

## SECOND DIVISION

[ G.R. No. 141512, April 16, 2001 ]

**CRESENCIO S. MENDOZA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**MENDOZA, J.:**

This is a petition for review on certiorari of the decision<sup>[1]</sup> of the Fourth Division of the Court of Appeals affirming the decision of the Regional Trial Court, Branch 54, Macabebe, Pampanga, which found petitioner Cresencio S. Mendoza guilty of attempted rape and sentenced him to imprisonment of six (6) years of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum.

The information against petitioner alleged:<sup>[2]</sup>

That on or about the 15<sup>th</sup> day of May 1995, in Barangay Sampaloc, Municipality of Apalit, Province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused Cresencio Mendoza did then and there willfully, unlawfully, and feloniously commence the commission of the crime of rape directly by overt acts, to wit: by then and there kissing and touching the private parts of Eloisa Vasquez, ripping and tearing her dress, and placing himself atop said victim with his pants and underwear down in pursuance of his intention of having carnal knowledge of said victim, but nevertheless did not consummate the crime of rape as a consequence, by reason of causes other than the spontaneous desistance of the accused, that is by the resistance offered by said Eloisa Vasquez and her cries for help and the timely arrival of other people.

Contrary to law.

Upon arraignment on February 2, 1993, petitioner pleaded not guilty to the crime charged.<sup>[3]</sup> As he waived the pre-trial, trial on the merits ensued, during which the prosecution presented SPO2 Francisco Cortez, Elma Cabrera, Emma Bayano Vasquez, and Eloisa Vasquez as witnesses. On the other hand, the defense presented petitioner and his son Alberto Mendoza.

The evidence for the prosecution shows the following:

Petitioner Cresencio S. Mendoza is the owner of the Apalit Cockpit Arena in Sampaloc, Apalit, Pampanga. His daughter Marilou ran a store in the cockpit,

employing complainant Eloisa Vasquez.<sup>[4]</sup> On March 15, 1995, Eloisa reported for work at around 1:00 p.m. because of a cockfight that afternoon.<sup>[5]</sup> At around 6:30 p.m., after the last cockfight and the customers in the store had left, Eloisa went inside a room to unplug the freezer.<sup>[6]</sup> After unplugging the freezer, Eloisa was about to leave the room when she saw petitioner standing by the door.<sup>[7]</sup> Petitioner blocked her way, pushed her inside the room, and then locked the door behind them. Petitioner then embraced Eloisa and kissed her on the neck and the lips.<sup>[8]</sup> Despite Eloisa's resistance, petitioner succeeded in removing her shirt and pulling her pants and panties down to her knees and touching her private parts.<sup>[9]</sup> Petitioner removed his pants and forced the victim to lie down on the cement floor. He placed himself on top of her and thrust his hips against hers.<sup>[10]</sup> But Eloisa kept moving, making it difficult for petitioner to penetrate her, until suddenly someone outside kicked the door. Petitioner hurriedly stood up, put on his pants, and then opened the door. The intruder turned out to be Albert Mendoza, petitioner's son, who had wanted to get inside the room.<sup>[11]</sup> Petitioner left in a hurry as his son Albert proceeded to the store.<sup>[12]</sup> Eloisa put on her clothes and left crying.<sup>[13]</sup> On her way out, she met Robin and Elma Cabrera. Elma embraced Eloisa as she listened to the latter's story.<sup>[14]</sup> The two women then went to the store where they met Marilou Mendoza, the daughter of petitioner. Eloisa told Marilou what petitioner had done to her.<sup>[15]</sup> Petitioner and her parents reported the matter to the police authorities of Apalit, Pampanga. Eloisa and her mother gave statements to the police. In addition, Eloisa signed a criminal complaint for attempted rape.<sup>[16]</sup>

On the other hand, the defense presented evidence to the following effect:

On March 15, 1995, at around 6:30 p.m., after the last cockfight, petitioner went inside the power room to turn off the lights and electric fans in the arena. He saw Eloisa sitting on a chair beside the door. Eloisa followed him inside the room and held his right hand. He told her, however, not to do that lest his wife and children see them. Petitioner claimed that Eloisa asked for money, but he refused to give her any.<sup>[17]</sup> At that point, petitioner's son, Albert, opened the door and came in. Seeing petitioner talking to Eloisa, Albert asked, "What are you doing here? My mother might get angry if she sees you talking." Petitioner then turned off the lights in the stadium and left.<sup>[18]</sup> Petitioner denied the accusation against him and claimed that he did not know why Eloisa would file a case of attempted rape against him.<sup>[19]</sup> On October 28, 1997, the trial court promulgated its decision, the dispositive portion of which states:<sup>[20]</sup>

WHEREFORE, from all the foregoing, the Court finds the accused Cresencio Mendoza guilty beyond reasonable doubt of Attempted Rape as defined and penalized under Art. 6 in relation to Art. 335 of the Revised Penal Code, and as a consequence of which, he is hereby sentenced to suffer imprisonment of SIX YEARS and ONE DAY to EIGHT YEARS of Prison Mayor and to indemnify the offended party in the amount of P20,000 and pay the cost of the proceedings.

SO ORDERED.

On appeal to the Court of Appeals, the decision of the trial court was affirmed with modification. Petitioner's sentence was changed to six (6) years of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum. Petitioner filed a motion for reconsideration, but his motion was denied. Hence, this petition. Petitioner alleges that the Court of Appeals overlooked relevant facts not disputed by the parties which, if properly considered, would justify a different conclusion or finding of facts.

After reviewing the records of the case, we are of the opinion that the decision of the Court of Appeals should be affirmed.

