

EN BANC

[G.R. No. 127156, July 31, 2000]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAIME BALACANO Y DALAFU, ACCUSED-APPELLANT.

DECISION

PURISIMA, J.:

For automatic review is the Decision of Branch 78, Regional Trial Court of Quezon City,^[1] finding the appellant guilty beyond reasonable doubt of the crime of rape, and sentencing him as follows:^[2]

"WHEREFORE, the Court finds accused JAIME BALACANO y DALAFU GUILTY beyond reasonable doubt as principal of the crime of Rape, defined and penalized under Article 335 of the Revised Penal Code, as amended by Section 11 of Republic Act No. 7659, and is hereby sentenced to suffer the penalty of DEATH in Criminal Case No. Q-95-62686. The accused is likewise ordered to indemnify the victim Esmeralda Balacano the amount of One Hundred Thousand (P100,000.00) Pesos, as moral damages.

SO ORDERED."

On August 16, 1995, Esmeralda Balacano, assisted by her mother, Ma. Luisa M. Balacano, lodged subject complaint^[3] for rape before Assistant City Prosecutor Wilfredo L. Maynigo, stating thus:

"The undersigned accuses JAIME BALACANO Y DALAFU of the crime of Rape, committed as follows:

That on or about the 9th day of August, 1995, in Quezon City, Philippines, the said accused by means of force and intimidation, to wit: by then and there willfully, unlawfully and feloniously put himself on top of said complainant, a minor 14 years old, and thereafter have carnal knowledge with the undersigned complainant against her will and without her consent.

CONTRARY TO LAW."

Upon arraignment on September 20, 1995 with the assistance of Atty. Eranio G. Cedillo, appellant pleaded not guilty to the crime charged.

Evidence for the People consisted of the testimonies of the victim, Esmeralda Balacano, and Dr. Jesusa Nieves-Vergara, the medico legal officer who examined her.

Esmeralda Balacano, fourteen years of age, testified that she was raped five (5) times by the appellant, who is her step-father, but she could not anymore remember the dates she was ravished except that which happened on August 9, 1995. She also narrated that on the said date, at around 7:00 o'clock in the evening, she and her sister Peñafrancia were in their residence at No. 121 Commonwealth Avenue, Barangay Commonwealth, Quezon City, when the appellant entered the room, asked her sister to go out, and ordered her (victim) to undress. Sensing that appellant was drunk and afraid of his anger, she complied. Appellant then inserted his penis into her vagina. After satisfying his lust, he slept. She then went out of the house to look for her sister and they waited for their mother. Upon the arrival of the latter, they went to the police station where the investigation of the incident took place.

The other witness for the prosecution, Dr. Jesusa Nieves-Vergara, the medico-legal officer who conducted a physical examination of the victim, recounted that the victim was in a non-virgin state with deep lacerations, positioned at 3, 6 and 9 o'clock, respectively. The medico-legal expert opined that the lacerations in the hymen of the victim were indications of sexual abuse.^[4]

Appellant interposed the defense of denial. According to him, on the alleged date of commission of the crime, he was alone, sleeping inside their rented room. He denied having raped the victim. No other witness was presented to corroborate appellant's testimony.

On May 13, 1996, the trial court found the evidence for the prosecution enough to convict appellant Jaime Balacano for raping his step-daughter Esmeralda Balacano. In arriving at its finding of guilt, the trial court ratiocinated:

"The Court believed the testimony of Esmeralda Balacano which bears an earmark of truthfulness in spite of the fact that she was an illiterate and minor inconsistencies in her testimony, which was corroborated by the findings of the medico-legal and other circumstances rather than the unsubstantiated testimony of Jaime Balacano.

Esmeralda was categorical and vivid in narrating the incidents of rape committed by Jaime Balacano on her. She was very straight-forward and honest in answering questions propounded on her even to the point of casting doubt on her credibility .

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The Court cannot cast doubt on the testimony of Esmeralda. There may be some inconsistencies in her testimony but these are minor ones that do not destroy her credibility neither weakens the case of the prosecution. It even impressed on the mind of the Court that the same is not fabricated. It is expected also considering the nightmare she has gone through which some people would like to forget."^[5]

Appellant's Brief is anchored on the lone assigned error, that:

THE LOWER COURT ERRED IN FAILING TO APPLY THE RULE THAT IN CASE OF DOUBT SUCH DOUBT MUST BE RESOLVED IN FAVOR OF THE ACCUSED.

Appellant contends that on the basis of the evidence on record, there is a doubt as to his guilt, and the same should be resolved in his favor pursuant to the constitutional provision that "xxx the accused shall be presumed innocent until the contrary is proved xxx".^[6] He theorizes that in criminal cases, the accused is entitled to acquittal in the absence of proof of guilt beyond reasonable doubt.^[7]

In criminal prosecutions, "reasonable doubt" is not a mere guess that the appellant may or may not be guilty. It is such a doubt that a reasonable man may entertain after a fair review and consideration of the evidence.^[8] It is:

"xxx a term often used, probably pretty well understood, but not easily defined. It is not mere possible doubt, because everything relating to human affairs is open to some possible or imaginary doubt. It is that state of the case which after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge, a certainty the convinces and directs the understanding, and satisfies the reason and judgment of those who are bound to act conscientiously upon it."^[9]

In short, it is a state of the mind engendered by insufficient proof.^[10]

In this case under automatic review, there are pieces of evidence introduced by the prosecution to traverse the denial theorized upon by the defense.

