352 Phil. 487

FIRST DIVISION

[G.R. Nos. 109138-39, April 27, 1998]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALBERTO GAORANA Y ERAN,[1]

ACCUSED-APPELLANT.

D E C I S I O N

PANGANIBAN, J.:

Minor inconsistencies in the testimony of a witness strengthen, rather than impair, credibility. Such harmless and inconsequential errors are indicative of truth, not falsehood.

The Case

This is an appeal from the Decision[2] dated September 4, 1992, promulgated by the Regional Trial Court (RTC) of Panabo, Davao, in Criminal Case Nos. 91-316 and 91-317, convicting Appellant Alberto Gaorana[3] *y* Eran of two counts of rape and sentencing him to two terms of *reclusión perpetua.*

On March 13, 1991, a Criminal Complaint[4] was filed by Marivel J. Fuentes with the assistance of her mother, Priscilla J. Fuentes, before Municipal Trial Court (MTC) Judge Daydews D. Villamor of Panabo, Davao. After conducting preliminary investigation, the MTC recommended that appellant be charged with two separate cases of simple seduction. However, in a Resolution dated August 22, 1991,[5] Davao State Prosecutor I Castor B. Dorado and Provincial Prosecutor Francisco G. Rivero modified the investigating judge's recommendation and charged appellant with two counts of rape.

Except for the dates of the commission of the crime, the two Informations contained the same allegations. The first Information, docketed as Crim. Case No. 91-316, charged appellant as follows:[6]

> "That on or about March 5, 1991, in the Municipality of Panabo, Province of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, and with the use of a hunting knife, did then and there wilfully, unlawfully and feloniously have carnal knowledge of Marivel Fuentes, against her will.
>
> The commission of the foregoing offense is attended by the aggravating circumstance of [q]uasi-[r]ecidivism."

The second Information, docketed as Crim. Case No. 91-317, charged appellant with rape committed on March 6, 1991.[7] The cases were consolidated and filed before

the RTC of Panabo, Davao. Upon arraignment, appellant pleaded not guilty to both charges.[8]

In due course, the trial court rendered the assailed Decision, the dispositive portion of which reads:[9]

"WHEREFORE, IN THE LIGHT OF THE FOREGOING, the Court finds Alberto Gaorana Y Iran guilty beyond reasonable doubt of the two cases of rape, punishable under Article 335 of the Revised Penal Code, and this Court hereby sentences the said accused to suffer and undergo the penalty of reclusion perpetua for each count, with all the accessory penalties and to pay the costs.

The accused is also ordered to indemnify the victim, Marivel Fuentes, [in] the amount of FIFTY THOUSAND (P50,000.00) PESOS."

Hence, this appeal.[10]

The Facts

Version of the Prosecution

In the Appellee's Brief,[11] the prosecution presented this version of the facts:[12]

"On March 5, 1991, before 2:00 o'clock in the afternoon, Marivel Fuentes, herein private complainant, was cleaning her house located at DAPECOL, Panabo, Davao. At the same time, she was also putting her younger brother and sister to sleep. Rowena Sanchez, common-law wife of appellant, arrived and instructed her to go to her house which was about 20 meters away.[13] Private complainant finished cleaning before she proceeded to Rowena's place.

When private complainant arrived in appellant's house, she saw appellant and Rowena lying down. Rowena bade her to come in and told her to sit down. Rowena then stood up and told private complainant that she [would] urinate. Appellant approached private complainant, covered her mouth and pointed a hunting knife to her neck. He told her that he [would] kill her if she [would] tell her mother. Private complainant fought appellant but appellant pulled her inside a room. Appellant made her lie down on the floor. Appellant then took off his pants and opened private complainant's duster and removed her panty. He put himself on top of private complainant and had intercourse with her. All the while, private complainant's mouth was covered with a handkerchief.

After about five minutes, Rowena came back and saw appellant still on top of Marivel. Appellant instructed Rowena to step out of the room. After a while, appellant stood up, put on his briefs and called his wife inside the room. Both of them said, "Let us see."

