

THIRD DIVISION

[G.R. No. 126367, June 17, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DIONISIO MONFERO Y SOLTE, ACCUSED-APPELLANT.**

DECISION

ROMERO, J.:

"Hell hath no fury like a woman scorned." On this adage, the accused-appellant erects the foundation of his defense. By presenting his victim, the complainant herein, as a spurned lover driven by blind rage and jealousy to concoct rape charges against him, accused-appellant attempts to impress upon this Court that whatever sexual relations he and the complainant had were purely consensual and voluntary. We are not persuaded.

Dionisio Monfero alias Harold Monfero was indicted before Branch 33 of the Regional Trial Court of xxx for three (3) counts of rape committed on January 6, 23, and 30, 1992 respectively. Except for the time and date, the three informations filed against Monfero and docketed as Crim. Cases Nos. S-1456, S-1457, and S-1458, were identically worded as follows:

"That on or about x x x o'clock in the afternoon of January x x x, 1992 at xxx and within the jurisdiction of this Honorable Court, the above-named accused with lewd design and by means of force and violence, did then and there wilfully, unlawfully and feloniously have sexual intercourse with one AAA, a 14 year old girl against her will and consent to her damage and prejudice.

CONTRARY TO LAW."^[1]

On arraignment, accused-appellant entered a plea of not guilty to each of the informations. Hence, the cases were consolidated for trial. In a decision dated January 27, 1995, the trial court convicted and sentenced accused-appellant as follows:

"WHEREFORE, premises considered, judgment is hereby rendered finding accused DIONISIO MONFERO y SOLTE alias HAROLD MONFERO Guilty beyond reasonable doubt of the three (3) crime (sic) of rape as charged.

In Criminal Case No. S-1456 to undergo imprisonment of RECLUSION PERPETUA and to pay the victim the amount of P30,000.00 as moral damages.

In Criminal Case No. S-1457 to undergo imprisonment of RECLUSION PERPETUA and to pay the victim the amount of P30,000.00 as moral damages.

In Criminal Case No. S-1458 to undergo imprisonment of RECLUSION PERPETUA and to pay the victim the amount of P30,000.00 as moral damages.

In all these three (3) cases to pay the sum of P20,000.00 as Attorney's fee and to pay the cost.

SO ORDERED."^[2]

The facts, as established by the prosecution, are as follows:

In January 1992, private complainant AAA, a thirteen-year old barrio lass living with her mother and sister in Siniloan, Laguna, was a Grade V student at the Siniloan Elementary School. At that time, accused-appellant Dionisio Monfero alias Harold Monfero was also residing with AAA's family together with his live-in partner Vangie Vargas, a friend of AAA's mother.

On January 6, 1992, AAA was alone in their house resting as she was then afflicted with smallpox.^[3] At around 3:00 o'clock in the afternoon, accused-appellant Monfero arrived and asked about the whereabouts of her mother and Vangie Vargas. AAA replied that her mother was at the house of Atty. Salvador Reyes watching "betamax" while Vangie was in Balian, Pangil, Laguna making papier mache. After learning that AAA was alone in the house, accused-appellant suddenly embraced her and forcibly removed her pair of shorts and panty. He covered her mouth with his arm and pushed her near the stairs. Being sick, she could not resist his advances successfully. As he held her down, he removed his pants and brief and laid on top of her, causing her pain as he inserted his penis into her vagina. When he was done, accused-appellant got up and used a T-shirt to wipe his penis and her vagina. It was then that AAA saw that she was bleeding. Before he left, Monfero threatened to kill her, her mother, and her sister if she reported the incident. Her mother returned home at 4:00 o'clock in the afternoon while Monfero's live-in partner, Vangie, arrived at 7:00 o'clock that evening. Afraid that the accused would carry out his threat, AAA kept silent about her ordeal.^[4]

On January 23, 1992, AAA was again violated by Monfero. At around 2:00 o'clock in the afternoon, accused-appellant arrived at her house and finding her alone, he again forced himself on her. In her attempt to free herself from the accused, her shorts and T-shirt were torn. After removing her shorts and panty, Monfero pushed AAA near the stairs and placed himself on top of her while at the same time kissing her and touching her breasts. She continued to fight him but as before, she did not succeed for he was too strong for her. AAA testified that, unlike the first sexual assault, the second rape caused her less pain and she did not bleed as much. In both instances, however, accused-appellant was able to penetrate her.^[5] After satisfying his lust, Monfero left but not without warning her not to report the incident to anyone.

The third rape happened on January 30, 1992 at around 3:00 o'clock in the afternoon. Being alone in their house, as before, AAA was once again abused by Monfero. In a standing position, accused-appellant tried to insert his penis into her vagina but did not succeed in penetrating her. Before he left, he threatened her

again.

It was only in June 1992 that AAA told her mother about her ordeal in the hands of Monfero. Eugenia Paguinto, noticing that her daughter was gaunt and pale, compelled the latter to reveal the dastardly acts of the accused. No formal complaint was immediately filed as Eugenia got sick and had to be hospitalized. Upon learning of the rapes, however, Eugenia drove Monfero and Vangie out of their house.^[6]

On July 13, 1992, AAA's uncle, Federico and her grandfather accompanied her to the General Cailles Memorial Hospital where she was examined by Dr. Aurora Cantara. The physical examination revealed that AAA's hymen had healed lacerations at 3 o'clock and 9 o'clock and her vagina admits a finger with minimum resistance.

Thereafter, on July 17, 1992, AAA assisted by her mother filed the three complaints for rape. While the case was pending trial, relatives of the accused-appellant offered to settle the cases filed against Monfero and even proposed that the latter and AAA get married. AAA refused even as her mother was open to the proposition at first. Later, however, Eugenia decided to support her daughter in her decision to pursue the rape charges.

Accused Dionisio Monfero alias Harold Monfero, 31 years old at the time of the trial and single, was making a living as a tricycle driver when he committed the alleged rapes. For his part, Monfero claims as his defense that he and AAA were sweethearts and that whatever sexual relations they had were purely voluntary and consensual. He testified that he first met AAA on October 10, 1991 when she happened to board his tricycle on her way home with her sister Annabelle. Upon reaching their house, AAA told accused-appellant that she wanted to introduce him to her mother. Since then, he became a regular visitor of AAA, courting her for about three months until they became sweethearts. Monfero further claimed that during said courtship, he became close to AAA's mother, even calling her "biyenang." In fact, he contended, it was with Eugenia's consent that he and AAA lived together as husband and wife from January to July 1992. He likewise maintained that he was the one who paid for AAA's tuition fee at ZZZ College where she was enrolled as a first year high school student.

According to Monfero, during the time they lived together, he and AAA had sexual intercourse almost every day. He claimed that many people knew about their cohabitation -- his fellow tricycle drivers, his neighbors in Bgy. Isla, even AAA's family, including her mother who often visited them at Bgy. Isla to bring food.

As to why AAA filed the complaints for rape against him, Monfero explained that she was driven by jealousy because she had suspected that he was having an affair with Vangie Vargas. Moreover, he added, AAA's mother got mad at him when she learned that the wedding plans could not push through as he did not have enough money to pay for the expenses.

To corroborate accused-appellant's claims, the defense presented a resolution signed by the members of the Tricycle Drivers Association of xxx attesting to the fact that Monfero and AAA indeed cohabited from January to July 1992. The defense also presented Monfero's mother, the president of the tricycle drivers association, Vangie Vargas, and some of his neighbors as witnesses to support Monfero's version of the facts.

At the outset, worth recalling are the three guiding principles in rape prosecutions. First, an accusation for rape is easy to make, difficult to prove and even more difficult to disprove. Second, in view of the intrinsic nature of the crime, the testimony of the complainant must be scrutinized with utmost caution. And third, the evidence of the prosecution must stand on its own merits and cannot draw strength from the weakness of the evidence of the defense.^[7]

With these principles in mind, this Court finds no cogent reason to reverse accused-appellant's conviction. As shown in the transcripts of her testimony, on direct and cross examination, AAAvividly narrated how accused-appellant raped her on three occasions. Thus, on direct examination, she testified:

Atty. Fadul

Q. And when this accused Harold Monfero arrived at your residence in xxx, what did he ask you if any?

A. He asked me about my mother's whereabouts and I informed him that my mother was in the house of Atty. Reyes watching betamax.

Q. And how about the live in partner of Harold Monfero, where was she on that time?

A. She was in Balian making pap(i)er mache.

Q. What did Harold Monfero do after asking those questions and you answered him?

A. He suddenly embraced me.

Q. Aside from embracing you, what else did he do to you?

A. He removed my short(s) and panty. Afterwards, he covered my mouth with his arm.

Q. And did you exert effort to evade him?

Atty. Bellosillo

Leading, Your Honor.

Court May answer.

A. Yes, sir.

Atty. Reyes

Q. What did you do when you said you resisted him?

A. I tried to evade him by removing his hands. But he pushed me near the stairs.

Q. Were you able to put aside his hands?

- A. Because during that time I was very weak because of my small pox.
- Q. And afterwards, what happened next when you were pushed according to you?
- A. After he removed my short and panty, he put off his pants and brief.
- Q. And after removing his pants and brief, what did he do?
- A. He laid on top of me.
- Q. And after lying on top of you, what did he do?
- A. He inserted his penis inside my vagina and it was very painful. There was blood. I do not know if he was already finished with his desire when he rose and got a T-shirt and used it in wiping his penis and my vagina and threatened me that if I will report the matter, he will kill me, my mother and my sister.

x x x.

- Q. How about on January 23, 1992 at about 2:00 in the afternoon, where were you?
- A. Also in our house.
- Q. And did you have any visitor on that date and hour?
- A. None sir.
- Q. How about accused Harold Monfero?
- A. He was there.
- Q. What happened if there was anything?
- A. He again abused me.
- Q. When you said he again abused you, what did he do specifically?
- A. He removed my short(s), panty, lady sando and he removed his pants and brief.
- Q. How did he remove your short(s) and panty, will you inform the Court?
- A. He forcibly removed my short(s) while I was resisting, in the process, the automatic was cut off and he was able to remove my T-shirt which was torn.
- Q. After removing your short(s) and panty, what did the accused do next?