

FIRST DIVISION

[G.R. No. 145338, June 09, 2003]

THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ZALDY LABIANO Y PAGTAN, APPELLANT.

DECISION

VITUG, J.:

Appellant Zaldy Labiano was charged with rape under an accusatory Information that read:

"The undersigned 3rd Asst. City Prosecutor hereby accuses ZALDY LABIANO Y PAGTAN, of the crime of RAPE, at the instance, relation and the written sworn complaint of AAA. Copies of her statement are hereto attached, incorporated and made an integral part of this Information, committed as follows:

"That on or about the 18th day of December, 1994 in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously and by means of force and intimidation, have carnal knowledge of the said complainant, AAA, against

her will and consent."^[1]

At his arraignment, Zaldy Labiano entered a plea of "not guilty." The trial ensued with the prosecution first presenting its case and the defense following shortly thereafter.

On the witness stand, 21-year old AAA narrated that, on the early morning of 18 December 1994, she was in a rented room in the house of a certain Mrs. Aydoc at [REDACTED], Baguio City. She was all alone as the two other occupants of the house were not yet home. The light cast by the incandescent full moon that shone through the glass-windows illuminated the small room. She was awakened, about two o'clock, from sleep when the plastic curtain rustled on her window. She saw a man who immediately held her hands. She asked, "*mama, sino ka ba? bakit ka nandito?*" He told her "*sorry ka na lang,*" and he poked a knife at her neck. Soon, the stranger removed her shorts and sleeveless top with his right hand while his left hand held on to the knife. She tried to push him away but he threatened her with death if she were to resist him. She was so frightened that she did not move. With his feet, he completely pulled down her shorts and panties below her knees. He then unbuttoned his pants and pushed it down with his right hand. Lying fearfully silent on the bed, AAA could only watch as the stranger inserted his penis into her. She tried to move her buttocks to avoid the thrusts but he simply pounded his weight on her. The man stayed on her for about ten minutes while she looked at his

face intently. She recognized him to be Zaldy Labiano, a resident of [REDACTED]. When he ejaculated, he retrieved his pants and told her not to report what had just transpired to anybody or he would come back and kill her. She asked for his name, and he said, "Ricardo." When he had left, she cried and thought that she would be unable to face her parents, relatives, friends and her boyfriend.

Later, about six o'clock of the same day, she went to her friend Flordeliza Tigwa and told her what had happened just a few hours before. Flordeliza advised her to report the incident to the *Barangay* Captain who then accompanied them to the police station. AAA was later brought to the Baguio General Hospital for medical examination. Dr. Susan Chungalao who performed the examination testified that she found an old healed laceration at the hymen but sperm cells were present in AAA's vagina which could indicate that she had a recent sexual contact.

Zaldy Labiano denied the accusation. He claimed that he was at home taking care of his children during the time the alleged rape took place. According to him, he only learned that he was being accused of rape in the afternoon of 18 December 1994. With his father, he went to the police station only to inquire about the reported complaint filed by AAA but, to his dismay, a certain SPO4 Romulo Danglose forced him to admit his complicity to the crime.

Barangay Captain Esteban Rifani testified that AAA came to see him on 17 December 1994, not on 18 December 1994, to report the rape incident. AAA could not, at the time, identify her assailant, and he thus merely entered the complaint in the *Barangay* Logbook. Rosario Colantes, a boarder at Mrs. Aydoc's house, stated that on 17 December 1994 AAA had asked whether she knew anyone by the name of "Ricardo." Mrs. Aydoc informed her that AAA was raped. Corazon Manuel Gumnad, the live-in partner of Labiano, declared that the latter was with her, and that he never left their house on 17 December 1994.

When the trial concluded, the court *a quo* convicted Zaldy Labiano of the crime for which he was indicted. The trial court held that AAA's positive identification of her defiler, with whom she had come face to face, deserved credence. It also opined that the sperm cells found in AAA's vagina bolstered her claim of sexual abuse. The dispositive portions of the decision read:

"WHEREFORE, in view of all the foregoing, judgment is hereby rendered convicting the accused Zaldy Labiano of the crime of rape as charged and hereby sentences him after taking into consideration Art. 63 of the Revised Penal Code to suffer the penalty of reclusion perpetua.

