

FIRST DIVISION

[G.R. No. 118077, November 21, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DOMINADOR A. CABALUNA, ACCUSED-APPELLANT.**

DECISION

VITUG, J.:

The Court, once again, is charged with having to assess the probity, on the one hand, of an accusation made by a victim of rape and the veracity, upon the other hand, of the defense proffered by the accused. It is not quite uncommon for a man indicted for rape either to set up alibi or to asseverate the willingness of the woman in the consummation of the act. Thus, by and large, the case ultimately would stand or fall on the basis of the credibility of the complainant and the credulity of her testimony compared to that of the accused.

The information, dated 21 February 1992, against the accused is to the following effect; viz:

"That on or about February 14, 1992, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused after having induced the complainant to take as she did four tablets which accused represented to be medicine for her fever, and by reason of which complainant lost consciousness, did then and there wilfully, unlawfully and feloniously take her to the Mindanao Lodge, where taking advantage of complainant's loss of consciousness had carnal knowledge of her without her consent and against her will."^[1]

The Solicitor General, in his brief for the People, gave the following account of the incident:

"At around 4:00 o'clock in the afternoon, appellant arrived home from work (Ibid.). Incidentally, appellant was engaged in the business of selling Chinese ointment and medicine (p. 3, TSN, 28 April 1993; p. 4 TSN, 4 March 1994).

"In her discomfort. Leticia related her ailment to appellant which was now punctuated by a soaring headache (p. 3, TSN, 27 Oct. 1992). Appellant then prescribed two (2) red capsules for medication (pp. 3, 18, Ibid.). Appellant even offered to bring Leticia to a doctor for medical check-up (p. 4, Ibid.). Appellant, however, cautioned Leticia to first ask permission from his wife Alicia Cabaluna, using as reason instead the pretension that Leticia would go out on a date with her boyfriend, since it was a Valentine's Day (pp. 5, 20-21, Ibid.). Apparently, Alicia Cabaluna acceded to Leticia's request (p. 3, TSN, 4 March 1994).

"On her way out of the house, Leticia saw appellant at an adjacent 'sari-sari' store where he was boozing down on beer with some companions (p. 5, 21, TSN, 27 Oct. 1992). Upon seeing Leticia, appellant gave another set of two (2) red and blue capsules for the latter to take (pp. 6, 23, Ibid.).

"Thereafter, appellant and Leticia boarded a public utility jeepney for transport (p. 6, Ibid.). On the jeepney, however, Leticia felt uncontrollably giddy. She then lapsed into unconsciousness (p. 7, Ibid.). She has no recollection of anything that happened thereafter.

"At around 6:00 o'clock in the morning of 15 February 1992. Leticia awoke on an unfamiliar bed, only to find herself stripped naked (Ibid.). She then averted her gaze to appellant who was barely in his underwear (Ibid.). At this instance, Leticia was already taken unawares. Her shock was further aggravated by the sight of blood leaking from her private part (p. 8, Ibid.).

"Instinctively Leticia readily jumped from the bed and lost no time in dressing up (ibid). Appellant, however, attempted to touch her again (pp. 8, 29, Ibid.). This time, Leticia struggled until she succeeded in getting out of the room by running (p. 8, Ibid.). At this instance, Leticia fully realized that she was brought to a motel or lodging house ['building with many rooms'] (pp. 8-9, Ibid.).

"Stupefied by the incident, Leticia found herself unable to move on. Her private part ached terribly. She did not know where to proceed since she was totally unfamiliar with the streets of Davao City. Despite her confusion, she languidly sat on the pavement (Ibid.).

"Afterwards, a concerned woman approached Leticia and asked her what happened. Leticia quickly narrated her harrowing experience. Inevitably, it was through the woman's assistance that Leticia was able to board a public utility jeep routed back to Piapi Boulevard (p. 10, Ibid.).

"At around 7:00 o'clock in the morning of the same day, Leticia reached the Cabaluna household where Alicia Cabaluna anticipated her return (p. 11, Ibid.). Alicia was then in a hurry to leave home for work; thus, she readily delegated her household responsibilities to Leticia (Ibid.).

"Again, Leticia slept (p. 11, Ibid.). Roused from her sleep, she saw appellant who had arrived and cried to herself. (p. 12, Ibid.).

"Appellant then drew near and invited Leticia to eat (Ibid.). Leticia refused. Appellant eventually warned Leticia not to tell his wife about the incident (p. 32, Ibid.).

"On 17 February 1992, however, Leticia finally intimated to Alicia Cabaluna about her defloration by appellant (p. 12, Ibid.). A quarrel ensued between Alicia and appellant (Ibid.). On even date, Leticia assisted by a certain Marilou, formally filed her complaint before the

police authorities at the Sta. Ana Police Station, Davao City (pp. 13, Ibid.; pp. 4-5 TSN, 10 Feb. 1993)."[2]

The medical examination conducted by Dr. Danilo Ledesma on Leticia Abenion disclosed that her vaginal orifice had sustained a laceration at a 3 o'clock position and appeared swollen and congested due to a rip of blood vessels.

