

THIRD DIVISION

[G.R. No. 142511, February 16, 2004]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JEANBO "JEANBO" MUROS, EDGAR MAZO @ "EGAY" (AT LARGE), PETER DOE AND RICHARD DOE, ACCUSED.

JEANBO "JEANBO" MUROS, APPELLANT.

D E C I S I O N

CARPIO MORALES, J.:

From the Decision^[1] of the Regional Trial Court of Romblon, Romblon, Branch 81 in Criminal Case No. 1747 finding appellant Jeanbo "Jeanbo" Muros guilty beyond reasonable doubt of the complex crime of forcible abduction with rape, imposing upon him the penalty of *reclusion perpetua*, and ordering him to indemnify private complainant Regina Rocha in the amount of P50,000.00 by way of civil indemnity and to pay the costs, he comes to this Court on appeal.

The Information^[2] for forcible abduction with rape charged appellant, along with three Does, as follows:

That in, about or during early morning of January 22, 1990, in the Poblacion, municipality of Romblon,"province of Romblon, Philippines, and within the jurisdiction of this Honorable Court, the said accused conspiring, confederating and mutually helping one another, did then and there, with lewd designs, willfully, unlawfully, feloniously take by force and abduct REGINA ROCHA by then and there taking and carrying her away and brought to different places, against her consent and by means of violence, have carnal knowledge with the said offended party, against her will.

Contrary to law.

An order^[3] for appellant's arrest was issued on March 29, 1990. By Order^[4] of May 5, 1990, the case was archived, however, as it appeared from the return of service of the arrest warrant accomplished by the Romblon Constabulary Integrated National Police Command, appellant was "out of jurisdiction."

The case was reinstated to the docket of the trial court by Order^[5] of February 1, 1997 upon the return of the warrant of arrest^[6] dated January 27, 1997 stating that appellant was detained at the Manila City Jail, he having been indicted for violation of Republic Act No. 6425, as amended. Appellant was subsequently acquitted in said case and thereafter detained in Romblon.

On March 3, 1999, appellant, duly assisted by counsel, pleaded not guilty to the

offense charged.^[7]

The information was later amended^[8] on March 16, 1999 by impleading Edgar Mazo alias "Egay," vice the accused John Doe. He has remained at large up to the present, however.

As presented by the prosecution, the facts of the case are as follows:

At about 9 p.m. on January 21, 1990, private complainant Regina Rocha (Regina), then of 19 summers and a laundrywoman of Julieta Mingoa, went to the plaza in the poblacion of Romblon, Romblon, together with Tecla Mercurio, a househelper also of Mingoa, to watch an amateur singing contest. Tecla left the plaza earlier while Regina stayed on as she wanted to watch the contest to its conclusion.

After the contest, as Regina was on her way back to her employer's house, she was waylaid by appellant.^[9] She resisted but appellant, who was stronger,^[10] held her right wrist and covered her mouth with his left hand.^[11] He then forcibly dragged her to a dilapidated house^[12] where there were two persons, later identified as accused Mazo and one "Lawo."

Over Regina's resistance, appellant lifted her skirt, removed her panty after which he removed his shorts and brief.^[13] He thereafter succeeded in inserting his penis into her vagina and doing "thrusting" motions.^[14]

After appellant was done, accused Mazo and Lawo entered the house and took turns in raping Regina as appellant watched - Lawo first as Mazo restrained her, and Mazo later as Lawo held her down.

The three repeatedly abused Regina until about 5 a.m. of the following day when she was allowed to leave. The vicinity being already slightly illuminated by sunlight, she was able to take a good look at the malefactors who were also set to leave.^[15]

After Regina arrived at her employer's house, she did the laundry on instructions of Mingoa who noticed her to be pale, nervous and uncharacteristically silent.^[16] As she was doing the laundry, she told Mingoa that she felt bad and proceeded to recount her harrowing ordeal. She mentioned Jeanbo Muros whom Mingoa knew to be one of their neighbors who buys from their store.^[17] Mingoa thereupon told her that she would bring her to a doctor if she was indeed raped.

That same morning of January 22, 1990, accompanied by Mingoa, Regina went to the Romblon District Hospital where she was physically examined by Dr. Juan Magalong. From the doctor's Medico-Legal Certificate,^[18] Regina was found to have:

- (+) Hymenal laceration 9:O'clock and 3 O'clock position
- (+) Erosion (R) Postero lateral fornex, cervix.

In a February 14, 1990 detailed report^[19] of the doctor, he notes as follows:

x x x

Physical Examination: Unremarkable except for previous findings of:
Fresh hymenal laceration, with cervical erosions.

Done: At time of patient consultation at Romblon District Hospital's
Delivery Room with her employer Mrs. Julieta Mingoa.

x x x (Underscoring supplied)

Regina thus executed a sworn statement^[20] on February 13, 1990 on account of which a criminal complaint^[21] was filed before the Provincial Prosecutors Office in Romblon.

Appellant interposed alibi. He averred that at the time of the alleged incident, he was in Manila where he was employed as a construction worker from November 1989 to May 1990; and that Mingoa merely prevailed upon Regina to fabricate charges against him as he had a feud with her (Mingoa's) husband.

