

FIRST DIVISION

[G.R. No. 137752, June 19, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROBERT AYUNGON, 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 Rizal, Branch 76, in Criminal Case No. 3498-98, convicting accused-appellant of rape and sentencing him to suffer the penalty of *reclusion perpetua*, allegedly committed as follows -

That on or about the 16th day of February 1998 in the Municipality of San Mateo, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of threats, force and intimidation, armed with a knife and with lewd design or intent to cause or gratify his sexual desire of (sic) abuse, humiliate or degrade complainant, did then and there wilfully, unlawfully and feloniously have sexual intercourse with CARLALYN BARGOS y SANTOS, a minor sixteen (16) years old without her consent and against her will.

CONTRARY TO LAW.^[2]

On March 5, 1998, accused-appellant was arraigned and pleaded not guilty;^[3] whereupon, his trial ensued.

Synthesized from the testimonies of the victim, then sixteen (16) year-old and third year high school student, Carlalyn Bargos; her sister, eighteen (18) year-old Cristina Bargos; and her mother, Corazon Bargos, 39 years old and a widow, are the following facts:

On the night of February 15, 1998, through the early morning of the following day, Carlalyn, Cristina and Corazon were sleeping in their room adjacent to the kitchen. The room had no light, but was illuminated by the fluorescent lamp in the kitchen which shines through the doorway. Carlalyn was sleeping on the floor covered with a mat, and was nearest to the doorway leading to the kitchen. To her right were her sister and her mother.^[4]

At about 4:30 in the morning of February 16, 1998, Carlalyn was awakened as she felt somebody touching her sex organ. She opened her eyes and saw accused-appellant pointing a knife on her neck. He told her not to shout and forthwith covered her face with a pillow.^[5]

Accused-appellant asked Carlalyn to take off her shorts and panties. Carlalyn refused, so accused-appellant forcibly removed them. Her strength was no match to the brute power of accused-appellant who succeeded in inserting his penis into her vagina. She felt a sudden onslaught of pain and tried hard to resist but to no avail. Accused-appellant then raised her shirt, kissed her breasts, and threatened to kill her. Every time Carlalyn would move, accused-appellant would press the knife on her neck and would say, "*Pare kunin mo nga ang itak, pag hindi umayos, tatapusin ko na ito.*" Carlalyn saw, however, that accused-appellant actually had no companion.^[6]

After several attempts to reach her sister, Cristina, Carlalyn was able to cry out loud, which woke her sister up. Cristina saw accused-appellant on top of her sister, thrusting up and down. Cristina was a foot away from Carlalyn and saw that accused-appellant was wearing red or maroon shorts which was hanging around his knees and was naked above the waist. There was a white cloth on his head, covering only his forehead, cheeks and chin, but his eyes, nose and mouth were exposed.^[7]

Realizing that Cristina was looking at him, accused-appellant covered her eyes with his left hand and poked the knife on her neck using his right hand.^[8] At this instance, Corazon was awakened and saw accused-appellant about to ran away. She tried to chase accused-appellant but he was able to escape.^[9]

Corazon returned to their room and embraced Carlalyn, who told her that she was raped by accused-appellant. After about half an hour, Corazon accompanied Carlalyn to the police station and lodged a complaint for rape against accused-appellant.^[10] Thereafter, Corazon brought her daughter to Camp Crame for medical examination, which yielded the following results:

GENERAL AND EXTRAGENITAL:

Fairly developed, fairly nourished and coherent female subject. Breasts are conical with light brown areola and nipples from which no secretions could be pressed out. Abdomen is flat and soft. A linear abrasion is noted at the neck, measuring 3 x 0.2 cm, 3 cm right of the anterior midline.

There is moderate growth of pubic hair. Labia majora are full, convex and slightly gaping with pinkish brown labia minora presenting in between. On separating the same disclosed an abraded and congested posterior fourchette (sic) and an elastic, fleshy type hymen with deep fresh laceration at 5 o'clock and shallow fresh bleeding laceration at 3 and 9 o'clock positions. External vaginal orifice offers strong resistance to the introduction of the examining index finger. Vaginal canal is narrow with prominent rugosities. Cervix is firm and closed.

