

SECOND DIVISION

[G.R. No. 130969, February 29, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROBERTO SAN JUAN, ACCUSED-APPELLANT.**

D E C I S I O N

BELLOSILLO, J.:

Crucial in any prosecution for rape is the credibility of the complaining witness for that alone is sufficient to convict the accused.^[1] It is therefore with extreme caution that this Court examines the veracity of the testimony of the complaining witness in the light of human nature and experience.

Roberto San Juan was charged before the Regional Trial Court of Talavera, Nueva Ecija with *rape* for having carnal knowledge of Rowena Morla while poking a bladed instrument at her neck; with violence and intimidation in other words.^[2]

On 1 April 1997 the trial court found accused guilty as charged, sentenced him to *reclusion perpetua* and to indemnify the victim in the amount of P50,000.00 as well as to pay the costs. The trial court also ordered that his period of detention be credited to him in full provided that he had agreed in writing to abide by and comply strictly with the rules and regulations of the institution where he was detained.

According to complaining witness Rowena Morla, a sixteen (16)-year old high school student, in the evening of 4 May 1994 she was sleeping in her room in the family's residence at Barangay Catalanacan, Muñoz, Nueva Ecija. Her parents were also asleep in their adjoining room about four (4) to five (5) meters away. Rowena claimed that at around 11:45 o'clock that same evening she was awakened by a kiss on her lips. When she opened her eyes she saw her neighbor Roberto San Juan near her with a seven (7)-inch long bladed weapon poked at the right side of her neck while his other hand pinned her neck down. He ordered her to keep quiet otherwise he would kill her. She cried out which roused her father from sleep in the next room. Her father asked what was the matter. But, overcome with fear, she could only answer "*Wala po.*"

The accused then told her to go out of the house with him. She walked in front of him while he held her in front by the neck with his left hand and poked the knife at her nape with his right hand. The sharp point of the knife touched her skin. They passed by two (2) houses then proceeded to the open field at the back of the chapel some forty (40) meters away from her house. The surroundings were quiet since the neighborhood was asleep. He ordered her to lie down then took off her T-shirt and brassiere. He pulled down her short pants and panty to her knees. He kissed her, mashed her private parts, then mounted her. She was powerless against him since the bladed weapon remained poked at her neck, alternately held by his hands. He inserted his penis into her vagina and she felt intense pain. Unsatisfied, he

momentarily disengaged himself from her and completely removed her short pants and panty. Again, he mounted her and copulated with her. All the while, she kept her hands by her side afraid that a slight move would cause the knife to nick her neck. When he stood up he told her to put on her clothes. He then asked her about her necklace which she often wore. She replied that it was in her house but offered to get it for him. She had thought of that ploy so that she could leave him and go home. He also told her to get her clothes.

She was back home twenty (20) minutes past midnight. According to Rowena, she woke her parents up and told them about her experience. Her mother immediately consulted her own mother, brothers and sisters, about the incident. Forty-five (45) minutes after Rowena's revelation, she was subjected to medical examination which showed "(a) *Laceration of the hymen (fresh) at 12, 10 and 6 o'clock; and, (b) contusion with laceration, labia minora still bleeding.*"^[3] Then she reported the incident to the police authorities of Muñoz, Nueva Ecija, before whom she executed a sworn statement.

The accused Roberto San Juan, thirty-two (32) years old, claimed that he and Rowena were sweethearts since 1 January 1994 and had been meeting regularly at the store of his sister Ludy San Juan some seven (7) meters away from Rowena's house. He went to Rowena's house past 10:00 o'clock in the evening of 4 May 1994, upon her invitation. She herself opened the door and invited him to her bedroom to get something. While inside her bedroom they talked. Her father who was in his bedroom was awakened and asked, "*Sino yan?*" Rowena answered, "*Wala, po!*"

The accused then went out of the house. Rowena followed him. She suggested that they go behind the chapel to avoid being seen by her parents who did not favor their relationship as he had separated from his wife.

At the back of the chapel they talked and then made love. Rowena even removed her short pants and panty as these hindered their lovemaking. After satisfying their lust, Rowena agreed to elope with him, but since she knew that he did not have enough money she told him about her necklace which she left at home. They agreed that she would go back to her house for the necklace and some clothes, and then return. But he got tired waiting for her, so he went near her house. He overheard Rowena's mother scolding her because she had gone out unmindful of the circumstance that it was already midnight and that they wanted her to end her relationship with him.

