

FIRST DIVISION

[G.R. No. 129239, September 05, 2000]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PAUL LAPIZ, ACCUSED-APPELLANT.

DECISION

PUNO, J.:

In an Information^[1] filed on July 11, 1995 before the Regional Trial Court, 10th Judicial Region, Cagayan de Oro City, Branch 21, accused-appellant Paul Lapid was charged with the crime of rape, committed as follows:

"That on or about February 22, 1995, at 5:30 o'clock in the afternoon, more or less, at Lusong Creek, Patrocenio, Claveria, Misamis Oriental, Philippines and within the jurisdiction of this Honorable Court, the said accused did then and there willfully, unlawfully and feloniously, and by means of force and intimidation, drag and box Ruby Geraldez, a 13-year old girl and succeeded in having carnal knowledge with her (sexual intercourse) against her will and consent and as a result thereof she suffered traumatic lacerations and pains of (sic) her vagina.

CONTRARY TO and in violation of Article 335 of the Revised Penal Code."

Upon arraignment, appellant pleaded not guilty and trial ensued. On December 16, 1996, the trial court found appellant guilty beyond reasonable doubt of the crime of rape and sentenced him to reclusion perpetua and to pay the victim the sum of P50,000.00 as moral damages.^[2] Hence, this appeal.

The facts are as follows:

Complainant Ruby Geraldez (Ruby) is a niece of appellant Paul Lapid (Paul) because her grandmother and the mother of Paul are sisters. When the mother of Ruby died, she was abandoned by her father and left to the care of Mercy Regalado, a neighbor at Patrocenio, Claveria, Misamis Oriental where she was living at the time of the incident. Ruby was then 13 years old, having been born on May 8, 1981.

On February 22, 1995, at about 5:00 p.m., Ruby was on her way to the creek at Patrocenio, Claveria to get the cow of Mercy Regalado which she was pasturing, when Paul suddenly appeared from the bushes. He grabbed Ruby on the neck and started to strangle her. The initial reaction of Ruby was to shout but Paul ordered her to keep quiet. Though gasping for breath, Ruby refused to be intimidated and tried to shout for help. To silence her, Paul boxed Ruby on the abdomen which made her cry in pain. He boxed her again and Ruby fainted.

When Ruby regained consciousness, she was already lying on the ground not far

from where she was initially waylaid by Paul. The appellant who was already naked waist down went on top of her and it was then she realized that she no longer had her pants and panty on. Paul made the push and pull movement and succeeded in satisfying his lust on her. Ruby struggled with Paul but she felt so weak that she could only cry as Paul successfully ravished her. Thereafter, Paul moved away from Ruby and sat near her feet.

Ruby was lying on the ground and Paul was sitting beside her, both naked from the waist down, when the wife of Paul came and saw them. She immediately asked her husband what he was doing and who the girl was. When she recognized Ruby, Paul's wife started to cry, pushed him on the shoulder and returned to the creek where she was washing clothes. Paul warned Ruby not to tell anybody about the incident or he would kill her. He left and followed his wife.

Ruby put on her clothes and proceeded to the house of Romeo Lapiz, a brother of Paul, where she reported the rape to the two children of Romeo. One of them remarked "animal," referring to Paul. Since the house of Mercy Regalado where she lives is still far, Ruby was advised to spend the night at the house of Romeo Lapiz. The following morning she was fetched by Mercy Regalado who was informed of Ruby's fate. She brought Ruby to the police station at Claveria, Misamis Oriental where they reported the incident. Ruby gave her sworn statement^[3] to the police and was brought to the Northern Mindanao Regional Hospital in Cagayan de Oro for medical examination. The Living Case Report^[4] issued by the examining doctor shows the following findings:

"GENITAL EXAMINATION:

Mons pubis = sparse fully grown pubic hair

Introitus = nulliparous

Labia majora & minora = coaptated, confluent abrasion measuring
0.3 cm. In greatest diameter located at the posterior
fourchette

Hymen = incomplete superficial lacerations at 2, 5, 7, & 10 o'clock
positions at the face of the watch the edges of w/c are sharp &
coaptable.

CONCLUSION: Medical evidence suggestive of sexual intercourse is present.

