

FIRST DIVISION

[G.R. No. 124832, February 01, 2000]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANTE CEPEDA Y SAPOTALO, ACCUSED-APPELLANT.

D E C I S I O N

YNARES-SANTIAGO, J.:

For acceding to a request to massage the stomach of a neighbor's wife who was purportedly suffering abdominal pains, Conchita Mahomoc got raped instead. Charged for the crime was the neighbor, Dante Cepeda y Sapotalo in an Information alleging -

That on or about the 2nd day of April 1994 in Barangay Buhang, Magallanes, Agusan del Norte, Philippines, and within the jurisdiction of this Honorable Court, said accused, armed with a knife, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of Conchita Mahomoc, against her will.

CONTRARY TO LAW.^[1]

Upon arraignment, accused assisted by counsel pleaded not guilty to the crime charged.^[2] The case then proceeded to trial after which the court *a quo* rendered judgment,^[3] the dispositive portion of which reads:

WHEREFORE, IN VIEW OF ALL THE FOREGOING, the Court hereby finds accused DANTE CEPEDA y SAPOTALO GUILTY beyond reasonable doubt of the crime of rape and accordingly sentences him to suffer the penalty of *RECLUSION PERPETUA*. He shall serve his sentence entirely at the Davao Prison and Penal Farm, Panabo, Davao del Norte. In addition, the accused is ordered to pay the offended party moral damages in the sum of P50,000.00.^[4] The accused is entitled to the full benefits of his preventive imprisonment if he agrees to abide by the same disciplinary rules imposed upon convicted prisoners, conformably with Article 29 (as amended) of the Revised Penal Code. Accused is also ordered to pay the costs.

IT IS SO ORDERED.^[5]

Dissatisfied, accused interposed this appeal ascribing a lone assignment of error which asserts that -

THE TRIAL COURT COMMITTED GRAVE ERROR IN FINDING THE ACCUSED -APPELLANT GULTY OF RAPE BEYOND REASONABLE DOUBT.

The trial court summed the versions of both prosecution and defense thus:

On April 4, 1994, Conchita Mahomoc went to the PNP Station of Magallanes to complain that she was raped by Dante Cepeda. On April 5, 1994, she signed her Complaint and swore to it before MCTC Clerk of Court Gad B. Curaza. She claims that at about 3:00 o'clock in the afternoon of April 2, 1994, Dante Cepeda went to her house at Buhang, Magallanes, Agusan del Norte, and asked her to [go to] his house to massage (*hilot*) his wife who was suffering from stomach ache. Regina Carba, her neighbor, was in her house and she asked her to go with her. Cepeda was at his kitchen door when they reached his house. He told Gina to leave as his wife, who was Muslim, would get angry if there were many people in their home. He insisted on this many times so that Gina had to leave. Cepeda led the complainant to his bedroom. At the door, Conchita peeped inside and saw a figure covered by a blanket whom she presumed was Cepeda's wife. At that instance, accused immediately placed his left arm around her shoulders and pointed a knife at the pit of her stomach saying: "Just keep quiet, do not make any noise, otherwise I will kill you." She elbowed him, stooped and shouted "Help!" three times but Cepeda covered her mouth then carried her to the room by her armpits. Shaking herself free from his grasp, she hit her left shin at the edge of the floor of the bedroom. Inside the room, he threatened her with a knife and ordered her to remove her panty and lie on the bed. Afraid, she did as ordered and the accused also removed his pants and brief. He placed himself on top of her, spread her legs with his legs, inserted his penis inside her vagina and had sexual intercourse with her at the same time embracing and kissing her. After he was through, she ran towards the kitchen with Cepeda chasing her.

Regina Carba confirmed this narration of the complainant on the aspect that at [a]bout 3:00 o'clock in the afternoon of April 2, 1994, she was at Conchita's house to discuss the gift they would give their neighbor who was getting married. Cepeda arrived and asked Conchita to give his wife a massage as she was having stomach pains. Conchita had been a masseuse since 1979. On complainant's request, she accompanied her to Cepeda's house. Upon arrival, the accused told her to leave as his Muslim wife gets angry when there are plenty of people in their house. Both she and Conchita protested but Cepeda insisted on it several times forcing her to leave the house of the accused.

Veronica Delmiguiz declared that at about 3:00 o'clock in the afternoon of April 2, 1994, she heard a shout for help from the house of Cepeda. She looked and saw that the windows were closed. She did not give it a second thought thinking that it was a family trouble as she has heard Cepeda and his wife quarrel on previous occasions. Helen Antolijao co-executed an affidavit with Veronica Delminguiz on April 5, 1994 but was not anymore presented by the prosecution as her testimony would only corroborate that of Delminguiz.

