

## SECOND DIVISION

[ G.R. Nos. 134831-32, July 31, 2001 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMON LOGMAO Y NUÑEZ, ACCUSED-APPELLANT.**

### D E C I S I O N

**BELLOSILLO, J.:**

RAMON LOGMAO y NUÑEZ was convicted by the trial court of two (2) counts of rape, sentenced to *reclusion perpetua* in each count, and to pay **ADELINA RELANO y REY** P50,000.00 as indemnity in each. He now seeks the reversal of his conviction on the ground *inter alia* that the testimony of private complainant is riddled with contradictions and that her conduct in the aftermath of the alleged rape incidents inspires suspicion and disbelief.<sup>[1]</sup>

The evidence for the prosecution shows that on 13 January 1990 at around 11:00 o'clock in the morning Adelina Relano, eleven (11) years of age, niece of Ramon Logmao, was alone in their house in *Barangay Lusok*, Sta. Cruz, Marinduque. Earlier that day her parents and siblings went upland to work. Adelina was in the terrace idling her time away when Ramon Logmao suddenly appeared, grabbed her and dragged her towards the bedroom. She wriggled to forcibly free herself but could only do so much to resist the overwhelming strength of her attacker. She screamed, "*Nanay, Nanay,*" but the accused gagged her with his left hand and restrained her arms with the other hand. Removing his hand from her mouth, he took off her shorts and panty, and inserted his organ into hers. He pushed and pulled on top of her, and in no time a white sticky substance flowed from him into her bleeding vagina. After attaining orgasmic satiety, Ramon stood up and told Adelina to dress up because her mother might arrive anytime. When her mother arrived together with other members of her family, she casually asked her daughter, "*Naaano ka?*" but Adelina made no reply.

Again, on 21 January 1990 Adelina was alone in her grandmother's house watching television when the accused upon seeing her through the window asked her to buy ice for him. She did, and when she returned moments later she placed the ice on top of the table. At this juncture, with bolo in hand, the accused entered the house and seized Adelina's throat with his left hand. He pointed the bolo menacingly at her throat, and with his free hand removed his clothes. He drew his penis out of his pants and without shame inserted it into her mouth; he warned her however not to bite. He then carried her to the room, laid her on the bed and gorged once again on her youthful body. The sexual outrage lasted briefly after which, like before, the accused stood and dressed himself up while she also put on her shorts and panty. She hurriedly went home, a mere thirty (30) meters away from her grandparents' shanty. From then on she stayed away from the accused and never talked to him again. His threats to kill her prevented her from divulging her sad tale to anyone.<sup>[2]</sup>

Adelina's misfortune however was not meant to be enshrouded forever. When her father was advising her about the pitfalls of premature sexual relationships, she unwittingly blurted, "*Alam ko na po yon,*" and thereafter revealed to her father her painful experiences with her uncle Ramon.<sup>[3]</sup>

Dr. Teodolfo J. Rejano, Rural Health Physician and OIC Municipal Health Officer of Sta. Cruz, Marinduque, examined Adelina on 7 August 1996 and found (a) no signs of external physical injuries; (b) healed hymenal lacerations at 12:00 o'clock, 3:00 o'clock, 6:00 o'clock, 9:00 o'clock and 11:00 o'clock position indicating that the patient had had previous penetrations; and, (c) it was possible that her hymenal lacerations were sustained in the past few months or years or inflicted after two (2) vaginal lacerations.<sup>[4]</sup>

Accused-appellant Ramon Logmao dismissed as lies Adelina's accusations against him. He narrated that beginning 11 March 1986 he and his wife Adelfa Logmao stayed with his father-in-law (private complainant's grandfather) in *Barangay Lusok*, Sta. Cruz, Marinduque, until he was driven out of the house by the latter on 4 January 1994. Although he could not exactly pinpoint the reason why his father-in-law detested him so much, he speculated that his ugliness aggravated by his humble station in life might have induced his father-in-law to believe that he was ill-suited for his daughter. Contrary to the assertions of the prosecution, on the dates of the alleged rape incidents, i.e., 13 and 21 January 1990, he was busy making repairs in his mother's house in *Barangay Sumangga*, Mogpog, Marinduque. His friends and neighbors could attest to the veracity of his claim that he was nowhere near the place of the incident on the dates in question. He claimed that even after the alleged rapes, the private complainant continued to drop by his house to play with his younger sister Dalia. He likewise revealed that on 6 August 1996, the day before the complaints were filed against him, Rodolfo Relano, the father of Adelina, attempted to stab him while a brother went to his house and destroyed some pieces of furniture.

