

## SECOND DIVISION

[ G.R. No. 133827, November 27, 2002 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. COSME L. PASTORETE, JR., ACCUSED-APPELLANT.**

### DECISION

**QUISUMBING, J.:**

On appeal is the decision<sup>[1]</sup> dated March 5, 1998 of the Regional Trial Court of Makati City, Branch 136, finding appellant Cosme L. Pastorete, Jr. guilty of rape and sentencing him to suffer the penalty of *reclusion perpetua* and to pay the offended party, Charito Matiga, the amount of P50,000 for moral damages, and P30,000 for exemplary damages, as well as the costs.

The information charging the appellant reads:

That on or about the 6<sup>th</sup> day of April, 1997, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of CHARITO MATIGA y ONG who is eighteen (18) years of age against her will and consent.

CONTRARY TO LAW.<sup>[2]</sup>

On April 10, 1997, appellant pleaded not guilty upon his arraignment. Trial thereafter ensued.

The facts established in this case are as follows:

Complainant Charito Matiga was a domestic helper working for a certain Ernesto Cecilia at 447-B Pineda, Masilang, Pasig City. On April 5, 1997 at around 4:30 P.M., Charito arrived at the PICC to attend an "El Shaddai" fellowship which lasted until 11:30 P.M.<sup>[3]</sup> Failing to locate her employer who also attended the meeting, Charito decided to commute home. She walked towards the LRT-Taft station and took the bus for Crossing-Shaw Blvd., EDSA. She fell asleep in the bus and when she awoke, she was already in Fairview. She took a taxi after the bus conductor told her that no buses nor jeepneys plied the route at that time. It was already 12:00 midnight. The taxi she boarded was driven by appellant, Cosme L. Pastorete, Jr. She sat at the backseat, and told him to take her to Crossing but she was, instead, taken to Makati. She told appellant to drop her off at the Makati post office where there were available jeepneys bound for LRT-Taft. Instead, appellant took her to Taft Avenue and made a "run-around" at San Antonio Church.

Noticing that the taxi meter already read P158, Charito told the appellant that she had a P1,000 bill and requested him to stop at a 7-11 store so she could have it

changed.<sup>[4]</sup> The store attendants refused to change her bill so Charito and appellant proceeded to a Caltex station at Buendia, which also refused to have the P1,000 bill changed. Appellant got angry and told her that she should not have boarded the taxi without any loose change. He ordered her to board the taxi and took her to San Antonio Church, Forbes Park, Makati City, where he parked his vehicle. Charito got scared and she tried to open the right door of the taxi to shout for help. Appellant jumped towards her and held her hands so she could not get out. Appellant placed his knees over her thighs and started kissing her from the neck down and mashing her breasts. She cried and asked for his pity. She also tried to push him but was unable to because he was stronger than her.

When appellant removed his knees, she pushed him which caused his head to bump against the back of the front passenger seat of the taxi. Appellant slapped her on the left side of her neck causing her to lose consciousness. When she regained consciousness, she noticed that she was already naked and that appellant was already on top of her with his penis inserted inside her private parts. Her legs were bent upwards and spread wide apart, "as if giving birth." She felt and saw appellant make pumping motions while his penis was inside her. She tried to push appellant away but was unsuccessful and she begged him to pity her. After appellant had ejaculated, he sat beside her. She put her blouse on and looked for her panty which she found under the seat of the taxi. At this time, a security guard knocked on the window of the taxi and asked them what they were doing. Appellant told the guard that they were lovers. Charito hurriedly got out of the taxi and told the guard that she had been raped. The guard asked his companions to call the police who arrived after several minutes and took complainant and appellant to Police Precinct No. 6 in Makati. Charito was told to proceed to Makati Jail and look for SPO4 Lilia Hogar. She was later referred to the National Bureau of Investigation (NBI) for examination.<sup>[5]</sup>

The NBI examination showed that Charito suffered hymenal laceration and was found positive for semen, indicative of recent sexual intercourse.<sup>[6]</sup> She was also found to have suffered an abrasion on her left leg, and tenderness and swelling on her left upper chest.<sup>[7]</sup>

Witness Amado Obico, Jr., partly corroborated complainant's story. He testified that he was a security guard assigned at the San Antonio Plaza. According to him, while he was making his rounds, he saw a taxi enter the parking area of San Antonio Plaza. It stopped about 50 meters away from where he was standing.<sup>[8]</sup> After 30 to 45 minutes observing the said cab, he approached it, trained his flashlight inside and saw appellant on top of complainant while the latter was slouched with her back against the taxi door.<sup>[9]</sup> Appellant then separated himself from the woman.<sup>[10]</sup> He asked appellant, "*Bakit niyo ginagawa iyan dito sa loob ng taxi, sa harapan ng simbahan?*" (Why are you doing that here, inside your taxi and right in front of the church?). Appellant went out of the taxi and replied, "*Girlfriend ko iyan*". According to Obico, the woman denied this and told him that she was raped.<sup>[11]</sup> Obico told his companions, Agatin and Perera, to call the police, who arrived several minutes later.<sup>[12]</sup>

