

FIRST DIVISION

[G.R. No. 128481, September 25, 1998]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GERALD TAYABAN, ACCUSED-APPELLANT.**

D E C I S I O N

PANGANIBAN, J.:

The sole testimony of a rape victim, if credible and clear, is enough to sustain a conviction for rape. Once force is proven by the prosecution, the "sweethearts defense" does not by itself negate rape.

The Case

On November 10, 1993, an Information^[1] was filed before the Regional Trial Court of Lagawe, Ifugao, charging Gerald Tayaban with rape allegedly committed as follows:

"That on or about the 15th day of February, 1993, at Poblacion, Lagawe, Ifugao Province, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there wilfully, unlawfully, and feloniously have carnal knowledge [of] Charmaigne I. Abad against the latter's will."^[2]

On September 14, 1994, Tayaban, assisted by Counsel *de Oficio* Marcelo Homecgoy, pleaded not guilty to the charge against him.^[3] Trial on the merits ensued, during which Tayaban was represented by Atty. Alfredo Balajo, Jr. of the Public Attorney's Office. On February 6, 1997, Judge Anastacio D. Anghad rendered his assailed 14-page Decision,^[4] the dispositive portion of which reads:

"As a consequence of the foregoing, the prosecution, having proven the guilt of the accused, Gerald Tayaban, beyond reasonable doubt, the latter is hereby sentenced to serve the penalty of reclusion perpetua. He is further ordered to indemnify the victim Charmaigne I. Abad, [in] the amount of P50,000.00 plus costs."^[5]

Hence, this appeal.^[6]

The Facts According to the Prosecution

The prosecution presented three witnesses: Charmaigne Abad, the private complainant; Laura Gohang, her grandmother; and Robert Baguiwa, police chief of Lagawe, Ifugao, who facilitated the arrest of the accused.

The trial court summarized the facts presented by the prosecution as follows:

"In the late afternoon of February 15, 1993, Charmaine I. Abad, then 14 years of age and a second year high school student of Don Bosco High School, Lagawe , Ifugao, went to the house of her grandmother Laura Gohang, located at Lumingay, Lagawe, Ifugao, but her "Lola" was not there, so she decided to follow her [to] the house of her uncle at Awao, Macmac-ac, Lagawe, Ifugao. Reaching her uncle's house, she found out that her grandmother was not around, so she returned home passing the same route. On her way home, she saw the accused fetching water from a spring also located at Awao, Macmac-ac, Lagawe, Ifugao. While passing by, without any notice and to her shock, accused appeared from behind and grabbed her forcefully, with one of his hands covering her mouth effectively, preventing her from shouting. Accused then dragged her to a forested area near an acacia tree. There, accused, using force and intimidation, removed her pants, laid on her [on] the ground, lowered her panty and went on top of her. She felt [the] penis [of the accused] penetrating her genitalia and she felt the sperm (referred to by the complainant as the 'white thing') of accused coming out. She tried to fight back but accused was too strong for her. After the sexual abuse, accused left her, but before leaving , he threatened her not to report the incident to anyone; otherwise he [would] do something to her. After the forced sexual contact, she was dizzy and felt extreme pain on her private part. She likewise notice blood on her sexual organ. She went home crying but did not intimate to anybody, not even [to] her grandmother, the ordeal she had gone through because she was ashamed and was afraid of the threat made by the accused. It was not until her abdomen became noticeably bigger that she was forced to relate the rape committed against her which rape resulted [in] her pregnancy. Consequently, she was forced to drop out of school.

"Her grandmother, Laura Gohang, for all the months that passed and xxx whom Charmaine had been living with since childhood, noticed her granddaughter's abdomen getting bigger and bigger, so she kept prodding her until she narrated what the accused did to her. Thereafter, the mother of Charmaine was contacted in Manila, as well as her father. Her parents decided to file a complaint of rape against herein accused.

"The delay in the filing of the case was explained by the grandmother, that accordingly, her grandchild did not report the sexual abuse committed on her because of the threat made by the accused."^[7]

According to the Defense

In his Brief,^[8] Appellant Tayaban claimed that the victim was his sweetheart, viz.:

"The accused-appellant Gerald Tayaban testified that he first met the victim when he was staying with his cousin Manuel Binway at Yakal, Lagawe. The victim frequently visit(ed) his room at Yakal[;] however, nothing happened between them. After he built his hut in Awao, the victim visited him at the said place. Although he could not remember the

exact month, her first visit happened in 1993 and xxx it was in the afternoon. The victim consented and they had carnal knowledge. (TSN, January 13, 1995, p. 5)

"One week later, she visited him again, but his wife was present, so he sent them to harvest mangoes. The victim left his wife and proceeded to his house and he told her to just get the mangoes and go home. Three weeks later, after the victim's dismissal from school in the afternoon, they met again in a forested area and had carnal knowledge.

"On their next meeting, the victim was riding a bicycle, when she chanced upon him with his tricycle parked in front of a store. She asked him where he was going, to which he replied that his passengers were bound for Natuwalan. They agreed to meet in Maitab and they did the act in a hidden place near the road. On their next meeting, she rode in his tricycle and they proceeded to the house of Mariano Datong[;] however, since there were people at the said place, they went to Caba ans they did the act inside the box culvert (TSN, January 13, 1995, p. 9).

"On cross-examination, the accused stated that he had three children, and his wife was Mercy Resonabe. The victim knew that he was married and with children, [but] in spite of this, he still pursued her. They had sexual contact in his house, in a forested area, in a hidden place alongside the road at Maitab and in a box culvert without fear of being seen by people. He knew the victim was a second year high school student and inspite of this, she was aggressive and had been going after him.

