

THIRD DIVISION

[G.R. No. 114291, May 14, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JACINTO SALAZAR @ "JAKE", ACCUSED-APPELLANT.
D E C I S I O N**

FRANCISCO, J.:

Appellant Jacinto Salazar was convicted of the crime of rape and sentenced by the Regional Trial Court, Branch 41 of Dagupan City "to suffer the penalty of reclusion perpetua" and "to pay the offended party x x x the amount of P200,000.00 as compensatory and moral damages" and "to pay the costs"^[1]. Appellant interposed this appeal assigning as errors the following:

I

"THE LOWER COURT ERRED IN NOT ACQUITTING THE ACCUSED-APPELLANT ON GROUND OF REASONABLE DOUBT.

II

"THE LOWER COURT ERRED IN NOT BELIEVING THE TESTIMONY OF THE ACCUSED-APPELLANT AS CORROBORATED BY WITNESSES.

III

"THE LOWER COURT ERRED IN ORDERING THE ACCUSED-APPELLANT TO INDEMNIFY THE OFFENDED PARTY THE AMOUNT OF P200,000.00 AS COMPENSATORY AND MORAL DAMAGES AND TO PAY THE COSTS" ^[2]

We required the Office of the Solicitor General to comment thereon. In lieu of appellee's brief, the Office of the Solicitor General filed a manifestation recommending appellant's acquittal.

The facts as stated and adopted by the trial court are as follows:

"Evidence for the prosecution tends to show that complainant Jennette R. David is 16 years old, single and a student of Daniel Maramba National High School. On February 23, 1993, she was in the house of the accused at 10:00 A.M., upon the invitation of the latter. There were no other people, except the children of the accused. The accused told his children to get out of the house. As soon as the children were out of the house, accused took hold of Jennette and poked a knife at her neck and dragged her to the bedroom. Then he laid her on the bed; and with his right hand holding a knife poked at her neck, he undressed.

"Jennette was wearing her school uniform of skirt and blouse. After the accused removed her blouse and skirt, panty and bra, he removed his pants.

"She struggled to free herself; tried hard to resist but to no avail. The accused

was so strong for her. Then he inserted his penis into her vagina. She felt weak, suffered pain and noticed her vagina bleeding. After she was sexually abused, but before the accused left the room, he warned her not to tell what happened to anybody; otherwise, he will kill her and her family.

"Jennette put back her dress and returned to school. On her way home, the accused met her at the gate of the school and repeated his threat to her and the family.

"Thereafter, everytime she comes to school, the accused repeated his threat to her.

"Jennette together with no other students, has been taking instructions in Martial arts from the accused for three (3) months before the incident.

"She did not reveal to what happened to her because of the continuing threat made by the accused against her.

"However, she mustered the courage to tell her mother about the incident when sometime in June, she became desolate and had fever.

"She was accompanied by her father, mother and brothers to the Police Station of Sta. Barbara, to complain against the accused. Then, they went to the Pangasinan Provincial Hospital at Binloc, Dagupan City where she was physically examined and found to have been sexually abused. She identified her Sworn Statement (Exh. 'A').

"Evidence for the defense tends to show that since 1985, the accused has been a security guard at the Daniel Maramba National High School. Jennette is a student of the same school. She frequented the accused's house. She always reveal her problems to him, like her mother suspecting them to have relationship. She sent him roses and gave him fruits like guavas and mangoes also pictures and valentine card. She voluntarily submitted herself to him."^[3]

The appeal is impressed with merit.

In the review of rape cases, we are guided by three settled principles, viz: (1) an accusation for rape can be made with facility; it is difficult to prove, but more difficult for the person accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime where only two persons are usually involved, the testimony of the complainant must be scrutinized with great caution; and (3) evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence of the defense.^[4] With these in mind, we now proceed to assay private complainant's testimony and demeanors before, during and after her alleged sexual violation.

Before the incident in question, it was proven that private complainant and the appellant have had an existing intimate relationship. Defense Exhibit "1", a handwritten letter the authorship of which was admitted by the private complainant during the cross-examination,^[5] unveils private complainant's intense emotional feelings to the appellant. The subject letter reads as follows:

"Dear Sir,

"Greeting you in Jesus' name. Before I start my humble letter, let me begin by saying, 'I love you.' for I can find no words sweeter than this. Hope that you always feel fine with the guidance of our Lord.

"Thanks to the Lord for having you as my love and thank you very much sa pagmamahal ninyo sa akin. Hinding-hindi ako magbabago ng desisyon ko. Kayo lamang and mamahalin ko, kahit na makakita man ako ng mas higit sa inyo. Pangako iyan. Salamat rin pala sa relos na iniregalo ninyo sa akin. Aalagaan ko ito at iingatan.

"Sana sir magustuhan ninyo itong regalo ko bilang pasasalamat sa pagmamahal, pag-aalaga at pagkalinga sa akin. Kalakip rito ay ang komposisyon na ginawa namin sa Filipino

"Sana sir hindi rin kayo magbabago ng pagtingin at pagmamahal ninyo sa akin. Dahil kahit na magkakarayo tayo, hindi ako magbabago.

"God Bless you and I really love you.

