

SECOND DIVISION

[G.R. No. 140001, June 27, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDUARDO "EDDIE" BUENAFLO, ACCUSED-APPELLANT.**

D E C I S I O N

BUENA, J.:

This is an appeal from the Decision of the Regional Trial Court of Alaminos, Pangasinan, Branch 54, in Criminal Case No. 3548-A, finding the accused guilty beyond reasonable doubt of the crime of rape, and sentencing him to suffer the penalty of *reclusion perpetua*, and awarding the offended party moral damages in the sum of P50,000.00.

On March 14, 1998, then 14-year old Lourdes Lausin went to Lucap, Alaminos, Pangasinan to attend a fiesta upon the invitation of her half-brother, Arman Abella. Lourdes went with her older sister, 15-year old Flordeluna, and 8-year old brother Ricky. Upon arrival at Arman's house, Lourdes saw one Eduardo Buenaflor cooking.^[1]

After dinner, Arman and his wife went to the dance hall. They left their four (4) children in the care of the Lausin siblings. The youngsters all slept in the only bedroom in the house, with Lourdes on the bed, while Flordeluna, Ricky and the Abella children slept on the floor.^[2] While sleeping, Buenaflor entered the room and sat on the edge of Lourdes' bed.^[3] Buenaflor, according to Lourdes, threatened to kill her if she attempted to shout.^[4] Buenaflor proceeded to strip Lourdes, removing her jeans, T-shirt, bra and panties.^[5] Buenaflor did all this while lying beside Lourdes.^[6] He then kissed Lourdes on the lips, mashed her breasts, sucked the right one, and licked her vagina. He inserted his finger into her vagina followed by his penis.^[7] Lourdes felt Buenaflor's pumping action ("upward and downward") that culminated in the release of a hot liquid that seeped into her womanhood.^[8] Throughout this ordeal, Lourdes felt pain. Her pain, however, was not of such intensity as to make her shout or make any other sound that could have aroused her six other bedroom companions.^[9] She cried a lot though.^[10]

The Abella couple later arrived from the dance hall, saw Lourdes' swollen eyes but never asked why. Lourdes' older sister and brother also eventually saw her swollen eyes but likewise exhibited the same kind of indifference. Eventually, back at Paitan West, Sual, Pangasinan, Lourdes' mother also saw her swollen eyes but still, no questions were asked.^[11]

After the March 14 alleged rape, Buenaflor would visit Lourdes' house to play cards with Lourdes' mother. He would go there every Sunday to gamble as he always did

in the past.^[12]

Finally, on June 26, 1998, or three months after the "rape," Lourdes divulged to her mother what Buenaflor did to her. What prompted her, in part, to disclose this incident was her sister Flordeluna's revelation (to her mother) of what happened between them (Lourdes and Buenaflor).^[13]

The complainant submitted herself for medical examination at the Western Pangasinan District Hospital. The Medico-Legal Certificate^[14] states in part: "With healed hymenal laceration at 2, 5, 7 & 9 o'clock position."

Eventually, Buenaflor was charged with Rape before the Regional Trial Court in Alaminos, Pangasinan, Branch 54 in an Information that reads:

"That on or about March 14, 1998 at around 12:00 midnight at Brgy. Lucap, Municipality of Alaminos, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force or intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with LOURDES A. LAUSIN, a 14-year old girl, against her will and consent, to her damage and prejudice.

"Contrary to Art. 335 of the Revised Penal Code as amended by R.A. 7659."

Two other criminal cases were filed against him before the Regional Trial Court in Lingayen, Branch 39, also for the rape of Lourdes on March 18, 1998, and April 10, 1998 at places coming within that court's jurisdiction.

The cases filed before the Regional Trial Court in Lingayen, docketed as Criminal Case Nos. L-5894 and L-5895, were tried ahead. On April 21, 1999, said trial court rendered a decision^[15] that found Buenaflor not guilty and acquitting him. However, three months later or on July 27, 1999, the Regional Trial Court, Branch 54 at Alaminos, Pangasinan, rendered a judgment in Criminal Case No. 3548-A, finding Buenaflor guilty. The dispositive portion of the Decision states:

"WHEREFORE, in consideration of the foregoing premises, judgment is hereby rendered declaring the accused GUILTY beyond reasonable doubt of the crime of rape as defined under Art. 335 as amended by RA 7659 and sentences the accused the penalty of *reclusion perpetua* and awarding the offended party moral damages in the sum of FIFTY THOUSAND (P50,000.00) PESOS.

"The bailbond posted by the accused for his provisional liberty is hereby ordered cancelled and the accused should now be committed to the National Penitentiary, pending the review of this case by the Honorable Supreme Court.

"Let a commitment order be issued as against the person of the accused, addressed to the Director of the National Penitentiary, Muntinlupa.

"IT IS SO ORDERED."^[16]

The trial court made the following findings from the evidence adduced in support of the above-quoted dispositive portion:

"The alleged crime took place on March 14, 1998 while the offended party was sleeping in the house of Arman Abella, her half-brother.

