

FIRST DIVISION

[G.R. No. 147943, December 12, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICO
B. BAGUA, ACCUSED-APPELLANT.**

D E C I S I O N

YNARES-SANTIAGO, J.:

This is an appeal from the decision^[1] of the Regional Trial Court of Tuao, Cagayan, Branch 11, in Criminal Case No. 646-T, finding accused-appellant guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of *reclusion perpetua* and to pay the private complainant Maridel Solar the amounts of P50,000.00 as civil indemnity and P50,000.00 as moral damages.

The information reads:

That on or about May 31, 1997, in the Municipality of Piat, Province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused Rico B. Bagua with lewd design and by the use of force and intimidation did then and there willfully, unlawfully and feloniously hold the breast, embrace, kiss held the private parts and have sexual intercourse with the offended party Maridel S. Solar against her will.

Contrary to law.^[2]

When arraigned on January 13, 1998, accused-appellant entered a negative plea. After trial on the merits, the trial court rendered the appealed judgment, the dispositive portion of which reads:

WHEREFORE, and in view of all the foregoing, the court finds the guilt of the accused Rico B. Bagua of the crime of rape defined and penalized under Article 266-A of the Revised Penal Code to have been duly established beyond reasonable doubt and hereby sentences him to suffer the penalty of *Reclusion Perpetua*. He is further sentenced to pay the private complainant Maridel Solar the amount of P50,000.00 as civil indemnity ex-delicto plus the amount of P50,000.00 as moral damages.

SO ORDERED.^[3]

The prosecution established the following facts:

On May 31, 1997 at around 9:00 in the morning, private complainant and her 5-year old son, Marcial Solar, went to their farm about 200 meters away from their house at Sta. Barbara, Piat, Cagayan to gather camote tops. On their way to the farm, accused-appellant appeared and grabbed private complainant from behind. He turned her around and embraced her. Private complainant fought back but accused-appellant was too strong for her. He hit her stomach causing her to fall on the

ground. He undressed then lay on top of her and removed her shorts and panties. He inserted his penis into her vagina. She struggled but to no avail. All the while her son was on the side shouting. After he satisfied his lust, accused-appellant ran away. Private complainant likewise ran towards the house of barangay captain Ramon Soriano and reported the incident. That same day, she underwent medical and physical examination.

Dr. Cecille C. Paragua, a resident physician at Nuestra Señora de Piat District Hospital, reported the following results:

1. Erythema at 3:00 o'clock position
2. Hymenal Laceration at 3:00, 5:00-8:00 & 11:00 o'clock position, old
3. Vaginal Smear (+) sperm.^[4]

In his defense, accused-appellant admits that he embraced and kissed the private complainant but denies having carnal knowledge of her. He recalled that on May 31, 1997, at around 9:00 in the morning, he saw her and Marcial, her son, walking near the river bank. He approached her and tried to embrace and kiss her but she resisted. He then noticed that Marcial was crying, so he stopped and went home. Later that day, he was surprised when one of the barangay councilmen went to their house and informed his father that Maridel Solar had charged him with rape.

In his Brief, accused-appellant raises the following assignment of errors:

I

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT ON THE BASIS OF THE INCONSISTENT AND CONTRADICTORY STATEMENTS OF THE WITNESSES FOR THE PROSECUTION.

Rape is a serious offense with grave consequences both for the appellant and the complainant, hence the review of a judgment of conviction for rape must be done with utmost care.^[5] In reviewing rape cases, we are guided with three settled principles, namely: (a) An accusation for rape can be made with facility; it is difficult to prove but more difficult for the accused, though innocent, to disprove the same; (b) In view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (c) The evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.^[6]

Challenging the evidence of the prosecution, accused-appellant claims that although he embraced and kissed the private complainant he did not have carnal knowledge of her. He further contends that his guilt was not proven beyond reasonable doubt for failure of the prosecution to prove the element of force or intimidation. He argued that the trial court erred in basing its judgment on the contradictory and inconsistent testimonies of the prosecution witnesses. Moreover, a careful reading of the testimony of Marcial shows that there was no force employed upon the private

complainant. Private complainant's testimony that she was hit on her stomach by accused-appellant does not appear in her affidavit. Lastly, the trial court's finding that he was armed with a bolo is not supported by the evidence on record.

Accused-appellant's arguments entail a re-examination of the credibility of the witnesses. The task of determining the truth between the conflicting claims belongs to the trial court, which had the unique opportunity to meet the witnesses face to face and observe their demeanor on the stand. Hence, great reliance is placed by appellate courts on the assessment made by the trial court on the credibility of the witnesses.^[7] We find no reason to depart from the findings of facts of the trial court.

The trial court found that the private complainant's testimony was clear, sincere, positive and credible,^[8] and that she had no reason to falsely charge accused-appellant of rape.^[9] She testified as follows:

PROS. REYES:

Q. In the morning of May 31, 1997 at about 9:00 o'clock, where were you?

A. We went to pick camote tops.

x x x x x x x x x

Q. Who was your companion?

A. My five (5) year old son named Marcial Solar.

Q. You mean, your son is five (5) years old?

A. Seven (7) years old now, sir. He was five (5) years old then.

Q. While gathering camote tops, where was your son?

A. He was inside, sir.

Q. And while gathering camote tops, what happened?

A. Rico Bagaua suddenly appeared near us.

Q. What did this Rico Bagaua do when he suddenly appeared?

A. He embraced me, sir.

Q. What part of your body did Rico Bagaua grab?

A. Left side of my body, sir.

Q. What particular part of your body?

A. He took hold of my left back.

Q. And what else did he do?

A. He boxed me, sir.

Q. What part of your body was boxed?

A. My stomach, sir.

Q. When Rico Bagaua grabbed you, what did you do?

A. I fought back, sir.

Q. Will you demonstrate how you fought back Rico Bagaua?

A. We grappled with each other.

Q. After that?

A. When we were grappling, he warned me not to tell what happened to my husband or else he will kill me and my son.

x x x x x x x x x

Q. What was your position when he removed you short pant and your panty?

A. I fell on the ground and I was lying on my back.

Q. All the while when this Rico Bagaua was doing this, what was your son doing?

A. He was shouting, sir.

Q. When he was removing your shorts and your panty, what did you do?

A. I struggled, sir.

Q. What happened next?

A. He raped me.

x x x x x x x x x

Q. What did you feel when Rico Bagaua was on the act of raping you?

A. I felt the penetration.^[10]

The ordeal of the private complainant in the hands of accused-appellant was rendered even more revolting since it was done in the presence of her 5-year old son. Marcial Solar testified as follows:

Q. Do you remember one time your mother brought you along when she went to gather camote tops?

A. Yes, sir.

Q. Does she usually bring you along when she gathers camote tops?

A. Yes, sir.

Q. Do you remember one time when your mother brought you to gather camote tops something happened?

A. Yes, sir.

Q. What was that something which happened?

A. When we were going out of the cornfield, that's the time Rico