435 Phil. 297

SECOND DIVISION

[G.R. No. 136158, August 06, 2002]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTONIO DE LA CRUZ Y FLORES, ACCUSED-APPELLANT.

D E C I S I O N

QUISUMBING, J.:

On appeal is the judgment[1] of the Regional Trial Court of Quezon City, Branch 219, in Criminal Case No. Q-96-66445, which found appellant Antonio de la Cruz y Flores guilty of rape and sentenced him to suffer the penalty of *reclusion perpetua* and to pay the offended party, Princess Janice Abaya, P50,000 in moral damages.

Appellant was a "faith healer" who conducted "healing" sessions in various provinces. Sometime in January 1996, he met complainant's mother, Trinidad Collimar,[2] in one of these sessions. They became fast friends and appellant stayed from January until March 14, 1996, at Trinidad's house in Tignoan, Real, Quezon, where he got to know Princess Janice, Trinidad's minor daughter by her estranged common-law husband, Jerry Abaya. Princess Janice then was only aged 13, having been born on November 27, 1982.[3]

With her mother's permission, Princess Janice would accompany appellant, whom she called "Lolo," whenever he had healing sessions. On the average, they would be gone three days at a time. On March 14, 1996, appellant asked Trinidad if he could bring Princess Janice with him to Manila. Though classes had not yet ended, Trinidad gave her permission as appellant promised to buy clothes and school materials for Princess Janice, who was an elementary school pupil. Thus, appellant was able to bring Princess Janice to his house at No. 50 Women's Club Street, Sto. Niño, Galas, Quezon City.

On June 6, 1996, Princess Janice, with the assistance of her father, filed a complaint for rape, alleging:

> That on or about the 15th day of March 1996, in Quezon City, Philippines, the above-named accused, by means of force and intimidation, did then and there, wilfully, unlawfully and feloniously put himself on top of complainant PRINCESS JANICE ABAYA, a minor, fourteen (14) years of age, who was then sleeping at the time, and thereafter had carnal knowledge with the undersigned complainant against her will and without her consent.
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> Contrary to law.[4]

Initially, private complainant had declared that appellant had ravished her three times: on March 15, 18, and 20, 1996. The preliminary investigation conducted by the Quezon City Prosecutor's Office, however, disclosed there was probable cause to

charge appellant with rape only for the incident of March 15, 1996. The City Prosecutor ruled that appellant's acts of March 18 and 20, 1996 only constituted qualified seduction and acts of lasciviousness, respectively, which were distinct from the present case of rape.

Complainant submitted to a medico-legal examination at the Philippine National Police (PNP) Central Crime Laboratory. Police Senior Inspector Rosaline O. Cosidon, M.D., conducted the examination. Her findings were as follows:

> FINDINGS:
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> GENERAL AND EXTRAGENITAL:
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> Fairly developed, fairly nourished and coherent female subject, breasts are conical with light brown areola and nipples from which no secretion could be pressed out. Abdomen is flat and soft.
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> GENITAL:
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> There is scanty growth of pubic hair. Labia majora are full, convex and gaping with the pinkish brown labia minora presenting in between. On separating the same is disclosed an elastic, fleshy type hymen with shallow healed lacerations at 3 and 9 o'clock. External vaginal orifice offers moderate resistance to the introduction of the examining index finger and the virgin-sized vaginal speculum. Vaginal canal is narrow with prominent rugosities. Cervix is normal in size, color and consistency.
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> CONCLUSION:
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> Subject is in non-virgin state physically.[5]

On June 26, 1996, appellant was arraigned. He pleaded not guilty to the charge of rape. Trial then commenced.

Testifying for the prosecution were the private complainant, her mother, and Dr. Rosaline Cosidon, the PNP medico-legal officer.

Complainant testified that on March 15, 1996, at around seven o'clock in the evening, she was trying to sleep in an upstairs room in appellant's house. With her were appellant's sister, two of his nieces, and his son. She was fitfully awake, thinking of her mother, when appellant went up and invited her to sleep downstairs with him. She thought nothing of it, since she considered appellant like her own grandfather. She lay down beside him and was soon asleep. Later that night, she was awakened when she felt a sharp pain in her private parts. She then saw that her underwear had been lowered to her thighs and that appellant had inserted his penis into her vagina. He commanded her not to make any noise and to just keep quiet. She cried and resisted by pushing him away, forcing him to move back. He then warned her in a very stern manner not to tell anyone about what he did to her, [6] and that he would kill her and her family should she tell anybody about the incident.[7] Frightened, she fled upstairs and went to sleep beside the other occupants of the house.

During her entire stay in Manila, she was not allowed to go out of the house. She stayed in appellant's house until March 26, 1996 when he brought her back to

Quezon. Upon her return to the province, she narrated her defilement to her best friend, a certain Rezzy Malinao.[8]

On May 15, 1996, her mother brought her to Quezon City to stay with her father. She told her father that appellant had raped her. She also disclosed that she no longer wanted to stay in the province because people were gossiping about the rape incident. Her father immediately brought her to the police to lodge a complaint and had her medically examined.[9]

Trinidad testified that appellant stayed in their home from January to March 14, 1996 when he left for Galas, Quezon City, with Princess Janice in tow. She said that she allowed her daughter to go with appellant because the latter was like a real father to her family.[10] Moreover, he asked for her permission in a very nice way ("*Maganda po kasi ang pagpapaalam niya sa akin*.").[11] Trinidad also explained that she allowed it although classes had not yet ended because her daughter's teacher assured her there was no problem since the final examinations were over.[12] She added she brought her daughter to her father's place in Galas, Quezon City for a vacation in May 1996. Upon returning to the province, she read in the newspapers about the rape charge filed by her daughter against appellant. She immediately rushed back to Quezon City. It was only then that her daughter revealed that appellant had sexually abused her.

Dr. Rosaline Cosidon informed the trial court that she subjected private complainant to a general physical examination on May 20, 1996. She found that the victim's hymen had "shallow healed laceration(s) at (the) 3 and 9 o'clock positions." In her opinion, the lacerations could have been caused by the "forcible entry of (a) hard object" such as a fully erect phallus. Dr. Cosidon declared that it was possible the lacerations on the victim's hymen happened on March 15, 1996.[13]
Appellant interposed in his defense an alibi. He claimed that the rape charges against him were instigated by complainant's father to extort money from him.[14]
The trial court summed up his testimony as follows:

> …[I]t was impossible for him to have raped the complainant at the time, date and place stated in the complaint because 1) at the time the alleged act imputed to him was committed, he was somewhere else conducting healing sessions; 2) he usually had visitors in his house during those hours of the day and his housemates were still awake watching television; 3) the accusations were instigated by the father of the complainant; 4) the complainant did not immediately complain or ask for help; 5) that his healing power comes from the Lord in whom he has great fear and who can take such power away from him if he commits any wrongdoing; and 6) the report card of the complainant (Exh. 1) shows that she was attending her classes from March 14 to March 26, 1996 at the Tignoan Elementary School in Quezon province (TSN, August 11, 1997, pp. 3-6).[15]

In his "*Contra-Salaysay*" dated May 21, 1996, appellant averred that on March 15, 1996, he was in Bagumbayan, Malinao, Albay for healing sessions. He stayed at the house of a certain Andrea B. Barrion during his stay in Albay from March 15 to April 12, 1996.[16]

To corroborate appellant's alibi, the defense presented Clarissa Sipin, Delia Bi*lolo*, and Jimmy Lapasi. Sipin, a niece of appellant, was allegedly staying at her uncle's place in Galas at the time of the incident. Sipin averred that appellant could not have raped complainant in Quezon City on March 15, 1996 as the former left for Bicol in March 1996 and did not return until April 17, 1996.[17] She was sure appellant left for Albay in March 1996 because she helped him pack his belongings and healing paraphernalia. Moreover, complainant's claim that the occupants of appellant's house were asleep when she was raped at 7:00 P.M. of March 15, 1996 was not true as they usually went to sleep at 10:00 P.M.[18] Sipin also declared that private complainant never slept at appellant's house.[19]

Bi*lolo*, the owner of the Galas house rented by appellant, affirmed the contents of her affidavit[20] where she stated that sometime in March 1996, appellant's sister had informed her that appellant had gone to Bicol. She said that she was present when appellant arrived from Bicol at around 7:00 or 8:00 A.M. of April 17, 1996.[21]

Lapasi, in turn, testified that appellant stayed in his house in Bagtang, Daraga, Albay from March 2 to April 15, 1996, and never left the place during that period. [22]

Appellant also presented Gloria Atendido, principal of Tigmuan Elementary School in Real, Quezon and Edna Segoma, the victim's teacher, to testify on the veracity of the entries respecting complainant's school attendance in her report card.

