

SECOND DIVISION

[G.R. No. 135242, April 19, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RICARDO BAYLEN, ACCUSED-APPELLANT.**

DECISION

QUISUMBING, J.:

In its decision rendered on March 2, 1998, the Regional Trial Court of Iloilo City, Branch 23, in Criminal Case No. 44918, found appellant Ricardo Baylen guilty of rape.

Based on the complaint filed by Rosalyn Centeñales, private complainant, Assistant Provincial Prosecutor Nelson Geduspan charged Baylen with the crime of rape, allegedly committed as follows:

That on or about the 18th day of March, 1995, in the Municipality of Calinog, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and without any justifiable motive, armed with a knife thru force, intimidation and threats, willfully, unlawfully and feloniously have carnal knowledge with the undersigned Rosalyn Centeñales, 17 years of age, against the will and consent of the latter.

CONTRARY TO LAW.^[1]

Upon arraignment appellant, assisted by counsel, entered a plea of not guilty to the charge.^[2] Thereafter, trial on the merits ensued. Subsequently, the trial court rendered its judgment as follows:

WHEREFORE, premises considered and in the light of the facts obtaining and the jurisprudence aforesaid, JUDGMENT is hereby rendered finding the accused Ricardo Baylen GUILTY BEYOND REASONABLE DOUBT of the crime of Rape, hereby sentencing the aforementioned accused to a penalty of Reclusion Perpetua pursuant to Article 335 of the Revised Penal Code as amended by Republic Act 7659 further condemning said accused to compensate private complainant Rosalyn Centeñales moral damages in the amount of P50,000.00.

SO ORDERED.^[3]

The facts are culled from the records forwarded to us on appeal.

Complainant Rosalyn Centeñales was just three years old when she was entrusted by her sickly mother to the care of Norma Centeñales whom she considered as her real mother. Since then, she lived with Norma's family in Barangay Gama Pequeño,

Calinog, Iloilo. She attended school but reached only grade four. On April 5, 1993, at the age of 15, she was sexually abused by a certain Delfin Carmelo. The case was settled upon the intercession of the municipal mayor.

Complainant narrated that in the afternoon of March 18, 1995, she was in their house in Gama Pequeño. She was washing her clothes by the water pump near their house and the ricemill of Benjamin Castor. When she finished with her chore at around 6:30 o'clock, she returned to their house. When she went back to the water pump to fetch water, appellant, who appeared drunk, was already there. Appellant held her hand with his left hand and poked a knife on her chest with his right hand. Afterwards, appellant pulled her downhill. Complainant did not attempt to shout for help because appellant was pointing a knife at her. When they reached downhill, appellant pushed her to the ground and he lay on top of her. Despite her resistance, appellant succeeded in removing her clothes. Appellant thrust his knife to the ground. Then, appellant pulled down his pants and had carnal knowledge of her twice. After satisfying his lust, appellant stood up and warned her not to report the incident to her parents, otherwise he will kill them all.

Complainant did not go home that night for fear that if she reported the incident to her parents, appellant would carry out his threat. Hence, she stayed overnight at an abandoned house nearby.^[4]

Norma Centeñales looked for complainant that night but did not find her. Early the following day, she finally found complainant at the abandoned house. Complainant was pale and trembling with fear. The two went home and then proceeded to the house of Barangay Captain Warlito Ursolino where complainant disclosed what happened to her.^[5] Subsequently, Warlito Ursolino, Norma Centeñales, and complainant proceeded to the Calinog police station and reported the incident. The police dispatched a team to further investigate the details of the complaint.

Afterwards, complainant was brought to the Calinog district hospital. Dr. Leah Leonida, medical officer of said hospital, conducted a physical examination of the victim. She observed that there were no signs of hematoma and scratches on the victim's body. Neither was there any sign of laceration in the victim's vaginal opening. However, the doctor later testified that it is possible for a female to have sexual intercourse with a man without suffering from laceration and hematoma.^[6]

On March 22, 1995, complainant was physically examined again by Dr. Ricardo Jaboneta, medico-legal officer of the National Bureau of Investigation, Iloilo City. Dr. Jaboneta later testified that the genitalia of complainant has a previous laceration and so subsequent sexual intercourse can neither be noted nor would it produce signs of sexual intercourse except when spermatozoa is present. But the presence of spermatozoa would no longer be detected because the victim was examined five days after the incident. He declared that although it cannot be determined if there was sexual intercourse on March 18, 1995, the same cannot be eliminated.^[7]

On March 25, 1995, the Barangay Council of Gama Pequeño held a general assembly meeting wherein the barangay officials tried to forge an amicable settlement between appellant and complainant. Carmen Dagol, barangay secretary, testified that during the meeting appellant offered to recognize and support the child if the complainant becomes pregnant and gives birth to a baby boy.^[8] Nevertheless,

no settlement was reached.

