

FIRST DIVISION

[G.R. No. 112176, February 06, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SANTOS CANADA, DEFENDANT-APPELLANT.**

D E C I S I O N

BELLOSILLO, J.:

This is rape - where the pain endures, the ordeal lingers, and the stigma clings incessantly with anguish and humiliation. And when committed against a barrio lass of tender years, the lechery becomes compounded with apparent heartlessness that must be condemned, the perpetrator damned and prosecuted to the fullest extent. For this man's insatiable lust and thirst for the flesh deny this innocent victim forever the joy of discovering the conundrum of her femininity and the purity of her womanhood.

Santos Canada was found guilty by the trial court of raping 12-year old Loberiza Palaming, i.e., having carnal knowledge of her against her will, with lewd designs, by force and intimidation, to her damage and prejudice, for which he was sentenced to a prison term of reclusion perpetua, to indemnify his victim in the amount of P50,000.00, and to pay the costs.^[1]

The evidence for the prosecution established that on 26 December 1990 Loberiza Palaming went to watch a public dance in La Union, Castilla, Sorsogon, together with Emma Valenzuela, Mary Villanueva and Daisy Laurio. The dance lasted until midnight. Loberiza sat near the entrance of the dance hall while her companions "went to a place."^[2] Suddenly Loberiza was grabbed from behind and dragged towards a sampaloc tree ten (10) meters away. It was Santos Canada. Loberiza struggled hard but to no avail. Her hands were held then tied at her back, her mouth covered with a handkerchief. Santos Canada, armed with a gun, threatened to shoot her if she made any sound. But she continued to free herself despite the threat on her life. She firmly closed her legs but was overpowered and eventually overcome by the accused. He removed her maong pants and then her panty. His fingers felt her legs and then tiptoed to stroke her vagina. But this was not enough. He craved for more. He placed himself on top of her, intruded into her virginity and then unleashed the venom of his desire. He then got off from his quarry, released her hands and uncovered her mouth. Now freed, complainant boxed her despoiler before he could run away.

Loberiza narrated the incident to Larry and Tessie Valenzuela who in turn reported the matter to the barangay captain on 31 December 1990. But Loberiza's mother learned of the incident only on 1 January 1991 when she arrived from Manila.

The complainant was brought by her aunt Norma Lasarte to the Sorsogon Provincial Hospital where she was examined by Dr. Medy G. Auxillos. The medical examination

revealed hymenal lacerations although there were no signs of spermatozoa or of physical injuries.

The accused, a member of the 8th Sorsogon CAGU Active Auxillary Company stationed in La Union, Castilla, Sorsogon, testified that on the night of the alleged incident he was sleeping at their house in Milagrosa, Castilla, Sorsogon, approximately two (2) kilometers away from La Union. He was off duty. He however could not ascribe any ill motive on Loberiza to incriminate him as her rapist. His father Rogelio Canada nevertheless corroborated the alibi of the accused.

We affirm the conviction of Santos Canada. Complainant was only 12 years 5 months and 4 days old when raped; yet, her narration of her misfortune was so detailed that it could only have come from one who experienced such ordeal. She withstood the probing, penetrating, even misleading, questions of the defense. The alleged inconsistencies referred to by the defense were more apparent than real.

First. That complainant never mentioned in her sworn statement submitted to the PC/INP Provincial Headquarters that she was tied and gagged although in her direct examination she said she was tied and gagged, suffice it to say that "(e)x-parte affidavits are generally incomplete, hence inconsistencies between declarations of the affiants in their sworn statements and those in court do not necessarily discredit them and the infirmity of affidavits as an evidence is much a matter of judicial experience."^[3] The sworn statement was in question and answer form. In her naivete a 12-year old girl will, naturally, only respond to questions propounded to her and nothing more.

Second. In her sworn statement complainant mentioned that she boxed the accused on the arms and back when he inserted his penis into her vagina. The defense found this unbelievable considering that no resistance was allegedly ever mentioned when complainant testified in court.

This is misleading. The records disclose that complainant struggled every inch of the way to preserve her virtue and hold her attacker at bay. Thus -

- Q.** So it could be easy for you to make counterforce insofar as your two feet are (sic) concerned?
- A.** I kicked him. When he removed my hand I boxed his back.
- Q.** So you kicked him and right after that it was followed by a blow with his hand?
- A.** Yes, sir.
- Q.** You boxed him on his back?. . . you said?
- A.** Arm and back.
- Q.** So you fight (sic) out to defend your honor by kicking him and by boxing him?
- A.** Yes sir.
- Q.** You are very sure of that of course, what you did - kicking and boxing him?
- A.** Yes sir.^[4]

Third. The accused would persuade us that complainant was likewise inconsistent in naming her companions in going to the dance that evening of 26 December 1990.

The records however belie this fact -

Q. While there what were you doing in that place?

A. We were observing or watching the dance.

Q. You said "we," who were your companions then?

A. Emma Valenzuela, Mary Villanueva and Daisy Laurio.^[5]

On cross-examination the question propounded was -

Q. Who was your companion then in going to the dancing hall?

A. Mary Ann Valenzuela, Lea Legaspi.^[6]

A scrutiny of the foregoing testimony reveals no inconsistency on the part of complainant. Loberiza's companions in going to the dance hall, on one hand, and her companions while watching the dance, on the other, may, and in all probability, be of different sets.

As if in desperation in exculpating himself, the accused advances the idea that complainant must have mistaken him for somebody else. This is ridiculous, especially after it has been established that she harbored no ill feeling towards the accused as to induce her to charge him with so grave a crime as rape.

Full credence is accorded the testimony of a rape victim who has shown no ill motive to testify against the accused.^[7] The complainant clearly recognized the accused as her despoiler. The crime scene was not totally in darkness as there were lighted lamps about 30 meters away. Significantly, the accused was positively identified in court by the complainant. She was only 12 when defiled, still unaffected by mundane wiles and affairs of life. Hence "(s)he could not be expected to fabricate such a complicated tale as sexual defilement unless she experienced the same."^[8] We normally lend credence to testimonies of young girls especially where the established facts indubitably point to their having been sexually assaulted.^[9] Loberiza testified in a candid and straightforward manner. Her story was plain and unembellished, not woven out of sheer imagination. She described her ordeal in vivid details. A woman will not expose herself to the humiliation of a rape trial, with its attendant publicity and the morbid curiosity it will arouse, unless she has been truly wronged and seeks atonement for her abuse.^[10] When a woman says she has been raped, she says in effect all that is necessary to show that rape was committed and if her testimony meets the test of credibility, the accused may be convicted on the basis thereof.^[11] No unmarried woman would tell a story of defloration, allow the examination of her private parts, and therefore permit herself to be the subject of a public trial unless she was truly ravished and wants justice to be done.^[12]

The absence of spermatozoa does not negate conclusively the existence of rape. The absence can be explained in several ways. *Firstly*, the sperm may have been washed away. *Secondly*, the rapist may have failed to ejaculate. *Thirdly*, the maximum lifespan of spermatozoa is only 72 hours.^[13] The complainant here was only examined five (5) days after the rape.

That there are no signs of external injuries does not belie rape. The medical examination disclosed lacerations in the hymen of the victim. One may ask - are