*First.* In adjudging rape cases, this Court is guided by the following principles: (a) an accusation of rape is difficult to prove but more difficult for the person accused, though innocent, to disprove; (b) in view of the nature of the crime in which only two persons are 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 merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.<sup>[21]</sup> As in most cases of sexual aggression and molestation, the resolution of the present appeal hinges on the issue of credibility of the witnesses of the parties. On this point, we think the Court of Appeals correctly sustained the decision of the trial court which found the testimony of the victim and the other witnesses for the prosecution worthy of belief. The trial court's assessment of the credibility of witnesses should be accorded great respect because of its opportunity to hear their testimonies and observe their demeanor and manner of testifying.<sup>[22]</sup> Indeed, we find Eloisa's testimony, both on direct and cross-examination to be clear and spontaneous, and we are persuaded that she was telling the truth. Eloisa narrated in detail how petitioner had tried to rape her on or about May 15, 1995:<sup>[23]</sup>

FISCAL BUSTOS  
Questioning

You mentioned, Ms. Witness, that at about 6:30 o'clock in the evening of May 15, 1995, you were already through with your work as a vendor at the Apalit cockpit arena, do you want us to understand that you do not have any more customers at that time?

WITNESS  
Answering

None anymore, sir.

Q: What did you do when you had no more customers?

A: I already packed up the merchandise, sir.

Q: After you were able to pack up your things, what else did you do?

A: I entered the room, sir, in order to unplug the socket of the freezer.

Q: Then, what transpired inside the room?

A: I had already unplugged the socket, sir, and when I was about to go out of the room, I saw Mr. Mendoza.

Q: When you saw this Cresencio Mendoza by the door, what

happened?

A: I was trying to pass, sir, but he didn't want me to go out.

Q: And then what did you do?

A: He pushed me to the inner side of the room, sir.

Q: So, was he able to push you to the inner side of the room?

A: Yes, sir.

Q: Then, what happened to the door?

A: He locked it, sir.

Q: And then what else did he do?

A: He approached me, sir.

Q: And then what else transpired when he approached you?

A: He embraced me, sir.

Q: How about you, what did you do when he embraced you?

A: I was trying to release myself, sir, and I was crying.

Q: Were you able to release his hold from you?

A: I was not able to, sir.

Q: And then what else did he do?

A: He kissed me on my lips and my neck, sir.

Q: While he was doing that, what were you doing?

A: I was trying to release myself from him, sir, I was shouting and I was crying.

Q: Were you able or were you successful in trying to release his hold from you?

A: I was not, sir.

Q: Then, what did he do next?

A: After that, he was trying to pull my clothes, but I was trying to get away from him until I was pushed against the wall.

Q: Was he able to remove your upper shirt, what else did Cresencio Mendoza do?

A: And after he was able to remove my upper dress, sir, he embraced me tightly.

Q: What else did he do?

A: He was trying to pull down my pants and he was able to pull it down to the knee.

Q: And, at that time, what was your position?

A: I was standing, sir.

Q: And what were you doing?

A: I was crying, sir.

Q: What else?

A: I was resisting him, sir.

Q: Now, after Cresencio Mendoza was able to pull your pants down to your knees, what else did he do?

A: Mr. Mendoza also pulled down his pants, sir.

Q: After pulling down his pants, what else did he do?

A: He laid me down and put himself on top of my body, sir.

Q: What else did he do?

A: He was making push and pull (coitus) movements.

Q: At that time, you said he was already able to remove his pants, was he wearing anything else at that time aside from his pants?

A: He was not, sir.

Q: So he was not able to remove his brief?  
A: He was not, sir.  
Q: How about you, was he able to remove your panty?  
. . . . .  
A: Yes, sir, he was able to pull it down.  
Q: Now, you said that after he was able to have you lie down, he started to do coitus movements while he was on top of you, now, was he successful in having sexual intercourse with you?  
A: He was not able to insert it in my vagina, sir.  
Q: Now, at the time that he was making coitus movements, what did you feel, did you feel the penetration?  
A: Yes, sir.  
Q: Please tell the Honorable Court why he was not successful in inserting his private part into your vagina.  
A: Because I was resisting, sir.  
Q: Please tell the Honorable Court how you were resisting at the time.  
A: I was moving my legs to my left and to my right, sir.  
. . . . .  
Q: Yes, Your Honor. After that, what else transpired?  
A: Bet kicked the door, sir, and he was saying, Father, wait.  
Q: Who is this Bet who kicked the door?  
A: He is the son of Mr. Mendoza, sir.  
Q: After this son of Mr. Mendoza kicked the door of that room, was that door opened?  
A: It was not, sir.  
Q: What did Mr. Mendoza do?  
A: He was forced to open the door, sir.  
Q: So, he stood up and took off his hold on you?  
A: Yes, sir.  
Q: And how about you, what did you do?  
A: I raised my pants up, sir.  
Q: So, you want us to understand that while opening the door, Mr. Mendoza's pants were still down?  
A: He had already raised it up, sir.  
Q: So he raised it up already before opening the door?  
A: Yes, sir.  
Q: After this, Mr. Mendoza was able to open the door, what else transpired?  
A: He already went out of the room, sir.

During cross-examination, the witness also gave a clear and positive account of her experience. She stated that petitioner removed his briefs before mounting her and that she felt a liquid substance on her body after he rubbed his private parts against hers.<sup>[24]</sup>

*Second.* Petitioner claims that the victim was motivated by ill will in accusing him with attempted rape. Petitioner says that the charge was filed simply for money. Other than his self-serving testimony, however, petitioner had not presented evidence to establish his claim. When there is no evidence to show any improper motive on the part of the prosecution witness to testify falsely against an accused or to falsely implicate him in the commission of a crime, the conclusion is that no such