

FIRST DIVISION

[G.R. Nos. 134488-89, January 25, 2002]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PEPITO FLORES Y MARIANO, ACCUSED-APPELLANT.

DECISION

PUNO, J.:

This is an appeal from the decision of the Regional Trial Court of xxx, Branch 6, in Criminal Case Nos. 15397-R and 15398-R, finding accused-appellant Pepito Flores guilty beyond reasonable doubt of two counts of rape committed against his daughter, complainant AAA.

In two separate Informations, which are similarly worded except for the date of the commission of the offense and age of the complainant, accused-appellant Pepito Flores was charged with rape, committed as follows:

"That sometime in the month of December, 1993, in the City of xxx, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, father of the complainant, did then and there willfully, unlawfully and feloniously and by means of force and intimidation have carnal knowledge of the complainant, AAA, then 18 years old, against her will and consent."^[1]

The other offense was alleged to have been committed on November 6, 1997 when complainant was already 22 years of age.^[2]

During the arraignment, accused-appellant entered a plea of not guilty, and hence, trial ensued.

The evidence shows that in December 1993, at about 9:00 in the morning, complainant AAA was sweeping the *sala* of their house at xxx. Accused-appellant, who was in their bedroom, called her and said "*umakya ta agjua ta*" (you come and let us do something). She could not understand him and ignored his call. Accused-appellant got a knife from the kitchen, approached complainant from behind and poked the knife at her neck. Then he asked her "*ammon diay agkuata?*" (do you know what we will do). Sensing he wanted to rape her, complainant began to cry as accused-appellant pulled her inside the bedroom. Once inside, accused-appellant ordered complainant to remove her shortpants and underwear. Complainant pleaded with accused-appellant not to touch her because she is his only daughter. The plea even angered accused-appellant and he threatened to kill complainant's mother and siblings if she did not obey. Gripped by fear, complainant complied. Then accused-appellant forced her to lie on the bed. He placed the knife on the bed near the headboard. Then he lay on top of complainant, removed his short pants and inserted his penis into her vagina. Complainant felt an excruciating pain. She

boxed accused-appellant while satisfying his lust. Thereafter, he ordered her to rise but she could not because her entire body was wracked with pain. Accused-appellant pointed the knife at her neck again and threatened to kill her mother and siblings if she reported the incident to anyone.

Complainant was impregnated but nobody noticed her pregnancy as her stomach was small and she always wore loose clothes. On September 18, 1994 she gave birth to a baby boy at the xxx General Hospital. While laboring in the hospital, complainant was threatened and ordered by the accused-appellant to tell their family that she was raped at xxx. Thus, complainant was compelled to lie to her mother, CCC, when the latter insisted in knowing the paternity of her baby.

The ordeal of the complainant continued. She was again sexually abused by accused-appellant in February 1995, and every month thereafter. The last incident happened on November 6, 1997 at about 9:00 in the morning when complainant was at the house with her son, BBB. She was cleaning the house when accused-appellant suddenly poked a knife at her neck and tried to pull her inside the bedroom. She cried and pleaded with him to stop molesting her because she could no longer concentrate on her studies. Accused-appellant retorted that he was not concerned with her studies since he is not the one sending her to school. Complainant struggled in vain with accused-appellant as he tried to drag her into the room. Once inside, accused-appellant ordered her to remove her jogging pants and underwear. When complainant refused, accused-appellant again threatened to kill her mother and siblings. He held her on the shoulders and pushed her to the bed. Complainant resisted and boxed him several times on his side. Accused-appellant, however, took the knife and poked it at her neck. Complainant was forced to give in to his bestial desires. After her defloration, complainant felt so ashamed she wanted to kill accused-appellant for destroying her life.

On December 29, 1997, complainant finally found the courage to tell her mother, CCC, and eldest brother, DDD, that it was accused-appellant who raped her. This was after accused-appellant tried to molest her again on December 26, 1997 and mauled her when she refused. CCC brought complainant to the xxx General Hospital for examination. According to Dra. Elizabeth Batino who examined complainant, the latter had old healed lacerations at 1:00, 2:00, 9:00, 10:00 and 11:00 o'clock positions which are consistent with complainant's statement that she was repeatedly sexually abused from December 1993 to November 1997.^[3] Thereafter, CCC and complainant proceeded to the xxx City Police Office where the latter executed a sworn statement.^[4]

For his defense, accused-appellant relied on mere denial and alibi. He claims that he could not have raped complainant in December 1993 because at that time he was plying his jeepney to Trinidad everyday while complainant was studying. He denied having threatened to kill his wife and other children. Accused-appellant imputed that complainant had sexual relations with Gil delos Santos, a brother of his wife CCC. Allegedly, when complainant was still in high school, he and his wife caught Gil on top of complainant inside their bedroom. He boxed Gil while his wife CCC scolded him. He did not file charges against Gil because he waited for the decision of his wife and took into account the feelings of his in-laws. In December 1993, his eldest son DDD again caught Gil and complainant inside their bedroom. Accused-appellant did not again press charges against Gil allegedly because when

his son told him about the incident, Gil had already left their house. Finally, accused-appellant testified that complainant and his wife filed the cases at bar against him because he did not accede to their request that he forgive his son, Reynaldo, with whom he had a long-standing quarrel.

