427 Phil. 363

SECOND DIVISION

[G.R. Nos. 134139-40, February 15, 2002]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILFREDO SOMODIO, ACCUSED-APPELLANT.

D E C I S I O N

QUISUMBING, J.:

On appeal is the consolidated decision[1] dated June 25, 1998, of the Regional Trial Court of Angeles City, Pampanga, Branch 59. Appellant Wilfredo Somodio was acquitted of the charge of rape in Criminal Case No. 98-287, but was found guilty of statutory rape in Criminal Case No. 98-286.

On April 14, 1998, two criminal complaints were filed against Wilfredo Somodio, as follows:

> Criminal Case No. 98-286
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> That sometime in the month of March, 1995, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and taking advantage of the innocence and tender age of the victim, did then and there willfully, unlawfully and feloniously have carnal knowledge with one MAYLENE V. CO, then 11 years old, by means of force and against her will and consent.
>
> CONTRARY TO LAW.[2]
>
> Criminal Case No. 98-287
>
> That sometime in the month of September, 1997, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and taking advantage of the innocence and tender age of the victim, did then and there willfully, unlawfully and feloniously have carnal knowledge with one MAYLENE V. CO, then 14 years old, by means of force and against her will and consent.
>
> CONTRARY TO LAW.[3]

The cases were jointly tried. The facts, as presented by the prosecution, are as follows:

> Maylene Co was born on May 11, 1983 (Exhibit A, p. 130 Record). Sometime toward the end of February 1995, Maylene was tending their store when appellant, a neighbor whose house was only 20 meters away

from theirs, bought a cigarette from her. Appellant told her to go to his house at 5:00 the following morning so that he could tell her something important. At exactly 5:00 a.m. of the following morning, after her parents left for the market to buy vegetables that they can vend, Maylene went to the house of appellant. Appellant greeted her in front of his house and invited her to enter so that he could tell her what he wanted to tell her. Appellant dragged Maylene inside the house and into his room. He laid her on his bed and removed her T-shirt, shorts, panty and sando-bra. Appellant lowered his pants and brief down to his knees. He kissed her vagina and sucked her breast. Then he inserted his penis into her private part. Maylene felt something warm coming out from his penis. Maylene cried excruciating in pain as appellant ravished her. Appellant told her to dress-up and not to tell anyone what had happened. Maylene went home and helped her parents in their store (pp. 16-18, tsn, May 20, 1998, testimony of Maylene V. Co).

A week after the incident and at around 7:00 in the evening, Maylene was about to return her cousin's notebook, when she saw appellant in an alley. He approached her and told her to meet him again in his house the following morning at 5:00 in the morning. She went to his house. Appellant asked her if she had told anyone what he did to her and warned her that she would be embarrassed and there would be trouble if her father would know about the matter. Appellant told her to leave. When Maylene was on her way home, Aurora, her mother saw her in the alley. Aurora asked her where she had been. Instead of answering, she just remained quiet and started crying. Aurora asked again and this time she recounted to her mother what appellant had done to her.

Aurora brought Maylene to Angeles City General Hospital where she was medically examined by Dr. Roland Tanglao. Dr. Tanglao issued a medical certificate which stated in part:

> Genitalia: (-) gross marks on external examination; (+) 3º and 9º partial lacerations completely healed; (-) blood seen on examination; (-) discharge.
> Sperm smear and gram staining requested revealed negative results. (Exhibit "B", p. 131, Record)

Maylene begged Aurora not to tell anyone especially her father, considering his volatile temper to avoid their embarrassment. Aurora just cried and agreed with her (pp. 19-20, tsn, ibid).[4]

For sometime thereafter, Maylene[5] and her mother did not see appellant, until the latter reappeared in 1997. It was then that appellant allegedly lured Maylene to have sex at least three more times, once in September, 1997 and on October 17 and 20, 1997. Each time, appellant would order Maylene to go to his house at 5:00 in the morning, with the warning that if she did not do so, appellant would tell her father everything that had happened between them. She obliged and appellant had his way with her every time. The prosecution continued:

On October 20, 1997, Elsie Valiente, aunt of Maylene asked her where Maylene had been, whom she saw coming from the house of appellant. Maylene confessed to Elsie what appellant had repeatedly done to her.

