

THIRD DIVISION

[G.R. Nos. 143200-01, August 01, 2002]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RICHARD R. DEAUNA, APPELLANT.

D E C I S I O N

PANGANIBAN, J.:

Recantations and affidavits of desistance given by rape victims, especially after the trial court has already convicted the accused, cannot negate or degrade credible and clear testimonies rendered in open court. Solemn trials and credible declarations in court cannot be mocked and placed at the mercy of out-of-court, uncross-examined post facto statements.

The Case

Richard R. Deauna appeals the Decision^[1] of the Regional Trial Court (RTC) of San Mateo, Rizal (Branch 76), dated July 30, 1999, in Criminal Case Nos. 3609 and 3610, finding him guilty beyond reasonable doubt of two (2) counts of rape and sentencing him to *reclusion perpetua* for each count. The dispositive portion of the assailed Decision reads as follows:

"WHEREFORE, premises considered, judgment is hereby rendered as follows:

"1. In Crim. Case No. 3609, finding accused Richard R. Deauna guilty beyond reasonable doubt of the crime of Rape as defined and penalized under Art. 335 of the Revised Penal Code as amended, and sentencing him to suffer the penalty of *Reclusion Perpetua*, and to indemnify the private complainant Josephine T. Deauna in the amount of P50,000.00 as moral damages and to pay the costs.

"2. In Crim. Case No. 3610, finding accused Richard R. Deauna guilty beyond reasonable doubt of the crime of Rape as defined and penalized under Art. 335 of the Revised Penal Code as amended, and sentencing him to suffer the penalty of *Reclusion Perpetua*, and to indemnify private complainant Josephine T. Deauna in the amount P50,000.00 as moral damages and to pay the costs."^[2]

During his arraignment on July 15, 1998,^[3] appellant, assisted by his counsel,^[4] pleaded not guilty.

In two (2) separate Informations both dated May 13, 1998,^[5] appellant was accused of raping his daughter as follows:

In Criminal Case No. 3609-98:

"That in or about the month of July 1997, in the Municipality of Rodriguez, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being the legitimate father of the complainant Josephine Deauna with lewd design and by means of force and intimidation[,] did then and there wilfully, unlawfully and feloniously have carnal knowledge with said Josephine Deauna against her will and consent."^[6]

In Criminal Case No. 3610-98:

"That in or about the month of September, 1996, in the Municipality of Rodriguez, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being the legitimate father of the complainant Josephine Deauna with lewd design and by means of force and intimidation[,] did then and there wilfully, unlawfully and feloniously have carnal knowledge with said Josephine Deauna against her will and consent."^[7]

The Facts

Version of the Prosecution

In its Brief, the Office of the Solicitor General (OSG) narrates the two instances of sexual abuse in this manner:

"Sometime in September 1996, victim Josephine Deauna who was 19 years old at that time, was at their house in Block 10-A, Lot 7 of Nylon Street, Litex Village San Jose, Montalban, Rizal. She was lying down while her sister Jasmin was already sleeping when a man suddenly held her hand. She recognized the man to be her father, appellant Richard Deauna. Appellant proceeded to kiss Josephine's neck, who was at that time lying on her stomach. Then appellant touched her breasts. Thereafter, appellant inserted his finger in Josephine's vagina and played with it ('Pinaglaruan niya ng kanyang daliri ang aking ari.').

"While Josephine was lying on her stomach, she felt appellant insert his penis in her vagina and felt pain at the penetration. Josephine, however, could not do anything because she was afraid of her father. When appellant withdrew, he warned Josephine not to tell her mother about this incident.

"In another incident, one evening in July 1997, Josephine was already sleeping when appellant approached her again. Appellant kissed her neck and started playing with her body, particularly feeling her breasts. Appellant proceeded to touch her vagina and succeeded in having intercourse with her. Josephine kept her eyes shut and did not do anything for fear of her father.