"W/Love,

"

(David)

Jennette"^[6]

(underscoring supplied)

The accompanying "komposisyon" which private complainant wrote and dedicated to the appellant also shows private complainant's pubescent admiration and affection. Thus:

"Guro, Aking Inspirasyon

"Ang guro and siyang nagsisilbing pangalawang magulang ng mga mag-aaral. Siya ang nagtuturo ng mga kagandahang-asal upang magkaroon ng kinabukasan ang mga mag-aaral. Bawat isa sa atin ay may kanya-kanyang inspirasyon, maaaring ang ating hinahangaan ay isang artista, basketbolista at iba pa.

"Gaya ko, mayroon rin akong inspirasyon. Ang aking inspirasyon ay ang aking guro sa Marcial (sic) Arts. Hindi lamang inspirasyon kundi hinahangaan at iniidulo ko pa. Sapagkat siya ay mabait at maawain. Lahat ng aking problema ay sinasabi ko sa kanya at kanya naman ito binibigyan ng solusyon. May katandaan na rin siya pero kahit na matanda na siya ay nakikibagay pa rin siya sa kabataan. Kapag wala akong baon ay binibigyan niya ako ng pera. Lagi niya akong ipinagtatanggol sa mga nang-aapi sa akin. Mapagmahal siya (sa) mga taong nangangailangan ng tulong.

"Mayroon isa siyang katangian na gustong-gusto at nais kong isaberhay (sic) iyon. Ang kanyang pagiging mapagmahal. Dahil kung ikaw ay isang mapagmahal ay magkakaroon ka ng maraming kaibigan.

"Sa buong buhay ko, siya lamang ang aking inspirasyon na kahit kailan ay hindi ko makalilimutan. Maraming salamat sa aking guro."^[7] (Emphasis supplied)

An examination of the text of the aforequoted writings indicates that their contents transcend the bounds of decency and propriety of a teacher-student relationship and supports appellant's averment that the copulation was not attended by force or intimidation

as they were lovers. This gains strength with the testimony of Vilma Samson, private complainant's schoolmate, who stated under the rigors of cross-examination that private complainant and the appellant were frequently conversing not only at the school, but also at the appellant's residence.^[8] In fact, in one occasion said witness saw the appellant holding the hands of private complainant with the latter offering no resistance.^[9]

Private complainant's indifference also erodes faith in her credibility. Appellant's wife, Virginia Salazar, who already suspected the unholy relationship between private complainant and her husband, warned the former not to go to their place. Thus:

"Q. Did you also have an occasion to talk with Jennette David at the school?

"A. Yes, sir.

"Q. What did you talk about?

"A. I told her not to go to our house if she is alone because she is a lady, sir"

^[10]

The admonition fell on deaf ears. Indeed, complainant's nonchalance becomes emphatic when she voluntarily went and entered alone appellant's house, allegedly on appellant's instruction, to be given a diagnostic martial arts session. Private complainant's meek silence inside appellant's house defies the normal conduct of a woman especially when the appellant ordered his three children to get out of the house leaving the two of them all alone by themselves. There was no plausible reason why the children were banished if she was just to undergo a martial arts session. As to be reasonably expected, a barrio lass like the complainant would instinctively discern the uncompromising situation and protest or devise other means to be freed from an imminent danger. But private complainant did nothing bolstering appellant's assertion that the sexual congress between them was with private complainant's full volition and consent.

Equally disturbing are the inherent improbabilities and irreconcilable inconsistencies that attended her testimony during her alleged ravishment. Thus:

DIRECT EXAMINATION:

x x x

x x

x

x x x

"q. When you were in the house of Jacinto Salazar, what transpired next?

"a. He immediately took hold of me and pointing a knife at my neck and dragged me to the room, madam.

x x x

x x

x

x x x

"COURT:

After the accused poked a knife at your neck, what did you do next?

"a. He dragged me to the bedroom immediately, madam.

"ATTY. BAUTISTA:

When you said that the only two of you were in the house he already dragged

you in the bedroom, what happened when he dragged you to the bedroom?

"a. He laid me down on the bed, madam.

"q. By laying you down on the bed, what was your position at that time?

"a. When he made me laid down on the bed, his right arm was holding a knife pointing at my neck, pressed my arm and the other hand was starting removing my dress, madam.

x x x
x

x x x

x x

"ATTY. BAUTISTA:

You mentioned that it was your dress which was removed, was that the only one removed by Jacinto Salazar?

"a. He removed my blouse, skirt, bra and panty, madam.

x x x
x

x x x

x x

"ATTY. BAUTISTA:

What happened next after removing your blouse, skirt, panty and bra?

"a. He also removed his pants and he forcibly inserted his penis at my vagina, madam.

"q. When Jacinto Salazar inserted his penis into your vagina, how do you feel or what did you do?

"a. I felt weak and feel pain and my vagina was bleeding, madam.

"q. Did you not struggle to free yourself from that act of Jacinto Salazar?

"a. I was trying to resist but because he was strong I could not resist him and I feel pain and that the knife was still placed on my neck, madam.

x x x
x

x x x

x x

"q. How did you resist, what did you do, be specific?

"a. My hands were like this and I tried to move my arms that way but still I could not resist, madam.

"q. You tried to move your hands to push the accused?

"a. Yes, madam.

x x x
x

x x x

x x

ATTY. BAUTISTA:

After having a sexual intercourse with you, what transpired next?

"a. He left the room and I dressed myself and when I tried to went out of the