Private complainant was allowed to leave appellant's house at 5:00 o'clock in the afternoon. Private complainant's parents arrived at 7:00 o'clock in the evening but she did not report the incident to them because she was afraid appellant might make good his threat (pp. 7-13, 20-24, 29-32, tsn, March 30, 1992).

The second incident of rape occurred at around 3:00 o'clock in the morning of March 6, 1991. Private complainant was sleeping in the sala with her brother and sister when she was awakened by the kisses of appellant. Appellant had a knife which

scared private complainant. Appellant pulled private complainant from the mat, removed his pants, opened her duster and removed her panty, and again had intercourse with her. Private complainant did not shout because she was afraid of appellant who was a prisoner and had already killed somebody. After satisfying his lust, appellant left (pp. 14, 34-36, tsn, ibid.)."

Version of the Defense

Appellant interposes the defense of alibi and denial. In his Brief, [14] he presented the following version of the facts:

> "EVIDENCE FOR THE DEFENSE:
>
> MRS. ROWENA GAORANA testified that she is the wife of the accused Alberto Gaorana, and they have one (1) child. She had known the accused since 1989 and had become his sweetheart since May 26, 1990. Gaorana [was] a living out prisoner which means that he [was] living in a house outside the compound of DAPECOL. She became a resident of DAPECOL since 1989 when she was then living with her mother and stepfather who [was] likewise a colonist. She knew Marivel Fuentes because they [had been] neighbors since she arrived in DAPECOL in December 2, 1989. She was then 16 years old. She and Marivel Fuentes [were] friends, and as such, they would talk sometimes and would practice how to ride on a bicycle.
>
> It is not true that she invited Marivel Fuentes to visit their house in DAPECOL at about 2 p.m. of March 5, 1991 because at that time and date, they were sleeping. However, on that date, she could recall having met Marivel Fuentes in their house, when Marivel borrowed a pitcher from them. After borrowing the pitcher, Marivel left and she continued sleeping. Then she stood up and went to her mother's house 300 meters away to answer the call of nature. After 45 minutes she returned and saw Marivel Fuentes sitting in their kitchen. Her husband was also sitting on the bench of their kitchen, two (2) meters away from where Marivel was and conversing with the latter. She could not however hear what they were talking about. She asked Marivel Fuentes why she was there and Marivel answered that she was returning the pitcher she borrowed. She noticed that Marivel was somewhat embarrassed because she turned her face from her. Then after around 30 minutes, Marivel went home.
>
> It is not true that she just laughed when she saw them doing the sexual intercourse because if it were true that she saw them doing that thing, maybe she would kill.
>
> It is not also true that on [the] midnight of March 6, 1991, her common-law husband Alberto Gaorana barged in[to] the house of Marivel Fuentes and had sexual intercourse with her, because at that time, they were sleeping in the room of their house.
>
> Whenever she would meet Marivel Fuentes after March 5 and 6, 1991, they just looked at each other. Marivel would not talk to her because she believe[d] she was ashamed. She asked Marivel why she did not care to answer. That was not the usual behavior of Marivel prior to March 5 and 6, because they used to talk and laugh together whenever they were in

company. She also asked her husband why [I]nday (referring to Marivel) changed and her husband answered "I do not know why. You may know it because you are close to each other." (TSN, June 1, 1992, pp. 3-14

Accused ALBERTO GAORANA, 27 years old, live-in partner of Rowena and a prisoner, testified that he came to know Marivel Fuentes in 1989. He met her in their store, being a living but prisoner, [and] he worked as a carpenter in the house of Fuentes family in DAPECOL in 1990.

At about 2 p.m. of March 5, 1991, he was in their house sleeping with his common-law-wife. He woke up at 4 0'clock in the afternoon. His wife was still with him when he woke up. On said date he did not see or meet Marivel Fuentes. What Marivel Fuentes are [sic] saying against him are not true because he was sleeping at that time with his wife. (TSN, June 1, 1992, pp. 17-19)."