On June 5, 1995, appellant was arrested by the police.^[9]

In his defense, appellant denied the accusation against him. He testified that on the day of the incident, he attended the fiesta in Barangay Malaguinabot, Calinog, Iloilo. He went back to Gama Pequeño at around 5:30 P.M. Upon arriving, he washed his hands at the water pump near the ricemill of Benjamin Castor. Afterwards, he went home to change his clothes. When he passed by the water pump again, he saw Joraf Nonato washing himself, while complainant was holding a pail and basin. He invited complainant to the dance party in Malaguinabot but she refused. At around 6:25 P.M., appellant left for Malaguinabot on board the tricycle driven by Joraf Nonato. He went to the house of Nestor Santelesis^[10] for dinner. At around 8:00 P.M., he proceeded to the dance hall. When the party was over, he rested at the house of Kagawad Fernando Castor. In the early morning of March 19, 1995, he was fetched by four policemen and Warlito Ursolino, who brought him to Ursolino's house and later to the police station for confrontation with the complainant. During the confrontation, he denied raping the complainant.^[11]

Other witnesses, namely: Joraf Nonato, Nestor Santelesis, Benjamin Castor, and Warlito Ursolino corroborated appellant's testimony.

The trial court found appellant guilty as charged. Insisting on his innocence, appellant filed his notice of appeal.^[12]

In his brief, appellant alleges that the trial court erred:

[I]

...IN NOT FINDING THAT THE TESTIMONY OF PRIVATE COMPLAINANT WAS PUNCTURED WITH MATERIAL IMPROBABILITIES, CONTRADICTION AND UNRELIABILITY THEREBY CASTING GRAVE DOUBT ON THE CRIMINAL CULPABILITY OF THE ACCUSED-APPELLANT.

[II]

...IN NOT ACQUITTING ACCUSED-APPELLANT OF THE CRIME OF RAPE NOTWITHSTANDING THE PRESENCE OF EXCULPATORY PHYSICAL EVIDENCE TO SUPPORT THE SAME.

[III]

...IN CONVICTING ACCUSED-APPELLANT OF THE CRIME CHARGED BY RELYING PRIMARILY ON THE WEAKNESS OF DEFENSE EVIDENCE RATHER THAN ON THE STRENGTH OF ITS OWN EVIDENCE.^[13]

The issue now for resolution is whether or not the trial court erred in giving credence to the testimony of the victim and relying thereon to convict appellant and sentencing him to *reclusion perpetua*.

Appellant contends that while complainant admitted that she wore a bra and panty

in the evening of March 18, 1995, yet it was never established that her panty was removed during the sexual assault. He points out that there was no sign of fresh laceration on her genitalia. He claims that complainant neither cried during the alleged sexual intercourse nor experienced trauma after the incident. She did not even attempt to strike or curse the appellant during their confrontation the following day to avenge herself. Appellant further contends that medical findings showing the absence of scratches and contusions on complainant's body negates the employment of force.^[14]

Although appellant belabors the fact that complainant did not say categorically that her panty was removed before the sexual intercourse, for indeed she was unable to testify on whether or not appellant removed her panty prior to the sexual assault, we find that the reason therefore is that her testimony was interrupted when the defense interposed an objection to the prosecution's line of inquiry. Nonetheless, we find ample evidence showing that complainant was already naked from the waist down when appellant had intercourse with complainant forcibly. During her cross-examination, complainant testified candidly on her ordeal:

ATTY. MARCIANA DEGUMA

Q: What did you feel during the first sexual intercourse?

A: Painful.

Q: Tell the court did you notice whether the accused had reached orgasm during the first intercourse?

A: Yes, Your Honor.

Q: What did you feel when he reached orgasm?

A: Yes, Your Honor.

Q: What did you feel?

A: His sperm went inside...

Q: What is it that entered your vagina?

A: His penis penetrated my vagina.

Q: Did you enjoy it?

A: No, Your Honor.^[15]

The question by the defense and complainant's reply dwelt precisely on her nudity prior to intercourse:

Q: Now Madam Witness, while you were lying down on the ground nude or naked, Ricardo Baylen was trying to undress himself, is that correct ?

A: Yes, ma'am.^[16]

Pressing with the cross-examination, on this point, the defense only succeeded to draw from complainant inculpatory details: