

## SECOND DIVISION

[ G.R. No. 128814, February 09, 2000 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ALFREDO ARAFILES, ACCUSED-APPELLANT.**

### D E C I S I O N

**MENDOZA, J.:**

This is an appeal from the decision,<sup>[1]</sup> dated August 12, 1996, of the Regional Trial Court, Branch 16, Laoag City, finding accused-appellant Alfredo Arafiles guilty of two counts of rape and sentencing him to suffer the penalty of *reclusion perpetua* for each crime and to indemnify complainant Maria Corazon Dampil in the amount of P50,000.00.

In two identical informations filed against accused-appellant, it was alleged:

That on 27 February 1994, at about 11:30 o'clock in the evening, at Brgy. Dulloogan, in the municipality of Bacarra, Province of Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused by means of force and intimidation did then and there wilfully, unlawfully and feloniously have carnal knowledge of the undersigned against her will and without her consent.

CONTRARY TO LAW.

When arraigned, accused-appellant pleaded not guilty to both charges. Trial on the merits then ensued, during which the prosecution called to the stand two witnesses: complainant Maria Corazon Dampil, 15 years old, single, a student, and resident of Barangay 19, Bacarra, Ilocos Norte, and Dr. Maribel Pichay, resident physician of the Governor Roque Ablan Hospital, Department of Obstetrics and Gynecology, in Laoag, Ilocos Norte.

Maria Corazon Dampil (Corazon) was 15 years old at the time she was allegedly raped. Accused-appellant is the first cousin of her mother and, therefore, her uncle.

<sup>[2]</sup> Complainant had known accused-appellant since childhood and used to go to the latter's place and stay in his house during harvest time. Corazon was thus close to her Uncle Alfredo, herein accused-appellant.<sup>[3]</sup> Based on Corazon's testimony, the following is the prosecution's version of the facts:

On February 27, 1994, at around 11 o'clock in the evening, Corazon went to the house of a neighbor, Rodel Galutira, to watch a film on betamax. As she came near her neighbor's house, she heard someone whistle. It was her Uncle Alfredo, who waved his hand, beckoning her to approach him. Unsuspecting, complainant approached her uncle and was told that her *barkada*, Jayson Tacal, had something

to tell her. Accused-appellant then held Corazon's hand and led her to a cliff about 30 meters away. When they reached the cliff, however, Corazon found that Jayson Tacal was not there. She asked her uncle where Jayson was, and the latter told her to wait while he checked the whereabouts of Jayson. After awhile, accused-appellant returned without Jayson. It was then that Corazon sensed that her uncle was up to something evil. She tried to run, but accused-appellant grabbed her by the shoulder and prevented her from fleeing. Corazon then shouted, calling on her grandmother for help, but accused-appellant covered her mouth with his hand. She tried to free herself, but he boxed her in the abdomen, rendering her "a little bit conscious."<sup>[4]</sup> When she became fully conscious, she found accused-appellant on top of her, having sexual intercourse with her. Accused-appellant remained on top of her for about a minute. Corazon felt pain. She tried to push him, but he was too strong for her. Thereafter, Corazon asked accused-appellant to hand over her shorts and panties and, as he obliged, she took advantage of the situation and tried to run, but accused-appellant caught her and hit her again in the abdomen. Accused-appellant then raped her for the second time. Corazon was too weak to resist. Like the first rape, the second lasted only a short while. She was then allowed to put on her panties and shorts and warned that she would be killed if she reported the incident to anyone. The two then started for home. At some point along the way, Corazon somehow managed to run from accused-appellant. Upon reaching home, she told her grandmother, Nena Damo, and uncle, Paulino Damo, that she had been sexually assaulted by accused-appellant. Paulino Damo was so angry that he took his bolo and was going to confront the appellant, but he was prevailed upon not to take the law into his own hands. The following morning, on February 28, 1994, Corazon reported the matter to the police. That afternoon, she underwent physical examination at the Governor Roque Abla Hospital.

