

FIRST DIVISION

[G.R. No. 142985, August 06, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RAYMUNDO MAGTIBAY Y BACHOCO, ACCUSED-APPELLANT.**

D E C I S I O N

YNARES-SANTIAGO, J.:

Before us on appeal is the Decision^[1] of the Regional Trial Court of Pinamalayan, Oriental Mindoro, Branch XLII, in Criminal Case No. P-5775, finding accused-appellant guilty of rape and imposing upon him the penalty of *reclusion perpetua*.

The Information against accused-appellant states:

That on or about the 15th day of September, 1997, at 8:00 o'clock in the evening, more or less, in Barangay Sagana, Municipality of Bongabong, province of Oriental Mindoro, Philippines and within the jurisdiction of the Honorable Court, the above-named accused, with lewd and unchaste design, did then and there willfully, unlawfully and feloniously have carnal knowledge of one RACHELLE RECTO y Rafal, by means of force and threats to kill, to the irreparable damage of the said Offended Party.

CONTRARY TO ART. 335 of the RPC AS AMENDED BY R.A. 7659.^[2]

When arraigned on July 7, 1998, accused-appellant, with the assistance of counsel, entered a plea of not guilty to the crime charged. Thereafter, trial ensued.

The version of the prosecution is as follows: On September 15, 1997, at about 8:00 in the evening in Barangay Sagana, Bongabong, Oriental Mindoro, Rachelle went to the store of Ka Emma Hernandez, about 40 meters from their house to buy cigarette and ice. When she got to the store, she saw accused-appellant standing there. She noticed that the latter kept staring at her.

On her way home, when she was some distance from the store, accused-appellant approached her and pulled her right hand. He covered her mouth and told her that he will kill her if she tried to shout for help. Accused-appellant made her lie on a grassy place and removed her shorts and panties. Accused-appellant then undressed, placed himself on top of Rachelle and inserted his penis into her vagina.

Because of accused-appellant's threat on her life, Rachelle kept silent about the incident. It was not until she became pregnant that she was constrained to tell her mother what happened. She eventually gave birth to a baby boy.^[3]

Rachelle's mother, Gaudiosa Recto, testified that she only came to know about the rape incident after Dr. Fetalberto required Rachelle to have an x-ray examination at Bongabong Hospital. The results showed that Rachelle was pregnant. She also

testified that Rachelle refused to tell her about it because accused-appellant threatened to kill her several times whenever he saw her.^[4]

Dr. Ronaldo Fetalberto, the Municipal Health Officer of Bongabong South, Oriental Mindoro, testified that Rachelle was brought to his clinic by her relatives after they noticed that her abdomen was bulging. Rachelle also complained of irregular bowel movement. The laboratory results showed that Rachelle was pregnant. Upon the request of Rachelle's relatives, he examined the private parts of the patient.^[5] The Medico Legal Report^[6] stated the following:

General Physical Examination:

Conscious, coherent, hearing-impaired, abdomen enlarged fundic height of 23 cm. FHT of 130 beats/min. located at RLQ.

Genital Examination:

Pubic hair minimal growth, vulva purplish, co-aptated labia majora, laceration in the labia minora at 8 o'clock position (+) whitish discharge.

There is a positive fetus during the radiological examination.

x x x x x x x x

Remarks:

1. Fetus (+) in radiologic exam
2. x x x.

In his defense, accused-appellant claimed that he was bedridden due to influenza from September 14, 1997 to September 19, 1997. He was then residing in the house of his parents-in-law at Sitio Suli, Sagana, Bongabong, Oriental Mindoro. On September 15, 1997, his wife, Merlyn Magtibay, asked her mother for medicine. On that same day, while he was recuperating from his sickness, Remuel Gallos, the son of their Brgy. Captain, came over and asked him to drive his tricycle. He refused because of his illness. He also testified that when the alleged rape incident happened he was still in the house of his parents-in-law because of his sickness.^[7]

The wife of accused-appellant, Merlyn Magtibay, corroborated his testimony that he was ill at the time of the alleged rape. She also testified that on September 15, 1997, accused-appellant was bedridden and could hardly stand because he had flu since September 14, 1997. Her husband recovered only on September 19, 1997.

Remuel Gallos testified that accused-appellant was the driver of his tricycle since 1996. On September 15, 1997, he went to the house of accused-appellant to ask him to drive his tricycle because he had to work at his farm. He found accused-appellant lying in his bed and suffering from influenza.^[8]

On August 5, 1999, the trial court rendered judgment as follows:

ACCORDINGLY, accused RAYMUNDO MAGTIBAY y BACHOCO, is hereby sentence (sic) to suffer the penalty of RECLUSION PERPETUA, together with the accessory penalty provided by law and to pay the cost.

Accused is likewise ordered to indemnify the victim Rachele Recto the amount of P50,000.00 without subsidiary imprisonment.