"Josephine later told her mother [of] these incidents but the latter refused to believe her. Thus, on August 2, 1997, Josephine went to the National Bureau of Investigation (NBI) to report the two (2) criminal incidents. There, she gave her sworn statements and the Medico-Legal expert in the person of Dr. Noel Minay subjected Josephine to a medical genital examination. The expert witness testified as follows:

'Q: Now, Dr. per your findings in the genital, it is stated here, may I be allowed to read, your honor, please? Hymen, thin, wide, with an old healed laceration at 9 o'clock position. In layman's language, doctor, will you please explain what I read in your report?

A: This means that there was an old tear at the virgin head of the subject at 9 o'clock position of the virgin head and the virgin head was also thin, sir.

Q: Do you know how old is this lacerations at 9 o'clock position on the private part of the victim?

A: This old tearing of the hymen is compatible with the alleged rape, sir.

Q: And what could have caused this old lacerations [sic] at 9:00 o'clock position?

A: Normally, it is produced by sexual relation with a man, sir.

Q: It could have been caused by an erected penis for that matter?

A: Yes, sir.

Q: And do you affirm and confirm the truthfulness and correctness of your medico-legal findings, doctor?

A: I do, sir.

Q: Likewise, in your findings, doctor, it states hymenal orifice admits a tube with this 2.5 cms. in diameter, will you kindly explain or enlighten us, Doctor, what does it mean?

A: This means that the opening of the virgin head when the glass tube of 2.5 cms. in diameter readily admits the tube without difficulty, sir.

Q: So, does it mean that the private complainant was already somewhat used?

A: Yes, sir."^[8]

Version of the Defense

On the other hand, appellant advances the theory that complainant was insane when she testified in court, and that the alleged rape incidents did not actually happen. He presents his version of the facts as follows:

"The defense for its part, offered the testimony of five (5) witnesses:

"1. Dr. Pamela Paredes, 28 years old, married, a psychologist at the NBI and residing at No. 68 Masbate St., Phase II, Horacio dela Costa Homes II, Novaliches, Quezon City, testified that she personally conducted and administered the battery of examinations and interviews on the private complainant. After said examinations and interviews, she found out that private complainant Josephine Deauna was emotionally maladjusted, which means that that there is a difficulty in displaying natural emotion especially under threatening circumstances. She also testified that the emotion of Josephine Deauna appears to be less stable, which means that when confronted with a situation that is threatening to herself, private complainant becomes overwhelmed by the situation. For the subject to be considered a psychotic, you have to consider other diagnostic criteria, and the result of the diagnostic test done in favor of

private complainant did not reveal any sign of psychosis. During the time of evaluation from October 23 to 25, 1996, the subject did not manifest symptoms or signs which could indicate psychosis which mean[s] that she was not insane and was acting normally.

"2. Josefa Deauna, 51 years old, married, teacher and residing at Block 10-A, Lot 7, Utex Village, Montalban, Rizal, testified that she is the wife of the accused Richard Deauna and the mother of the private complainant[.] Josephine Deauna never complained to her about the alleged sexual abuses committed by her father and [instead] she went directly to the NBI. The reason why private complainant lodge[d] her complaint before the NBI, is that she harbored a grudge against her father as she was being disciplined and whipped (napalo) by her father prior to the filing of the complaint.

"3. Dr. Anne Marie Rios, 33 years old, single, doctor by profession and residing at 1425 Guadalupe, Bliss 3, Makati City testified that she [was] connected with the National Center for Mental Health as Medical Officer III and tasked with the evaluation and treatment of mentally ill patients. She also testified that, it was Dr. Made[l]on Carcereny who first attended to the case of Josephine Deauna. On January 27, 1999, while she was on 24-hour duty, she was able to confer with Josephine Deauna but only for a brief moment. Josephine Deauna is now undergoing psychological examination and pending the submission of the psychological report as well as the reports from the Haven Center, Philippine Mental Association and University of the East, she [could] not make a conclusive and final report about the mental state of the subject.