> Elsie confided to Maylene's father her revelations. In turn, the father asked Aurora to talk to her. The father and Elsie brought her to the Angeles City General Hospital where she was examined by Dr. Edwin Manzon. On October 13, 1997, Maylene was accompanied by her parents to the Women's Center where her statement was taken. A complaint for rape was accordingly filed with the Office of the City Prosecutor against appellant (pp. 20-26, tsn, ibid).
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> At around 2:00 p.m., of December 17, 1997, Gary Valiente went to Republic Central College and invited Maylene outside to have refreshment. Gary asked her to board a waiting jeepney where she saw, among others, appellant and Teresita Labausa, sister of appellant inside said vehicle. Maylene boarded the jeep and they went to the office of Atty. Cesar Maniti. Atty. Maniti asked her if she was the complainant. Maylene was asked to sign a document. They hurried to the office of Prosecutor Antonio. She was then brought to a house in Don Bonifacio Subdivision, where she was left in the company of the appellant and her cousin Gary Valiente. Teresita Labausa came back and brought her to the barangay hall where she was fetched by her parents (pp. 26-28, tsn, ibid).[6]

Appellant denies the charges against him. He testified[7] that he knew Maylene Co since February of 1995. She often passed their alley. Appellant denied that he had a relationship with Maylene. He said that Maylene had made it known then that she had a relationship with a Randy Alvarez for eight months beginning January of 1995, after which she again went steady with a certain Lito. It was only two years thereafter, or in March 1997 when he courted Maylene upon learning that the girl had a crush on him. Appellant recalled that one early morning of March 1997, he was awakened by someone knocking on the door. When he went out, Maylene was standing outside, wanting to talk to him. Though uninvited, Maylene nevertheless followed him inside his room. Once inside the room, Maylene suddenly embraced and kissed him. He kissed her back and it lasted for two minutes after which, he asked Maylene to go home and the latter did. His relationship with Maylene lasted only for about a month. Appellant points to Maylene's voluntary retraction of her story in her "*Pagbawi ng Salaysay*".

Teresita Labausa,[8] a witness, testified that Gary Valiente, Maylene's cousin and a friend of the appellant, went to their house on December 11, 1997 and volunteered to intervene in the dispute. Gary told her that Maylene wanted to withdraw her complaints saying that she only filed them upon her parents' insistence. The following day, December 12, 1997, according to Teresita,[9] with companions Vic Dizon and Gary, she went to Maylene's school. Maylene told her that the former was willing to withdraw her complaints. They brought Maylene to Atty. Maniti who asked Maylene if she was indeed withdrawing her complaints. He prepared the "*Pagbawi ng Salaysay*" which Maylene signed. The affidavit was presented to Prosecutor Rufino Antonio. Maylene allegedly told them that she no longer wanted to go home. They brought Maylene to a house in Don Bonifacio and later to the Barangay Hall of Balibago, Angeles City, where her parents fetched her.

In its decision in Criminal Case No. 98-287, the trial court found[10] that when Maylene was already 14 years old, she and the appellant had engaged in sexual

intercourse, but they were sweethearts, hence the act was consensual. It found that there was no force nor intimidation upon Maylene when she had sex with appellant. Thus, appellant was acquitted in Criminal Case No. 98-287.

However, in Criminal Case No. 98-286, the trial court found that sometime in March of 1995, when Maylene was then only 11 years old, she and the appellant had their first sexual intercourse. Hence, the trial court found appellant guilty of statutory rape under Article 335 of the Revised Penal Code, providing that rape is committed by having carnal knowledge of a woman under twelve (12) years old. Under this provision, it is not necessary to prove that neither force nor intimidation was employed. The trial court concluded[11] that although the two were sweethearts, sex with Maylene when she was below 12 years old, constituted statutory rape.