Dr. Maribel Pichay testified that she examined Corazon. Her findings are contained in a medical certificate<sup>[5]</sup> dated March 1994, the relevant portions of which are as follows:

- labia majora -- coaptated at its entire length
- labia minora -- coaptated at its entire length
- vestibular mucosa -- reddish in color
- fourchette -- tense
- vaginal rugosities -- prominent
- vagina -- hardly admits two fingers
- hymen -- stellate in shape with fresh lacerations at the 6:00 position and 9:00 position corresponding to the face of the clock

Microscopic Examination: NEGATIVE to Sperm

Dr. Pichay testified that the presence of fresh lacerations indicated recent penetration by a hard object. As there was no old laceration, she concluded that complainant had been a virgin prior to the incident in question. She stated that from her experience as an obstetrician-gynecologist, she was certain that the lacerations were caused by the insertion of a penis.<sup>[6]</sup> During cross-examination, she conceded that another hard object could have caused the lacerations.<sup>[7]</sup> She however remained firm that, in terms of probability, based on the characteristics of the lacerations she observed on complainant, only a penis could have caused the same.<sup>[8]</sup> She also noted that no other injury, abrasion, or hematoma was found on

Corazon's body.<sup>[9]</sup>

The defense presented as its lone witness accused-appellant Alfredo Arafiles, 26 years old, married, a farmer and resident of Barangay Dulloog, Bacarra, Ilocos Norte. He denied having raped Corazon, but claimed that the two of them were more than friends.<sup>[10]</sup> The following is his version of the facts:

February 27, 1994 was accused-appellant's birthday. To celebrate the occasion, he had a drinking session with his friends Ferdinand Damo, Doming Damo, Jayson Tacal, Charito Tolentino and Paulino Damo. At around nine o'clock that evening, Corazon came to their house to ask for his help in explaining to her grandmother that she and Jayson Tacal were not friends. Without waiting for his response, Corazon went home, only to return later that evening, at around 10 o'clock, and asked if she could talk to him outside his house. Corazon asked him again to tell her grandmother that, after all, she and Jayson Tacal were not friends. According to accused-appellant, after Corazon had told him this, she suddenly grabbed him and kissed him on the lips. As he was a little drunk, he responded to his niece's flirtations. However, they were caught kissing by his wife. Corazon then pushed him away and ran. When she reached their house, Corazon started shouting that she had been raped by accused-appellant. This made him go to San Nicolas, Ilocos Norte, to hide because Corazon's family was going to kill him.

Finding the prosecution version to be more plausible, the trial court convicted accused-appellant. Hence this appeal. Accused-appellant assigns the following errors as having been allegedly made by the trial court:

- I. THE TRIAL COURT ERRED IN GIVING FULL FAITH AND CREDIT TO THE TESTIMONY OF COMPLAINING WITNESS MARIA CORAZON DAMPIL.
- II. THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT OF TWO COUNTS OF RAPE DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

Accused-appellant claims that the trial court erred in giving full faith and credence to Corazon's testimony which he says is incredible, inconceivable, inconsistent and contradictory.<sup>[11]</sup>

The issue here, as in most rape cases, is the credibility of complainant.<sup>[12]</sup> In this case, we think the trial court correctly relied on the testimony of complainant for the following reasons:

*First.* The findings of Dr. Maribel Pichay when she examined Corazon confirms the latter's claim that she had been raped. The physical examination was conducted in the afternoon of February 28, 1994, the day immediately following the commission of the rape. The presence of fresh hymenal lacerations which, in Dr. Pichay's experience as an obstetrician-gynecologist, are of the kind usually caused by the insertion of the penis and not by any other hard object, corroborates complainant's allegations that she was sexually abused. Although Dr. Pichay said it was possible the lacerations were caused by a hard object, the probability is that they had been caused by penile penetration considering the claim of complainant that she had been sexually attacked the day before. Physical evidence is a mute but eloquent

manifestation of truth, ranking high in our hierarchy of trustworthy evidence.<sup>[13]</sup>