"On clarificatory question by the court, he stated that they had a relationship which started in 1993. They did not write notes to each other. When she was on the family way, he stated to trhe victim that the latter knew he was married and had children. Prior to or after the [occurrence] of this alleged incident, he did not have any quarrel or misunderstanding with the victim. (TSN, January 13, 1995, p. 15).

"Mercedita Tayaban, the wife of the accused-appellant, corroborated the latter's testimony. According to the witness, she knew the victim since they stayed in Awao, Lagawe. She met the victim in January 1993 when she was fetching water and the victim ask her if it [was] painful [to be] used by a man, to which she replied that it was, if it [was] the first time. She again met her after a week at the spring when she was fetching water. The victim asked her if it [was] painful [to] [give birth] for the first time, to which she replied yes.

"Their next meeting was when the victim came to their house, where the victim asked for some Indian mangoes. The victim went to their house and she heard her saying to Gerald, ['] why is your wife around [?][']. Gerald replied [that] she should go home and take the mangoes she asked for (TSN, February 14, 1995, pp. 5-6).

"On cross-examination, she stated that she knew the victim since their house[s] were near each other. Although the victim call[ed] her auntie,

the later [was] not related to her, but xxx the relative of her husband, the accused, was married to the relative of the victim.

"According to her, their relationship with the victim's family was smooth and xxx she [did] not know why the victim sued her husband. Furthermore, there was no misunderstanding between their families and xxx they usually help[ed] each other. She knew that the victim was a second year high school student. They moved [to] Pugol, Lamut, Ifugao [in] August 1993, and xxx did not know that her husband was charged until that month.

"She loved her husband [despite all] that had happened and she testified in order to help him in this case. (TSN, February 14, 1995, p. 10)."^[9]

The Trial Court's Ruling

In finding the appellant guilty of rape, the court *a quo* upheld the testimony of Private Complainant Charmaigne Abad and debunked the "sweethearts defense" propounded by appellant Tayaban. The court said:

"In short, that accused and Charmaigne were lovers is preposterous, incredulous and a product of his own wild imagination. Charmaigne, then 14 years old and a second year high school student, considered a village girl, unused to the ways of sex and to the outside material world, and steeped with the moral values imparted by a Catholic school such as the Don Bosco High School and by her grandmother xxx whom she had lived with since childhood, would not fall for a man much married whom she considered her uncle and accused's wife, her auntie. She was that naive and innocent about love matters o[r] affairs as she was then young. Yes, indeed, this court is not blind to high school student being in their pre-adolescent or puberty age to have crushes or infatuations on someone but such are directed ordinarily to their classmates and seldomly to their teachers. Charmaigne was no exception, she may have crushes but certainly not herein accused whom she considered her uncle, her neighbor and her elder. Has she no moral scruples to vent her infatuation or her teenage feeling [on] this accused by having several meetings with him? Good if the accused looks like the adonis type of man [who] can get [Charmaigne] turned on. The fact is that the accused is not the type as this Presiding Judge had the occasion to meet him in jail in one of this Judge's visits. The scenario painted by the accused that [his] and Charmaigne's affair [was] a love story deserves very scant consideration as it is a fake one. This is so because Charmaigne's testimony is completely antipodal to that of accused's version and the former[s] testimony convinced this Court that her narration is credible, trustworthy and carried legal weight."^[10]

The trial court dismissed Mercedita Tayaban's testimony for being "suspect and biased," because such witness "wanted to save her husband from the gallows."^[11] The court treated the victim's alleged inquiries on sex and giving birth as ones that were asked " will all the innocence and naiv[et'e] of a young girl."^[12]

The Assigned Error

Appellant Tayaban assigns to the trial court this lone but all-encompassing error:

"The court a quo gravely erred in finding the accused-appellant guilty beyond reasonable doubt of the crime of rape."^[13]

At the crux of the case is the credibility of private Complainant Charmaigne Abad, upon whose testimony Appellant Gerald Tayaban was convicted. Thus, this will be discussed as the first issue, while the sufficiency of the evidence for the prosecution will be dealt with as the second.

The Court's Ruling

The appeal is devoid of merit.

First Issue **Credibility of Witnesses**

The judge who penned the assailed Decision was not the one who presided over the trial of the case.^[14] Because of this, the rule that the factual findings of the trial court will not be disturbed on appeal finds no application, because the *ponente* was not able to observe the witnesses or their manner of testifying. Nonetheless, after a meticulous scrutiny of the records and a careful evaluation of the evidence presented, the Court finds no reason to disturb Judge Anghad's factual findings and conclusion.

Appellant Tayaban points to several aspects of Charmaigne's testimony which allegedly affected her credibility. First, he alleges that it can be deduced from Charmaigne's testimony that her hands and feet were free; therefore, she could have resisted the rape and even escaped had she really wanted to. Second, he bewails the fact that it took Charmaigne several months to report the alleged rape. Lastly, he argues that no proof was presented to indicate that the alleged threats were continuous and thus prevented Charmaigne from reporting the rape.

The arguments do not persuade. *First*, Charmaigne's failure to resist the appellant's assault successfully and to escape when the opportunity presented itself should not be construed as a manifestation of consent. It does not necessarily negate her charge of rape or taint her credibility, for the indelible facts remain that appellant employed force and intimidation in the sexual assault, and the victim offered resistance. This is evident from Charmaigne's testimony:

"x x

x

Q Do you remember the date when he raped you?

A I come to think that it [was] in February.

Q What year?

A In 1993, last year.

x x x

Q Will you please narrate to the Court how the accused raped you sometime in February 1993?

A He removed my pants.