Adelfa Logmao, wife of the accused, corroborated the testimony of her husband that on 21 January 1990 he never went to *Barangay Lusok* but was in fact in his mother's house in Sumangga. Moreover, on 7 August 1996 she went to the police station after learning that a complaint had been filed against her husband. Thereat she was told by a sister that the rape incident occurred sometime in January 1991 and even remarked, "*Hayaan mo na lang makulong yang asawa mo, mag-asawa ka ng iba.*"

The defense also presented Jesus Rocha who testified that he, together with the accused, started working in the house of the latter's mother from 8 to 30 January 1990 in *Barangay Sumangga*, Mogpog. He further said that he and the mother of the accused were neighbors and he frequently saw the accused in the area. He corroborated the presence of the accused in his mother's house on 21 January 1990.

Dahlia Nuñez, sister of the accused, testified that on weekends of 1990-1993 she often visited the house of her brother Ramon Logmao in Lusok, Sta. Cruz, Marinduque, to play with the complaining witness and her sister Annalisa. During those periods complainant Adelina never exhibited anything abnormal in her actions.

But the trial court distrusted the alibi of the accused as it observed that the youth

and immaturity of Adelina and her relationship with the accused were more than sufficient to seal her lips even in the absence of a continuing threat. These adequately explained the long delay in the filing of the cases against the accused. More so that Adelina recounted her tormenting experience in a spontaneous and straightforward manner. The tears that she shed and her demeanor during the trial were demonstrative, according to the court *a quo*, of a consuming hatred gnawing at the very core of her entire being. As regards the contention of the accused that he was in *Barangay Sumangga* at the time of the rape, the lower court said that the accused failed to show clearly and convincingly that *Barangay Sumangga* and *Barangay Lusok* could not be traversed on the same day considering that the roads were passable and means of transportation were available.<sup>[5]</sup>

Accused-appellant presents issues which according to him the trial court failed to satisfactorily resolve: (a) that it committed a reversible error when it ruled that the sworn statement of the offended party appended to the Informations could not be considered because the same were not formally offered in evidence; (b) that there were stark contradictions between the testimony of the complaining witness in her sworn statement and those she made on the witness stand; (c) that there was unreasonable delay in the filing of the cases in court; (d) that the medical certificate and the testimony of the examining physician created some doubt on the story of the offended party; and, (e) that the testimony of the offended party and her conduct after being allegedly raped left much room for doubt on her credibility.

First. Accused-appellant argues that although the public prosecutor failed to present and formally offer in evidence the sworn statements of the offended party the same should still be admitted in evidence, contrary to the holding by the trial court, because the trial court took judicial notice of the criminal complaints where the sworn statements were attached. It was therefore erroneous for the trial court to rule that the sworn statements of the offended party should not be properly admitted in evidence.

Second. Accused-appellant also underscores the alleged discrepancies between the affidavits or sworn statements of the offended party and her testimony in court.

The first and second errors assigned being interrelated will be discussed jointly hereunder.

We hold that the trial court was correct in not considering the affidavits of private complainant. The rule is that no evidence shall be admitted which has not been formally offered. The so-called sworn statements of the offended party were neither identified nor offered in evidence. The documentary evidence of the prosecution for admission consisted mainly of Exh. "A," the medical certificate. Neither can we consider the affidavits on the assertion alone of the defense that the same had been appended to the criminal complaints, nor on the ground that their existence had been admitted by the prosecution. Formal offer of evidence is essential because the decision of a judge must rest solely and strictly upon the evidence presented during the trial, and no finding of fact can be sustained without a solid footing on evidence. Stripping the courts of the power to rule on the admissibility of documents and other evidence will effectively cripple judicial processes and render our rules on evidence nugatory.

Consequently, we need not dwell on the alleged contradictions between the