In addition, the trial court found that Maylene's "*Pagbawi ng Salaysay*" was executed under duress, hence, of no probative value. The court admonished appellant's counsel for his participation in its execution.[12]

In its dispositive portion referring to Criminal Case No. 98-286, the appealed decision of the trial court pertinently states:

> WHEREFORE, premises considered, judgment is hereby rendered as follows:
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> x x x
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> 2. In Criminal Case No. 98-286, the accused is found GUILTY beyond reasonable doubt of the crime of statutory rape and is hereby sentenced to suffer the penalty of Reclusion Perpetua.
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> 3. Accused is further ordered to indemnify the victim Maylene Co in Criminal Case No. 98-286 the sum of P50,000.00.
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> x x x
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> SO ORDERED.[13]

In his appeal, appellant assigns the following errors allegedly committed by the trial court in Criminal Case No. 98-286:

> I.
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> THE TRIAL COURT ERRED IN HOLDING THERE WAS SEXUAL INTERCOURSE BETWEEN MAYLENE AND WILFREDO SOMODIO (ACCUSED) ON MARCH 1, 1995 AND ERRED IN GIVING CREDIBILITY TO MAYLENE AND TO HER MOTHER (SALVE CO) DESPITE THEIR UNBELIEVABLE AND INCREDIBLE TESTIMONIES; AND
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> II.
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> THE TRIAL COURT ERRED IN NOT GIVING CREDENCE TO TESTIMONIES OF FISCAL ANTONIO, ATTY. MANITI, THE ACCUSED WILFREDO

SOMODIO, AND TERESITA LABAUSA ABOUT THE "PAGBAWI NG SALAYSAY" OF MAYLENE.[14]

The issue before us concerns the credibility of the witnesses for the prosecution and the defense, as well as the sufficiency of the evidence to convict appellant.

While complainant Maylene V. Co asserts positively that sexual intercourse between her and appellant Wilfredo Somodio, did happen in March 1995, appellant vigorously denies that it did. The trial court was left to evaluate the word of one against that of the other.

On this score, it bears reiteration that the evaluation of testimonial evidence by the trial court is accorded great respect precisely because it is the tribunal that had the opportunity to closely observe first-hand the conduct and demeanor of the witnesses, a matter which is vital in assessing whether the testimony of a witness before the court may be taken as true or false, reliable or unreliable, credible or unbelievable. Absent any showing that certain facts of substance and significance have been plainly overlooked or that the trial court's findings are clearly arbitrary, [15] the conclusions reached by the trial court on this point must be respected, and the judgment rendered affirmed.[16]

In a rape case, courts are guided by three principles: (a) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused though innocent to disprove the charge; (b) considering the intrinsic nature of the crime, where only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with the greatest caution; and (c) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[17]

A rape charge is a serious matter with pernicious consequences both for the appellant and the complainant,[18] hence utmost care must be taken in the review of a decision involving conviction for rape. In this case, however, a careful perusal of the records shows no cause to disturb the lower court's findings.

Appellant stresses that private complainant filed her complaint only after 2 years and 7 months from the date of the alleged commission of the first rape in March 1995. Notwithstanding the 1995 medical certificate, no complaint for rape was made nor was the incident reported to the police by either the victim or her mother, Aurora. Appellant avers that, being neighbors, it was quite unbelievable that Aurora never confronted appellant about what he had allegedly done to her daughter, Maylene. Moreover, he avers, it was incredible that Maylene, at such a young age, would be affected by shame that she would plead with her mother to conceal the incident. Appellant considers the testimonies of both Maylene and her mother as incredible and contrary to the normal course of human experience.

Further, appellant suggests that Maylene, at the age of eleven, could not have narrated what happened in detail. Appellant says it was unnatural for a young girl to feel the "in and out" movement of a penis[19] and feel something warm come out from appellant's penis. Further, he states that at age eleven, Maylene "had no nipples to be sucked" and that it was improbable that appellant kissed her vagina,