

SECOND DIVISION

[G.R. No. 129297, March 17, 2000]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROMULO SAN DIEGO Y ESPIRITU, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision^[1] of the Regional Trial Court, Branch 80, Tanay, Rizal, finding accused-appellant Romulo San Diego guilty of rape and sentencing him to suffer the penalty of *reclusion perpetua*, to pay complainant Ailene G. Ebreo P50,000.00 as moral damages, plus costs.^[2]

The information against accused-appellant reads:

That on or about the 1st day of September, 1995, in the Municipality of Morong, Province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with Ailene G. Ebreo, without her consent and against her will.

CONTRARY TO LAW.

Tanay, Rizal, December 13, 1995.

Upon arraignment, accused-appellant pleaded not guilty, whereupon, he was tried.

The prosecution's version of the case, based mainly on the testimony of complainant and her mother, is as follows:

On September 1, 1995 at around 5 P.M., upon arriving home in Cherry II, San Jose, Antipolo, Rizal, Ailene G. Ebreo realized that she had left her umbrella in the tricycle from which she alighted. Fearing that her sister would scold her for this, she asked permission from her mother to go out and look for the umbrella. Ailene took a tricycle driven by accused-appellant to go to the town proper of Teresa, Rizal where she planned to look for her missing umbrella. She noticed that accused-appellant was only driving in circles, so he asked accused-appellant to stop and let her off. Accused-appellant, however, paid no heed and instead, drove the vehicle towards San Guillermo, Morong, Rizal, where, at knifepoint, he forced complainant to go inside a house which was in a rather uninhabited place. Ailene noticed a man inside the house. Accused-appellant then locked Ailene inside a room. She tried to escape but failed to do so because someone was guarding her. She screamed and cried to no avail.

At 9 P.M., accused-appellant returned. He started kissing Ailene while poking a knife at her side. She begged him to have pity on her, but accused-appellant boxed her in the stomach. So, Ailene stopped protesting. Accused-appellant then removed Ailene's underwear and inserted his penis into her vagina. She was warned that if she reported the incident, something dire would happen to her family. ("*May kukunin siya sa amin.*")^[3]

Ailene testified that accused-appellant had sexual intercourse with her, kissed and fondled her breast, for three hours. She also claimed that accused-appellant again raped her the following morning, and this time the intercourse lasted two hours.

Ailene claimed she did not resist because she wanted to gain the trust of accused-appellant so she could then escape from him. She said she even kept accused-appellant company wherever he had drinks with his friends. She further said that accused-appellant used drugs and made her take some against her will.

Ailene also testified that she went with accused-appellant whenever he would make trips on his tricycle around Morong and Antipolo. She would sit on the driver's seat, holding on to accused-appellant for support. They were often at the Teresa Public Market where accused-appellant picked up passengers.^[4]

On October 18, 1995, 48 days after she was allegedly abducted by accused-appellant, Ailene was found by her parents inside accused-appellant's tricycle which was then parked near the Teresa Public Market. Ailene was then alone as accused-appellant was elsewhere calling for passengers. According to Ailene, when she saw her mother, she ran towards her and told her what had happened to her.^[5]

Nenita Ebreo, Ailene's mother, corroborated her daughter's testimony. According to Nenita, when her daughter left their house on September 1, 1995 at around 5 P.M. to look for the missing umbrella, she did not expect her to return home that day because Ailene was then staying with her other daughter, Iryne Ebreo, in Dela Paz, Antipolo. Ailene would go home to her parents house in Cherry II Subdivision on the 15th and 30th day of each month to bring groceries to her mother. Hence, on September 16, 1995, Nenita decided to look for Ailene in Iryne's house. It was only then that she learned that Ailene was missing.^[6]

Nenita said she and her husband went around to look for their daughter but to no avail. They went around Morong and Antipolo asking some tricycle drivers for the whereabouts of Ailene, but no one could tell them where she was.^[7] Several days later, they learned that Ailene was being held by a "Kan Roy," the name by which accused-appellant is known in Teresa.

