

## SECOND DIVISION

[ G.R. No. 130606, February 15, 2000 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ELRANIE MARTINEZ Y DIGAL, ACCUSED-APPELLANT.**

### D E C I S I O N

**MENDOZA, J.:**

This is an appeal from the decision<sup>[1]</sup> of the Regional Trial Court, Branch 15, Cavite, finding accused-appellant Elranie Martinez guilty of rape and imposing on him the penalty of *reclusion perpetua*.

The Information<sup>[2]</sup> against accused-appellant alleged -

That on or about the 9<sup>th</sup> day of May 1991, in the Municipality of Maragondon, Province of Cavite, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force, violence and intimidation, did, then and there, wilfully, unlawfully and feloniously, have carnal knowledge of Melina C. Tampoc against her will and consent, to her damage and prejudice.

CONTRARY TO LAW.

Accused-appellant pleaded not guilty to the offense, whereupon he was tried. The prosecution presented two witnesses: complainant Melina Tampoc, 32 years old, married with four children and a clerk at the Treasurer's Office of Maragondon, Cavite; and Dr. Vilma Diez, medico-legal officer who conducted the physical examination on Melina. The defense, on the other hand, presented accused-appellant Elranie Martinez, 25 years old and residing at Maragondon, Cavite, and Vicente Martinez, accused-appellant's father.

Melina testified that she knew accused-appellant since the latter is a resident of the same town, a classmate of her brother, and prior to the incident, she often saw him in their barangay. Her testimony is as follows: Early in the morning of May 9, 1991, Melina accompanied her sister-in-law, who was then about to give birth, to the Maragondon Hospital. Upon being informed that her sister might have to be transferred to another hospital, Melina rushed home to inform her brother that they needed a vehicle. This emergency forced her to use a pedicab which was found parked near the hospital. At around six o'clock that morning, while she was using the pedicab to return to the hospital, accused-appellant stopped her and told her that the pedicab belonged to him. Melina did not deny his claim. Accused-appellant then took over the pedicab and agreed to take Melina to the hospital. As the hospital was at the back of the Maragondon Elementary School, accused-appellant took a short cut by passing through the school grounds, but stones and humps obstructed the path. Accused-appellant then asked Melina to get off the pedicab and help him

in getting it out of a hole. Melina did as requested, but as she was doing so, accused-appellant held her by the neck and dragged her towards the school's toilet. When they were already near the comfort room, accused-appellant boxed her on the face and she reeled from the blow. He then pulled her up by the blouse, and dragged her inside the comfort room. He pushed her and hit her several times on the face. Melina pleaded with him to stop and offered to give him all her money, but accused-appellant instead cursed her, saying "*Putang-ina mo.*" Then he knelt, pulled her shorts and panties down, and afterward removed his own shorts and briefs and positioned himself on top of her. With his right hand pushing down on her breast, he tried to insert his penis in her vagina with the help of his other hand. Melina screamed and tried to fight back by pushing him. She felt that his penis was able to penetrate her. Melina estimated that the penetration lasted for about two minutes only as accused-appellant sensed someone arrive at the back of the toilet and she started screaming. Accused-appellant stood up, put on his shorts and fled,<sup>[3]</sup> leaving his briefs behind.

After accused-appellant had left, Melina wiped the blood off her face with her panties.<sup>[4]</sup> As she came out of the toilet, she met Nolasco Orosco and told the latter that someone wanted to abuse her. She asked to be taken to the hospital as she believed the culprit went there.<sup>[5]</sup> Accused-appellant, however, was not at the hospital. They then went to the police station where Melina executed a sworn statement.<sup>[6]</sup> She also underwent physical examination that morning, and on the same day, formally filed a criminal complaint against accused-appellant.<sup>[7]</sup>

Dr. Vilma Diez conducted the physical examination on Melina. Her report,<sup>[8]</sup> contained the following findings:

Contusion- left side of the nose  
- right side of the face (zygomatic prominence )  
-upper lip and lower lip

Abrasion - upper lip 0.2 cm. right side  
- lower lip 0.4 cm. right side

Internal Examination: porous introities, admits 2 fingers with ease, mystiform caruncles noted on the vaginal canal – no bleeding.

According to the report, the physical injuries would require medical attendance for a period not less than seven but not more than ten days.<sup>[9]</sup> In her testimony, Dr. Diez said she could not be certain whether Melina had been raped.<sup>[10]</sup>

Accused-appellant, for his part, confirmed everything Melina said about how he saw her driving his pedicab near the Maragondon Hospital; how he took over his vehicle and gave Melina a ride as his passenger; how when they passed the school compound, for no reason at all, he boxed her on the face once,<sup>[11]</sup> although in his cross-examination, accused-appellant stated that he boxed complainant twice.<sup>[12]</sup> When he saw that Melina was bleeding in the face, he was frightened so he ran away. He fled and went to Manila to hide from the authorities. He claimed that after he was arrested, the police maltreated and tried to make him confess to the crime.<sup>[13]</sup> But accused-appellant denied that he raped or even tried to rape Melina. He

admits, though, that for no reason at all, he dragged Melina towards the toilet, but it was closed.<sup>[14]</sup>