Finally, accused shall be entitled to the full term of his preventive imprisonment if he has any to his credit, provided that he shall agree to abide with the disciplinary rules imposed upon convicted prisoners, otherwise he shall be entitled to only four fifths of the preventive imprisonment.

SO ORDERED.^[9]

Accused-appellant appealed to this Court and contends that:

I

THE COURT A QUO ERRED IN GIVING WEIGHT AND CREDENCE TO THE IMPLAUSIBLE AND REHEARSED TESTIMONY OF THE PRIVATE COMPLAINANT.

II

THE COURT A QUO ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME HAS BEEN PROVEN BEYOND REASONABLE DOUBT.^[10]

In crimes against chastity, the primordial issue hinges on the credibility of the testimony of the complaining witness. When credibility is in issue, we have ruled time and again that absent any showing that the trial court's assessments and conclusions overlooked certain significant facts and circumstances which would have affected the outcome of the case, the reviewing court is generally bound by the trial court's findings. We generally defer to the findings of the trial court considering that it is in a better position to decide the question, having heard the witnesses themselves and observed their deportment during trial.^[11]

After a thorough review of the evidence on record, the transcript of stenographic notes of the testimonies of the witnesses, especially that of Rachele, and the pleadings of both parties in this appeal, we find no cogent reason to reverse the trial court's judgment of conviction. The prosecution has established by proof beyond reasonable doubt the guilt of the accused-appellant in this case.

Contrary to the claim of accused-appellant, his guilt was proven beyond reasonable doubt, as shown by the following:

Q: On September 15, 1997, around 8:00 o'clock in the evening, where were you?

A: I was at the store of Ka Emma.

Q: What is the surname of this Ka Emma?

A: Hernandez, sir.

Q: Why were you there in the store of Emma Hernandez?

A: I bought cigarette and ice, sir.

Q: While you were buying cigarette and ice in the store of Ka Emma, were there other persons thereat?

A: None, sir.

Q: How about the accused you pointed a while ago, where was he at that time?

A: He was at the store of Ka Emma, sir.

x x x x x x x x x

FISCAL (Continuing):

Q: And what was he doing in the store?

A: He was standing, sir.

x x x x x x x x x

Q: After buying ice and cigarette, where did you go?

A: I returned home, sir.

Q: How far is the house of Ka Emma to your house?

A: 40 meters, more or less, sir.

Q: While you were on your way home coming from the store of Ka Emma, do you remember of an unusual incident that transpired?

A: Yes, sir.

Q: And what was that? Please tell the court?

A: He was always looking at me, sir.

Q: Who was that person always looking at you?

Witness:

A: Raymundo Magtibay, sir.

FISCAL (Continuing):

Q: After looking at you, what happened next?

A: When I was a little bit far from the store, he approached me, sir.

Q: After the accused approached you, what did he do next?

A: He pulled my right hand, sir.

Q: After pulling your right hand, what did he do if any?

A: He covered my mouth, sir.

Q: With what instrument did he cover your mouth?

A: He told me that he will kill me if I shout.

Q: After telling you that he will kill you if you shout, what did he do next if any?

A: He told me that he will kill me.

x x x x x x x x x

Q: You stated that the accused held your right arm and covered your mouth and thereafter threatened you not to shout or else you will be killed. After doing these things, what else did he do to you if any?

Witness:

A: He placed himself on top of me and inserted his penis.

x x x x x x x x

Q: Was he successful in inserting his penis?

A: Yes, sir.

Q: What did you feel after he successfully and forcibly inserted his penis?

A: I felt pain, sir.

Q: You stated that he placed himself on top of you, what was your position when he placed himself on top of you?

A: I was lying faced upward.

Q: In what place were you lying upward?

A: At the grassy place sir (damuhan).

Q: Before he was able to successfully insert his penis, what did he do to you or your garments or pantie (sic)?

A: He removed my short and my pantie.

x x x x x x x x

FISCAL (Continuing):

Q: How about Raymundo Magtibay, what did he do before placing himself on top of you?

A: He removed his pants and brief, sir.

Q: Because of the threat of the accused that he will kill you if you will reveal this to anybody, will you tell the court if you acceded to the threat of the accused?

A: No, sir.

Q: What do you mean, "no sir"? Did you report or reveal this to your mother or father?

A: No, sir.

Q: Why did you not reveal this to your parents?

A: He was threatening me to be killed, sir.^[12]

The foregoing testimony clearly shows that Rachele was unable to ward off accused-appellant's sexual advances because of fear for her life. While she cowered in terror, accused-appellant succeeded in consummating his bestial acts on her.

Rachele's failure to offer adequate resistance or to make an outcry for help^[13] did not negate the commission of rape upon her person. Rachele's fear of physical harm cannot be tested by any hard-and-fast rule. It must instead be viewed in the light of her perception and judgment at the time of the crime.^[14] The lack or even absence of resistance is not necessary because the law does not impose upon a rape victim the burden of proving resistance.^[15] What is necessary is that the force or intimidation is of such a degree as to impel the defenseless and hapless victim to bow into submission, as in this case.^[16]