

EN BANC

[G.R. No. 128157, September 29, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MANUEL MANAHAN, ALIAS "MANING," DEFENDANT-APPELLANT.**

DECISION

BELLOSILLO, J.:

MANUEL MANAHAN alias *Maning* was found guilty of rape and sentenced to death by the court *a quo*. He was also ordered to indemnify the victim P50,000.00 as moral damages, pay the costs, and acknowledge and support the offspring of his indiscretion.^[1] This case is now before us on automatic review.

Complainant Teresita Tibigar, 16 years old, worked at the *Espiritu Canteen* in Dagupan City. As a stay-in waitress she slept at the second floor of the canteen. Manuel Manahan is the brother-in-law of Josefina Espiritu, owner of the canteen. His wife Primadonna is the sister of Josefina Espiritu. Manuel and Primadonna temporarily reside at the canteen together with the family of Josefina as Primadonna was then pregnant.

On 5 January 1995, at about two o'clock in the morning, Teresita who was asleep was suddenly awakened when she felt someone beside her. Upon opening her eyes she saw accused Manuel Manahan as he immediately placed himself on top of her. She tried to shout but the accused covered her mouth. He then forcibly spread her legs. She cried; she pushed and kicked him many times in an effort to free herself but the accused proved too strong for her. Soon enough she became weary and exhausted. Her condition enabled the accused to pursue his immoral intentions. He lifted her skirt, removed her panty and then inserted his penis into her vagina. He succeeded in having carnal knowledge of her. After satisfying his lust, the accused warned the victim not to report the incident to anyone and threatened her that should she squeal he would kill her and her family. Thereafter, he left her. She was terribly afraid and shaken and could do nothing but cry until dawn.^[2]

Within the month Teresita left the canteen and returned home to her parents in Mangaldan, Pangasinan. The sexual encounter resulted in her pregnancy. When her parents discovered it and learned of her story, they brought her to the hospital where she was examined by Dr. Casimero Bacugan. From there they proceeded to the police station where a statement of Teresita was taken by SPO1 Isagani L. Ico. Police Chief Inspector Wendy G. Rosario later endorsed the complaining witness to the Office of the City Prosecutor of Dagupan City for appropriate legal action. Thereafter, with the assistance of her mother, Teresita filed a criminal complaint accusing Manuel Manahan alias *Maning* of rape.^[3]

Meanwhile, on 2 October 1995, she gave birth to a healthy baby girl and christened her Melanie Tibigar.

Accused Manuel Manahan has a different story. He denied having raped Teresita. He claimed they were lovers. According to him, he met Teresita at the *Espiritu Canteen* in August 1994 and began courting her. Subsequently, they became sweethearts and their first sexual intercourse occurred on 27 December 1994 followed by another on 28 December 1994. In the first week of January 1995 they again had a tryst in the house of Teresita's Aunt Fely, their last intercourse being on 7 May 1995 in the house of one Maura Manahan-Quinto, his sister.

Manuel further alleged that even after Teresita left the *Espiritu Canteen* there were several occasions when they saw each other in front of the DBP in Dagupan City. In one of those assignations Teresita allegedly told him that she wanted to have the child aborted as her father might kill her if he discovered she was pregnant, but accused did not agree.

In September 1995, the accused was arrested in connection with the case filed by Teresita but was later released. We fail to discern from the records the reason for his release. But on 15 March 1996 he was again arrested and detained at the Dagupan City Jail where Estrella, Teresita's mother, supposedly visited him at least five (5) times to ask about his condition and whether he was tortured in detention. The accused maintained that Estrella was trying to conceal Teresita's condition from her father. She purportedly proposed to the accused to sell his land and give the proceeds to Teresita's father as a form of settlement.

The accused assails in his appeal brief the credibility of the complaining witness. He asserts that the prosecution failed to prove his guilt beyond reasonable doubt and reiterates that he and the complaining witness were lovers, and that their sexual congress was consensual.

We have painstakingly reviewed the records and we sustain the conviction of the accused. The prosecution for rape almost always involves sharply contrasting and irreconcilable declarations of the victim and the accused. At the heart of almost all rape cases is the issue of credibility of the witnesses, to be resolved primarily by the trial court which is in a better position to decide the question, having heard the witnesses and observed their deportment and manner of testifying. Accordingly, its findings are entitled to the highest degree of respect and will not be disturbed on appeal in the absence of any showing that the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight or substance which would otherwise affect the result of the case. The exception is nowhere perceivable in the present case.