Finding for the prosecution, the trial court rendered the appealed Decision of October 19, 1999 the dispositive portion of which reads:

WHEREFORE, this Court finds co-accused JEANBO "JEANBO" MUROS GUILTY beyond reasonable doubt of forcible abduction with rape and hereby sentences him to suffer the penalty of reclusion perpetua with the accessory penalties of the law; to indemnify the victim REGINA ROCHA the sum of P50,000.00, without subsidiary imprisonment in case of insolvency; and to pay the costs.

The preventive imprisonment he may have suffered shall be credited in his favor.

The case against the other accused who are at large is ordered ARCHIVED.

SO ORDERED.^[22]

Hence, the present appeal which hinges upon the sole issue of whether the trial court erred in finding appellant guilty beyond reasonable doubt.

Appellant assails Regina's identification of him which, so he posits, was merely suggested to her by people present during the hearing.

This Court is not persuaded. Based on a judicious review of the transcript of her testimony, Regina positively and categorically identified appellant as one of her assailants:

Q: It maybe (sic) true that you were raped but you are not sure if Jeanbo was one of those who raped you because you only heard the name of Jeanbo from the voices of the people, am I correct?

A: The face was really his.

Q: The face that you saw, when?

A: That early morning, sir.

x x x

Q: What do you mean when you say early morning?

A: Five o'clock.

Q: What is the condition of the illumination at 5:00 o'clock of that early morning?

A: "Masina-aw" meaning slightly bright.

Q: Where did you actually recognized (sic) their faces, that early morning inside the house or outside the house?

A: On the outside already.

Q: Where were you when they were outside the house and you recognized their faces for the first time?

A: I was about to go home to auntie Juliet's house.

x x x

Q: At that particular instance, how far was Jeanbo from you?

A: Near.

x x x

Q: When you said near, will you point at any object or place or person in the courtroom from where you are assuming that you were where you are now when you saw Jeanbo and recognized him, will you point to any object or person in this place to indicate the distance of Jeanbo?

A: (Witness pointing to the chair in front of the witness stand when measured a meter and a half)^[23]

x x x

Q: So, if you only heard from the voice of the people, you heard the people pointing at Jeanbo Muros?

A: It was really Jeanbo who raped me, I saw him.^[24]

The following factual findings of the trial court, which are quoted *verbatim*, with respect to Regina's identification of appellant and credibility as a witness thus merit approval:

Regina Rocha's positive identification of the accused Jeanbo Muros as one of the perpetrators of the crime is credible and trustworthy that satisfies moral certainty. She could not be mistaken that early morning (masinaw or slightly bright) when the accused were already outside the dilapidated house and while she was about to get out at only a distance of about a meter and a half from her when she recognized the face of the accused. This unlettered young woman from the barrio, whose simplicity of appearance could not be exactly described in words by the Court as reflected in the transcripts of stenographic notes, was closely observed

by the Court in her demeanor and manners in and out of the witness stand. She could not have concocted this harrowing experience of rapes in the hands of the three (3) accused and exposed herself and her family not only to shame and ridicule, and to medical examination of her private parts but also her utter ignorance of how to go about seeking justice for the wrong committed against her especially the demands of a public trial, if her story of rapes were (sic) not true.^[25]

For the rule is well-entrenched that findings of fact of the trial court are accorded the highest degree of respect and will not be disturbed on appeal absent any clear showing that the trial court had overlooked, misunderstood or misapplied some facts or circumstances of weight and significance which, if considered, would alter the result of the case.^[26] The reason for the rule being that trial courts have the distinct advantage of having heard the witnesses themselves and observed their deportment and manner of testifying or their conduct and behavior during the trial.^[27]

Appellant goes on to contend that Regina's charge against him is rendered suspect by her failure to make any outcry after she was allegedly abducted.

Neither is this Court persuaded. The intimidation of the victim may be so overpowering as to prevent her from making an outcry,^[28] hence, her failure to shout for help does not negate the commission of rape.^[29]

It bears noting that at the time of the abduction in a dark, isolated place, appellant tightly held Regina and covered her mouth, thus preventing her from making an outcry. And, given the trial court's observation that "by comparison, the accused is very much robust in his physical constitution as compared with the victim,"^[30] it is not difficult to understand why, although Regina struggled to extricate herself from appellant, she could have hesitated to make any move that would further provoke him.

Appellant then faults Regina for allegedly failing to offer tenacious resistance, as her testimony that "she did not try to kick or box him or scratch his face" shows. On the contrary, the records reveal that she did offer some resistance which may not, by appellant's standards, be tenacious. Her resistance was, however, thwarted, by appellant who is much stronger.

At all events, this Court has laid down the rule that the resistance that is expected from a victim to negate consent in rape is dependent upon the peculiar circumstances of the case:

The test is whether the threat or intimidation produces a reasonable fear in the mind of the victim that if she resists or does not yield to the desires of the accused, the threat would be carried out. Where resistance would be futile, offering none at all does not amount to consent to the sexual assault. It is not necessary that the victim should have resisted unto death or sustained physical injuries in the hands of the rapist. It is enough if the intercourse takes place against her will or if she yields because of genuine apprehension of harm to her if she did not do so. Indeed, the law does not impose upon a rape victim the burden of proving resistance.^[31]