

SECOND DIVISION

[G.R. Nos. 149414-15, November 18, 2002]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANGEL AMANTE, ACCUSED-APPELLANT.

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision,^[1] dated April 20, 2000, of the Regional Trial Court, Branch 259, Parañaque City, finding accused-appellant Angel Amante^[2] guilty beyond reasonable doubt of two counts of rape under Art. 335 of the Revised Penal Code, as amended by R.A. No. 7659, committed against Evelyn Ocinar and sentencing him in each case to suffer the penalty of *reclusion perpetua* and to pay P50,000.00 as moral damages and to suffer the accessory penalties provided by law.

Two informations were filed against accused-appellant Angel Amante charging him with rape, allegedly committed as follows:

Crim. Case No. 97-578

That on or about the 28th day of December 1996, in the Municipality of Parañaque, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the complainant Evelyn Ocinar against her will.

CONTRARY TO LAW.

Crim. Case No. 97-579

That on or about the 15th day of February, 1997, in the Municipality of Parañaque, Metro Manila Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the complainant Evelyn Ocinar against her will.

CONTRARY TO LAW.^[3]

When arraigned on December 10, 1998,^[4] accused-appellant, with the assistance of counsel, entered a plea of not guilty, whereupon he was tried.

The prosecution presented complainant Evelyn Ocinar and her maternal grandaunt Luzanta Barquin as its witnesses. The gist of their testimonies is as follows:

Complainant Evelyn Ocinar is the grandniece of Virginia Viron, the common-law wife of accused-appellant Angel Amante.^[5] At the time material to these cases, Evelyn

was 18 years old. She came to Manila in October 1996 to look for a job, alternately staying in the houses of her maternal grandaunts, Virginia Viron and Luzanta Barquin, who both lived on St. Paul Street, Brgy. Moonwalk, Parañaque City.^[6]

Whenever Evelyn stayed in the house of Angel Amante and Virginia Viron, she would sleep alone in a room on the second floor of the house. The door remained open as an electric fan was in the doorway. The rest of the occupants stayed in another room on the same floor. The two rooms were separated by the living room.

On December 28, 1996, the only occupants of the house were complainant, accused-appellant, four-year old Angelica, the daughter of accused-appellant by Virginia, and two-year old Irish, Virginia's grandson by her daughter Rizalita.^[7] At about midnight of that day, Evelyn was awakened by someone removing her shorts and panties. She recognized the person as accused-appellant Angel Amante. Evelyn tried to resist, but accused-appellant pointed a knife at her neck. Accused-appellant forced her legs apart and then had sexual intercourse with her. When accused-appellant was through, Evelyn saw a whitish substance come out of his penis. Then, accused-appellant left, but not before he had threatened her with harm if she told anyone about the incident. In fact, accused-appellant repeatedly threatened Evelyn with harm whenever he had opportunity, warning her not to tell anybody about what he had done. Evelyn could only cry.^[8]

The second rape took place at around 11 o'clock in the evening on February 15, 1997. Her Lola Virginia had earlier taken one of her grandchildren to the hospital. Evelyn was awakened when she felt someone removing her shorts. She found it was accused-appellant again. She resisted in vain as accused-appellant, threatening her with a knife poised at her neck, undressed her and had sexual intercourse with her once more. She was told not to tell anyone about the incident or else she would be killed.^[9]

Evelyn had no friends to whom she could ask for help. She did not tell her Lola Virginia because she was afraid accused-appellant would make good his threats and that her Lola Virginia would stand by accused-appellant and allow him to escape. Evelyn became absent-minded and merely stared during conversations (*natutulala*). One time she held a sharp pointed object as if in rebellion against something.^[10]

After the second incident, Evelyn left her Lola Virginia's house to live with her other relatives in Bulacan.^[11] When she returned to Parañaque in June 1997, she stayed in the house of her other grandaunt, Luzanta Barquin. She was pregnant and, when pressed by Luzanta to tell the truth, Evelyn broke down and recounted how she was twice raped by accused-appellant. Luzanta reported the incidents to the barangay authorities. Later, she took Evelyn to the barangay captain.

