362 Phil. 697

THIRD DIVISION

[G.R. No. 131909, February 18, 1999]

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. ALFREDO CABRAL, PRESIDING JUDGE, RTC, BRANCH 30, CAMARINES SUR AND RODERICK ODIAMAR, RESPONDENTS.

D E C I S I O N

ROMERO, J.:

Assailed before this Court is the August 1, 1997 decision[1] of the Court of Appeals in CA GR. No. 42318 which affirmed the March 24, 1995 and June 14, 1996 orders[2] of the lower court granting accused-respondent's Motion for Bail and denying petitioner People's Motions "to Recall and Invalidate Order of March 24, 1995" and "to Recall and/or Reconsider the Order of May 5, 1995" confirming the hospitalization of accused-respondent.

Accused-respondent Roderick Odiamar was charged with rape upon the complaint of Cecille Buenafe. In a bid to secure temporary liberty, accused-respondent filed a motion praying that he be released on bail which petitioner opposed by presenting real, documentary and testimonial evidence. The lower court, however, granted the motion for bail in an order, the dispositive portion of which reads:

> "WHEREFORE, the *evidence not being strong* at the (sic) stage of the trial, this court is constrained to grant bail for the provisional liberty of the accused Roderick Odiamar in the amount of P30,000.00." (Italics supplied)

Believing that accused-respondent was not entitled to bail as the evidence against him was strong, the prosecution filed the two abovementioned motions which the lower court disposed of, thus:

> "WHEREFORE, the motions dated 10 May 1995 and 15 May 1995 both filed by Atty. Romulo Tolentino, State Prosecutor, are hereby denied, for lack of merit."

The above-cited orders prompted petitioner to file a petition before the Court of Appeals with prayer for temporary restraining order and preliminary injunction. The Court of Appeals denied the petition reasoning thus:

> "We have examined in close and painstaking detail the records of this case, and find that the claim of the People that the respondent judge had over-stepped the exercise of his jurisdiction in issuing the questioned orders, is unimpressed with merit. We are not inclined to declare that there was grave abuse in respondent court's exercise of its discretion in allowing accused to obtain bail. There is grave abuse of discretion where the power is exercised in an arbitrary or despotic manner by reason of

> passion, prejudice, or personal hostility amounting to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law. We do not find this to be so in this case. Our ruling is based not only on the respect to be accorded the findings of facts of the trial court, which had the advantage (not available to Us) of having observed first-hand the quality of the autoptic proference and the documentary exhibits of the parties, as well as the demeanor of the witnesses on the stand, but is grounded on the liberal slant given by the law in favor of the accused. Differently stated, in the absence of clear, potent and compelling reasons, We are not prepared to supplant the exercise of the respondent court's discretion with that of Our own."

Still convinced by the merit of its case, petitioner filed the instant petition submitting the following sole issue:

> "WHETHER OR NOT THE COURT OF APPEALS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING THE ASSAILED DECISION AND RESOLUTION DESPITE A SHOWING BY THE PROSECUTION THAT THERE IS STRONG EVIDENCE PROVING RESPONDENT'S GUILT FOR THE CRIME CHARGED."

The above-submitted issue pertains to the orders of the lower court granting accused-respondent's application for bail which it justified through its summary of the evidence presented during the hearing. Said order states, thus:

