

SECOND DIVISION

[G.R. No. 126121, November 24, 1998]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOEL LAMARROZA, ACCUSED-APPELLANT.

DECISION

MELO, J.:

Accused-appellant Joel Lamarroza was 21 years old and still in high school when he was charged with the crime of rape by Elena Andaya, an unschooled 18-year old barrio lass. The Information alleged:

That on or about the month of February, 1993, in the municipality of Tagudin, province of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously have carnal knowledge of one Elena Andaya, by means of force and against the latter's will and consent.

Contrary to law.

(p. 1, Record.)

The facts show that both Joel and Elena lived in Tukib, Ambalay, Tagudin, Ilocos Sur, with their houses approximately 60 meters apart, separated by banana plants and malunggay trees. They had other neighbors who also lived a few meters away from each other. During the day, Elena stayed at home while her brother and sister went to school and her parents worked in the farm.

Sometime in August 1993, Elena's mother noticed that her daughter was growing unusually big. Alarmed, she brought Elena to the doctor who found that Elena was 6 months pregnant. Indignant, Elena's mother complained to the barangay officials and the mayor that her daughter had been raped. She pointed at Joel as the culprit. She then brought Elena to the police station to formally charge Joel with rape.

In her sworn statement of August 10, 1993 and in her testimony in court, Elena claimed that sometime in February 1993, Joel Lamarroza went to their house and had sexual intercourse with her against her will, and that as a result thereof, she got pregnant.

On cross-examination, Elena was asked if she knew a certain "Fortun". She admitted knowing him and made the following revelations:

Q Is it not a fact, Madam Witness, that you made love with this Fortun?

X X X X X X X X X

WITNESS: It is true, Sir.

ATTY. In fact, you had sexual intercourse with this Fortun.
NABUA: Is it not?
A Yes, it is true, but he was not able to impregnate me, Sir.
Q When did you have sexual intercourse with Fortun, Madam Witness?
A Daytime, Sir.
Q Do you remember what year and month when this sexual intercourse with Fortun happened, Madam Witness?
A I cannot remember, Sir.
Q Isn't it a fact, madam Witness, that that happened before Joel Lamarroza went to your house as you testified a while ago?
A Yes, Sir.
(tsn, July 29, 1993, p. 23.)

Elena also admitted that she and Fortun had their trysts along the river.

Joel Lamarroza vehemently denied raping Elena. He testified that at the time of the filing of the complaint, he was studying at the Tagudin General Comprehensive High School. As his house was not readily accessible from the school, he stayed in the boarding house of one Leonor Sanchez in Quirino, Tagudin. He went home only on week-ends and returned to his boarding house on Sunday afternoon.

Joel remembered going home thrice in the month of February 1993, when the alleged rape happened. His sister celebrated her birthday on February 17, a Saturday. He admitted seeing Elena once during that month - when she and her brother were chopping wood. He did not, however, talk to her, much less touch her.

Joel knew Fortun and would see him take a bath in the river where Elena did the laundry. He insisted that Fortun is the father of Elena's child.

Seemingly, the trial court found Joel guilty of rape solely on the basis of Elena's testimony, thusly,

It would appear from the records that two persons were to be considered as the perpetrator of the offense, if it may be so called.

It will be recalled however that Joel Lamarroza was the person pointed to by Elena who raped her in February and by whom she had a child. No one could question the fact that **she said so** in her testimony before the court"

(p. 91, Rollo.)

The evidence on record cannot support affirmance. Guided by the following basic principles applied in rape cases, we reverse:

(a) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused, though innocent, to disprove the charge;