On July 27, 1998, the trial court rendered a decision^[5] finding accused-appellant guilty, the dispositive portion of which reads as follows:

"Wherefore, judgment is hereby rendered as follows:

1. In Criminal Case No. 15397-R, the Court finds the accused Pepito Flores guilty beyond reasonable doubt of the offense of Rape (committed on November 6, 1997) as charged in the Information defined and penalized under Article 266-B in relation to Article 266-A paragraph 1(a) Section 2 of Republic Act 8353 and hereby sentences him to suffer the penalty of Reclusion Perpetua; to indemnify the complainant AAA the sum of P50,000.00 as Moral Damages without subsidiary imprisonment in case of insolvency and to pay the costs.

The accused Pepito Flores being a detention prisoner is entitled to be credited 4/5 of his preventive imprisonment in the service of his sentence in accordance with Article 29 of the Revised Penal Code.

2. In Criminal Case No. 15398-R, the Court finds the accused Pepito Flores guilty beyond reasonable doubt of the offense of Rape (committed in December 1993) as charged in the Information, defined and penalized under Article 335 paragraph No. (1) of the Revised Penal Code and hereby sentences him to suffer the penalty of Reclusion Perpetua; to indemnify the complainant AAA the sum of P50,000.00 as Moral Damages, without subsidiary imprisonment in case of insolvency; to recognize BBB, the son of AAA, as his natural son and to give him the reasonable amount of support of P1,000.00 a month, and to pay the costs.

The accused Pepito Flores being a detention prisoner is entitled to be credited 4/5 of his preventive imprisonment in the service of his sentence in accordance with Article 29 of the Revised Penal Code.

SO ORDERED."

In the present appeal, accused-appellant insists that his guilt was not proved beyond reasonable doubt. First, accused-appellant claims that complainant's confession to her mother at the hospital that she was raped at xxx by another person should be given full faith and credence. Second, complainant was twice caught engaging in sexual intercourse with Gil delos Santos, a brother of accused-appellant's wife, first by herein accused-appellant and then again by the eldest brother of complainant, DDD. Third, the failure of complainant to report the alleged rape incidents for four (4) years is not in accord with human experience as her life was not in danger. Finally, it is contended that the allegation in the Information that the offense was committed sometime in December 1993 is not sufficiently explicit and certain as to time as required by the Revised Rules on Criminal Procedure, and hence, accused-appellant was deprived of the opportunity to defend himself.

The issue of guilt of the accused-appellant hinges primarily on the credibility of the testimony of complainant AAA.

Well-settled is the rule that the trial judge is in a better position to assess the probity and trustworthiness of witnesses because he has the opportunity to observe directly their behavior and manner of testifying. In the case at bar, the trial court upheld the credibility of complainant with the following observations:

"x x x the court was impressed with her testimony which was so natural, coherent and touching as she recounted her torment and ordeal. The Court could see from her face the anguish and the pain and the shame and the embarrassment (*sic*) as she broke down and cried several times in the course of her testimony when she narrated the despicable acts of her father even as she said she cried everytime her father sexually assaulted her, pleading to him she was her (*sic*) only daughter her (*sic*) own flesh and blood to no avail."^[6]

This Court has scrutinized the records of this case and we find no reason to doubt the direct and straightforward testimony of complainant on how she was ravished by her own father. Thus:

"Pros. Vergara

x x x

x x

x

x x x

Q Who committed that rape against you on December 1993?

A My father, sir.

Q When you say your father, you are referring to the accused Pepito Flores whom you have pointed to and identified awhile ago?

A Yes sir.

Q Where did this rape happen?

A In our house sir.

Q What time was that in December 1993 when the incident happened inside your house in x x x, x x x?

A 9:00 o'clock in the morning sir.

Q Were you alone in your house aside from your father?

A Yes sir.

Q So, it were (*sic*) only your father and yourself who were present in your house at x x x during that incident?

A Yes sir.

Q On that incident, what was the first act that your father did to you in that morning of the incident in x x x?

A That time my father was in their room and I was in the sala sweeping and my father called me and said in Ilocano "Umayka ta agkua ta" or (you come and let us do something) and that time I cannot understand what he meant.

x x x

x x

x

x x x

Court

Alright. While you were sweeping in the sala and your father called for you saying to you that you will do something with him in his room, did you comply with his request that you go to him to his room?

A No sir, I did not mind because I did not understand what he meant.

x x x
x

x x
x x x

Pros. Vergara

And when you did not mind him what did he do?

A He went to the kitchen and got a knife.

Q Who went to the kitchen and got a knife?

A My father sir.

Q And how about you, what did you do?

A I continued sweeping the sala sir.

Q And while you were continuing in your sweeping in the sala, what happened next?

A He approached me sir.

Q Did your father say anything when he got a knife in the kitchen?

A No sir.

Q How about at the moment he approached you with the knife, did he say anything to you?

A He pointed the knife at my neck sir.

x x x
x

x x
x x x

Q And how did he position his body towards you when he held your right arm with his right hand and he pointed the kitchen knife in (sic) your neck with his left hand?

A He was behind me sir.

Q Did your father say anything to you when he did that?

A Yes sir.

Q What was that?

A That he intended to rape me sir.

Q How did he tell you that?

A He said 'do you know what we will do' (ammom diay agkuata)?

Q And what was your reaction when he said that to you while he was holding your right arm and pointing the knife on your neck. What was your reaction?

A I was trembling and I was crying.

Q Why?

A Of course he was pulling me in their room.

Q Aside from holding you, pointing the knife on your neck and pulling you into their room what else did he do?

A He ordered me to remove my underwear.

Q What were you wearing at that time?

A I was wearing shortpants sir.