

EN BANC

[G.R. Nos. 137520-22, May 09, 2002]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ALFREDO BAROY AND FELICISIMO NACIONAL, APPELLANTS.

D E C I S I O N

PANGANIBAN, J.:

Where no aggravating circumstance is alleged in the information and proven during the trial, the crime of rape through the use of a deadly weapon may be penalized only with *reclusion perpetua*, not death.

The Case

Before us for automatic review is the January 20, 1999 Decision^[1] of the Regional Trial Court of Parañaque City (Branch 259) in Criminal Case Nos. 98-355/7, finding Alfredo Baroy and Felicisimo Nacional guilty beyond reasonable doubt of three (3) counts of qualified rape and sentencing them to death for each offense. The dispositive portion of the assailed Decision reads as follows:

"WHEREFORE, PREMISES CONSIDERED, this Court finds accused Alfredo Baroy and Felicisimo Nacional GUILTY beyond reasonable doubt [of] the crime of rape (three counts) in Crim. Case Nos. 98-355/7 as defined and penalized under Republic Act. 8353 Art. 266-A and Art. 266 B through the use of force[,] threat or intimidation with a deadly weapon upon the person of Emeliza Bueno with the aggravating circumstances of nighttime and confederation and there being no mitigating circumstances, both accused are hereby sentenced [for] each count of rape (three counts) the penalty of DEATH by lethal injection and to suffer the accessory penalties provided by law specifically Art. 40 of the RPC. For the civil liability each accused is hereby further condemned to indemnify the private complainant the amount of P50,000.00 in each of the three counts of rape in line with existing jurisprudence; P50,000.00 each for three counts for moral damages and P50,000.00 each for exemplary damages for each count."^[2]

With the assistance of their counsel *de officio*,^[3] appellants pleaded not guilty during their arraignment on April 16, 1998.^[4] In three (3) separate identically worded Informations,^[5] they were accused of sexually assaulting Emeliza Bueno allegedly as follows:

"That on or about the 2nd day of March[,] 1998 in the Municipality of Paranaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court[,] the above-named accused ALFREDO GORRE BAROY, conspiring and confederating with accused FELICISIMO HAMTIG

NACIONAL, by means of force and intimidation, with the use of a chisel, did then and there willfully, unlawfully and feloniously have carnal knowledge of one Emeliza Bueno, against her will and consent.”^[6]

The Facts

Version of the Prosecution

The prosecution’s version of the factual antecedents of the case are presented by the Office of the Solicitor General (OSG) as follows:

“Sometime on March 2, 1998 at around 2:30 in the morning, Emeliza Bueno, a guest relations officer of Ringo Japanese Karaoke Bar in Pasay Road, Makati, left the place of her work and proceeded to her home in Camella, Parañaque. While on board a tricycle along U.N. St., Better Living Subd., two armed men who later on were identified as appellants Alfredo Baroy and Felicisimo Nacional blocked the path being traversed by the tricycle. Then, they asked money from the driver and pulled Emeliza out from the tricycle.

“The tricycle driver however was able to escape but appellants succeeded in taking Emeliza to a vacant lot. There, Emeliza begged for mercy but her pleas fell on deaf ears. She struggled to get loose but appellants overpowered her. Baroy took off her pants and underwear and pointing a chisel towards the victim succeeded in having carnal knowledge with her while Nacional served as a lookout.

“After Baroy finished raping Emeliza, Nacional took turn in raping her. Afterwards, Nacional left leaving behind Baroy who raped Emeliza x x x for the second time.

“The tricycle driver Alfredo Vinuya who was able to escape proceeded to the guardhouse of Better Living Subd. at 1618 Levitown and informed the guards of the incident. Vinuya was able to convince the security guards to accompany him to the place of the incident to look for the victim. When they searched the place, one of the security guards noticed that someone went out of the bushes and there, they saw the victim Emeliza and appellant Baroy. The guards apprehended Baroy while Vinuya boarded the victim to his tricycle. Baroy was taken to the Barangay Hall and thereafter to the police station where the police learned from him the place where Felicisimo Nacional could be arrested.”^[7] (Citations omitted)

Version of the Defense

On the other hand, appellants give the following account:

“On the part of accused Felicisimo Nacional, it appeared that he was working as a stay-in driver of a certain Mr. Vicente Saldana with residence at Betterliving Subdivision. On the early morning of March 1, 1998, he delivered some garments at Taytay, Rizal and went back after lunch. At around 1:30 p.m., he drove for Mr. Saldana, who went to several factories and they returned home at around 10:00 o’ clock in the evening. At around 11:00 p.m., he again drove for Mr. Saldana, who

went to his friend in Merville. On the same night, he had a drinking spree with Alfredo Baroy at a Videoke Bar. He left earlier, since he had work the next day. He rode in a tricycle to his employer's house, however, when he arrived the door was already closed. He went to the guard house in order to sleep there. He was awoken(ed) when someone kicked the folding bed in which he was sleeping and he was arrested by the police. He was being accused of committing rape. He denied the charge and stated that the only time he saw the victim was in the courtroom.

