

THIRD DIVISION

[G.R. No. 126021, March 03, 2000]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RENE SIAO, ACCUSED-APPELLANT.

DECISION

GONZAGA-REYES, J.:

Accused-appellant Rene Siao together with Reylan Gimena were charged before the Regional Trial Court of the City of Cebu with the crime of rape committed as follows:

"xxx xxx xxx:

That on or about the 27th day of May, 1994, about 3:00 P.M., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conniving and confederating together and mutually helping each other, with deliberate intent and with force and intimidation upon person, did then and there willfully, unlawfully and feloniously have carnal knowledge with the undersigned, Estrella Raymundo, a minor, 14 years old, against the latter's will."^[1]

Accused-appellant Rene Siao and Reylan Gimena pleaded "not guilty" to the charge. Hence, trial proceeded in due course. After trial, the Regional Trial Court of the City of Cebu convicted accused-appellant Rene Siao of the crime of rape as principal by induction and acquitted Reylan Gimena. The dispositive portion of the decision rendered on March 29, 1996 reads:

"WHEREFORE, in view of all the foregoing, judgment is hereby rendered finding accused Rene Siao GUILTY beyond reasonable doubt as principal by induction in the crime of rape committed against the person of Ester Raymundo and imposes upon him the penalty of RECLUSION PERPETUA. He is, likewise, directed to indemnify private complainant Ester Raymundo the sum of P50,000.00 as and for moral damages.

Accused Reylan Gimena is hereby ACQUITTED because he acted under the impulse of uncontrollable fear of an equal, if not greater injury.

For want of evidence, his cross-claim against Rene Siao should be, as it is hereby ordered, DISMISSED."^[2]

Hence, this appeal by Rene Siao.

The Office of the Solicitor General^[3] summarized the evidence for the prosecution in this wise:

Joy Raymundo and private complainant Estrella Raymundo are cousins. They worked as house maids of appellant's family. Reylan Gimena was also a helper of appellant's family. Estrella was then a 14-year old "probinsiyana" from Palompon, Leyte (p. 5, TSN, September 16, 1994).

On May 27, 1994, at about 3:00 p.m., in the Siao residence located at 417-A Basak Brotherhood, Cebu City, appellant ordered Reylan Gimena, a houseboy of the Siao, to pull Estrella to the room of the women. Gimena dragged her toward the women's quarters and once inside, appellant pushed her to the wooden bed (naomog). Appellant pointed a pistol colored white at Gimena and the face of Estrella (pp. 7-8, TSN, September 16, 1994).

Producing a candle and a bottle of sprite, appellant asked Estrella to choose one among a pistol, candle or a bottle of sprite. He also told Gimena "Reylan, birahi si Ester." (Reylan do something to Ester.) Appellant lighted the candle and dropped the melting candle on her chest (p. 7, TSN, September 20, 1994). Estrella chose a bottle of sprite because she was afraid of the pistol. She was made to lie down on her back on the bed with her head hanging over one end. Whereupon, appellant poured sprite into her nostrils as she was made to spread her arms. While appellant dropped the bottle of sprite into her nostrils, he pointed the gun at her face. Estrella felt dizzy and her eyesight became blurred (p. 6, TSN, September 20, 1994). She tried to fold her arms to cover her breasts but appellant ordered Gimena to hold her hands (p. 10-15, TSN, September 16, 1994).

Appellant then tied her feet and hands with an electric cord or wire as she was made to lie face down on the bed. After that, appellant untied her hands and feet but tied her back with the same wire (p. 17, TSN, September 16, 1994).

As appellant pointed his pistol at her, he ordered Estrella to remove her pants and T-shirt, she sat on the bed and did as she was told and when she was naked, appellant commanded her to take the initiative (ikaw ang mauna sa lalaki.) She did not understand what appellant meant. At this point, appellant poked the gun at her temple (pp. 19-20, TSN, September 16, 1994).

Appellant then commanded Gimena to remove his shorts. But Gimena refused. Gimena did not remove his shorts but let his penis out (p. 21, TSN, September 1, 1994; p. 11, TSN, September 20, 1994).