Accused-appellant was later taken to the barangay captain, to whom he allegedly admitted his guilt in the presence of both Evelyn and Virginia. Accused-appellant allegedly said Evelyn should not have complained to the barangay captain but should have talked to him instead because he would give the child to his sibling in the United States.^[12]

On June 12, 1997, Evelyn executed a Sinumpaang Salaysay^[13] at the police station. She was examined by a medico-legal officer whose report (Exh. B) contained the following findings:

FINDINGS:

GENITAL:

There is scanty growth of pubic hair. Labia majora are full, convex and gaping, with dark brown labia minora presenting in between. On separating the same disclosed an elastic, fleshy type hymen with shallow healed lacerations at 2, 4, 6, and 9 o'clock positions, and [a] deep healed laceration at 7 o'clock position. 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.

CONCLUSION:

Findings are compatible with 24 to 25 weeks pregnant state. There are no external signs of recent application of any form of violence.^[14]

On September 3, 1997, Evelyn Ocinar gave birth to a girl, whom she named Phalyn Jewel. Evelyn testified she did not have any boyfriend nor any sexual experience prior to the rape incidents.^[15]

The defense presented accused-appellant Angel Amante, his common-law wife Virginia Viron, and the latter's daughter Rizalita Viron as witnesses. Luzanta Barquin was presented as an adverse witness.

Angel Amante admitted that complainant Evelyn Ocinar stayed in his house for some time but he denied raping her. He claimed that at the time of the alleged rapes, he was asleep in their house with his common-law wife Virginia, her daughter Rizalita, and her niece Emerita Devino^[16] and Emerita's daughter Evangeline. (He did not mention the presence of his daughter Angelica, nor that of Rizalita's son, Irish.) Accused-appellant said that as complainant Evelyn Ocinar also stayed sometimes with her Lola Luzanta in the same neighborhood, he could not recall if she slept in his house on December 28, 1996 and on February 15, 1997.^[17]

Accused-appellant claimed that the rape charges against him were not true and that they were brought by Luzanta Barquin, his common-law wife's sister, because of a misunderstanding over a roof gutter. According to accused-appellant, in August 1996, Danilo Cantanero, a neighbor, removed the gutter from Amante's house and placed it on Barquin's. Amante became angry as his house was badly affected whenever it rained hard. On the other hand, he said, Virginia often scolded Evelyn for not doing household chores and had in fact asked her to leave the house.

Angel Amante said he was invited to go to the office of the barangay captain on June 3, 1997, after which he was taken to the police precinct near the Coastal Road in Parañaque City. Police Officer Dominador Nipas conducted the investigation and tried to help accused-appellant and Evelyn settle the case. Accused-appellant was released from custody after Luzanta and Evelyn had signed the following statement written on the police blotter:^[18]

RE: [Illegible] for page 0411 (Alleged rape)

Complainant/victim in this particular case (Evelyn Ocinar) with the conformity of her grandmother (Luzanta Barquin) requested that their

case be held in abeyance and consented [to] the release of subject, Angel Amante as [evidenced by] their signatures appearing below. Subject person was released from the custody of this office in good physical condition and likewise without complaint [against] any member of this office as well as the arresting barangay tanods.

(Sgd.)

Evelyn H. Ocinar

(Sgd.)

Luzanta Barquin

(Sgd.)

Angel S. Amante, Jr.

[\[19\]](#)

Virginia Viron testified that she and accused-appellant Angel Amante had been living together for 16 years and that Evelyn Ocinar is the daughter of her niece Elizabeth Ocinar. She vouched for Angel Amante's innocence, claiming that she was in their house on the dates of the alleged rapes. On December 28, 1996, she said, she was in their house on St. Paul Street, with her daughters Rizalita and Angelica, her grandson Irish, and her niece Emerita Divino. On February 15, 1997, she was also in their house the whole day with accused-appellant and Rizalita. She said that the rape charges had been filed against accused-appellant because of a misunderstanding between him and her sister Luzanta Barquin regarding a roof gutter.[\[20\]](#)

On cross-examination, Virginia admitted she could not remember whether Evelyn stayed in their house on December 28, 1996 and on February 15, 1997. She also admitted she habitually played *tong-its* on the ground floor of her house until the wee hours of the morning and, therefore, could not have known the whereabouts of accused-appellant during the entire 24-hour period. Accused-appellant himself did not gamble, but only financed her habit. Virginia stated that she did not know of any misunderstanding between accused-appellant and Luzanta Barquin.[\[21\]](#)