"On the part of accused Alfredo Baroy, it appeared that he was working for a certain Atty. Galicia as caretaker of his chickens. He met the accused Nacional, when the latter went to their barracks and asked him if he wants to work as a delivery boy. On March 1, 1998 at around 10:00 p.m., they had a drinking spree (in) a store at Singapore Street. Nacional invited him to a nearby farm in order for a drink, however it was already closed, so they went back to his barracks. While they were walking at around 11:00 p.m. they passed by a videoke and they had a drinking and singing session. They rode a tricycle and disembarked at U.N. Avenue where he slept in a nearby store which was already closed. Nacional left and blocked a passing tricycle. Nacional asked him to guard the driver and the former pulled down the woman passenger after which he took her to a vacant lot. While Nacional was pulling the woman towards the vacant lot, Baroy returned to the store. He heard the woman crying and asking for help, so he went to the place and saw the woman lying down with her pants pulled down. Nacional had already left. He helped the woman to put on her pants and asked her what happened, but she could not speak. He accompanied the woman in waiting for a tricycle in order to take her home. The first tricycle which passed by did not stopped [sic]. The second one stopped and turned out to be the tricycle earlier blocked by Nacional. The said tricycle was loaded with barangay tanods, who thinking that he will escape, started to beat him and apprehended him."^[8]

Ruling of the Trial Court

The RTC gave full credence to the positive and unequivocal testimony of complainant that appellants had taken turns in raping her. Corroborating her testimony was the tricycle driver, who said that appellants had forcibly taken her from his vehicle after holding him up. The RTC found the denial by appellants, who had given conflicting statements regarding their participation in the crime, "totally bereft of merit, self-serving and not deserving of any credibility."^[9]

Hence, this automatic review.^[10]

The Issues

In their Brief, appellants submit the following assignment of errors for our consideration:

The court a quo gravely erred in finding the accused-appellants guilty beyond reasonable doubt of three (3) counts of rape.

"II

The court a quo gravely erred in considering the existence of nighttime and confederation as aggravating circumstances.

"III

The court a quo gravely erred in not appreciating the privilege mitigating circumstance of minority in favor of accused-appellant Alfredo Baroy."^[11]

The Court's Ruling

The appeal is partly meritorious; the penalty should be reduced to *reclusion perpetua*.

Main Issue:

Sufficiency of the Prosecution's Evidence

Appellants assert that the evidence presented by the prosecution was insufficient to establish their guilt beyond reasonable doubt. They point to some alleged flaws and inconsistencies in the testimonies of the prosecution witnesses, particularly with respect to the exact location of the scene of the crime and the recovery of the chisel used in its commission. According to them, highly doubtful is the claim of the victim that she was raped on a vacant lot about 10 "arms length" away from the place where the tricycle was blocked, because neither the victim nor any of the accused was supposedly found in that place when the tricycle driver and the security guards returned there.

Likewise, appellants harp on the supposed contradictory statements of the prosecution witnesses with regard to where the chisel was actually recovered. They argue that these inconsistencies and contradictions render the prosecution evidence unreliable and insufficient to warrant a conviction.

We are not persuaded. We have carefully scrutinized the records of the case. Contrary to the assertion of appellants, the prosecution was able to establish clearly their acts of rape as well as their participation in its commission. The alleged inconsistencies on matters relating to where exactly the rapes were committed and where the chisel was recovered are minor details that do not form part of the elements of the crime charged. By no means can we disturb the findings and conclusions of the trial court on the basis of these contentions which do not in any way contradict or, at the very least, cast serious doubt on the rape charge.

Whether the rapes were committed within the vicinity where the tricycle was stopped or at a considerable distance therefrom is of no moment in proving the existence of the crime. Likewise, regardless of whether the chisel was recovered from the crime scene or from Appellant Baroy does not obscure, much less contravene, the unequivocal and undeniable fact that appellants had carnal knowledge of the victim against her will by means of force and intimidation.

Inconsistencies in minor details and collateral matters do not affect the weight, the substance or the veracity of a witness' testimony as a whole^[12] with respect to material and important facts.^[13] Such inconsistencies even serve to strengthen rather than destroy one's credibility.^[14]

Verily, to be crucial to or determinative of the culpability of the accused, the discrepancies should touch on significant facts.^[15] As long as there is consistency in the positive identification of the accused and in the narration of the principal occurrence, the credibility of a witness is not impaired.^[16] And the testimony of the rape victim deserves full faith and credit, provided it is plain, straightforward, to the point, and unflawed by any material or significant inconsistency.^[17]

To be sure, the victim narrated the libidinous transgressions committed against her by appellants, her sordid experience of violence and sexual abuse in their hands, as follows:

“Q Upon going home to Camella, do you recall of any incident that happened? in the morning of March 2?

A Yes, sir. Noong papauwi na po ako, hinarang po 'yong tricycle na sinasakyan ko.

Q Where?

A At UN Avenue.

Q Do you recall who blocked the tricycle you were riding in at that time?

A Yes, sir.

Q Please look around the courtroom and point to this Honorable Court the persons who blocked the tricycle you were riding in?

A The two of them, sir.

(WITNESS POINTED TO TWO MALE PERSONS INSIDE THE COURTROOM WHO WHEN ASKED THEIR NAMES ANSWERED AS ALFREDO BAROY AND FELICISIMO NACIONAL)

Q You said they blocked the tricycle you were riding in, how did they block it?

A Pinara nila ang tricycle na sinasakyan ko.

Q After that, what happened?

A Hinold-up po nila 'yong tricycle driver. Hiningi po 'yong pera tapos tinatanong po nila kung ano 'yong pasahero. Nang makita po nilang babae, sabi nila ibaba daw po dahil papatayin nila ang driver at ibababa nila ang sakay na babae.