Appellant spread the arms of Estrella and made her lie down spread-eagled (pp. 4-5, TSN, September 29, 1994). She felt dizzy and shouted for help twice. Appellant ordered Gimena to rape Estrella. At first Gimena refused to heed the command of appellant to rape Estrella (birahi) because, according to Gimena, he has a sister. Appellant said that if they would not obey, he would kill both of them (pp. 4-10, TSN, September 20, 1994).

Appellant told Gimena, "Reylan, do something (birahi) to Ester!" Estrella was made to suck the penis of Gimena at gunpoint. She complied with the order of appellant and when the penis of Gimena was inside her mouth, appellant kept looking and

pointing his handgun at them (pp. 11-14, TSN, September 20, 1994; pp. 19-20, TSN, September 21, 1994).

Thereafter, Gimena got on top of Estrella (gisakyan) and did the sexual act (kayatan). She felt excruciating pain. Gimena made push-and-pull movements for around 10 minutes. Appellant looked on and said, "why did it take you long to penetrate?" While Gimena was making the push-and-pull movements, appellant held the legs of Estrella to keep them apart (pp. 21-24, TSN, September 20, 1994).

After Gimena had sexual intercourse with Estrella, she sat down. Not long after, appellant said: "You do it again." Gimena said that he could not do it again because he was already very tired. But appellant pointed the pistol at Gimena's temple. Gimena obeyed the order of appellant because the pistol was pointed at him (pp. 25-26, TSN, September 20, 1994). They were made to lay side by side while appellant kept on pointing the pistol at them. Gimena, who was behind Estrella made a push-and-pull movements so that his organ would reach her private part (pp. 27-29, TSN, September 20, 1994).

After the side by side position, they were made to assume the dog position (patuwad). Appellant commanded her to do it but she refused because she was already tired. Appellant pointed the pistol at her, so she obeyed his order. Gimena said: "I will not do that because I am already tired." At that, appellant pointed the pistol at Gimena. Thus, Gimena copulated with Estrella in the manner dogs perform the sexual intercourse. Gimena shouted for help. Somebody knocked on the door and they heard the voice of Teresita Pañares, the older sister of appellant. Appellant ignored Pañares and kept on pointing the pistol at Estrella and Gimena, as he looked at them with wide-open eyes (siga) (pp. 30-31, TSN, September 20, 1994). Shortly, appellant told them to go to the boy's room. They complied with his order tearfully, after he followed them laughing all the while. Appellant then warned them: "If you will tell the police, I will kill your mothers." (pp. 33-34, TSN, September 20, 1994).

At around 6:00 o'clock in the evening of the same day, Estrella and Joy Raymundo sought permission to go home. On their way home, they met an old man who saw Estrella crying. The old man took them to his house. After the incident was reported to the police, Senior Police Officer Reynaldo Omaña conducted the investigation and arrested Gimena, who was identified by Esrtrella as the one who raped her on orders of appellant. The police officers looked for appellant to shed light on the reported rape. But they could not locate him (Exhibit "B"; pp. 5-7, TSN, December 13, 1994).^[4]

Accused-appellant Rene Siao, anchoring his defense mainly on denial, presents a different version of the case; his story -

"Private complainant Ester or "Estrella" Raymundo, together with her cousin Joy Raymundo, was employed as a maid by the Siao family on May 9, 1994.

In the morning of May 27, 1997, a commotion in the household of Jose Siao awakened Teresita Pañares, a sister of accused-appellant. Ms. Pañares learned that accused Reylan Gimena, one of the houseboys of the Siao family, was accusing private complainant of stealing his wristwatch. This was not the first time accused Gimena confronted

private complainant with the loss of his watch. Earlier in the week, Teresita had also lost money in the amount of P1,300.00, while her daughter Jan Bianca Abellana lost a necklace. It would turn out that the other househelpers of the Siao had likewise lost personal articles. Marilyn Resujent, a maid, lost a brand new panty and sleeveless blouse. Simeon Siroy Jr., a houseboy, lost two T-shirts. Until the employment of the Raymundo cousins, the household of the Siao had not fallen victim to thievery.