Appellant, in his defense, testified that he was a driver of Sea Dragon taxi with Plate No. DVJ-115.<sup>[13]</sup> He recounted that on April 6, 1997, at around 1:00 o'clock A.M., while he was in Fairview, complainant boarded his taxi and told him to proceed to the Post Office of Makati. Upon reaching Makati, he was told to drive to the LRT-Taft

in Manila. Then she ordered him to go back to Makati because they drove past the place she wanted to go. They reached a 7-11 store at Rotonda- LRT and she told him to stop so that she may have her P1,000 bill changed. She was unable to, thus, they drove to a Caltex station where, again, complainant tried to have her money changed, to no avail.<sup>[14]</sup> Appellant drove to a Petron station where he told her to have her money changed. To his surprise, she suddenly alighted. He followed her and asked her whether she really had a P1,000 peso bill. He asked to search her bag and found no money. After this, they boarded the taxi and he was caught by surprise when complainant placed her hand on his thigh and offered sex to him. She told him to drive to Forbes Park but upon reaching said place, she told him to drive straight through since there were many people there. They went to San Antonio Church where they stopped.

According to appellant, complainant suddenly kissed him. They transferred to the back seat where they had sexual intercourse. After consummating their mutual lust, a security guard appeared and asked them what they were doing. Complainant answered, they were "companions". The security guard asked for some identification and appellant presented his ID and license. However, complainant was not able to produce any identification which prompted the guard to remark, "*Hindi tayo magkakaayusan hangga't hindi mo ipinakikita ang iyong ID.*"<sup>[15]</sup> (We won't have anything settled unless you produce your ID). Upon hearing this, complainant alighted from the taxi and told the guard that she was raped by appellant. They were taken to the guards' office where, said appellant, he was mauled, forced to admit the crime, made to dance naked, and to masturbate in front of the guards.<sup>[16]</sup> The guards stopped maltreating appellant only after the police arrived and took him to the precinct.

The defense also presented Dr. Iluminada Peralta, a Christian volunteer worker. She testified that she met appellant in his cell and that he told her that he was being held for a crime which he did not do. He told her that he did not rape complainant, rather she engaged in consensual sex with him. Dr. Peralta also testified that she also met complainant who avoided her eyes when confronted and asked how she could let appellant suffer for a crime he did not commit.<sup>[17]</sup>

Norma Pastorete, mother of appellant; Cresencia L. Murillo, and Ofelia Marte also testified for the defense. According to them, complainant had been detained in a Cavite jail for stealing from Cresencia Murillo. It appears that Cresencia and Ofelia met complainant while her case against appellant was pending. On September 8, 1997, Charito talked with Ofelia and persuaded the latter to accompany her to the home of Cresencia in Bacoor, Cavite. It was there where Charito spent the night. The following morning, at around 4:00 A.M., while Cresencia was taking a bath, she heard the door of her house close. She immediately went out and noticed that her wristwatch, wallet with identification cards, an ATM card and P500 were gone. She went to Ofelia's house. Together, they looked for complainant and caught up with her at the terminal in Zapote where Cresencia saw complainant wearing her wristwatch and also carrying her wallet. They brought complainant to the precinct where Cresencia filed a criminal complaint, this time against herein private complainant, Charito Matiga.

On March 5, 1998, the trial court rendered its assailed decision finding appellant guilty of rape and sentencing him to suffer the penalty of *reclusion perpetua*. Its *fallo* reads:

WHEREFORE, finding the accused guilty beyond reasonable doubt of the crime of rape punishable under Article 355 (sic) of the Revised Penal Code as amended by Republic Act 7659, the Court hereby sentences the accused to suffer an imprisonment of reclusion perpetua and to pay the offended party the sum of P50,000.00 as moral damages and further, to pay P30,000.00 as exemplary damages without subsidiary imprisonment in case of insolvency, and to pay the cost.<sup>[18]</sup>

Aggrieved, appellant now anchors his appeal on the allegation that:

THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT COSME L. PASTORETE, JR. GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.<sup>[19]</sup>

