

THIRD DIVISION

[G.R. No. 112074, September 29, 1997]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MARIO GOMEZ, ACCUSED-APPELLANT.
D E C I S I O N**

ROMERO, J.:

Accused-appellant Mario Gomez was charged with the crime of rape before the Regional Trial Court, Branch 6, of Mati, Davao Oriental in an information which reads as follows:

"The undersigned, at the instance of the offended party, accuses MARIO GOMEZ of the crime of Rape, defined and penalized under Article 335 of the Revised Penal Code, committed as follows:

That on or about February 15, 1991, in the Municipality of Mati, Province of Davao Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a carbine .30 M-1 rifle, by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge of one Jennifer G. Onofre, a woman against her will.

CONTRARY TO LAW." [1]

Upon arraignment, appellant pleaded not guilty to the crime imputed to him. Thereafter, trial commenced. In its decision dated April 16, 1993, [2] the trial court convicted appellant, the dispositive portion of which reads:

"IN VIEW WHEREOF, finding accused Mario Gomez guilty beyond reasonable doubt of the crime of Rape under Article 335 of the Revised Penal Code, said accused is hereby sentenced to suffer the imprisonment (sic) of RECLUSION PERPETUA, and to pay the offended party the sum of P50,000.00 and P10,000.00 as moral damages and attorney's fees, respectively, and to pay the costs of the suit.

SO ORDERED."

The evidence for the prosecution revealed the ensuing facts:

On February 15, 1991, at around 8:00 o'clock p.m., a certain Floramie Francisco went to Jennifer Onofre's house and invited her for a stroll at the Mati wharf in Davao Oriental, which invitation the latter accepted. There they met Danilo Saron who was Floramie's boyfriend, Benjie "Joseph" Amante and a certain Jonathan Bongan. In his desire to be alone with Jennifer, Benjie suggested that they walk towards the Mati Central Elementary School Compound I (MCES I) and chat through the night. When they reached the school, Benjie and Jennifer excused themselves from the others and proceeded some fifty meters away. While both of them were

seated, he boxed her on the left shoulder and in the stomach, causing her to fall from the cemented bench and, thereupon, forcibly mounted her. He was, however, prevented from consummating his bestial act when suddenly, a security guard, later identified as appellant, emerged from the shadows with a flashlight focused on them. Benjie was ordered to dress up and leave the premises, but Jennifer was compelled to stay at gunpoint. Appellant dragged her naked body to a hut near the school and was ordered not to shout; otherwise, she would be killed. It was there that appellant allegedly consummated the carnal act.

Later, appellant instructed her to go home before returning to his post to resume the performance of his duties. After Jennifer narrated her ordeal to her mother, both of them immediately went to the police station to report the matter. In the course of the investigation, she described appellant as wearing a long-sleeved fatigue uniform, "maong" pants, a green bandana on his head, a flashlight in hand and a long firearm with a sticker in its butt. The policemen immediately scoured the crime scene for the perpetrator. After having been found, he was taken into custody by the Mati police.

As expected, the defense presented a different version.

Appellant, who resides in the school compound, recounted that on the night in question, his tour of duty was from 5:00 o'clock p.m. to 5:00 o'clock the following morning. He testified that at around 8:00 o'clock p.m., he went home to have supper with his family and returned only after two hours. While going through his rounds, he heard moaning sounds coming from a bench some fifteen meters away.

He focused his flashlight on the source of the sound and saw a man atop a woman, both naked and engrossed in sexual congress. As he approached, the lovers leaped up and faced him. He ordered them to dress up so that he could take them to the police station. After putting on his clothes, however, the man fled and appellant's efforts to catch him proved unavailing. Before returning to the school, he passed by Maria's store and bought a cigarette. Appellant only saw the woman again when he was brought in for questioning that night and eventually charged with the crime of rape.

Appellant is now assailing his conviction on the sole ground that the trial court misappreciated the evidence considering that the victim and her boyfriend were in a very uncompromising situation. Otherwise stated, he questions the decision of the court a quo for giving full faith and credence to the testimony of the victim.

There is not an iota of reason for us to overturn the findings of the lower court. Article 335 of the Revised Penal Code reads:

"Art. 335. When and how rape is committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances.

- 1.By using force or intimidation;
- 2.When the woman is deprived of reason or otherwise unconscious; and
- 3.When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by reclusion perpetua.

x x x x x x x x x."

In reviewing rape cases, this Court has always been guided by the following principles: "(a) an accusation of rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (b) 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 extreme caution; and (c) the 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 for the defense." [3]

When the incident was reported to the police station, the victim described her ravisher as follows:

Q What was your answer?

A I answered that the attire of the person who raped me was that he was wearing long sleeves fatigue uniform, with maong pants, wearing a green bandana, with a flashlight, and a gun with a sticker on the butt." [4]

With this information, the police went to the school premises and apprehended appellant. Prosecution witness Sgt. Ramon Sumando amply corroborated the testimony of the victim, thus:

A When we arrived at Mati Central, we invited one security guard of Mati Central.

Q What (sic) time when you invited the security guard of Mati Central I, what was his attire?

A He was wearing a long sleeve fatigue uniform.

Q What else?

A With one carbine, with a headband and one flashlight." [5]

At the police station, Sumando averred that the victim positively identified appellant as the man who raped her, thus:

A I called up the attention of the complainant if she can identify (the accused-appellant).

Q Did Jennifer Onofre identify Mario Gomez?

A Yes.

Q What did Jennifer Onofre say when she identified Mario Gomez?

A She positively identified the suspect through the headband, the flashlight, the carbine and the long sleeve fatigue uniform.