> "Now going over the evidence adduced in conjunction with the petition for bail filed by the accused through counsel, the court believes that the evidence so far presented by the prosecution is not strong. This is so because the crime of rape is not to be presumed; consent and not physical force is the common origin of acts between man and woman. Strong evidence and indication of great weight alone support such presumption. It is the teaching of applicable doctrines that form the defense in rape prosecution. In the final analysis, it is entitled to prevail, not necessarily because the untarnished truth is on its side but merely because it can raise reasonable, not fanciful doubts. It has the right to require the complainant (sic) strong evidence and an indication of great weight (People v. Godoy, G.R. No. L-31177, July 15, 1976), and in the instant case, the reasonable doubt is on the evidence of the prosecution, more so, because the intrinsic nature of the crime, the conviction or the acquittal of the accused depends almost entirely on the credibility of the complainant (People v. Oliquino, G.R. No. 94703, May 31, 1993). Rightly so, because in the commission of the offense of rape the facts and circumstances occuring either prior, during and subsequent thereto may provide conclusion whether they may negate the commission thereof by the accused (People v. Flores, L-6065, October 26, 1986). If they negate, they do presuppose that the evidence for the prosecution is not strong. More so, because in the instant case, the facts and circumstances showing that they do seem to negate the commission thereof were mostly brought out during the cross-examination. As such, they deserve full faith and credence because the purpose thereof is to test accuracy and truthfulness and freedom from interest and bias or the reverse (Rule 132, Sec. 6, Revised Rules of Evidence). The facts and circumstances brought up are as follow, to wit:

a) That, when the offended party Cecille Buenafe rode in the jeepney then driven by the accused Roderick Odiamar in that evening of July 20, 1994 at about 8:00 o'clock from the Poblacion, Lagonoy, Camarines Sur the former knew that it was for a joy ride. In fact, she did not even offer any protest when the said jeepney proceeded to the Pilapil Beach resort at Telegrafo, San Jose, Camarines Sur instead of Sabang, same municipality, where she and Stephen Florece intended to go. And when the said jeepney was already inside that resort, Cecille even followed the accused in going down from the jeepney also without protest on her part, a fact which shows voluntariness on the part of the offended party and, therefore, to the mind of the court her claim of rape should not be received with precipitate credulity. On the contrary, an insight into the human nature is necessary (People v. Barbo, 56 SCRA 495). And it is only when the testimony is impeccable and rings true throughout where it shall be believed (People v. Tapao, G.R. No. L-41704, October 23, 1981). Rightly so, because the aphorism that evidence to be believed must not only proceed from the mouth of a credible witness but it must be credible in itself in conformity with the common experience and observation of mankind is nowhere of moral relevance than in cases involving prosecution of rape (People v. Macatangay, 107 Phil. 188);

b) That, in that resort, when the accused Roderick Odiamar and companions allegedly forced the offended party Cecille Buenafe to drink gin, the latter, at first, refused and even did not swallow it but later on voluntarily took four (4) shots there shows that there (was) no force. And as regards the claim that the accused Roderick Odiamar and companions allegedly forced the said offended party to inhale smoke, out of a small cigarette, presumably a marijuana, it becomes doubtful because the prosecution, however, failed to present any portion of that so-called small cigarette much less did it present an expert witness to show that inhaling of smoke from the said cigarette would cause dizziness. Rightly so, because administration of narcotics is covered by Art. 335, par. 2 Revised Penal Code (People v. Giduces C.A. 38 O.C. 1434 cited in the Revised Penal Code, Aquino, Vol.III, pp. 392). As such, the burden of proof rests with the prosecution but it failed to do so;

c) That, in that cottage where the accused, Roderick Odiamar allegedly brought the offended party, Cecille Buenafe, the former was able to consummate the alleged offense of rape by removing the two (2) hands of the offended party, placed them on her knee, separating them thereby freeing the said hand and consequently pushed the head of the accused but the latter was able to insert his penis when the said offended party was no longer moving and the latter became tired. Neither evidence has been presented to show that the

offended party suffered an injury much less any part of her pants or blouse was torn nor evidence to show that there was an overpowering and overbearing moral influence of the accused towards the offended party (People v. Mabunga, G.R. No. 96441d, March 13, 1992) more so, because force and violence in the offense of rape are relative terms, depending on the age, size and strength of the parties and their relation to each other (People v. Erogo, 102077 January 4, 1994);