Ruling of the Trial Court

The trial court gave full faith and credence to the testimony of complainant who was not shown to have any motive to falsely testify against appellant. It ruled that it was improbable that a naive and inexperienced 15-year old girl would fabricate her own ravishment and subject herself to the humiliation and embarrassment of a public trial if her charges were not true. Further, her testimony was corroborated by Dr. Bendijo who, after conducting physical examination on her, found that her hymen was no longer intact. Her positive and categorical testimony prevailed over appellant's bare denial and alibi.

The trial court also ruled that appellant had a motive to commit the crime. Complainant's parents supposedly failed to give him their payment for his common-law wife's laundry services.

Assignment of Errors

In his Brief, appellant imputes the following errors to the court *a quo*:[15]

"I

The trial court erred in finding the testimony of Complainant Marivel Fuentes as credible despite its inconsistencies

II

The trial court erred in finding Accused-Appellant Alberto Gaorana guilty beyond reasonable doubt of the crime of rape despite the weakness of the evidence for the prosecution"

The Court's Ruling

The appeal is bereft of merit.

First Issue: *Harmless Inconsistencies*

Appellant contends that the following "inconsistencies" cast serious doubt on the veracity and reliability of complainant's testimony: (1) complainant declared that her father wanted her to be away from DAPECOL (Davao Penal Colony), but she also claimed that he was happy when she returned because he missed her terribly;[16]

(2) on cross-examination, she testified that it took Rowena five minutes to answer the call of nature[17] but, later on, she said that Rowena returned after an hour;[18] (3) during the direct examination she said that appellant "opened" her house dress,[19] but on cross-examination she said that he pulled her house dress up to her breast;[20] and (4) she claimed that appellant had already pulled his penis out of her vagina when Rowena returned, which was at the same time that complainant opened her eyes[21] -- a statement contradicting her earlier one which pointed out that appellant's penis was still inside her private part when Rowena saw the two of them.[22]

The alleged discrepancies do not discredit the complainant's testimony. The claimed inconsistency regarding the father's reaction to the complainant's return to DAPECOL is more apparent than real. Her father, being an inmate himself, must have realized that the penal colony was not an ideal place for a girl to grow up in; thus, he welcomed the possibility that his daughter would live outside the colony with her aunt. By the same token, he cannot be faulted for missing a daughter whom he had not seen for some time.

Equally insignificant is the discrepancy regarding complainant's account of the length of time it took Rowena to defecate and return. This is a minor lapse which is not unusual when a person is recounting a humiliating and painful experience.

On the other hand, whether the complainant's house dress was "opened" or "pulled up" is merely a semantic discrepancy. It could very well be attributed to an error in the translation of the testimony from the dialect to English. In any case, both terms similarly describe how appellant exposed the complainant's body to enable him to commit the crime.

Whether appellant's penis was still inside complainant's vagina when Rowena returned is similarly a trivial matter. In either case, it is undisputed that appellant, with the use of force and intimidation, had carnal knowledge of the complainant.

These alleged inconsistencies are inconsequential in the face of the essential fact that appellant forced the complainant to have sexual intercourse with him. The Court has consistently adhered to the rule that inconsistencies on minor details strengthen, rather than impair, the witness' credibility. They are considered more as badges of truth, rather than as indicia of falsehood.[23]

Appellant also contends that the testimony of complainant was contrary to human experience, because he could not have stayed at her house for thirty minutes just threatening her and doing nothing else, after he had supposedly ravished her for two minutes around 3:00 a.m. of March 6, 1991. The Court is not persuaded.

Rape is essentially an offense committed in secrecy, generally executed in dark or deserted and secluded places away from prying eyes. Thus, conviction for this crime rests largely upon the credibility of the offended party who is usually the sole witness of its actual occurrence.[24] Thus, herein complainant's testimony must thus be considered and calibrated in its entirety, and not by truncated portions or isolated passages thereof.[25]

The complainant cannot be faulted for her inability to do anything, while appellant continuously threatened her for thirty minutes after he had defiled her body. She