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This charge is refuted by the accused claiming that he and Conchita are lovers. He came to know her as he passes by her house in going to his place of work. He began working with EMCO in the month of February

1994. The complainant has gone to their house four times in February 1994, first to sell Herway cosmetics, the second time to sell "chorizo", the third time to sell fish and the fourth time to sell clothing materials. He was present in their house only on the first occasion that complainant had gone there. He knew of the other occasions because his wife told him. The fifth time the complainant went to their house on March 6, he courted her by saying: "Sing, I knew that you like me and I like you." Then they had sexual intercourse. The next time Conchita came to see him and had sexual intercourse with Him was on March 13, then March 17, March 29 and March 27 when on this date, she asked him to leave his wife to elope with her as she would also leave her husband. He rejected this proposal because he loved his wife and Conchita had three daughters. Conchita, according to him, was displeased because he would not elope with her. On April 2, 1994, Conchita again came to his house and while they were petting, somebody outside his house said: "You there, what are you doing? At this Conchita left his house and went home. At about 10:00 o'clock that evening, he was arrested.

The accused's wife, Dory Cepeda, testified that indeed the complainant has gone to their house four times in the month of February and on these occasions, her husband was at home. Her husband started working with EMCO in the month of March while she began working as a baby sitter also in the month of March, 1994."

On the basis of the foregoing factual summation, the trial court rendered judgment against accused Dante Cepeda as stated at the outset.

Insisting on his innocence, accused-appellant claims in his defense that he and private complainant were carrying on an adulterous love affair. According to him, his request to private complainant that the latter massage his allegedly ill wife "is a pre-arranged lie between the accused-appellant and private complainant in order to mislead Regina Carba" the truth being that accused-appellant "purposely went to the house of private complainant to invite her to his house, their place of rendezvous for their passionate affair."^[6] He asserts that the charge of rape was "a contrivance or an afterthought rather than a truthful plaint for redress of an actual wrong"^[7] because private complainant "feeling guilty of such an adulterous affair and out of fear that Regina might have suspected something between her and the accused-appellant, thought of accusing her paramour of rape in anticipation of the possible retribution by her husband should he later on discover their relationships."^[8]

Guided by the three (3) principles in the review of rape cases, namely, that -

- 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 of rape where only two persons are usually involved, the testimony of the complainant is scrutinized with extreme caution; and
- 3.] The evidence of the prosecution stands or fall on its own

merits and can not be allowed to draw strength from weakness of the defense.^[9]

We find the appeal bereft of merit.

Accused-appellant's allegation of an illicit amorous relationship is too shopworn to deserve serious consideration and is totally unworthy of credence. A circumspect scrutiny of the record discloses that the 'illicit love affair' angle appears as a fabrication by accused- appellant. As an affirmative defense, the alleged 'love affair' needs convincing proof.^[10] Having admitted to having had carnal knowledge of the complainant several times,^[11] accused-appellant bears the burden of proving his defense by substantial evidence.^[12] The record shows that other than his self-serving assertions, there is no evidence to support the claim that accused-appellant and private complainant were in love.

It must be noted that accused-appellant and private complainant are both married and are living together with their respective spouses.^[13] In this case, other than accused-appellant's self-serving testimony, no other evidence like love letters, mementos or pictures were presented to prove his alleged amorous relationship with private complainant. Neither was there any corroborative testimony supporting this pretended illicit affair. If accused-appellant were really the paramour of private complainant, she would not have gone to the extent of bringing this criminal action which inevitably exposed her to humiliation of recounting in public the violation of her womanhood. Moreover, she would not have implicated a person, who is allegedly her lover, as the perpetrator of an abominable crime and thereby lay open their illicit relationship to public shame and ridicule not to mention the ire of a cuckolded husband and the withering contempt of her children were it not the truth.^[14]

Evidence to be believed must not only come from a credible source but must also be credible in itself such as one that the common experience and observation of mankind can approve as probable under the circumstances.^[15] The Court has taken judicial cognizance of the fact that in rural areas in this country, women by custom and tradition act with circumspection and prudence, and that great caution is observed so that their reputation remains untainted.^[16] Such circumspection must have prompted the victim to request Regina Carba to accompany her on the errand of mercy to accused- appellant's house. Unfortunately, Carba was shooed away by accused-appellant on the pretext that his wife who was a Muslim was averse to having too many people in their house.

Even assuming *ex gratia argumenti* that accused- appellant and private complainant were indeed sweethearts as he claims, this fact alone will not extricate him from his predicament. The mere assertion of a 'love relationship' would not necessarily rule out the use of force to consummate the crime.^[17] It must be stressed that in rape cases, the gravamen of the offense is sexual intercourse with a woman *against* her will or *without* her consent.^[18] Thus, granting *arguendo* that the accused and the victim were really lovers this Court has reiterated time and again that "[A] sweetheart cannot be forced to have sex against her will. Definitely, a man cannot demand sexual gratification from a fiancée, worse, employ violence upon her on the pretext of love. Love is not a license for lust."^[19]