Appellant contends that there is no moral certainty that he committed rape, to warrant his conviction. He vehemently asserts that private complainant, Charito Matiga, consented to having sex with him, and she was the one who initiated the sexual act. He avers that complainant's position during the rape, her lack of resistance, and her failure to shout are all indications of her willingness and consent. Finally, appellant dismisses the testimony of complainant as unworthy of belief. According to him, it is unbelievable that she would be rendered unconscious by a mere slap on the neck.<sup>[20]</sup>

For the appellee, the Office of the Solicitor General (OSG) points out that the testimony of complainant was positive, straightforward and credible, especially since there was no showing that complainant was motivated by ill will to testify falsely against appellant. The OSG also stresses that the fact that the rape occurred inside the small confines of a taxi cab does not eliminate the possibility of rape, which can be committed in the unlikeliest of places. Finally, the OSG contends that the finding of the trial court with respect to the credibility of witnesses deserves utmost respect.<sup>[21]</sup>

The issue is whether rape was proved beyond reasonable doubt. It boils down to the credibility of witnesses.

In reviewing rape cases, the Court is guided by the following principles: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person of the accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant is scrutinized with extreme caution; and (3) the evidence for the prosecution stands or falls on its own merits and cannot be allowed to draw strength from the weakness of the defense.<sup>[22]</sup>

It is also axiomatic that when it comes to evaluating the credibility of the testimonies of the witnesses, great respect is accorded to the findings of the trial judge who is in a better position to observe the demeanor, facial expression, and manner of testifying of witnesses, and to decide who among them is telling the truth.<sup>[23]</sup>

Guided by these principles, after a painstaking review of the records of this case, we find no reason to overturn the trial court's decision. The trial court did not err in giving weight and value to the prosecution's evidence. The testimony of Charito Matiga, the offended party, was clear and straightforward, to the point, and

unflawed by any material or significant inconsistency. Such a testimony deserves full faith and credit and cannot be discarded.<sup>[24]</sup> The victim clearly testified how appellant slapped her to unconsciousness and raped her.

We find no reason to disbelieve private complainant. The defense failed to impugn her credibility. The alleged complaint against her by witness Cresencia Murillo for theft in Cavite has no bearing on this case of rape. No valid reason was shown why she would falsely testify here against appellant. Absent any showing of ill motive on her part, her testimony deserves to be believed.<sup>[25]</sup>

Appellant's version of the incident is too unnatural to warrant credence. That a young woman, aged 18, would readily volunteer and submit herself to a complete stranger sexually is dubious. Even if true, it would not explain why complainant would then denounce their sexual congress, accuse him of rape, and expose herself to the possible humiliation of a public trial. No woman would want to go through the humiliation of a rape trial unless she has actually been a victim and her motive is to seek and obtain justice.<sup>[26]</sup>

Appellant insists that Charito Matiga was a willing victim. He reasons that Charito had all the opportunities to run away from him but she did not, and instead decided to stay with him until they reached San Antonio Church. As pointed out by the OSG, when complainant noticed that they were already in Makati, she complained to appellant but the latter feigned unfamiliarity with the streets of Makati.<sup>[27]</sup> She wanted to get off but could not since she had no loose change with which to pay the fare. Appellant himself testified that upon reaching a Petron station, complainant alighted, presumably to leave, but he followed her and even went through the things inside her bag.<sup>[28]</sup> In short, he prevented complainant from leaving him.

Appellant stresses that rape could not have been possible given the small confines of the taxi where it happened. This is purely speculative. Time and again, we have held that lust is no respecter of time nor place.<sup>[29]</sup> Rape had been known to be committed in the most unlikely of places.<sup>[30]</sup> A Kia Pride taxi is not so small nor so cramped for the purpose. It could comfortably seat three passengers at the back. As eyewitness Amado Obico, Jr. testified, appellant did consummate his lustful designs inside the taxi.

Appellant also asserts that the position of complainant which was "*nakabukaka*" (legs spread apart as if giving birth), her lack of resistance, and her failure to shout for help signify that she readily gave in to his sexual advances. Complainant testified, however, that she tried to push him but she proved to be too weak to effectively resist. She even pleaded with him to pity her but to no avail. She was then rendered unconscious by appellant, allowing him to have his way with her, freely. Upon regaining consciousness, complainant tried to push appellant away but in vain because he was already "firmly in place", or to put it in complainant's words, "*nakakubabaw sa akin*"<sup>[31]</sup> (on top of me). She again pleaded for him to pity her which, like her earlier plea, fell on deaf ears. Hence, it is not correct to say that she offered no resistance. She was just not strong enough to resist successfully. We note the prosecution's description of Charito Matiga as a "frail woman"<sup>[32]</sup>, and of Obico's testimony that she appeared "*latang-lata*"<sup>[33]</sup> (very weak).