d) That, after the alleged commission of rape at about 3:00 o'clock in the early morning of July 21, 1994, the offended party, Cecille, Stephen Florece and the latter's companions all boarded the same jeepney going back to the Poblacion of Lagonoy, without the said offended party, protesting, crying or in any way showing sign of grief regarding the alleged commission of the offense of rape until the jeepney reached the house of Roderick Odiamar where the latter parked it. As in other cases, the testimony of the offended party shall not be accepted unless her sincerity and candor are free from suspicion, because the nature of the offense of rape is an accusation easy to be made, hard to be proved but harder to be defended by the party accused though innocent (People v. Francisco G.R. No. L-43789, July 15, 1981). It becomes necessary, therefore, for the courts to exercise the most painstaking care in scrutinizing the testimony of the witnesses for the prosecution (People v. Dayag, L-30619, March 29, 1974);

e) That the offended party, Cecille Buenafe had herself physically examined by Dr. Josephine Decena for medical certificate dated July 27, 1994 and it states, among others, that there was a healed laceration on the hymen, her laceration might have been sustained by the said offended party, a month, six (6) months, and even a year, prior to the said examination and that the said laceration might have been caused by repeated penetration of a male sex organ probably showing that the offended party might have experienced sexual intercourse. This piece of testimony coming from an expert, such finding is binding to court (Rules of Court, Moran, op.cit, vol 5, 1963, ed. pp. 413).

f) That the offended party, Cecille Buenafe accompanied by the Station Commander of Lagonoy, Camarines Sur, proceeded to Naga City and upon the suggestion of Gov. Bulaong, the said offended party submitted for medical treatment before the same physician per medical certificate dated August 1, 1994 but according to the said physician the lesions near the umbilicus were due to skin diseases but the said offended party claim they were made by the accused after the sexual acts. As such, there were contradictions on material points, it becomes of doubtful veracity (People v. Palicte 83 Phil.) and it also destroys the testimony (People v.

> Garcia, G.R. No. 13086, March 27, 1961). As to the fact that the said lesion was made by the accused subsequent to the commission of the act, it is immaterial. As such, it has no probative value."

The lower court concluded that the evidence of guilt was not strong.

The Office of the Solicitor General disagreed with the lower court. It opined that aside from failing to include some pieces of evidence in the summary, the trial court also misapplied some well-established doctrines of criminal law. The Office of the Solicitor General pointed out the following circumstances duly presented in the hearing for bail:

> "First. There was no ill motive on the part of Cecille to impute the heinous crime of rape against respondent (People v. Paragsa, 83 SCRA 105 [1978]; People v. Delovino, 247 SCRA 637 [1995]).
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> Second. Dr. Belmonte, the psychiatrist who attended to Cecille testified that based on her psychiatric examination of the latter, Cecille manifested psychotic signs and symptoms such as unusual fear, sleeplessness, suicidal thoughts, psychomotor retardation, poverty of thought content as well as depressive signs and symptoms. These abnormal psychological manifestations, according to Dr. Belmonte, are traceable to the rape incident (Pages 5-7, TSN, November 22, 1994.)
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> Third. The unrebutted offer of compromise by respondent is an implied admission of guilt (People v. Flore, 239 SCRA 83 [1994]).
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> Fourth. Cecille was threatened by a deadly weapon and rendered unconscious by intoxication and inhalation of marijuana smoke.
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> Fifth. The fact that after the conduct of two (2) preliminary investigations, `no bail was recommended in the information' constitutes `clear and strong evidence of the guilt of (all) the accused' (Baylon v. Sison, 243 SCRA 284 [1995].
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> Sixth. Cecille categorically testified on re-cross examination (pages 5-7, Order) that respondent succeeded in forcibly deflowering her because she was already weak and dizzy due to the effect of the smoke and the gin. Her declarations remain unrebutted.
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> Seventh. Cecille categorically testified that she performed acts manifesting her lament, torment and suffering due to the rape. She went to Stephen Florece, cried and complained about the incident. Instead of helping her, Florece threatened to harm her and her family. (Pages 9-13, November 17, 1994). The statements of Cecille are positive statements which, under existing jurisprudence, are stronger than the denials put forth by respondent (Batiquin v. Court of Appeals, 258 SCRA 334 [1996]).
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> Eight. The reliance by trial court on the testimony of Dr. Decena to the effect that the lacerations suffered by Cecille `might have been sustained