CONCLUSION:

Findings are compatible with recent loss of virginity.

Barring unforeseen complications, it is estimated that the above injury will resolve in 3 to 5 days.^[11]

Accused-appellant, for his part, interposed the defense of denial and alibi. He claimed that he was at home when the alleged crime happened. He said that on the night of February 15, 1998, while he was watching television, his brother, Diogenes Ayungon, and his friend Carlo Cabotero, arrived. He stepped out to buy coke and Tanduay Rhum for his brother, then returned to watching television. He went to bed at around 3:00 o'clock a.m. of February 16, 1998. At about 5:30 to 5:40 o'clock of the same morning, he was awakened and surprised when his brother told him that police officers were looking for him. He later learned that he was being charged of raping Carlalyn Bargos, which accusation he vehemently denied.^[12]

Accused-appellant's testimony was corroborated by defense witnesses, Diogenes Ayungon and Carlo Cabotero.

On November 25, 1998, the trial court found the version of the prosecution credible and rendered judgment convicting accused-appellant. The dispositive portion thereof reads:

WHEREFORE, premises considered, judgment is hereby rendered finding herein accused Robert Ayungon y Millebo guilty beyond reasonable doubt of the crime of Rape as defined and penalized under Art. 266-A par. 1 and Art. 266-B 1st par. of the Revised Penal Code as amended by RA 8353 in relation to Sec. 5(b) R.A. 7610, and sentencing him to suffer Reclusion Perpetua, and to indemnify private complainant, Carlalyn Bargos in the amount of P50,000.00 as moral damages and to pay the costs.

SO ORDERED.^[13]

Hence, this appeal. Accused-appellant contends that:

I

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE COMPLAINANT AND HER WITNESSES.

II

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.

The issue before the Court concerns primarily the credibility of witnesses. Long settled in criminal jurisprudence is the rule that the Supreme Court will not interfere with the judgment of the trial court in determining the credibility of witnesses unless there appear on record some facts or circumstances of weight and influence which have been overlooked or the significance of which has been misinterpreted by the

same trial court. The reason behind this dictum is that the trial judge enjoys the peculiar advantage of observing directly and at first hand the witnesses' deportment and manner of testifying. He is, therefore, in a better position to form accurate impressions and conclusions on the basis thereof. [14]

In the present case, there are no facts and circumstances that would warrant the reversal of the trial court's judgment of conviction. After a careful review of the transcript of stenographic notes, the Court finds the testimony of private complainant to be clear, straightforward, and convincing. Thus -

PROS. RAMOLETE:

x x x x x x x x x

Q. What time were you awakened that early morning of February 16, 1998?

A. On or about 4:30 in the morning, sir.

Q. And kindly inform this Honorable Court the reason why you were awakened from your sleep?

A. In that early morning, I felt that somebody was touching me, so I was awakened, sir. (Naramdaman ko pong may humahawak sa ano ko, kaya ako'y nagising).

PROS. RAMOLETE:

Before I continue, may I advise this witness to tell what was touched on her without hesitation.

Q. You said somebody was touching your "ano ko", what is that "ano ko" you are referring to?

A. My private part, sir. (Ang ari ko po).

PROS. RAMOLETE:

May I make it of record that the witness is already crying, your Honor.

Q. And then, what happened next?

A. When I was awakened, because I felt that somebody was touching my sex organ, I opened my eyes and I saw him, then he threatened me and told me not to make any noise, otherwise, he will kill me, sir.

Q. And who was that person whom you saw and threatened you not to make any noise, otherwise, he will kill you?

A. Buboy, sir.

Q. Do you know the complete name of this Buboy?

A. Yes, sir.

Q. Kindly inform this Hon. Court the complete name of this Buboy?

A. Robert Ayungon, sir.

Q. If this Robert Ayungon is present inside the courtroom, will you be able to identify him?

A. Yes, sir.

Q. Kindly point to Robert Ayungon alias Buboy?

A. That one, sir. (Witness pointed to a person who answered by the name of Robert Ayungon).

Q. And you said you were threatened with death by this Robert Ayungon alias Buboy, what instrument, if any, did he use in threatening you?

A. A knife, sir.