*Second.* Admittedly, there are some inconsistencies in the testimony of complainant. In her direct examination, she testified that accused-appellant did not take off his pants but merely unzipped the front part in order to take out his penis.<sup>[14]</sup> But on cross examination, she said that what accused-appellant did was merely to lower his pants to his thighs in order to expose his penis.<sup>[15]</sup> Accused-appellant also points out that complainant claimed to have lost consciousness because she was boxed in the abdomen, but during cross examination, she said she did not become unconscious and that she even tried to move her body to prevent accused-appellant from raping her.<sup>[16]</sup> Lastly, accused-appellant questions whether or not the alleged rape was consummated as Corazon allegedly could not say whether he inserted his penis in her vagina.<sup>[17]</sup>

The inconsistencies pointed out by accused-appellant are minor and do not affect Corazon's credibility. In *People v. Sagara*,<sup>[18]</sup> it was held that complainant's inconsistency with respect to what the accused was wearing when he raped her was "trivial and [bore] no materiality to the commission of the crime of rape."<sup>[19]</sup>

As to whether or not Corazon became unconscious after accused-appellant hit her in the abdomen, the following is what she said:

Court-

Q What happened to you when Alfredo Arafiles boxed your abdomen?

A I was a little bit conscious but only I was weak but I tried to put on a fight but he was stronger than me.

Fiscal-

Q What was your physical position after you were boxed on the abdomen by Alfredo Arafiles?

A I put my two hands on my abdomen. (witness demonstrate by putting [her] two hands to [her] abdomen).

Q Will you demonstrate for us to appreciate your actual physical position after you were boxed? (Witness demonstrating by putting [her] two hands at her abdomen and bending [her] body).

Q Why did you put both hands on your abdomen and bended?

A Because it is very painful, sir.

Q How did it effect your consciousness?

A I was very weak, sir.

Q After Alfredo Arafiles boxed your abdomen and as a result of which you became weak, what happened next?

A When I regained consciousness, I found out that my uncle was on top of me, sir.

Q As you regained your consciousness and felt that Alfredo Arafiles was already on top of you, when then did you lost your consciousness in relation to the time that Alfredo Arafiles boxed you?

A A little bit long, sir.

Q Long from what, I withdraw.  
Why did you lost your consciousness?

A As a result of his boxing of my abdomen. [20]

Thus, complainant did not say she completely lost consciousness when she was hit in the abdomen, but only that she was hurt and in such pain which rendered her weak. It is in this context that her claim to have "recovered consciousness" much later must be understood. This also explains why, after recovering from the blow, she was able to put up some resistance.

Accused-appellant also asserts that complainant could not say whether she saw him inserting his penis in her vagina. [21] Assuming this is true, we see nothing unusual or improbable about complainant's failing to notice accused-appellant inserting his penis into her private part. That is not important. What is important is that there was penetration as a matter of fact. Complainant testified:

Court

Q Did you notice him insert his penis inside your vagina?

A I did not notice if he inserted it for I was then very weak,  
sir, but I know that he inserted it because I saw him removed his pants.

Q why do you say that he inserted his penis inside your vagina?

A Yes, sir, because I saw his penis.

Q You saw his penis but you did not notice whether it was inserted inside your vagina?

A Maybe because of my nervousness then and besides I was then very weak after he boxed me on my abdomen.

Q According to you, you noticed his buttocks moving up and down, at that time, did you notice his penis inserted in your vagina?

A I only noticed when he inserted his penis inside my vagina but because of my nervousness I was not able to feel it, sir.

Q You were not able to feel his penis inside your vagina when his buttocks was moving up and down?

A Yes, sir.

Q When you saw his penis, did you see him insert it in your vagina?

A Yes, sir.

Q And you did not try to move your body sidewise to and from at the time he was inserting it?

A I did, sir.