At around noontime of the same day, upon his return from his morning chores, accused Gimena inquired from Ms. Pañares whether his watch had been found. When informed that his watch had not been recovered, he confronted private complainant, who offered to pay for the value of the watch instead. Joy Raymundo agreed to accompany accused Gimena to the house of an aunt (of Joy and private complainant) for financial assistance. An hour later, accused Gimena and Joy Raymundo returned to the Siao compound and reported to Ms. Pañares that the aunt was unable willing (sic) to help.

In the meantime, private complainant admitted to Ms. Pañares that she stole the P1,300.00 but denied having taken the necklace. Private complainant initially returned the sum of P600.00 to Ms. Pañares. When Ms. Pañares stated that what she lost was P1,300.00, private complainant went to her quarters and returned with an additional P200.00. Private complainant explained that she could no longer produce the remaining money because she had already purchased a number of personal effects (pail, basin, pants, shorts) for herself with it.

A little while after accused Gimena and Joy returned from the house of Joy and Ester's aunt, accused Gimena and private complainant went to the male's quarters. Sometime thereafter, accused Gimena emerged from the male's quarters and announced the recovery of his watch. Private complainant had revealed to accused Gimena the hiding place of his watch, which was under the ironing board.

In the afternoon of May 24, 1994,^[5] many people were present in the household of Jose Siao, father of accused-appellant. Ms. Beatriz Baricuatro was in the sala praying the rosary as was were habit. Joy Raymundo was in the kitchen. Ms. Pañares was likewise downstairs going about her daily business. The grandchildren of Jose Siao were running in and out of the house.

At about 3:00 p.m., Ms. Pañares left their residence to seek the assistance of the barangay with respect to the lost necklace of her daughter. (Until this time, private complainant would not admit to stealing the necklace). Within an hour, Ms. Pañares returned to the compound accompanied by Barangay Tanod Arturo Jabines. Private complainant was inside the male's quarters when the two arrived. Accused had earlier reported for work at the retail store owned by Jose Siao. When Barangay Tanod Jabinez introduced himself, private complainant immediately begged for his forgiveness and promised not to do it again. Barangay Tanod Jabinez instructed the private complainant to

address her pleas to her victims and not to him. Before the barangay tanod, private complainant admitted to stealing the necklace.

Dissatisfied with the piece-meal confession of the private complainant, Ms. Pañares decided to bring her to the barangay hall where she could report the theft. On the way to the barangay hall, private complainant confessed to selling the necklace and begged for forgiveness. At the last minute Ms. Pañares relented and decided to give the private complainant a second chance.

Upon their return to the Siao compound, private complainant and Joy Raymundo sought permission from Ms. Baricuatro to just return to their home in Leyte. Ms. Beatriz gave her consent and even handed them money for boat fare. At about 6:00 p.m., both housemaids left the Siao residence, bringing with them all their personal belongings. An hour later, some people came to the house of Jose Siao looking for private complainant and her cousin.

At this time, accused-appellant Rene Siao remained unaware of the developments that unraveled in the residence of Jose Siao. In the morning of May 24, 1994,^[6] accused-appellant made his usual rounds [collecting the obligations of his father's creditors. At noontime, accused-appellant went directly to the retail store of his father where he had lunch with his wife Gina, as was his habit. This was the usual hour of his father's siesta and he would tend to the store in his father's absence, as was his custom.

At about 9:00 p.m. of the same evening, a barangay tanod came to the retail store and invited accused Gimena to the barangay hall. Jose Siao and Ms. Pañares would follow.

At the barangay hall, upon the complaint of a certain Rosalie Sallentes (who claimed to be related to the Raymundo cousins), Barangay Captain George Rama asked accused Gimena of the whereabouts of Ester and Joy Raymundo. Accused Gimena answered that he did not know. During the course of the investigation, and under threat by the Barangay Captain that his head would be broken if he did not tell the truth, accused Gimena confessed to tying up the private complainant to force her to reveal the place where his watch was being kept. He untied her after he recovered his watch from under the ironing board.

The following evening, on May 28, 1994, accused Gimena was picked up by policemen at the retail store of Jose Siao and brought to the Tabo-an Police Station.

Neither the police nor the barangay tanod looked for accused-appellant on the evenings of May 27 and 28, 1994.

Private complainant would file a complaint against accused-appellant and accused Gimena on June 21, 1994.

After the case was filed but before trial commenced, a person who