

FIRST DIVISION

[G.R. No. 140101, December 07, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BONIFACIO MANAGBANAG Y OROT, ACCUSED-APPELLANT.**

D E C I S I O N

KAPUNAN, J.:

Before us is an appeal from the Decision dated August 17, 1999 of the Regional Trial Court of Quezon City, Branch 76, finding herein accused-appellant *Bonifacio Managbanag y Orot* guilty beyond reasonable doubt of the crime of rape and sentencing him to the penalty of *reclusion perpetua* and ordering him to pay moral damages in the amount of P50,000.00 plus costs.

Complainant Abegail dela Cruz Olivar, assisted by her father Bonifacio Olivar, charged herein accused-appellant Bonifacio Managbanag y Orot with rape in a Complaint filed on August 20, 1998, which reads:

That on or about the 16th day of August, 1998, in Quezon City, Philippines, the said accused by means of force and intimidation, to wit: by then and there wilfully, unlawfully and feloniously pointing a knife at the waistline of ABEGAIL DELA CRUZ OLIVAR, a minor, 13 years of age, brought her to his house located at No. 34, Doña Beatriz, Purok 1, Area 5, Matandang Balara, this City, where he kissed her breast and removed her panty and thereafter have carnal knowledge with the undersigned complainant against her will and without her consent.

Contrary to law.^[1]

On arraignment, accused-appellant pleaded "Not Guilty" to the offense charged. Trial ensued thereafter.

The evidence for the prosecution consisted of the testimonies of complainant Abegail Olivar, her father Bonifacio Olivar, and Dr. Jose Arnel Marquez, medico-legal officer at the Philippine National Police Crime Laboratory.

Complainant testified that she was born on April 7, 1985, and a first year high school student at the Balara Filter High School in Quezon City.^[2] In 1998, she was living with her older sister Marivic at Villa Beatriz, Old Balara, Quezon City.^[3] At about seven o'clock in the evening of August 15, 1998, she went to the wake of her friend's sister at Alley 27, Road I, Area 5, Old Balara, Quezon City.^[4] At four o'clock in the morning of the following day, August 16, 1998, she and her friends decided to go home. She walked home with her friends and separated from them at a certain point.^[5] While she was walking alone along a dark alley, about twenty meters away from the wake, someone whom she later came to know as accused-appellant

Bonifacio Managbanag suddenly appeared and pulled her away.^[6] Complainant tried to resist but accused-appellant poked a "*balisong*" to her side.^[7] Accused-appellant dragged her to his house. When she screamed for help, he gagged her mouth with a handkerchief.^[8] Soon, accused-appellant was all over her. He kissed her breasts, pulled her dress, removed her panty, and toyed with her sexual organ.^[9] He then succeeded in having carnal relations with complainant. When it was over, accused-appellant tied her hands.^[10] He later untied her to enable her to eat.^[11] When complainant finished eating, accused-appellant again tried to sexually abuse her. She tried to resist by kicking him.^[12] However, accused-appellant boxed her and she lost consciousness.^[13] When complainant regained consciousness, she noticed that her hands were still tied and her mouth gagged.^[14]

Sometime in the evening, complainant heard her sister Marivic calling her but she could not answer as her mouth was gagged.^[15] Sensing that complainant's sister was near, accused-appellant switched off the light.^[16] After some time, her sister came back with some companions. They kicked the door of accused-appellant's house and told him to come out.^[17] Accused-appellant opened the door.^[18] Just then, complainant came out of the house in a daze so her sister slapped her on the face to revive her senses.^[19] Soon after, some policemen arrived to arrest accused-appellant. Accused-appellant tried to escape but the policemen caught up with him and he was brought to the Balara Police Station.^[20]

Complainant's testimony was corroborated by her father Bonifacio Olivar who narrated that he is the father of complainant, Abegail Olivar, who turned thirteen on April 7, 1998.^[21] He and his daughter Abegail were living with his elder daughter, Marivic, at Villa Beatriz Subdivision, Don Antonio Street, Old Balara, Quezon City.^[22] On August 16, 1998, he woke up at around five o'clock in the morning and found out that his daughter Abegail (complainant) did not come home.^[23] Together with his other daughters and nieces, they started looking for her.^[24] A woman, who knew her older daughter, told them to look for Abegail at the house of accused-appellant as she heard some shouts coming from that house earlier that day.^[25] It was already around eight o'clock in the evening when they proceeded to the house of accused-appellant. His daughter Marivic, peeping through the window of accused-appellant's house, saw complainant who was tied and gagged.^[26] They immediately sought the help of a *kagawad* who notified the police at the Batasan Police Station.^[27] When the police officers arrived, accused-appellant, who was armed with a knife, tried to resist arrest but a certain SPO1 Cayabyab subdued him.^[28] They untied complainant and removed the gag in her mouth.^[29] Complainant told them that she was raped by accused-appellant.^[30] Thereupon, accused-appellant was brought to the police station for investigation.

The last witness for the prosecution was Dr. Jose Arnel Marquez, medico-legal officer of the Philippine National Police Crime Laboratory Service at the Central Police District. Dr. Marquez testified that on August 17, 1998, he conducted a medical examination of Abegail Olivar.^[31] The examination showed ecchymosis (*chikinini* in layman's term) at complainant's pectoral region and a deep healed laceration of the hymen at eight o'clock position.^[32] Dr. Marquez opined that such laceration possibly

could have been caused by the penetration of a hard blunt object such as an erect penis.^[33] The medico-legal report prepared by him reads:

Findings:

GENERAL and EXTRAGENITAL:

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1. Ecchymosis, right pectoral region, measuring 1 x 0.5 cm, 2 cm. from the anterior midline.
2. Ecchymosis, right pectoral region, measuring 0.8 x 0.6 cm, 2.5 cm. from the anterior midline.
3. Ecchymosis, left pectoral region, measuring 0.4 x 0.4 cm, 6 cm from the anterior midline.