REMARKS: Vaginal smear = negative for spermatozoa.

Extragenital injury seen & examined by the Dept. of Surgery. "

In her cross examination, Ruby denied that Paul scolded and slapped her that afternoon of February 22, 1995 because she fought with the latter's 8-year old niece, Raffy Mae Lapiz.

The defense gave a different version.

Appellant testified that on February 22, 1995 at about 5 o'clock p.m., he and his wife were at the creek washing clothes when they heard the voice of a small child crying. Paul stood up to check and he saw the complainant Ruby with his niece Raffy Mae who was crying. Paul inquired why Raffy Mae was crying and the complainant

answered, "You are like your niece, you are all idiots." Stunned by the remark, Paul squeezed the mouth of the complainant and slapped her. She ran home crying and warned that she would report Paul to Mercy Regalado. Raffy Mae followed suit and likewise headed for home. Paul repaired back to the creek, helped his wife gather their clothes and they went home.

The wife of Paul, Ruby Lapiz, declared that her husband never left the creek and that he stayed with her from the time they started washing clothes until they finished. She claimed that Paul did not rape the complainant. She denied that she caught them both naked waist down, with the complainant lying down on the grass and Paul seated near her feet. She also denied that she tapped her husband on the shoulder upon seeing them in that position.

In his lone assignment of error, appellant asserts that the trial court gravely erred in finding him guilty. The guilt of the appellant hinges primarily on the credibility of the testimony of private complainant, Ruby Geraldez.

Accused-appellant contends that it is highly unnatural and incredible that his wife would merely ask him what happened, tap him on the shoulder and forthwith leave if she really saw them in a very compromising position. He also claims that it was impossible for him to rape the complainant as his wife was only three (3) meters away from the scene. His wife also should have noticed somebody or something moving in the tall grass since complainant allegedly struggled with appellant. Further, he contends that it is contrary to normal human behavior for complainant to run to the house of Romeo Lapiz because a girl of tender age would naturally want to be with her parents or, in this case, her guardian and employer, Mercy Regalado.

We find no merit in the appeal.

The case law in rape cases is settled: (1) to accuse a man of rape is easy, but to disprove it is difficult though the accused may be innocent; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merit and should not be allowed to draw strength from the weakness of the evidence for the defense. Equally unquestionable is the principle that as long as the complainant's testimony meets the test of credibility, the accused may be convicted on its basis.^[5]

After a careful scrutiny of the evidence on record, we find no compelling reason to reverse the findings of the trial court. The testimony of complainant Ruby Geraldez was given in a direct, candid and straightforward manner which clearly establishes the guilt of accused-appellant beyond reasonable doubt, to wit:

"Q While you were on your way to the creek, did anything unusual happened (sic)?

A There was.

Q Tell the Honorable Court what was that unusual incident?

A While I was on my way walking, suddenly this Lapiz stood up.

Q From where did he stand up?

A He stood up suddenly in front of me.

xxx xxx xxx

Q Now, when Paul Lapiz suddenly stood up from among the bushes and what happened next?

A He choked me.

Q Which part of your body did Paul Lapiz choke you (sic)?

A At my neck.

xxx xxx xxx

Q When Paul Lapiz choke your neck with the use of the right hand, what did you do?

A I want to shout but he told me to keep quiet.

xxx xxx xxx

Q And because you did not shout, what happened next?

A As I am about to shout, he boxed me.

xxx xxx xxx

Q What happened to you when Paul Lapiz boxed you?

A I cried.

Q Other than crying, what happened to you?

A Then he boxed me again and I was unconscious.

xxx xxx xxx

Q Did you regain consciousness?

A Yes, I regain consciousness because I lost consciousness for a short time.

xxx xxx xxx

Q All right, so what happened after you regain (sic) consciousness?

A When I found out, I have no more panty and pants.

xxx xxx xxx

Q But you were still lying down when you regain (sic) consciousness?

A Yes, sir.

Q What about Paul, what was his position when you regain(ed) consciousness?

A He mounted to me. (sic)

Q When Paul Lapiz mounted on you, did he have his pants or did he have his underwear on?

A Nothing.