

THIRD DIVISION

[G. R. No. 137366, November 27, 2003]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROMEO MOLE Y SANTOS, APPELLANT.

DECISION

CARPIO MORALES, J.:

On appeal is the Decision^[1] of the Regional Trial Court of Makati City, Branch 143, finding appellant Romeo Mole y Santos guilty of the crime of rape and sentencing him to suffer the penalty of *reclusion perpetua* and to pay the victim P50,000.00 and to pay the costs.

The accusatory portion of the Information^[2] charged appellant as follows:

That on or about the 13th day of April, 1997 in the City of Makati, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, did then and there willfully, unlawfully and feloniously have sexual intercourse with one AAA, against her will and consent.

On motion of the prosecution, the accusatory portion was later amended to read:

That on or about the 13th day of April, 1997 in the City of Makati, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, did then and there willfully, unlawfully and feloniously have sexual intercourse with one AAA, against her will and consent, *while dizzy or otherwise unconscious*. (Emphasis supplied.)

Culled from the documentary and the testimonial evidence for the prosecution consisting of the testimonies of the following witnesses, *to wit*: private complainant AAA (AAA); Aurea Villena, the Medico- Legal Officer from the National Bureau of Investigation; SPO4 Lilia R. Hogar, the police investigator; and [REDACTED], the husband of AAA, are the following:

On April 11, 1997, the then 34-year old AAA, her husband [REDACTED] and their three children consulted appellant, Romeo Mole, an *albularyo* (quack doctor), in the latter's house, they having been experiencing itchiness all over their bodies. Appellant, diagnosing the [REDACTED] to be victims of *kulam* (witchcraft), asked for and was given P935.00 for the purchase of 17 black candles which he needed to insulate them from the spell. Appellant asked them to return the next day for treatment.^[3]

As advised, the [REDACTED] returned to appellant's house the next day, April 12, 1997. On appellant's instructions, the [REDACTED] removed their clothes upon which appellant

massaged their bodies one at a time with cotton dipped in oil.[4]

After the "treatment," the [REDACTED] repaired home, accompanied by appellant who brought with him two black candles. Upon reaching the [REDACTED] house, appellant lit the candles and placed one at the main door and another near the door of the kitchen. He then invited AAA's husband [REDACTED] to drink gin while waiting for the candles to burn out. After three shots, [REDACTED] became dizzy and passed out. Appellant thereupon brought [REDACTED] to the only bedroom of the house and blew something on his ([REDACTED]'s) chest. [5]

At about 11:00 p.m., appellant left the [REDACTED] residence after asking for and receiving the amount of P350.00 representing payment for his services. [6]

AAA then went to sleep. At about 12:00 midnight, however, she heard someone knock at the main door. Clad in a *duster*, she opened the door and saw appellant who was looking for her youngest son, he saying that "the sorcerer will take and kill him" and to save him (the son), appellant needed P2,500.00. Panicky and crying, AAA immediately gave the said amount to appellant who thereafter went to the bedroom and sprinkled a pungent liquid on [REDACTED] and their three children. Appellant also sprinkled the same liquid on AAA, blew something on her chest and, while looking at her eyes, mumbled as if in prayer at which point AAA instantly felt weak and dizzy.[7]

Appellant then dragged AAA to the kitchen, laid her on the floor and removed her underwear. She felt appellant, who was naked from the waist down, lie on top of her. While she wanted to resist she was too weak and dizzy and eventually lost consciousness.[8]

Before losing consciousness, however, AAA felt something heavy on her breast as appellant lay on top of her.[9]

When AAA regained consciousness, appellant had left and her entire body, including her vagina, was aching. She was later to declare in the course of her testimony in court, when asked why her vagina was aching, that appellant "raped" her.[10]

The next morning, or on April 13, 1997, AAA, without the knowledge of her husband, reported her experience to the police.[11] Her husband, however, was informed by a neighbor that AAA went to the police station, prompting him to follow her. On arrival at the police station, he was unable to talk to his wife, and it was only on her return home at around 3:00 or 4:00 p.m. of that day that AAA related to him the incidents that occurred the night before, albeit he could not remember if AAA ever mentioned to him that she became unconscious, because there have been a lot of things which then occupied his mind.[12]

On April 14, 1997, AAA was physically examined by Dr. Aurea Villena who found multiple lacerations on her hymen which are secondary to child birth[13] and noted the following:

1. No extragenital physical injuries noted on the body of the subject at the time of the examination.

2. Hymen, reduced to myrtiformis.^[14]

At the witness stand, the doctor disclosed that the seminology examination conducted on AAA yielded negative result, and that there was no medical basis to conclude that she had been subjected to sexual abuse.^[15]