Rizalita Viron, Virginia's daughter, also testified. Contrary to her mother's testimony, Rizalita said she was with accused-appellant on the dates and times in question.[\[22\]](#) On December 28, 1996, she was with accused-appellant, along with her sister Angelica, her mother Virginia, her cousin Emerita and complainant Evelyn Ocinar, in their house. She went to sleep at 10 o'clock in the evening of that day. On February 15, 1997, she was in their house with accused-appellant the whole day, together with Virginia, Angelica, and Irish. She watched television until one o'clock in the morning of the following day. She also surmised that a fight over a roof gutter with her aunt Luzanta could have been the reason for the filing of these criminal cases against accused-appellant.[\[23\]](#)

Luzanta Barquin was presented by the defense as an adverse witness. She confirmed that there was a misunderstanding over a roof gutter, but she claimed it was between her and their neighbor Danilo Cantanero. Luzanta said that Evelyn told her the cause of her pregnancy and asked to be accompanied to the barangay captain on June 8, 1997. It was only when they sought the assistance of the barangay captain that Luzanta learned the dates of the rape incidents. Luzanta said that accused-appellant Angel Amante offered to pay her P40,000.00 to P60,000.00 to convince Evelyn to withdraw the charges. Luzanta said she told him to talk to Evelyn, but the latter was angry and refused to speak with accused-appellant.

On rebuttal, complainant Evelyn Ocinar testified that accused-appellant Angel Amante's testimony that there were several people in their house when the rapes occurred was not true because only two children were there at the time of the first

rape. It was upon the suggestion of the police investigator, Nipas, that she delayed in filing a criminal complaint against accused-appellant. Because of the document^[24] which Nipas convinced her to sign, accused-appellant was released from custody. However, accused-appellant's sibling, who was supposed to make a settlement with Evelyn, did not arrive. Criminal cases against accused-appellant were therefore filed.^[25] A warrant of arrest was later issued on August 14, 1997,^[26] but accused-appellant could not be found.^[27] He was finally arrested at 2:30 o'clock in the afternoon of November 14, 1998 in Bani, Pangasinan by SPO2 Teodoro Papa, SPO1 Dominador Nipas, and SPO1 Maximo Austria.^[28] He was committed at the Parañaque City Jail on November 17, 1998.^[29]

On the basis of the evidence presented, the trial court rendered a decision on April 20, 2001, the dispositive portion of which reads:

WHEREFORE, PREMISES CONSIDERED, finding accused Angel Amante GUILTY beyond reasonable doubt of the crime of rape (two counts), as defined and penalized under Art. 335 by the Revised Penal Code as amended by RA 7659, he is hereby sentenced to suffer imprisonment of *reclusion perpetua* (two counts) in the absence of any mitigating or aggravating circumstance. He is further ordered to pay P50,000.00 for each count as moral damages and to suffer the accessory penalties provided by law specifically Art. 41 of the Revised Penal Code.

The Clerk of Court is directed to prepare the Mittimus for the immediate transfer of Angel Amante to the New Bilibid Prisons, Muntinlupa City from Parañaque City Jail.

SO ORDERED.^[30]

Hence this appeal.

Accused-appellant assigns the following errors as having been allegedly committed by the trial court:

I. THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

II. THE COURT A QUO GRAVELY ERRED IN GIVING CREDENCE TO THE UNRELIABLE TESTIMONIES OF THE WITNESSES FOR THE PROSECUTION.

The question is the weight to be accorded the testimonies of witnesses, particularly those presented by the prosecution.

First. In determining the guilt or innocence of the accused in rape cases, this Court has been guided by three principles to wit: (a) an accusation of rape can be made with facility; it is difficult for the complainant to prove and even more difficult for the accused, though innocent, to disprove; (b) in view of the intrinsic nature of the crime of rape, where only two persons are involved, the testimony of the complainant must be scrutinized with utmost caution; and (c) the evidence for the prosecution must stand or fall on its own merit and cannot draw strength from the weakness of the evidence for the defense.^[31]