

THIRD DIVISION

[G.R. No. 118316, November 24, 1998]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANTONIO DELA PAZ, JR., ACCUSED-APPELLANT.**

D E C I S I O N

KAPUNAN, J.:

Rape is a despicable crime. It becomes more contemptible and revolting when committed against a fragile girl of twelve who is a mental retardate.

In a criminal complaint^[1] filed on June 26, 1991 with the Municipal Trial Court of Sorsogon, Sorsogon by Manuel Desacula, father of the victim, accused-appellant Antonio dela Paz, Jr. was charged with the crime of rape allegedly committed on June 25, 1991 on Merlinda Desacula, a mental retardate. The information^[2] against him was subsequently filed on August 29, 1991 before the Regional Trial Court of Sorsogon, Sorsogon, Branch 51. It reads:

That on or about the 25th day of June, 1991, in the municipality of Sorsogon, province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by means of force and intimidation, did then and there wilfully, unlawfully, and feloniously have carnal knowledge with one Merlinda Desacula, a 12 year old, virgin, mentally retarded girl, without the latter's consent and against her will, to the damage and prejudice of the latter.

CONTRARY TO LAW.

Upon his arraignment on October 9, 1991, Antonio dela Paz, Jr. entered a plea of "not guilty."^[3]

Thereafter, trial ensued.

The evidence for the prosecution^[4] established the following facts:

At the time of the incident, rape victim Merlinda Desacula was a twelve-year old girl suffering from severe mental retardation with the mental intelligence of a three to four-year old child.^[5] Given her delicate condition, she was usually left to the care and custody of an elder sister when her parents were at work.^[6]

On the fateful day of June 25, 1991, Merlinda Desacula was left to her sister's care. At about eight in the evening, her sister's husband Anecito Tabor, a barangay tanod, came home. He looked for Merlinda so that the latter could feed his fighting cocks. Unable to find her, Anecito decided to feed the cocks himself. On his way to the back of their house where the cocks were kept, Anecito noticed the cage rocking. To his

surprise he saw the accused-appellant in the act of sexual intercourse with Merlinda. He was on top of the victim who was lying flat on the ground face up, with her panties pulled down and her skirt raised. Accused-appellant's pants were down to his knees.^[7] Anecito immediately grabbed the accused-appellant by the collar and pulled him up. Accused-appellant then punched Anecito and managed to extricate himself from his hold. Accused-appellant tried to run away but could not run fast enough as his pants were down on his knees. Anecito gave chase and caught up with him a few meters away from the scene of the crime. The barangay captain arrived and Anecito turned over the accused-appellant to him for custody. The accused-appellant was subsequently brought to the police station.^[8]

That same night, Merlinda was brought to the nearby provincial hospital for a medical examination which revealed the following findings:

Internal Examination:

- Hymen Old/healed lacerations at 3 o'clock, 6 o'clock, and 9 o'clock positions;
- Admits one finger with ease;
- Vaginal sperm for spermatozoa - negative.^[9]

Merlinda's severe form of mental retardation was confirmed by Dr. Chona Belmonte, a trained psychiatrist formerly a resident of the National Center for Mental Health and currently the district counselor of the Department of Social Welfare and Development's Lingap Center for physically and sexually abused children and a consultant at the Don Susano V. Rodriguez Memorial Mental Hospital at Sorsogon. The doctor declared before the court that while Merlinda was suffering from a severe form of mental retardation, the same was without psychosis. Merlinda had the mental intelligence of a three to four-year old child. She explained further that Merlinda's mental intelligence and judgment is so poor that she could be easily manipulated by adults and that no amount of education could improve her mental retardation.^[10]

For his defense, accused-appellant denied having carnal knowledge of Merlinda and ascribed ill-will on the part of the aggrieved parties in the filing of the complaint. According to him, he was at the billiard hall of one Narding Solomon at about five in the afternoon of June 25, 1991. He stayed there for about thirty (30) minutes after which he went to the store of one Corazon Delgado. He found some friends thereat drinking but did not join them and instead listened to some music. At around seven that same night, he left for home accompanied by his friend, Cerilito Labrador. On their way home, they were blocked by three (3) persons including Anecito Tabor who allegedly confronted accused-appellant for having stolen his fighting cock. Accused-appellant denied the charge but just the same Anecito and his companions beat him up. He lost consciousness on account of the mauling. When he regained consciousness, he was already on board a tricycle en route him to the police station.^[11] Cerilito Labrador corroborated his testimony.^[12]

On June 3, 1994, the trial court rendered its decision^[13] finding accused-appellant guilty as charged. The dispositive portion of the decision reads:

ACCORDINGLY, accused Antonio de la Paz, Jr. is hereby convicted of rape and is sentenced to suffer imprisonment of reclusion perpetua and to

indemnify the offended party and her parents P50,000.00 for moral damages and pay the costs of suit.

SO ORDERED.^[14]

Accused-appellant thereafter interposed the present appeal to this Court predicated on the following errors:

I

THE TRIAL COURT ERRED IN BELIEVING THE TESTIMONY OF THE PROSECUTION WITNESSES AND DISREGARDING THE EVIDENCE FOR THE DEFENSE.

II

THE TRIAL COURT ERRED IN MAKING AN INDIRECT AND IMPLIED FINDING THAT IT WAS ACCUSED-APPELLANT ANTONIO DELA PAZ, JR. WHO ALSO HAD PREVIOUS SEXUAL INTERCOURSE WITH THE VICTIM SINCE SAID PREVIOUS INTERCOURSE PRIOR TO JUNE 25, 1991, WAS NOT BEING PROSECUTED IN THIS CRIMINAL CASE.^[15]

We affirm accused-appellant's conviction.