The accused banks heavily on his "sweetheart theory," a usual defense in rape cases, and vigorously maintains that the sexual intercourse between him and Teresita was but the culmination of a mutual passion. But we find otherwise primarily because the accused miserably failed to prove that he and the complaining witness indeed had a romantic liaison as this claim was categorically denied by her. Moreover, there was no substantial evidence, e.g., love notes, mementos or pictures, presented to support it.

The testimony of defense witnesses Nelson de Venecia and Arvin Sereban that they used to see Manuel and Teresita together in front of the DBP in Dagupan City, even if true, did not confirm that there was indeed an amorous relationship between the

two.^[4] Likewise, the testimony of Isabel Remandaban, another defense witness, that she saw the accused and the complaining witness embracing each other in the house of Maura Manahan-Quinto can hardly be given weight. The trifling manner by which she answered the questions propounded to her at the witness stand even prompted the trial court to remark that she was not serious with her testimony. Thus -

COURT: This is not a joke. The penalty [for] the accused [if convicted] is death. Do not testify here as if you are joking, or you will be the one to [be] sen[t] to jail ahead of Manahan. You want to be sent to jail?

WITNESS: No sir.

*COURT: Why are you smiling? This is a serious matter. Put that on record the witness is smiling. **Not serious about her testimony** (underscoring supplied).*

Ultimately, the trial court disregarded altogether, and rightly so, the testimony of Isabel Remandaban. To emphasize, the task of assigning values to the testimonies of witnesses in the stand and weighing their credibility is best left to the trial court which forms first-hand impressions of the witnesses testifying before it, and therefore more competent to discriminate between the true and the false.^[5] We find no trace of whim or arbitrariness on the court a quo in its assessment of the testimony of this witness.

Also, Exh. "1" of the defense, a photograph showing Estrella talking to the accused while carrying Melanie, the offspring of Teresita and Manuel, does not establish anything. As Estrella explained, she visited the accused in jail not to show him Melanie but to ascertain that he was in fact incarcerated,^[6] and that she only brought the child with her incidentally during her visit because Teresita was sick at that time and there was no one else to take care of the baby.^[7]

Even assuming *ex gratia argumenti* that the accused and the victim were really lovers, that fact alone would not negate the commission of rape. A sweetheart cannot be forced to have sex against her will. Definitely, a man cannot demand sexual gratification from a fiancée and, worse, employ violence upon her on the pretext of love. Love is not a license for lust.^[8]

Equally untenable is the accused's contention that there can be no rape since the prosecution failed to prove beyond reasonable doubt the element of intimidation. One of the modes of committing the crime of rape is by having carnal knowledge of a woman using *force* and *intimidation*. Even if we concede the absence of intimidation in this case, the fact remains that the accused employed force against his victim. Thus, testifying in a clear, definitive and convincing manner as concluded by the trial court, Teresita established beyond any scintilla of doubt the presence of force essential in rape -

Q: What were you doing then when Manuel Manahan accosted you?

A: I was sleeping, then suddenly I felt somebody near me and when I opened my eyes I saw Manuel Manahan and then he immediately laid on top of me, sir.

Q: How did you come to know that it was Manuel Manahan who went, who laid on top of you?

A: I know him, sir.

Q: What did you do when Manuel Manahan laid on top of you?

A: I was about to shout but he covered my mouth and then he immediately spread my legs, sir.

Q: What did you do when he did that to you?

A: I cried, sir.

Q: Before Manuel Manahan spread your legs, what did you do? Before he was able to spread your legs?

A: I pushed him and I kicked him several times, sir.

Q: What happened when you pushed him and kicked him several times?

A: I got weakened because he was strong that is why he was able to abuse me, sir.

Q: After Manuel Manahan was able to spread your legs, what did he do?

A: And then he inserted his penis, sir x x x x^[9]

Again, during the cross-examination the victim recounted how she was forced to have sexual intercourse with the accused, thus -

Q: Did you spread your legs voluntarily or did he force open your legs?

A: He forced me, sir.

Q: What did he do to force open your legs?

A: By the use of his legs, sir.

Q: He did that while he was on top of you?

A: Yes, sir.

Q: What legs did he use, was it the right leg or both legs?

A: Both legs, sir.

Q: You mentioned about crossing his legs and then forced open your legs, will you please demonstrate how he forced open your legs by the use of this pencil and ballpen illustrate your legs with these two other ballpens where the legs of Manuel Manahan, will you please demonstrate