

EN BANC

[G.R. No. 132339, February 04, 2002]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE CAMACHO TORREJA, ACCUSED-APPELLANT.

D E C I S I O N

PER CURIAM:

On automatic review is the decision,^[1] dated November 27, 1997, of the Regional Trial Court of Las Piñas City, Branch 275, convicting appellant, Jose Camacho Torreja, of rape in Criminal Case No. 97-0050 and sentencing him to suffer the death penalty.

On January 17, 1997, appellant was charged as follows:

That on or about the 7th day of January, 1997 in the Municipality of Las Piñas, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a member of the Las Piñas Police, PNP, by means of force, violence and intimidation, with lewd designs, did, then and there willfully, unlawfully and feloniously have carnal knowledge with one BING TABERARA Y GONZALES, who was then under the custody of the Las Piñas Police, against her will and consent.

CONTRARY TO LAW.^[2]

When arraigned, appellant pleaded not guilty. Thereafter, trial on the merits ensued.

The first witness for the prosecution was private complainant, BING TABERARA, a 16-year-old housemaid residing at Pulanglupa, Las Piñas. She testified that on January 7, 1997, her employer Yolanda Rodel brought her to the police precinct in front of the Bamboo Organ Church in Las Piñas, and filed a complaint, for qualified theft against her. She was with her grandmother who was also implicated in said crime. Bing recalled that on January 7, 1997, at about 11:00 P.M., appellant SPO3 Torreja was drinking liquor with his four (4) other companions. Appellant approached her cell, let her out and brought her to the other room where the drinking session was on-going. He asked her questions about her case and offered to help her. She said, she would be most grateful if he did. He then brought her back to her cell. She recounted that sometime thereafter, appellant once again brought her out of the cell to the office of Lt. Leyva^[3] who was then not around. The office was just one arm's length away from her cell. Once inside the office, appellant turned off the lights and kissed her. He started to undress her. She was then wearing garterized pants. Appellant, she observed, had his gun on his waist. She shouted for him to turn on the lights, but he didnt. She remembered she rushed to the door and tried to open it but appellant stopped her and forced her to lie on the cement floor. She resisted his advances but he forced her down and lay on top of

her. He forcibly tried to insert his penis into her vagina but she struggled. Eventually she felt weak so appellant succeeded in having sex with her. She recalled she felt pain. Appellant then removed his penis from inside her and she managed to stand up. When one of his companions suddenly knocked on the door, she was led, back to her cell. Appellant then gave her P50 for food. Once inside her cell, she told her grandmother her ordeal. It was by then 12:00 midnight.^[4]

The prosecution next presented FELICISIMA BACSAL, the 50-year old grandmother of private complainant. She testified that sometime in January of 1997, Bing and she were brought to the police precinct by Bing's employer allegedly because they stole some valuables belonging to the latter. Because the incident happened a long time ago, she could no longer recall the exact date, but she remembered they were detained for two days and two nights. She recounted when Bing was brought out of the cell for the third time by appellant. When Bing returned, she was crying and she said she was raped by Torreja.^[5]

On cross-examination, Felicisima testified that she heard Bing shouting for help while banging on the walls/doors of the office where Bing was being raped.^[6]

DR. TOMAS SUGUITAN, Medico-Legal Officer and Police Senior Inspector at the PNP, Camp Crame, Crime Laboratory Group, was presented as third witness for the prosecution. He testified that on January 8, 1997, he received a request from the Chief of the Intelligence and Investigation Bureau for Las Piñas Police Station to examine one Bing Taberara. In his genital examination of Ms. Taberara, he said he found shallow healed lacerations of her hymen more than seven days-old, involving less than half of the hymen at three o'clock position. These lacerations were caused by the insertion of a hard object, possibly a penis, into the vagina.^[7] He further testified that the lacerations were already healed. Nonetheless, the lacerations were compatible with his findings of forcible penetration, even if the penetration was as early as January 7, 1997. On cross-examination, Dr. Suguitan affirmed that indeed the common signs of rape by means of force or violence are lacerations of the hymen and congestion at the *lavia minora*, or any redness and the presence of spermatozoa. He explained that there were cases where the finding of rape was based on bodily injuries but there were also cases where there were no such injuries.^[8]

Finally, the prosecution presented INSPECTOR LUCAS LEYBA, the Commander of the Kabayan. Center at the police station, Las Piñas. He testified that on January 8, 1997, at exactly 8:00 A.M., police officers Eduardo Gillera^[9] and Gil Leyba informed him that Jose Torreja raped one of the inmates. He immediately placed Torreja in a restricted area and later brought him to the office of the Chief of Police.^[10]

In his defense, appellant JOSE CAMACHO TORREJA testified that prior to his detention, he was assigned at Block 1 Police Station, at the area of the Bamboo Organ Church, Las Piñas. He stated that on January 7, 1997, he reported for work at around 9:00 P.M.. Since Lt. Leyba, the station commander, was not around that night, he was officer-in-charge. When he arrived, he searched Lt. Leyba's table for instructions that the latter might have left for him. He found a partial investigation report on a qualified theft case against Bing Taberara. He decided to continue the investigation and got her out of her cell. In the office of Lt. Leyba, he talked with

Bing, asked if she had dinner. He gave her P50 for food. She accepted. As he asked her questions, he advised her that if she told the truth, he would try to help her, otherwise he could give her no assistance. He said Bing denied the charges against her. Unconvinced, he raised his voice and told her that she was lying. The girl then cried and confessed. He also warned her that if she continued to lie, he would personally file the charges against her. Bing got angry, protested, and insisted she was not lying. He brought her back to her cell and heard her mumble, "*Lintik lang ang walang ganti*" (literally, "Only lightning has no pay-back").