Five (5) minutes later, he left. When he arrived home, which was already about 2:00 o'clock in the morning, he found the police waiting for him. He was invited for questioning at the police station and thereafter subjected to preliminary investigation.

Ludy San Juan narrated that she often saw her brother Roberto together with Rowena at her store talking to each other, apparently as sweethearts. In January 1994 Roberto admitted to Ludy his amorous relationship with Rowena, which the latter confirmed to her on 14 February 1994.

On the basis of the narration of Rowena, the trial court convicted the accused. It found her actuations consistent with her charge that the accused raped her -

x x x x the testimony of Rowena who was in tears and crying while describing the incident that transpired on May 4, 1994 particularly on how the knife was poked to her neck, the sharp end touching her skin; being ordered to keep silent or else he will kill her (tsn, March 7, 1995, p. 10) and then with her pinned by the neck, was led forty (40) meters away and thereafter at the back of a chapel was made to lie down and became submissive because of fear of the knife still held by the accused who took advantage and had carnal knowledge of her, was credible. The description of the incident is candid and convincing and her lack of resistance and meek submission to the lust of the accused who held her captive with the knife poked to her as she was made to lie down, her shorts and underwear removed up (sic) to her knees, and thereafter was penetrated by the accused were all plausible. Her being continuously under such state of fright and shock, after the accused had inserted his penis into her vagina and thereafter her shorts and underwear were totally taken off by the accused and once more had inserted his private part into hers, with her hands at her sides, is also worthy of belief because she had stated, "if she moves, the pointed knife might get inside her neck" (tsn, March 7, 1995, p. 15). That, she was ordered to get her necklace and some clothes which she did not do nor return to the accused because as she said, the accused was not her boyfriend and she had made up her going home in order to be home (*Ibid.*, p. 19), deserve credence x x x x

Rowena not only divulged what had happened to her to her mother as soon as she got home but she willingly went with her and other relatives to have herself medically examined by Dr. Lazaro at 1:05 a.m. of May 5, 1994 or only after an hour from the incident (tsn, May 20, 1994, p. 12) and to file immediately thereafter a complaint-affidavit with the Muñoz Police Station (tsn, Oct. 6, 1995, pp. 4 & 5).^[4]

On the other hand, the trial court dismissed the defense of the accused as a mere concoction to escape criminal liability -

x x x x If indeed they are sweethearts and had agreed to elope, he should have accompanied Rowena in going back as near to her house from where they could both then easily get away the soonest possible time. Instead, the accused let Rowena go home alone just waiting for her forty (40) meters away and only after he got bored waiting did he follow. Allegedly, he went near the house staying there for five (5) minutes, thus, being able to hear Rowena being scolded and thereafter leaving (tsn, Oct. 23, 1996, pp. 9 & 10). If indeed, they had agreed to elope, he should have waited longer for an opportunity to effect their elopement or even to talk to her but this was not done.^[5]

Accused-appellant now argues that no violence or intimidation was employed on Rowena since neither her clothes were soiled nor did she sustain any external injury. As it was, she did not put up a struggle against him. He then invites attention to her testimony that she was the one who woke her parents up which contradicts the testimony of her mother Gloria that she and her husband were roused from sleep when Rowena returned to their house that night. He insists that Rowena voluntarily went with him to the back of the chapel because she was his sweetheart for several

months and their coitus was just a consequence of their love affair.

After thoroughly reviewing the evidence on record, this Court cannot rest easy on the conviction of the accused by the court *a quo*. Thus, we are impelled very strongly to overturn the verdict.

No evidence was presented by the prosecution on how accused-appellant gained entry into the Morlas residence that evening of 4 May 1994 as to show that his claim was just a cock-and-bull story, *i.e.*, that he only acceded to the invitation of Rowena to go to her house and that she herself opened the door.

Rowena narrated that she was awakened when she felt somebody kissing her on the lips and then she recognized accused-appellant. However, in the preliminary investigation conducted a day after the incident her account changed. She said, "While I was sleeping on that night of May 4, 1994, I saw Roberto San Juan entered (sic) my mosquito net and pointed a bladed weapon at me x x x x."^[6] The preliminary investigation was conducted at 9:45 o'clock in the morning of 5 May 1994^[7] so it was to be expected that her recollection of the incident was fresh. But, it is indeed perplexing why she did not stand by her prior narration when she testified in court. The inconsistency in her narrations appears to be a clear manifestation of her prevarication in an effort to hide the truth.