The trial court noted that even before the case was decided, appellant had changed his theory of the case, thus:

> …The thrust of his defense in his Memorandum, is that the act was consensual which is totally inconsistent with his defense of alibi and denial. He vehemently asserted that the actuations of the complainant before, during and after the alleged violation were not typical of [a] someone who abhorred the acts committed against her. Rather, they were characteristic of someone who had consented to and who had enjoyed the sexual congress. His line of argument was that because the accused had "fingered" her at least three times on March 15, 1996 before the act complained of was committed, her acceding to his invitation to sleep beside him and the manner how it was perpetrated, as pictured by her, show that she was a "willing victim." Moreover, he claimed that the intimate manner they had slept together and her acceding to be fingered again on the 20th of March support his stand. Furthermore, he cited the impossibility of the rape being committed by the way the complainant pictured it to have happened.[23]

On October 6, 1998, the trial court convicted appellant of the charge. The decretal portion of its decision reads:

> WHEREFORE, finding the accused guilty beyond reasonable doubt of having committed Rape, defined and punished under Article 335 of the Revised Penal Code, as amended by R.A. 7659, the Court hereby sentences him (1) to suffer the penalty of Reclusion Perpetua; (2) to pay the complainant Princess Janice Abaya the amount of P75,000.00 as moral damages; and (3) to pay the costs.

SO ORDERED.[24]

In convicting appellant, the trial court noted that appellant's alibi was not only weak but was contradicted by the inconsistent testimonies of the defense witnesses. Hence, it could not prevail against private complainant's positive identification singling him out as her ravisher.

Now before us, appellant assigns the following errors committed by the trial court:

> I
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> THE LOWER COURT ERRED IN FINDING THAT THE PROSECUTION WAS ABLE TO PROVE THE GUILT OF THE ACCUSED-APPELLANT BEYOND REASONABLE DOUBT.
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> II
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> THE LOWER COURT ERRED IN RELYING ON THE WEAKNESS OF THE DEFENSE IN ORDER TO GIVE MERITS TO PROSECUTION'S EVIDENCE.

Appellant submits that the foregoing assigned errors are interrelated and should be discussed jointly. We agree. The only issue before this Court is whether or not the trial court erred in finding appellant guilty of rape beyond reasonable doubt, and in sentencing him to reclusion perpetua with the accessory penalties provided by law.

First, appellant contends that his guilt has not been proven with moral certainty for failure of the prosecution to prove the elements of the crime. He claims that while the complaint charged him with rape through force and intimidation, a closer scrutiny of complainant's testimony clearly shows that force and intimidation during the course of the coitus were inexistent. He argues that he was not armed with a deadly weapon. Nor did he threaten complainant with bodily harm. Moreover, there was no showing of any resistance on the victim's part. She failed to shout for help, much less struggle during the sexual congress, according to him. Appellant submits that all of the foregoing circumstances, taken together, show not only the lack of either forcible compulsion or coercion on his part, but also the willingness of complainant to have sex with him.

For the appellee, the Office of the Solicitor General (OSG) points out that the victim here is a 13-year-old rural lass who looked up to and respected appellant as her "*Lolo*" or grandfather. She believed appellant to be a good man, being a faith healer. She so trusted him that she felt secure in going alone with him to the metropolis. Undoubtedly, appellant exercised moral ascendancy, domination, and influence over her, more so as she was brought to a house where appellant was the main figure. The Solicitor General contends that given these circumstances, appellant's moral ascendancy and influence over his victim, substitute for the requisite violence and intimidation. He stresses that the law does not impose a burden on the rape victim to prove resistance.

In reviewing rape cases, we are guided by the following principles: (1) an accusation for rape can be made with facility, it is difficult to prove but more difficult for the accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the