CONCLUSION:

Subject is in non-virgin state physically.

xxx^[34]

The evidence for the defense, on the other hand, consisted of the sole testimony of accused-appellant. He declared that he was a fish vendor and a resident of Lot 34, Villa Beatriz, Old Balara, Quezon City.^[35] He knew complainant Olivar because she was the girlfriend of Rodman Asebuche, a son of his *kumare* and neighbor, Tess Asebuche.^[36] Rodman and complainant used to go to his house to talk.^[37]

Around five o'clock in the morning of August 16, 1998, accused-appellant was at his house sleeping when someone knocked. When he opened the door, he saw complainant.^[38] She told him that she just came from a wake and asked permission to stay in his house to wait for Rodman who was to fetch her at six o'clock.^[39] Accused-appellant led complainant to the sala.^[40] At seven o'clock, he went out to sell fish. He came back at around nine o'clock in the same morning and chanced upon complainant and Rodman in his room.^[41] Both were naked and doing the sexual act.^[42] The two did not notice accused-appellant who, upon seeing them in an uncompromising situation, immediately went out of the room. After fifteen minutes, the couple emerged.^[43] Rodman apologized to him, saying "*Kuya, pasensiya ka na sa akin. Pumasok kami sa bahay mo.*"^[44] Accused-appellant asked the couple to go home. The two left without saying anything.^[45]

Around 7:15 o'clock in the evening, while accused-appellant was already in bed, six policemen carrying .45 caliber pistols entered his house and arrested him.^[46] He was told that he was being arrested for raping the daughter of Mr. Olivar.^[47] Accused-appellant was brought to the police station where he gave a statement.^[48] He denied raping complainant Abegail Olivar.^[49]

On August 17, 1991, the Regional Trial Court rendered a decision, the dispositive portion of which reads as follows:

WHEREFORE, finding the accused guilty beyond reasonable doubt of the crime of rape now described and penalized under Art. 266 of the Revised Penal Code, and there being no modifying circumstance attending the commission of the offense, he is hereby sentenced to suffer imprisonment of reclusion perpetua and to indemnify the offended party in the amount of P50,000.00 as moral damages and to pay the costs.

SO ORDERED.^[50]

Not satisfied with the judgment, accused-appellant interposed the present appeal ascribing the following errors in the decision of the court *a quo*:

THAT THE TRIAL COURT ERRED IN GIVING CREDIT TO THE TESTIMONY OF THE OFFENDED PARTY; and

THAT THE TRIAL COURT ERRED IN NOT CONSIDERING FAVORABLY TO THE TESTIMONY OF THE ACCUSED-APPELLANT (sic).

Accused-appellant claims that the trial court erred in giving credence to the testimony of complainant which allegedly contained inconsistent statements and averments. In particular, accused-appellant points out as inconsistent complainant's claim that her feet were bound and her allegation that she kicked accused-appellant when he tried to rape her for the second time. It is argued that such allegations are preposterous since it could not have been possible for complainant to have kicked accused-appellant if both her feet were tied. Accused-appellant also avers that complainant's failure to report the alleged previous rape by the same accused-appellant detract from the veracity of her charge. Finally, accused-appellant faults the trial court for failing to appreciate non-flight as an indication of his innocence.

The Court does not find merit in the petition. Accused-appellant's contentions are nothing but hackneyed arguments to evade incarceration.

It is a well-settled rule that when the testimony of a rape victim is plain and straightforward, to the point, and unflawed by any material or significant inconsistency, such testimony deserves full faith and credit.^[51] And minor inconsistencies in the victim's statements will not necessarily derail her testimony. In fact, far from detracting from the veracity of the rape victim's testimony, these minor inconsistencies tend to bolster it.^[52]

In the case under review, we do not find the inconsistencies pointed out by accused-petitioner to be so material as to warrant a reversal of the trial court's decision. It was not actually improbable for the complainant to have kicked him when both her feet were bound. Even if both her feet were tied together, she could still move them and deliver a kick which, though ineffective, demonstrated her efforts to resist his bestial advances. Thus, complainant declared:

ATTY. RIVERA:

Q You stated also when you testified on direct examination that the accused Bonifacio Managbanag will (sic) untie your hands

during the time that you were being detained by him only on occasions (sic) when he will feed you?

A Yes, sir.

Q When he untied your hands, were your feet still bound?

A Yes, sir.

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Q On occasions that he will (sic) untie your hand to feed you with food and with water, did you not think about shouting for help considering the proximity of the house to the house of Managbanag?

A I just kicked him with both feet.

Q You did not shout?

A Then, he boxed me and I lost consciousness.

Q When was that when he boxed you?

A When he was feeding me, I kicked him and then he boxed me.

xxx[53]

Complainant positively identified accused-appellant and made a clear and categorical narration of how she was abducted and raped:

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Q On August 15, 1998 at about 7:00 in the evening, where were you?

A I was at a wake, maam.

Q And where was that wake?

A Alley 27, Road 1, Area 5, Matandang Balara.

Q What city is that?

A Quezon City.

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Q Until what time did you stay in the wake?

A Up to about 4:00 in the morning.

Q At about 4:00 in the morning of August 16, what did you do, if any?

A I and my friends were about to go home.

Q Were you able to arrive home?

A No, maam.

Q What happened? Why were you not able to arrive home?

A I was pulled by Bonifacio Managbanag.

Q Where were you at the time when you were pulled by Bonifacio Managbanag?