. Not only could she not state in detail how she was raped but, worse, she failed to demonstrate that she put up any resistance to the alleged sexual assault committed against her.

(b) Prosecution witness Teresita Alarba has no personal knowledge about the rape allegedly committed by appellant because when the appellant and AAA left her house, Teresita did not see them anymore until she saw AAA in her kitchen at 7:00 o'clock in the morning.

(c) Dr. Sharon Faith Pagunsan did not categorically conclude that the bleeding in the external genitalia of the complaining victim was caused by a sexual intercourse with a man.

We find the appeal of Joel Gabawa to be devoid of merit.

The probative value of the testimony of Teresita Alarba lies not on whether she actually witnessed the alleged rape. It was simply meant to show that the appellant was with the private complainant, AAA, on the night the alleged rape occurred; that the only person seen with complainant before the crime in question was committed was appellant and that Teresita saw AAA in her kitchen the following morning "bloody in her female organ".

Needless to stress, the crime of rape is essentially, at least almost always, one

committed in relative isolation or even secrecy; hence, it is usually only the victim who can testify in respect of the forced coitus.

Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, provides:

"ART. 335. When and how rape is committed. – Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

"(1) By using force or intimidation;

"(2) When the woman is deprived of reason or otherwise unconscious;
and

"(3) When the woman is under twelve years of age or is demented.

"The crime of rape shall be punished by reclusion perpetua."

In rape, the gravamen of the offense is carnal knowledge of a woman against her will or *without her consent*. To warrant a conviction for rape under paragraph (2) of Article 335, a woman need not be proven as completely insane or deprived of reason. The phrase "deprived of reason" has been construed to include those suffering from mental abnormality or deficiency; or some form of mental retardation; the feeble-minded but coherent; or even those suffering from mental abnormality or deficiency of reason.^[13]

Was AAA suffering from chronic schizophrenia when she was raped?

Schizophrenia has been defined as a psychotic disorder of unknown etiology, characterized by disturbance in thinking, involving a distortion of the usual logical relations between ideas, a separation between the intellect and the emotions so that the patient's feelings and his or her manifestations seem inappropriate to his or her life situation, and a reduced tolerance for the stress of interpersonal relations so that the patient retreats from social intercourse into his or her own fantasy life and commonly into delusions and hallucinations, and may, when untreated or unsuccessfully treated, go on to marked deterioration or regression in his or her behavior though often unaccompanied by further intellectual loss.^[14]

That AAA was suffering from schizophrenia at the time of the rape was established by the un rebutted testimony of Dr. Hembra. However, the fact alone that AAA suffered from schizophrenia did not render her incompetent to testify on the rape incident. Mental deficiency affects the weight accorded to the testimony, not its admissibility. Accordingly, an adjudication of feeble mindedness or unsoundness of mind does not render a witness incompetent, as long as her mental condition or mental maturity is not impaired at the time of her production for the examination.

^[15] It is established that schizophrenic persons do not suffer from a clouding of consciousness and gross deficits of memory.^[16] Though she may not have totally lost her memory, it was shown that AAA was suffering from an impairment of judgment, which made her incapable of giving an intelligent consent to the sexual act. It has been held that where the rape victim is feeble-minded, even if there may have been no physical force employed on the victim, the force required by the