"Allegedly, Arman Abella and his wife went to attend the barangay dance celebration and so she was left with the four children of her half-brother. While sleeping in bed, the accused allegedly went inside the room where she was sleeping and she noticed the accused removing her pants and she looked at the fellow who was trying to remove her pants and she was able to recognize the accused; that while the accused was trying to remove her pants and her shirt and bra and her panty, the accused allegedly threatened her in whisper that if she shouts she would be killed, but she did not notice the accused carrying with him a weapon. This incident of March 14, 1998 when the offended party was merely going fifteen as she was born on December 7, 1983 was allegedly the first time that she had a sexual intercourse with a man; and while she did not notice the accused carrying a weapon, but because of her being threatened by the accused, she did not shout despite the pain she suffered. In her narration, by way of testimony in Court, Lourdes testified that in order that the accused could insert his penis into her vagina, the accused had to separate her legs and despite the fact that it was very dark, she was able to recognize the accused because of his voice since she usually hear (sic) his voice when talking with her brother even before the incident; and further testified that accused kissed her lips, the accused's hands touching her private part, the accused inserting his finger into her vagina, the accused not contented in kissing her lips, but also her breast as in fact her breast was sucked by the accused and when the accused mashed her breast, Lourdes did not shout because she was threatened that she will be killed if she shouts, and also that the accused kissed her vagina. Because of her sufferings from the pain, the emotional as well as the physical stress that she suffered and the trauma created by the intimidation and the experience itself which petrified her and rendered her defenseless, she could not do otherwise but cry and so her eyes were swollen. The Court takes note during the initial reception of evidence for the prosecution that she did not know the accused as in fact it was her first time to see the face of the accused at the time the incident took place, but later on cross-examination, she admitted that what she said was false because actually the accused is their neighbor at Paitan, Sual and that the accused in fact, went often to their house to gamble 41 which is a kind of gambling using cards. To the mind of the Court, considering that the offended party is a very young girl of 15 years, it is not uncommon for the young girl to conceal the assaults of their virtue because of the rapist's threats on her life (Pp. Vs. Devilleres, 269 SCRA 716). If the offended party said that it was her first time to see and know the name of the accused on the date of the incident, this

to the mind of the Court is still a part of the trauma that she suffered when she was threatened by the accused that she will be killed. In that denial of her knowledge of the name of the accused during the direct examination, to the mind of the Court, is still a part of the offended party's defense mechanism to preserve her life and personal safety after the threat was made on her life by the accused."^[17]

For his part, accused-appellant denied the accusations against him. He also testified that all of them, including Arman Abella and his wife and their children, Lourdes, Lausin, Shelyn Dacones, Flordeluna Abella and Ricky Dacones went to the dance hall and they all went home together on the night in question.

Accused-appellant is now before us, praying for his acquittal on the following grounds:

"1. The trial court erred in convicting the accused-appellant of the crime of rape despite the fact that the prosecution has failed to prove his guilt beyond reasonable doubt;

"2. The trial court erred in giving full faith and credence to the testimonies of the prosecution witnesses and completely ignoring that of the defense;

"3. The trial court erred in concluding that the material inconsistencies, contradictions and improbabilities in the testimony of Lourdes Lausin were caused by the traumatic experience that she allegedly underwent;

"4. The trial court erred in holding that the accused impliedly admitted as true the accusation in question when he adopted the sworn statement of the offended party (Exh. `A') as part of his defense (Exh. `1'); and

"5. The trial court erred in sentencing the accused-appellant to suffer the penalty of reclusion perpetua and awarding the offended party moral damages in the sum of P50,000.00."

The Office of the Solicitor General filed a Manifestation and Motion In Lieu of Appellee's Brief recommending the reversal of the trial court's decision and the acquittal of the accused, essentially, on the grounds that the rape account is unreliable; the complainant is not credible because of her consistent inconsistencies and continuous contradictions in her testimony; and unexplained delay in reporting the incident.

We reverse the trial court's decision on grounds of reasonable doubt.

On the first and second assigned errors, we find accused-appellant's arguments correct. The trial court indeed erred in giving full faith and credence to the testimony of the complainant and completely ignoring that of the defense.

Crucial in the prosecution for rape is the credibility of the complaining witness for

that alone is sufficient to convict the accused.^[18] In a prosecution for rape, the complainant's credibility becomes the single most important issue.^[19] In this case, we find the testimony of the complainant and the complainant herself to be not credible, the latter's testimony being replete with inconsistencies, and narrations that are contrary to common experience, human nature and the natural course of things.

It is true that inconsistencies in the testimony of a rape victim do not necessarily impair her credibility. A rape victim need not accurately remember every ugly detail of her ordeal. However, for said inconsistencies to be dismissed so as to give full credence to the alleged victim, they must be minor, trivial and as far as practicable, few and far between.

We now enumerate the inconsistencies and improbabilities in the testimony of the complainant:

Complainant initially testified that she was alone in the room when she was allegedly raped.^[20] However, she contradicted herself later when she testified that her siblings and the Abella children were also in the same room.^[21]

Complainant felt pain throughout the ordeal but not of such intensity as to make her shout or even utter a whimper of protest that could have aroused her six (6) companions in the bedroom.

Complainant initially declared that she was not acquainted with appellant; that the first time she saw his face was when she was allegedly raped on March 14, 1998.^[22] When confronted, however, with her sworn statement (Exh. "A"),^[23] she changed her mind and admitted knowing Buenaflor even before the incident.^[24] As to how well she knew him, complainant revealed that before the alleged rape, Buenaflor would often go to their house on Sundays to gamble.^[25]

Complainant said that her sister did not know what happened to her and appellant Eddie Buenaflor on March 14, 1998, but changed it and admitted that it was her sister Flordeluna who told their mother about her and the accused.^[26] In one instance, the trial court expressed disbelief, thus:

"COURT

"Q: By the way, the court is a little puzzled. You testified before the Court that Flordeluna, your sister, know (sic) of the incident of March 14, 1998, and this March 14, 1998 incident took place in Lucap, you want to tell the Court that you told Flordeluna about the incident in Lucap, or Flordeluna knows about it because she was awake?

"A: I do not know, sir.

"Q: When did you know that Flordeluna knows about the incident of March 14, 1998?

"A: I forgot, sir.

"Q: Is it the following day which is March 15, 1998?

"A: I don't know, sir."^[27]