Appellant said that at that time he was wearing his police uniform and his gun was inside the drawer of Lt. Leyba. He vehemently denied raping Bing. He added that in 1985, he had an operation for which he had been medically advised not to engage in strenuous activities nor to carry heavy objects. Since Bing was big, raping her would have been impossible for him. Further, he said he could not rape her since that would jeopardize his retirement benefits due him in three years time. When asked why Bing would make up such a charge, he answered that he did not know.^[11]

Giving credence to the testimony of witnesses for the prosecution while disregarding the denial of the accused, the trial court rendered its decision on November 27, 1997, decreeing thus:

WHEREFORE, the court finds the accused JOSE CAMACHO TORREJA GUILTY BEYOND REASONABLE DOUBT of the crime of RAPE under Article 335, par. 1 of the Revised Penal Code, as amended by Republic Act No. 7659.

ACCORDINGLY, considering the qualifying circumstance that accused is a member of the Philippine National Police and that the victim was in his custody when the crime was committed, the accused is sentenced to suffer the extreme penalty of DEATH with the means prescribed by law and to pay the victim BING TABERARA the amount of ONE HUNDRED THOUSAND PESOS (P100,00.00) as moral damages.

SO ORDERED.^[12]

Hence, this appeal where appellant assigns that the trial court erred in convicting him for the following reasons:

I

THE DECISION OF THE HON. TRIAL COURT CONVICTING THE ACCUSED WAS BASED ON ASSUMPTION, PRESUMPTION, CONJECTURE AND INCREDIBLE EVIDENCE.

II

THE TESTIMONY OF THE COMPLAINANT WHICH SERVED AS THE BASIS OF THE HONORABLE TRIAL COURT IN CONVICTING THE ACCUSED IS CONTRARY TO HUMAN EXPERIENCE.

III

PHYSICAL EVIDENCE DOES NOT SHOW THAT COMPLAINANT WAS
RAPED.^[13]

Principally, appellant questions the credibility of private complainant's testimony. In addition, he asserts that there was lack of physical evidence sufficient to find him guilty beyond reasonable doubt.

For the appellee, the Office of the Solicitor General maintains that the evidence for the prosecution, particularly the testimony of private complainant, passes the test necessary for a conviction of the accused beyond reasonable doubt. Appellant, a police officer, employed force and intimidation against the complainant in committing the crime of rape. However, the OSG seeks modification of the judgment, insofar as the award for damages is concerned. It asks for P75,000 as civil indemnity and reduction of the award of P100,000 as moral damages to P50,000.

The principal issue for our resolution is whether the trial court erred in convicting the appellant SPO3 Jose Torreja and sentencing him to death for the rape of detainee Bing Taberara, a 16-year-old housemaid. Secondly, we shall also consider the propriety of the amounts of civil indemnity and damages awarded to the private complainant.

First, it is well-settled that the trial court's assessment of credibility of witnesses is generally accorded great respect because the court had the opportunity to hear the witnesses and observe their demeanor as they testified under oath. Only when the trial court overlooked or misapplied some facts which could have affected the result of the case is trial court's assessment of the credibility of witnesses reviewed by this Court.^[14] In this case, nothing on record shows that this case should fall under the exception. We agree with the trial court in its findings complainant Bing Taberara's testimony was straightforward and convincing, while that of the appellant consisted of bare denials which uncorroborated and self-serving.

As found by the trial court in the decision:

Two versions were presented on what transpired inside the office of Insp. Leyba: the victim's version that she was raped and the accused'[s] version that he merely conducted further investigation on the victim relative to the case filed against her. The [Regional Trial] Court finds the victim's testimony to be credible and relies on her credibility as against the credibility of the accused. It is inconceivable that Bing, who was 16 years old at the time of the incident, would make up a story on the commission of rape against her and falsely testify against the accused whom she never knew before. The natural flow and logic in her testimony as well as her facial and emotional reactions to questions and answers during the hearing of the case strengthened the theory of the prosecution that the victim was raped. The defense is banking on the alleged lack of resistance exerted by the victim. This was amply explained by the victim when she testified that she was so scared of the accused'[s] gun and that the accused was so strong. Nonetheless, the status alone of the accused, being a policeman and custodian of the

victim would be sufficient to cast fear and threat and influence on the victim.^[15]

When a woman testifies that she had been raped, and if her testimony meets the test of credibility, the appellant may be convicted on the basis of the woman's testimony alone.^[16] In this case, the defense asked the victim minute details of the rape incident, and tried to make the court believe that her inconsistency on minor details was sufficient to acquit appellant on grounds of reasonable doubt. However, a rape victim is not expected to remember every ugly detail of her ordeal. A rape victim might even unconsciously block out certain details of her humiliation and debasement.^[17] The victim cried on the witness stand when she was made to recall the horrifying details of her ordeal. As borne by human nature and experience^[18] such reaction is a badge of honesty, showing that she is being candid, sincere, and truthful in her testimony. The victim here testified, in this wise:

Atty. Nazal (defense counsel):

So the accused asked you to stand up, is that right?

A: Yes, sir.

Q: And did you ask him the very reason why he was asking you to stand?

A: No, sir because I was so scared because of his gun.

Q: You just stood up?

A: He helped me in standing sir.

Q: And your jeans, is there any strap or lock in front?

A: None, sir.

Q: There is no belt?

A: None, sir.

Q: Madam Witness, when you were standing, did you extend any assistance in removing your jeans?

A: No, sir.

Q: ...Was your jeans totally removed from your feet?

A: Yes, sir.

Q: So, when the accused pulled down the jeans you have to move in order to remove your jeans from your feet?

A: He forcibly pulled down my jeans, sir.

Q: Madam Witness, while the accused was pulling down your jeans, you just remained standing?

A: No, sir.