But it was only on October 18, 1995, that Nenita and her husband finally found Ailene in the public market. According to Nenita, Ailene ran towards her. She was allegedly in shock and did not talk throughout the trip home. It was only much later that Ailene was able to tell her parents that she had been raped by accused-appellant.^[8]

On October 22, 1995, Ailene, accompanied by her parents, went to the Morong Police Station and filed a complaint against accused-appellant.^[9] On October 23,

1995, she was examined at the Philippine National Police (PNP) Crime Laboratory by Dr. Owen Lebequin whose report states:

GENERAL AND EXTRAGENITAL:

Fairly developed, fairly nourished and coherent female subject. Breasts are conical with brown areola and nipples from which no secretion could be pressed out. Abdomen is flat and soft.

GENITAL:

There is moderate growth of pubic hair. Labia majora are full, convex and gaping with the light brown labia minora presenting in between. On separating the same disclosed an elastic, fleshy-type hymen with deep healed lacerations at 5 and 8 o'clock and a shallow healed laceration at 3 o'clock. External vaginal orifice offers no resistance to the introduction of the examining index finder and the virgin-sized vaginal speculum. Vaginal canal is narrow with prominent rugosities. Cervix is normal in size, color and consistency.

CONCLUSION:

Subject is in non-virgin state physically.

There are no external signs of application of any form of violence.

REMARKS:

Vaginal and peri-urethral smears are negative for gram-negative diplococci and for spermatozoa.^[10]

Dr. Lebequin testified that he had been informed by Ailene that her menses had been delayed for one month and a half. He asked Ailene to come back for a pregnancy test, but she never did.^[11] When Ailene testified in court on February 26, 1996 she said she was about six months pregnant.^[12]

Accused-appellant, on the other hand, gave a different version of what happened. He claimed it was a case of consensual sexual intercourse.

According to him, on September 1, 1995, at around 5 P.M., Ailene boarded his tricycle at the Teresa Public Market and asked him to take her to Antipolo. However, upon reaching Antipolo, she did not alight from the tricycle and instead asked to be taken back to the public market. So, he drove her back to the market and there, when he asked Ailene if she wanted to come with him, she agreed. They then proceeded to San Guillermo, Morong, Rizal to the house of Mrs. Loida da Silva, who is a friend of accused-appellant. Loida's husband worked abroad and she was living alone with her child. Accused-appellant introduced Ailene to Loida. Accordingly to him, he and his friends, Romulo delos Santos and Ariel San Jose, had agreed to have a drinking session in Loida's house on that day.^[13] Thus, when Romulo delos Santos and Ariel San Jose arrived, they began their drinking session. Ailene sat beside accused-appellant while they drank. Loida also stayed with the group,

although she was not drinking.^[14]

At 10 P.M., accused-appellant asked Loida for permission to use her bedroom. He and Ailene then went inside the bedroom and stayed there for two hours.^[15] Accused-appellant claimed that Ailene agreed to have sex. He added that from her reaction during their intercourse, he could tell that Ailene already had previous sexual experience.^[16]

Accused-appellant said that at 12 midnight, he went out of the room and joined his friends in having drinks. After his friends left, he and Ailene stayed behind and slept in Loida's house as Ailene had allegedly refused to go home.^[17] Romulo de los Santos fetched Ailene the next morning, at 8 A.M., and took her back to the Teresa Public Market.^[18]

About a week later, accused-appellant saw Ailene in the public market and the latter invited him to have another rendezvous in Loida's house. He agreed and the two had another tryst in Loida's house. According to him, this was repeated on two other occasions $\frac{3}{4}$ all upon the initiative of Ailene.^[19]

Defense witnesses Romulo de los Santos, Ariel San Jose, and Loida da Silva corroborated the testimony of accused-appellant.^[20] According to Loida da Silva, she thought accused-appellant and Ailene were sweethearts.^[21]