"4. Dr. Jay Madelon Carcereny, 28 years old, married, doctor by profession, and residing at No. 42, Juan Luna St., San Lorenzo Village, Makati City, testified that he [was] connected with the National Center for Mental Health as Medical Officer III. That on December 21, 1998, he attended to a patient by the name of Josephine Deauna. He took the history of the patient and then proceed[ed] with the medi[c]al status examination. Based on the examination, the history and his observation of the patient, he concluded that Josephine Deauna was suffering from mental insanity and he prescribed her the necessary medication on continuing basis.

"During the initial consultation, he noted that the subject (Josephine Deauna) was insane because her thought processes were loose, there was derailment in the words used, and depersonalization (a strange sense of the personal self or the body) was evident. Josephine manifested that she was already dead and was brought back to life. The mental state of Josephine Deauna may be brought about by a situation, strong enough to bring her to the so called breaking point. There is doubt that when she testified in court, she was expressing her thoughts or feelings, truthfully or intelligently as her judgment [was] already clouded. It is possible that she may or may not have been raped. She is also incompetent to stand the rigors of trial, meaning, when put under pressure, she might give answers that are not true. However, he [could] not say when the patient's insanity started but it [did] not develop within a short period of time.

"5. Richard Deauna, 49 years old, married, small businessman, and presently residing at Block 2, Lot 13, Tanguile St., Duraville Homes, Ampid, San Mateo, Rizal testified that there are five (5) reasons why his daughter accused him of rape. First, he whipped her three (3) times (napalo ko siya ng tatlong beses), one of which was on October 22, 1996 when he whipped her because she dropped her course after making down payment and for being rude. Second, she saw a case on a TV Program involving a father and a child of his, who ha[d] a case and commented that it would be exciting if it happen[ed] in real life. Third, she wanted to join the PMA course but he forced her to take commerce. Fourth, she wanted her mother and [her] father [to] be separated. Fifth, because she was insane. He first noticed her odd behavior in 1995, when she would always have dagger looks whenever she would wake up. Josephine easily gets angry. During the time that he was detained, his daughter visited him many times and she even gave him a gift last December 1998. Josephine even asked money from him, kissed him and gave him a letter.

"He also testified that he went to the NBI on two (2) occasions and referred to the Neuro-Psychiatric Division because his daughter Josephine Deauna stay[ed] with them and he did not know that there was a case filed against him by his daughter. He was aware that his daughter Josephine Deauna filed a complaint for rape accusing him of raping her younger sister, Jasmin Jane Deauna. Despite the charges against him, he was trying to understand his daughter because he knew that she was mentally sick."^[9]

Ruling of the Trial Court

The trial court rejected the defense that the complainant had been insane or suffering from psychosis when she testified in court, and that the rape charges had merely been fabricated by reason of such mental illness. It explained its ruling as follows:

"The defense is primarily anchored on the alleged mental insanity or psychosis on the part of the private complainant so as to concoct a story of rape against her own father. This allegation that the private complainant [was] mentally deranged assumes significance only when shown that at the precise time she testified in court, she had been clearly shown to be suffering from such illness, so as to undermine her ability to give statements voluntarily, knowingly and intelligently. On the other hand, on the three occasions that she testified in Court, her testimonies were consistent, straightforward, and no significant lapses of memory or thought processes were evident. Moreover, it is not conclusive that the victim was suffering from psychosis as the different physicians that were presented by the defense had different diagnosis as to the subject's (Josephine Deauna's) mental state. It is possible that initially, she was suffering from emotional maladjustment and due to the abuses committed against her by her father, she reached the so called 'breaking point' making her more prone to psychological or mental relapse. Thus, the victim in this case would not file a charge as serious as rape against her very own father simply because she was maltreated; only her desire to seek justice would be compelling enough to implicate her own flesh and blood."^[10]