From the Final Investigation Report^[16] of SPO4 Lilia Hogar to whom the case was referred for investigation, the following *datum* appears:

x x x

07. Suspect ROMEO MOLE when apprised of his constitutional rights admitted raping AAA and also told the same admission to the PRESS people who interviewed him.

x x x

SPO4 Hogar's testimony in court was dispensed with after the prosecution stipulated that appellant was investigated and "gave the statement to her." ^[17]

Appellant on the other hand denied the accusation. He claims that it was his wife Adoracion Mole, not him, who treated AAA; that both AAA and [REDACTED] were awake when he returned to their house on the night of April 13, 1997; that he merely fell asleep on the [REDACTED] sofa in the living room; and that when he awoke at around 8:00 the following morning, [REDACTED] even offered him breakfast which he turned down as it was already late. He, however, admitted that there is no reason why AAA would file a complaint for rape against him.^[18]

Appellant's testimony was corroborated by his wife Adoracion Mole.^[19]

Giving weight to the testimony of AAA and relying on Romeo's verbal admission to SPO4 Hogar of having raped the victim, as reflected in the aforementioned *datum* in the Final Investigation Report, the trial court convicted appellant of rape by the assailed decision, the dispositive portion of which reads:

WHEREFORE, the Court finds Romeo Mole y Santos GUILTY beyond reasonable doubt of the crime of rape. Accordingly, accused Romeo Mole y Santos is hereby sentenced to RECLUSION PERPETUA and to INDEMNIFY private complainant AAA in the amount of P50,000.00 and to pay the costs.^[20]

In his brief, appellant assigns the following errors to the trial court:

1. . . . In deciding the case by mere confusion or supposition, and in failing to consider certain unrebutted substantial matters of facts tending to show the non-occurrence or at least a doubtful occurrence of rape.
2. . . . In failing to apply the rule that in case of doubt, the same must be resolved in favor of the accused. ^[21]

In rape cases, it is the primordial duty of the prosecution to present its case with clarity and persuasion to the end that conviction becomes the only logical and inevitable conclusion. [22]

And the credibility of the private complainant is of vital importance for, in view of the peculiar nature of rape, conviction or acquittal rests entirely upon her. [23] It has thus become doctrine that the accused may be convicted even solely on the basis of the victim's testimony provided that the testimony is clear, credible, convincing, unshaken by rigid cross-examination and unflawed by inconsistencies or contradictions in its material points. [24]

Although the findings of trial courts are normally respected and not disturbed on appeal, [25] inconsistencies in the testimony of AAA put serious doubts on her claim of rape, compelling this Court to reverse appellant's conviction.

Thus, on direct examination, she related that appellant, who was naked from waist down, lay on top of her after removing her underwear, whereupon she lost consciousness; and that after she regained consciousness, her entire body, including her vagina, was aching. She thus concluded that she was raped:

Q You mean Madam Witness that after your panty was removed and accused was able to lay you down on the floor you lost consciousness and you don't remember anything?

A Yes, sir.

Q Prior to you losing consciousness, what was the accused doing to you that you could remember?

A I just felt that there was something heavy on my breast, sir.

x x x

Q What was the condition of your body when you regained consciousness?

A I felt pain all over my body, sir.

Q What particular portion of your body was aching or suffering from pain?

A My whole body and also my vagina, sir.

Q Do you know of any reason why your vagina is aching?

A Yes, sir.

Q What was that?

A He raped me, sir. [26] (Emphasis supplied)

On cross-examination, AAA gave the following account:

ATTY. OLIVA

Q You testified Madam Witness on direct examination that the last time you were conscious that you felt that the accused was on top of you, is that correct?

A Yes, sir.

Q You also testified that you lost consciousness and that when you regained consciousness the accused ha[d] left already, am I right, Madam Witness?

A Yes, sir.

Q Now, my question, Madam Witness, when did you lose your consciousness?

A When he was halfway [with] what he was doing to me, Sir.

Q Are you referring to the . . . **[m]ashing of your breast and kissing of your lips, Madam Witness?**

A Yes, Sir.

X X X

Q Miss Witness, can you possibly tell the Honorabl[e] Court if there was actual penetration of the sexual organ of the accused to you?

WITNESS

A Yes, sir.

COURT

Q **Why do you know that there was [f]ull penetratio[n] Madam Witness?**

A **Because Your Honor, when I regained consciousness and he already left the house, I felt that my vagina was somewhat forced and it was very painful, Sir.**

X X X

Q **Why do you know that he was able to have sexual intercourse with you?**

WITNESS

A **Because my organ was wet, Sir.**^[27] (Emphasis supplied)

When, also on during cross-examination, she was questioned by the trial court, she gave the following statement:

COURT

Q What was that thing that he did which you felt the accused was doing to you?

WITNESS

A I felt that he put his sexual organ on top of my body, Sir.

COURT

Q On top of your body?

[Q] Where did the accused plac[e] his sexual organ, Madam Witness?