Accused-appellant, aside from denying the charge of rape, also claimed the case against him was made by Ailene's family to extort money from him. According to accused-appellant, when he was arrested and put in jail, Ailene's father came and told him that if he wanted to settle the case, he should talk to a certain Major Kahuday.^[22] He and his parents then sought out this officer, who warned them that the charge was a serious one which he might refer to the media. Thereafter, Ailene's father asked for P5,000,000.00 to settle the case, but accused-appellant's parent refused.^[23] The parties met a second time with Major Kahuday who suggested reducing the consideration for the settlement of the case to P1,000,000.00. As accused-appellants could pay only P60,000.00, no settlement was reached and the case proceeded to trial.^[24]

The trial court found accused-appellant guilty and sentenced him as follows:

WHEREFORE, the prosecution having established the guilt of the accused beyond reasonable doubt, judgment is hereby rendered convicting the accused of the crime of rape and sentences him to suffer the penalty of reclusion perpetua. The accused is also ordered to pay the offended woman the amount of P50,000.00 as moral damages and to pay the costs.

In the service of his sentence the accused is credited with the full period of his preventive imprisonment during the pendency of this case.

SO ORDERED.^[25]

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

- I. THE TRIAL COURT SERIOUSLY ERRED IN RELYING ON THE Demeanor OF THE COMPLAINANT, HER ALLEGED ABSENCE OF MOTIVE AND THE FACT THAT SHE ALLEGEDLY IMMEDIATELY REPORTED THE INCIDENT TO THE POLICE AUTHORITIES;
- II. THE TRIAL COURT A QUO SERIOUSLY ERRED IN CONVICTING THE ACCUSED ON THE BASIS OF THE INCREDIBLE AND CONFLICTING TESTIMONIES OF THE PROSECUTION WITNESSES AND IN DISREGARDING THE CLEAR, CONVINCING AND WELL-CORROBORATED TESTIMONY OF THE ACCUSED;
- III. THE TRIAL COURT ERRED IN DISREGARDING THE TESTIMONY OF PROSECUTION'S EXPERT WITNESS THAT CREATES REASONABLE DOUBT IN FAVOR OF THE ACCUSED.^[26]

In convicting accused-appellant, the trial court stated:

There is no doubt in the mind of this Court that Ailene Ebreo, the offended woman, was indeed a victim of rape. The Court has observed her very closely while testifying and found her demeanor consistent with her desire of obtaining redress for her grievance. She was hysterical and was crying at the sight of the accused, thus, disproving that there existed a relationship between them. Her outburst and cursing look at the accused while testifying manifested the rage that she had against the accused after being subjected to a series of sexual assaults which culminated in her untimely pregnancy. Th[is] demeanor of the complainant ha[s] reinforced the credibility of her testimony that she was indeed threatened with a knife and forcedly brought inside a house where she was detained and sexually abused by the accused. The Court cannot find any motive why the complainant would file a serious case and testify against the accused if she was not a victim of rape. While it is true that the complainant later relented and submitted her body to the accused even it was against her will so as to give her the opportunity to escape, such an act did not in any manner diminish the liability of the accused for the previous sexual assaults he committed. The complainant categorically stated that she did it because she had no chance to fight the accused. It should be noted that the complainant immediately informed her parents about what happened to her and thereafter, they immediately reported the incident to the police authorities. It is hard to believe that the complainant who was only a 17 year old unmarried girl at the time of the incident would publicly disclose her ordeal, would allow the examination of her private parts, and would undergo the ordeal of a public trial if her motive was not to bring to justice the accused who caused her wrong.^[27]

The Solicitor General filed a Manifestation and Motion in Lieu of Appellee's Brief, recommending the reversal of the decision of the trial court and the acquittal of the accused. He contends that the testimony of Ailene Ebreo is not credible as she had several opportunities to escape from accused-appellant but did not do so. He also finds inconsistencies in Ailene's testimony, while that of accused-appellant was