

THIRD DIVISION

[G. R. No. 139231, April 12, 2002]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GERRY LIBETA Y TORRE, ACCUSED-APPELLANT.

DECISION

SANDOVAL-GUTIERREZ, J.:

On appeal is the decision^[1] of the Regional Trial Court, Branch 16, Davao City, in Criminal Case No. 35,133-95, convicting Gerry Libeta y Torre of rape and sentencing him to *reclusion perpetua*, and to pay the complainant, Jacqueline Labial, the amounts of Fifty Thousand (P50,000.00) Pesos as civil indemnity and Fifty Thousand (P50,000.00) Pesos as moral damages.

On April 5, 1995, 11-year-old Jacqueline Labial personally filed a complaint for statutory rape against Gerry Libeta y Torre. Her complaint alleges as follows:

"I, JACQUELINE LABIAL, an eleven (11) year old minor, UNDER OATH, charges the Accused GERRY LIBETA y TORRE of Statutory Rape under Article 335 of the Revised Penal Code (as amended): on 3 April 1995, in Davao City, Philippines, within this HONORABLE COURT'S jurisdiction, the Accused, through force and intimidation, willfully and feloniously sexually abused and had carnal knowledge with me against my will.

"CONTRARY TO LAW.

"(Sgd) JACQUELINE LABIAL

"Complainant"^[2]

At the arraignment, accused Gerry Libeta y Torre pleaded not guilty. Trial thereafter ensued.

The facts, as culled from the records, are as follows:

On April 3, 1995, at around 11:00 a.m., Jacqueline Labial was cooking rice in her house at St. Michael, Daliao, Toril, Davao City. She remained alone in her house while her mother washed clothes to earn a living. Suddenly, accused Gerry Libeta appeared and seized Jacqueline's hand. He dragged her outside and pulled her to a distance of twenty (20) meters from her house.^[3]

A few minutes earlier, while Vilma Meriales was sweeping the ground floor of her house, approximately 15-20 meters from Jacqueline's house, she saw a man holding the hand of Jacqueline. Suddenly, both disappeared. Fearing that something might have happened to the girl, Vilma called her husband Saturnino Meriales and asked him to check on their neighbor's house,^[4] telling him that Jacqueline might

be alone inside.^[5]

Her husband was likewise apprehensive because from their balcony and while ago, he had observed a person on a bicycle near the house of Jacqueline. When he went there, he did not find her. He looked around and saw a bicycle parked at the bank of the river behind her house. He then walked further to a portion around 50 meters from the back of the house.^[6]

Meanwhile, the accused dragged Jacqueline to a grassy area around the ipil-ipil trees and took off her panty. Afterwards, he removed his short pants and brief. Then, he forced her to lie on the ground. He rolled up her dress to her neck and placed himself on top of her. He spread her legs and inserted his penis inside her vagina and he did a push and pull movement. She felt great pain.^[7]

At this moment, Saturnino arrived. He saw the accused on top of a girl making a push and pull movement. He was only wearing a T-shirt. His brief was pulled to his ankle and his penis exposed. The child was lying on the ground with her dress pulled up and her panty rolled down to her ankle.^[8]

Thereupon, Saturnino pulled the hand of accused and ordered him to put on his clothes. He also told Jacqueline to get dressed. Thereafter, Saturnino brought the accused and Jacqueline to the police station at Toril, Davao City^[9] with the help of Alfredo Manderico. He rode with the accused in a *trisikad*, while Saturnino rode with Jacqueline on a bicycle. On the way, Alfredo asked the accused why he committed the offense. The latter asked for forgiveness, saying he will not do it again.^[10]

At the police station, Saturnino reported the incident to the desk officer^[11] and Jacqueline narrated her experience. The accused admitted her accusation but countered that he merely attempted to rape her. He was already on top of her when a member of the *Alsa Masa* arrived, thus preventing him from consummating the sexual act.^[12]

Aurelia Labial, mother of Jacqueline, arrived at the police station and at once confronted the accused whom she knew because his sister was her co-worker. The accused admitted having committed the offense and asked her to forgive him.^[13]

Jacqueline was then referred to the Women's Desk of the police precinct. The officer-in-charge interviewed Jacqueline, who repeated her account of the incident,^[14] and inspected her vagina. There was redness in her *labia majora*.^[15] This examination took place at around 2:00 in the afternoon of the same day the incident occurred.^[16]

The next day, or on April 4, 1995, at around 10:30 a.m., Dr. Danilo Ledesma of the City Health Office examined Jacqueline. The doctor noted that there were no physical injuries on her body nor any laceration on her vagina. When tested, no spermatozoa was found. There was also no blood in the opening of the vagina. Nor was her labia colored red that would indicate a forced contact.^[17]

Aurelia presented to the court the birth certificate of her daughter showing that at

the time of the incident, she was only 11 years old, having been born on April 25, 1985.^[18]

For his part, accused Gerry Libeta denied the charge against him and narrated his own version as follows:

On April 3, 1995, at around 11:30 a.m., he parked his bicycle beside the road near St. Michael, Daliao, Toril, Davao City. Then he gathered leaves to be used as feed for pigs. Moments ago, he saw Jacqueline at her house about 2 meters away. She borrowed and used his bicycle for about five minutes. Later, a person approached him and suddenly kicked him, causing him to fall. When he got up, the person hit his right cheek. Then, he was dragged and was accused of molesting a girl. At the police station, several persons mauled him. He was investigated on the basis of a complaint for rape, but he insisted he was innocent. ^[19]

Cenon Formentera, a neighbor of the accused, testified that on the same day at around 11:00 a.m., he saw the accused picking ipil-ipil leaves in a place near a house at St. Michael, Daliao, Toril, Davao City. Nearby, he saw Jacqueline Libial holding a bicycle. Later, he heard a commotion and saw the accused being mauled by several persons. Fearing for his own safety, he hurried home.^[20]

On May 24, 1999, the trial court, after trial, rendered a decision,^[21] the dispositive portion of which reads:

"WHEREFORE, finding the evidence of the prosecution more than sufficient to prove the guilt of accused beyond reasonable doubt, Gerry Libeta y Torre pursuant to Art. 335 of the Revised Penal Code as amended by Section 11 of RA 7659, sub-paragraph 3, without any aggravating circumstances in its commission, is sentenced to suffer the penalty of *Reclusion Perpetua*, together with all accessory penalty as provided by law.

"Moreover, pursuant to Art. 100 in relation to Art. 104 of the Revised Penal Code governing civil indemnity, accused is furthermore ordered to indemnify complainant, Jacqueline Labial, the amount of Fifty Thousand (P50,000.00) Pesos by way of civil indemnity and another amount of Fifty Thousand (P50,000.00) Pesos by way of moral damages for committing this beastly act against the complainant which destroyed her honor and future. (*People vs. Virgilio Villaluna*, GR 127569, July 30, 1998)

"It appearing above-named accused, was charged of a capital offense, without recommendation for his provisional liberty, he shall be entitled to the full period he has served as detention prisoner, to be deducted from his above-sentence subject to the rules and regulations governing detention prisoners pursuant to Art. 29 of the Revised Penal Code as further amended by RA 6127 by Executive Order 214 promulgated on July 10, 1987.

SO ORDERED."^[22]

In this appeal,^[23] accused-appellant ascribes to the trial court the following errors:

"I. THE COURT A QUO ERRED IN CONVICTING THE ACCUSED OF THE CRIME CHARGED DESPITE THE CATEGORICAL TESTIMONY OF PROSECUTION WITNESS DR. DANILO LEDESMA THAT THERE WAS NO INDICATION OF ANY SEXUAL ASSAULT ON THE PERSON OF THE PRIVATE COMPLAINANT.

"II. GRANTING ARGUENDO THAT ACCUSED IS GUILTY, THE COURT A QUO SHOULD HAVE CONVICTED HIM OF THE LESSER OFFENSE OF ATTEMPTED RAPE."^[24]

In statutory rape cases, two elements must be established to convict the accused: 1) that the accused had carnal knowledge of a woman, and 2) that the woman is below 12 years of age.^[25]

It is undisputed that complainant Jacqueline Labial was under 12 years of age at the time of the incident. The remaining sole issue is whether appellant had carnal knowledge of the victim on April 3, 1995.

The trial court gave credence to Jacqueline's testimony. As a general rule, findings of the trial court on the credibility of witnesses and their testimonies are accorded great respect unless the court a quo overlooked substantial facts and circumstances which, if considered, would materially affect the result of the case.^[26] This exception is not present here.

We find no cogent reason to reverse the trial court's assessment of the credibility of witnesses in this case. Jacqueline testified in a categorical, straightforward, spontaneous and frank manner that she was ravished. She positively identified appellant as her rapist. She was consistent in her narration of how appellant raped her and she did not waiver in her account of her harrowing experience under intense and grueling cross-examination.

What is decisive in a rape charge is the complainant's positive identification of the accused as a malefactor.^[27] When the complainant in a rape case testifies credibly that she has been raped, she says in effect all that is necessary to show rape has been committed. So long as her testimony meets the test of credibility, the accused may be convicted on the sole basis thereof.^[28] It is highly inconceivable that a young girl of eleven years would concoct a story of defloration, allow an examination of her private parts, and thereafter pervert herself by being subject to a public trial, if she was not motivated solely by the desire to obtain justice for the wrong committed against her.^[29] Certainly the victim would not make public the offense, undergo the humiliation of a public trial if she had not in fact been raped.^[30]

Corroborating the testimony of the victim is another witness, Saturnino Meriales. Although it is usual in rape cases that the only evidence against the accused is complainant's testimony, in this case, a third person witnessed the crime. He caught appellant in the act of having sexual intercourse with the girl. He immediately stopped appellant and reported the incident to the authorities. No reason was given why Saturnino Meriales would impute such a serious crime against a person he did not know. We believe his testimony for where there is no evidence to show any dubious reason or improper motive why a prosecution witness would