Appellant contends that the evidence offered by the prosecution does not suffice to convict him; arguing that the prosecution depended heavily on the testimony of the victim, which he (appellant) brands as inadequate in view of admissions by the victim allegedly impairing her credibility and exposing the impossibility of commission of the rape charged, such as: (1) Her claim that she was raped five (5) times by the accused but she only reported the fifth rape; (2) Admission by the victim that no threats were made on her by the accused during or after the rape; and (3) That they (appellant's family) were renting only one room wherein all the family members were sleeping such that, rape could not have taken place therein.

The appeal is barren of merit.

Appellant relied principally on his defense of denial, insisting that he never raped Esmeralda, who is his step-daughter. Assisted by the Public Attorney's Office (PAO), appellant narrated thus:

"xxx xxx xxx that on August 9, 1995 at 7:00 o'clock in the evening, when the alleged rape happened, he was at home and in fact already sleeping; that they are only renting a room in a house in Barangay Commonwealth, Quezon City; that on the alleged date of the crime his wife (Ma. Luisa Balacano) was also at their house, the same thing with their two daughters namely Esmeralda and Peñafrancia."^[11]

As repeatedly pronounced by this Court (1) an accusation for rape can be made with facility; it is difficult to prove but even more difficult to disprove by the person charged, though innocent; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must

be scrutinized with extreme caution; and (3) the evidence of the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.^[12]

But, time and again, the Court has ruled that the lone testimony of the victim may suffice to convict the rapist. When a victim says she has been raped, she says in effect all that is necessary to show that rape has been committed and if her testimony meets the test of credibility, the accused may be convicted on the basis thereof.^[13] The aforestated principle applies squarely to this case.

As a general rule, the factual findings by the trial court deserve a high degree of respect and are not to be disturbed on appeal in the absence of any clear showing that it overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which could alter the conviction of the accused.^[14]

In the case under scrutiny, the Court agrees with the lower court that the credibility of the victim has not been impaired by her alleged inconsistencies alluded to by the appellant. On this score, the trial court said:

"The Court cannot cast doubt on the testimony of Esmeralda. There may be some inconsistencies in her testimony, but these are minor ones that do not destroy her credibility neither weakens the case of the prosecution. It even impressed of the mind of the Court that the same is not fabricated. It is expected also considering the nightmare she has gone through which some people would like to forget. xxx"^[15]

As regards the first inconsistency referred to, considering that appellant has been convicted for the fifth rape, which he perpetrated on August 9, 1995, it does not matter whether or not there are proofs on record of the four other rapes he previously committed. The lack of evidence of the four other rapes aforesaid is of no moment.

It should be noted that appellant was only tried and convicted for the fifth rape. Immediately after the rape on August 9, 1995, the victim informed her mother what happened and both of them proceeded to the police station for an investigation of the rape complained of, as can be gleaned from the records on hand, to wit:

"PROS. VELASCO: (on direct examination)

Q - At about 7:00 o'clock in the evening of August 9, 1995, were you at your residence at No. 121 Commonwealth Avenue, Barangay Commonwealth, Quezon City?

ANSWER:

.....Yes, Sir.

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Q - At that time about 7:00 o'clock in the evening, what were you and Penafancia doing?

A - We were both laying down in our room, sir.

Q - While you and Penafrancia were lying in your room, was there any unusual incident which transpired?

A - Yes, sir, there was, sir.

Q - And what is this?

A - First, Jaime Balacano asked my sister to go out of the house and then he asked me to remove my dress but I resisted and then he was able to remove my pants and then he put his penis into mine, sir.

Q - Now, after putting his penis inside yours, what transpired next, Madam Witness?

A - When he put his penis inside my vagina, I felt a sticky water came (sic) out and then afterwards, he slept and then I went out of the house to look for my sister and we waited for my mother, sir.

PROS. VELASCO: (on direct examination)

Q - And did your mother arrived?

ANSWER:

.....A - Yes, sir

Q - And what did you do when your mother arrived?

A - I told my mother what happened, sir.

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Q -.....In connection with this case, do you remember if you were investigated by the police?

A - Yes, sir.

Q -.....And did you execute a statement at the police station?

Q - Yes , sir."^[16]

On August 16, 1995 or seven days after the August 9, 1995 rape, the victim (with the assistance of her mother) was able to formalize her complaint before Asst. Prosecutor Wilfredo L. Maynigo. There was thus no delay in reporting the incident sued upon. Anyway, delay or vacillation in making a criminal accusation does not necessarily impair the credibility of the complaining witness.^[17]

On the issue of whether the absence of threats negated the present charge of rape, the Court rules in the negative.

Appellant placed reliance on his theory that there was no threat as the victim admitted that no threats were made against her life or that of her family; and that the physical examination conducted on the victim by the medico-legal officer showed no signs of physical injuries.

It should be borne in mind that appellant is lawfully married to the mother of the