The defense also called Vicente Martinez, accused-appellant's father, to the witness stand who testified that his son, though not insane, had suffered from a serious illness affecting his mental condition. Vicente Martinez said that when accused-appellant was four years old, the latter fell from a window, and at five years old, was ran over by a *karetela*. Because of these accidents, according to the witness, accused-appellant was an absent-minded boy.<sup>[15]</sup>

From the foregoing evidence, the trial court concluded that accused-appellant had been positively identified by Melina as the person who raped her; that even if the examining physician could not categorically state that Melina had been raped, the latter's testimony was entitled to credence in the absence of a showing that she had an ulterior motive in charging accused-appellant of rape; and that accused-appellant's flight immediately after the incident was indicative of guilt.<sup>[16]</sup>

Accused-appellant now contends that the evidence is insufficient to prove his guilt beyond reasonable doubt, and that, if at all, he can only be held liable for slight physical injuries.<sup>[17]</sup>

The appeal is without merit.

*First.* Accused-appellant makes much of the following portions of Melina's testimony to support his contention that the prosecution failed to establish his guilt:

ATTY. NICOLAS:

Q: And what is the name of that person that arrived according to you?

MELINA TAMPOC:

A: I know him by the name of Nolasco Orosco, sir.

Q: And what did you tell Nolasco Orosco when he arrived?

A: I asked him to help me go to the hospital.

Q: And that person, Orosco, was with you when you gave a statement to the police, is that correct, regarding the incident?

A: He was in the premises but not inside the building when I gave the statement.

Q: Is it not a fact that you told this Orosco that *you are asking help because somebody wants to abuse you? Is that correct?*

A: *I asked him help because there is somebody who wanted to abuse me, sir.*

Q: Okay, *that was your story to that Orosco, that somebody wanted to abuse you? Is that correct?*

A: Yes, sir.<sup>[18]</sup>

Thus, it is contended that, by Melina's own account, accused-appellant merely tried, but did not succeed, to abuse her.

What Melina told Orosco, *i.e.*, that "there is somebody who wanted to abuse (her)," should be read in context. She saw and talked to Orosco immediately upon coming out of the toilet, still reeling from the blows she had received from accused-appellant. She was obviously in shock. What really mattered to her then, after she

was saved by the timely arrival of Orosco, was her belief that accused-appellant had not completely succeeded in abusing her. Not familiar with the law, complainant could not have known that the mere touching of the external genitalia by the penis constitutes carnal knowledge.<sup>[19]</sup>

Indeed, after the incident, complainant executed before the police a sworn statement<sup>[20]</sup> in Filipino wherein she clearly stated that accused-appellant was able to insert his penis in her vagina, thus:

*. . . . at pagkatapos ay agad niya akong kinubabawan at pilit niyang ipinapasok ang kanyang ari sa aking puerta at ako ay patuloy na nanlalaban sa kanya at hindi niya agad maisagawa ang kanyang gusto sa akin at ako ay patuloy pa rin niyang sinusuntok sa mukha tuwing sisigaw ako at manlalaban at sa katagalan ay nanlambot na ako at medyo nanghihina na dahil sa aking tinamong mga suntok ay - naramdaman ko naipasok niya ang kanyang ari sa aking puerta pero iyong dulo lang ...*

From the foregoing, the Court is convinced that this is a case of consummated rape.

*Second.* Accused-appellant also posits that since Judge Napoleon Dilag who penned the decision subject of this appeal was not the one who heard the testimonies of the witnesses,<sup>[21]</sup> the general rule on the conclusiveness of the trial court's ruling as to the credibility of witnesses does not apply, in accordance with our ruling in *People v. Escalante*.<sup>[22]</sup> This is immaterial. The trial court's assessment of complainant's demeanor on the stand is not the only gauge of credibility. Equally well-settled is the rule that, in rape cases, the testimony of complainant is credible where no strong ulterior motive for falsely testifying against the accused is shown.<sup>[23]</sup> Here, no such motive for concocting a tale of rape had been imputed against Melina. Instead, accused-appellant interposed merely a denial for his defense. Time and again, we have held that denial is an intrinsically weak defense which must be buttressed by strong evidence of non-culpability to merit credibility.<sup>[24]</sup>

Accused-appellant failed to substantiate his defense. His own admissions spelled its collapse. For instance, he insisted that he boxed complainant only once. As earlier noted, however, he retracted this statement. He admitted during cross-examination and also during re-direct examination<sup>[25]</sup> that he boxed complainant twice. But, even this is belied by a photograph<sup>[26]</sup> of Melina showing the contusions and abrasions on her face, and by the medico-legal report<sup>[27]</sup> on her injuries. Such physical evidence shows that Melina took quite a beating on her face; certainly not just from two blows, as accused-appellant said.

Accused-appellant also claimed that he hit Melina on the face and dragged her towards the toilet for no reason at all. This is too pat to be believed. It appears that this was intended to show that accused-appellant did not know what he was doing. Coupled with his father's claim that accused-appellant had an accident in early childhood, the suggestion is that he was mentally retarded and should not be held liable for his act. But there is no reliable evidence of his mental condition. In the absence of such evidence, it is to be assumed that he was sane and in the full possession of his mental faculties.

Nor are we prepared to accept his claim that the sight of blood on Melina's face