Rowena testified that her bedroom only had a curtain to serve as a shutter of her door.^[8] The same was true with her parents' bedroom which was merely four (4) to five (5) meters away from hers.^[9] She recognized accused-appellant easily after she was awakened by him. Given the circumstances that her bedroom and that of her parents only had curtains for door shutters and merely four (4) to five (5) meters apart, and that accused-appellant was not covering himself, much less was he in disguise, as he was readily recognized by Rowena, it is hard to believe that he entered the house with a criminal mind or malicious design. A criminal would not be so bold as to enter a house at night with at least two (2) occupied bedrooms a few meters apart, with curtains only for door shutters, and then proceed to enter one of them to rape its resident, with his face uncovered. The occupants in the other bedroom could easily come to the rescue of his victim and perhaps kill him for being an intruder in their abode.

Rowena narrated that her father heard her cry which prompted him to call out to her and ask what was the matter. Her plain answer was, "*Wala, po!*" From this, it appears that her father was satisfied with her reply because he remained in his bedroom. This story is difficult to accept. It is not a natural behavior for a father who heard his young daughter cry out in the middle of the night, alone in her room, to simply ask for the reason therefor and leave it at that. He could have requested her mother to ascertain if their daughter was all right.

Rowena estimated that her bedroom was only five (5) meters from the door of their house.^[10] This is a considerable distance but she failed to demonstrate how she and accused-appellant were able to leave the house unnoticed by her parents, especially by her father, taking into account that her loud cry had awakened him.

Rowena continued to picture accused-appellant as a lionhearted felon who could afford to snatch her from her room holding her throat on the front with one hand

while pointing a knife at her nape when her parents were apparently awake in the other room some four (4) to five (5) meters away from hers, and then passing two (2) houses and the chapel where they made love behind it. On this score lies another improbability. A criminal would not hold the throat of his victim with one hand and poke a knife at her nape with the other while passing by inhabited places even if the surroundings were tranquil and the neighbors were believed to be asleep. The probability was not remote that someone could be awake and see them by accident. From whatever direction Rowena and accused-appellant might be viewed while walking under those circumstances, no other conclusion could be reached than that accused-appellant really meant to harm Rowena.

It was also thoroughly inconvenient, if not unnecessary, for Tomas and Rowena to walk a distance of forty (40) meters in such an ungainly stance. Thus, the likelihood that they in fact assumed that position appears improbable. Rowena also testified that the sharp point of the knife touched her skin. But if so, the contact should have left a distinct mark because the hand holding the knife could not so easily be controlled as to prevent it from hurting the skin of Rowena; yet, the medical examination conducted on her body failed to show any marks on her neck. The scenario depicted by Rowena may be typical of a hostage-taking drama, resorted to whenever the life or liberty of the hostage-taker is at stake. However, in the present case, neither the life nor the liberty of accused-appellant was in any way imperiled so there was absolutely no reason for him to intimidate Rowena in such manner. After all, she did not appear to have offered any resistance to him.

But the most intriguing part in Rowena's testimony after the sexual act may be found in the following quoted portion of her testimony -

Q: After the second rape, what happened?

A: He stood and I also stood up and he was asking me about a necklace, sir.

Q: What is that necklace?

A: My necklace, sir. (The witness was holding her necklace on her neck).

Q: Who owns that necklace?

A: It's mine, sir.

Q: And why is it that he was asking the same?

A: He wanted to get it from me, sir, probably he wanted to sell it.

Q: Is the accused your boyfriend?

A: No, sir. Jjä lex

Q: Was that not only given to you by the accused?

A: No, sir.

Atty. de Belen: And what is the reason why he was asking from you that necklace?

A: I do not know from (sic) him, sir.

Q: Were you wearing that necklace at the time that you were being asked of it?

A: No, sir.

Q: Why he was (sic) asking?

A: I do not know, sir, but the necklace has been (sic) being used by me very often.

Q: You were using or wearing the necklace almost daily?

A: Yes, sir.

Q: What was your answer to that demand?