The defense sought to demonstrate that private complainant and the accused were "sweethearts," and that their sexual encounter was brought about because of a mutual desire. Appellant's story was that he had met private complainant for the first time in December of 1991 at the Rizal park in Davao City, where they, together with a certain Amy, partook of some snacks. The two became "sweethearts" in no time at all. On 27 January 1992, the accused was shocked to see private complainant with his children at the family residence. He was informed, to his added surprise, that private complainant was the newly-hired household help. On 14 February 1992, the accused and private complainant checked in at the Hernando's Lodge where they slept together until the following morning. Two days later, or on 16 February 1992, the accused's wife caught private complainant with her arms around the accused. The resulting furor forced the lovers to leave the house.

In its decision, rendered on 03 August 1994, the trial court did not buy the accused's story; instead, it held for the prosecution. Found guilty beyond reasonable doubt of the crime of rape, Dominador Cabaluna was sentenced to reclusion perpetua and to pay an indemnity of P40,000.00 to Leticia Abenion.

The accused, still insisting on his version of the incident, has appealed to this Court with the following submissions: That -

"1. The trial court (has) erred in giving evidentiary weight to the incredible, unreliable and unworthy testimony of private complainant anent the incident in question.

"2. The trial court (has) erred in not giving exculpatory weight to the evidence put up by the defense.

"3. The trial court (has) erred in convicting appellant of the crime charged despite the failure of the prosecution to prove his guilt beyond reasonable doubt."[3]

A close review of the records, however, fails to disclose anything substantial that can convince us to discard the trial court's findings. The court a quo was impressed, so also are we, by the testimony of private complainant on her appalling experience which, although apparently narrated with great difficulty, still came out well enough to convey properly to the court her ordeal. We quote from her testimony:

"Q- When you felt to have fever and headache, what did you do?

"A- I lay down and slept.

"Q- Up to when? What time did you sleep?

"A- 4:00 o'clock in the afternoon.

"Q- Was Mr. Cabaluna present at the time when you woke

up?

"A- Yes. He arrived, sir.

"Q- And did you tell him that you have a fever and headache?

"A- Yes.

"Q- And what did Mr. Cabaluna respond when you told him that you have a headache and fever?

"A- He let me take medicine, a capsule.

"Q- How many capsules?

"A- Two (2) capsules.

"Atty.
Garcia

"Q- Did he not offer to bring you to a doctor?

"A- He offered, sir, to bring me to a doctor.

"Q- How did you respond to that offer?

"A- I said, yes.

"Q- When Mr. Cabaluna gave you 2 capsules, was Mrs. Cabaluna present?

"Atty.
Zamora - Your Honor, the question is very very leading.

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"Court - Reform.

"Atty.
Garcia - I will reform, your honor.

"Atty.
Garcia

"Q- When Mr. Cabaluna offered you 2 capsules, was he alone?

"A- Yes.

"Q- Did he actually bring you to a doctor?

"A- I do not know, sir, whether I was brought to a doctor or not because when I woke up, it was already in the morning and I realized I was in a place where there are many rooms.

"Q- But you and Mr. Cabaluna left the house?

"Atty.
Zamora - Objection. The question has been leading. May we request, your honor, leading questions be stopped.

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"Court - Reform the questions.

"Court

"Q- Now, Miss Abenion, how did the accused administer to you the 2 capsules?

"A- He gave it to me and said you take this because this will cure your fever.

"Q- Did you take the two capsules?

"A- Yes, sir.

"Q- How did you take the 2 capsules? You took them orally? You put them inside your mouth and gulped

down water?

"A- Yes, sir.

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**"Atty.
Garcia**

"Q- When you left the residence of the accused, where did you proceed?

"A- I proceeded to the street.

"Q- What street?

"A- Towards Piapi.

"Q- Are you referring to that Quezon Boulevard?

"A- Yes, sir.

"Q- Did you reach Quezon Boulevard?

"A- Yes.

"Q- Were you alone in reaching that street?

"A- Yes.

"Q- Do you remember of an incident that happened when you reached the street?

"A- Yes.

"Q- What was that incident about?

"A- I saw my employer drinking beer in a store, sir.

"Court

"Q- When you said 'employer', to whom are you referring?

"A- My male employer, sir.

"Q- What is his name, if you know?

"A- Dominador Cabaluna.

"Court

"Q- The accused in this case?

"A- Yes.

"Court - Continue.

**"Atty.
Garcia**

"Q- Did he see you?

"A- Yes.

"Q- When he saw you, what did he do?

"A- He called me.

"Q- How did he call you?

"A- He said, 'come here, 'day.

"Q- Did you heed his call?

"A- Yes.

"Q- When you reached him, what, rather, did he utter anything?

**"Atty.
Zamora** We are objecting, your honor. The question has been very leading.

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"Court - Reform.