The first assigned error clearly raises the issue of credibility of witnesses.

This Court has time and again held that the trial court's evaluation of the testimony of a witness is accorded with the highest respect because it has the direct opportunity and the peculiar province to observe the witness on the stand and determine if he or she is telling the truth or not, except when such evaluation is tainted with arbitrariness such that the trial court overlooks, misappreciates or misunderstands some facts or circumstances of weight and substance which could affect the outcome of the case.^[16] After a thorough and painstaking review of the records of this case, we find that none of such exceptions are present herein, consequently, we find the assessment of the trial court on the credibility of the witnesses accurate and proper.

In his brief, accused-appellant contends that witness Anecito Tabor's testimony is perjured because no witness was presented to corroborate his testimony despite his alleged admission that (a) he and accused-appellant caused quite a stir during the confrontation that must have provoked attention and that in fact there were people on the other side of the road when the alleged rape took place; and (b) he watched his sister-in-law being sexually abused by the accused-appellant for 15 minutes before he reacted.

These contentions are not tenable.

The alleged failure of the prosecution to present another witness to corroborate the testimony of eyewitness Anecito Tabor does not affect the latter's credibility, neither does it affect the prosecution's cause. Anecito Tabor's testimony was found by the trial court to be direct, categorical and candid, and, therefore enough to warrant the

conviction of the accused-appellant. It is a well-settled rule that witnesses are weighed, not numbered, such that the testimony of a single trustworthy and credible witness may suffice to convict an accused especially so when the sole eyewitness remained steadfast despite vigorous cross-examination by accused-appellant's counsel.^[17] Consequently, the trial court was correct in appreciating the testimony of witness Anecito Tabor, thus:

The testimony of eyewitness Anecito Tabor is firm, straightforward, so categorical which does not give rise to any doubt. Anecito Tabor saw the accused having sexual intercourse with Merlinda Desacula on the evening of June 25, 1991 at their backyard at Macabog, Sorsogon, Sorsogon, when he was about to feed his fighting cock. Accused and Merlinda were having sex on the ground beside the cages of his fighting cocks. Accused was immediately arrested and detained at the police precinct of Balogo, Sorsogon. The positive identification by the eyewitness who had no motive at all to testify falsely must be given full faith and credit. It is hard to believe that the witness would subject his family to shame and embarrassment of a public trial, as well as allow an examination of the victim's private part if his motive is not to bring to justice the person who abused the victim. Even the accused does not know any motive for the eyewitness to testify falsely against him of committing a very serious crime. It, therefore, follows that the Court cannot give credence to the defense of mere denial. The defense' version must not only be clearly established but must not leave room for doubt as to its plausibility and verity (PEOPLE VS. MARTINADA, 194 SCRA 36, 44 (1991)). According to the accused he was suspected of stealing fighting cocks for which he was mauled to unconsciousness but he failed to present any medical certificate of his injuries. Mere allegation of mauling cannot be given credence. He has not filed a case against his assailants which shows that it is only a pigment (sic) of his imagination.^[18]

Moreover, accused-appellant has not shown any ill-motive on the part of Anecito Tabor to falsely accuse him of a crime so grave as rape. Thus, Anecito Tabor testified as follows:

Q Mr. Witness tell us, where were you on June 25, 1991 at more or less 8:00 o'clock in the evening?

A I was about to feed my fighting cock.

Q And were you able to feed your fighting cock?

A I saw the cage moving.

Q And did you try to verify why your cage of your fighting cock was moving?

A Yes, sir.

Q And what did you find out, if any?

A I saw my sister-in-law being abused sexually by Antonio dela Paz, Jr.

Q And tell us, what was the actual position of Antonio and your sister-in-law, the victim in this case, when you first saw them?

A I saw my sister-in-law lying flat on the ground face up and Antonio dela Paz, Jr. was on top.

Q During that time that Antonio was on top of your sister-in-law, was he with pants?

A Yes sir, his pants was down.

Q Up to what level?

A Up to his knees.

Q How about your sister-in-law, what was his (sic) condition during that time that the accused in this case was on top of her?

A I saw my sister-in-law, her pants was down and her skirt was up.

Q And after seeing that (sic) on that position, what did you do?

A I grabbed the back of his collared (sic) and pulled him up.

Q And what happened after you pulled him up?

A I grabbed him and when I turned around, he boxed me and I was able to hold his both hands.

Q After he gave you a blow, what happened, Mr. Witness?

A He was able to release from me.

Q When he released himself from you, what happened next?

A I chased him and I was able to catch him.

Q During that time that he was running, he was running fast?

A No sir, because he was holding his pants.

Q How about your sister-in-law, what happened to her after you pulled the accused?

A I did not mind her any more, I concentrated to (sic) the one who raped her.

Q And for how long did you chase the accused, Antonio dela Paz?

A Two seconds.

Q And were you able to touch him?

A Yes, sir.

Q And after you caught him, what did you do?

A I was able to grab his pants.

Q And after you got hold of him, what happened?

A I did not know any more.

Q What happened next?

A I asked for an assistance and bring the information to the barangay captain, but it happened that the Barangay Captain arrived and surrendered Antonio dela Paz to him.

[19]

Accused-appellant's claim that Anecito Tabor just watched his sister-in-law being sexually abused by accused-appellant for fifteen (15) minutes before doing something about it does not have any basis on record. Accused-appellant clearly misread and misinterpreted the transcript of stenographic notes relative to Anecito Tabor's testimony, thus:

RE DIRECT BY PROS. ADOLFO FAJARDO