"With respect to the civil aspect, the accused is hereby ordered to indemnify private complainant AAA in the amount of P75,000.00 and further to pay said private complainant the amount of P50,000.00 as moral damages."^[2]

The convicted accused, now appellant, seeks the reversal of his conviction. He raises two simple issues: (a) whether or not he is guilty of the crime charged, and (b) whether or not he is liable for damages.^[3] Appellant argues that the trial court has erred in appreciating the testimony of AAA.

As has so often been stated by this Court, the issue of credibility is a matter best

addressed by the trial court which gets a good chance, unlike that of an appellate court, to observe the demeanor of the declarant at the witness stand, and that, in the absence of any fact or circumstance of substance that has apparently been overlooked, its findings on the reliability of the testimony given before it are not thus disturbed on appeal.^[4] The records in this case yield no evident trace that any such significant fact or circumstance has been missed out. AAA has testified thusly:

"Q Now, you stated that you noticed while you were sleeping that your plastic curtain beside your bed was moving?

"A Yes, sir.

"Q When you saw that the plastic curtain beside your bed was moving, what did you do?

"A I looked around, sir.

"Q By the way, was your room lighted at that time?

"A There [was] no light then but there [was] a light coming from outside, sir.

"Q There was a light coming from outside?

"A Yes, sir, caused by the full moon because it was a full moon at that time.

"Q You said that you looked around, what did you see?

"A I saw a man, sir.

"Q And when you saw a man, could you tell the Honorable Court what did you do?

"A I tried to [get up] but the man immediately [held] my both hands, sir.

"Q So you are telling the Honorable Court that when you saw the man, you were still lying on your bed?

"A Yes, sir.

"Q And you said that a man, you said that the man held your hands?

"A Yes, sir.

"Q In what hands did he hold [you]?

"A Both hands, sir.

"Q When this man held your both hands and you said that you were still lying on your bed, what did you do?

"A I shouted, sir.

"Q And for the record, would you mind telling this Honorable Court what you shouted?

"A *`Mama, sino ka, bakit ka nandito?'*

"Q How many times did you shout *`mama, sino ka, bakit ka nandito?'*

"A About 5 times, sir.

"Q And when you shouted *`mama, sino ka, bakit ka nandito'* for about 5 times, what transpired next if you can still recall?

"A The man poked a knife at my neck and told me . . .

"Q And when the man poked a knife at your neck what did he say? If you can still recall?

"A He said *`sorry ka na lang.'*

"Q *Sorry ka na lang.* When the man said *`sorry ka na lang,'* what did you tell him?

"A I repeatedly shouted, sir.

"Q What did you shout when you repeatedly shouted?

"A I repeated the first, sir, *`Mama, sino ka, bakit ka nandito?'*

"Q And despite the fact that you shouted *`mama, sino ka, bakit ka nandito'* and the knife was poked at your neck, what did you do or what did this man do if you recall?

"A He started removing my short pants and panty, sir.

"Q Now I would like to ask you. He started removing your short pants and your?

"A Panty, sir.

"Q Panty. Now I would like to ask you that you said that this man held your hand, poked a knife at your neck, and could you describe how the man held your hands?

"A He put my hands like this, sir. (INTERPRETER: Witness demonstrating by stretching her hands over her head, Your Honor).

"Q Where is that man in relation to you at that time?

"A He was on top of me, sir.

"Q On top of you holding your hands?

"A Yes, sir.

"Q And would you mind telling this Court where was the knife poked at your neck?

"A This one, sir. (Witness pointing to her right portion of the neck, Your Honor)."^[5]

"Q And after the man poked the knife at your neck, you said, sorry *ka na lang*, do you recall having stated that?

"A Yes, sir.

"Q Now, when this man poked the knife at your neck, did you say something to him?

"A None, sir.

"Q Could you tell us the reason why you did not say something to him?

"A I was already afraid, sir.

"Q Why were you afraid?

"A Because the knife was poked at my right side of my neck.

"Q While the man poked the knife at your neck, what happened next?

"A I did not talk, sir.