

THIRD DIVISION

[G.R. No. 114383, March 03, 1997]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOEL COREA ALIAS "DIGOY," ACCUSED-APPELLANT.

DECISION

PANGANIBAN, J.:

In seeking acquittal, appellant insists that complainant was his sweetheart who willingly consented to the sexual congress. However, the "sweethearts theory," even granting it is true, does not necessarily rule out force and intimidation. In the end, the conviction or acquittal of appellant rests upon the credibility of complainant and her testimony in regard to the use of force upon her person.

These matters are threshed out by the Court in resolving this appeal from the Decision of the Regional Trial Court of xxx,^[1] dated July 9, 1993, in Criminal Case No. 1196-Tb, finding appellant guilty of the crime of rape.

The Facts

On January 7, 1992, AAA filed a criminal complaint^[2] against Appellant Joel Corea. After preliminary investigation, appellant was charged with rape in an Information, dated April 23, 1992, which reads:^[3]

"That on or about the 4th day of January, 1992 at around 1:30 o'clock in the afternoon in xxx, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat, violence and intimidation, did then and there willfully, unlawfully and feloniously lie with and succeeded in having carnal knowledge of AAA, a fifteen (15) years (sic) old girl who is not his wife, against the will and without the consent of said AAA.

CONTRARY TO LAW."

Upon arraignment, appellant, assisted by counsel, pleaded not guilty to the crime charged.^[4] After trial, the trial court convicted appellant of rape in the assailed Decision, the dispositive portion of which reads:^[5]

"WHEREFORE, the Court finds the accused guilty beyond reasonable doubt of rape. He is hereby sentenced to the penalty of reclusion perpetua and to indemnify the victim AAA the sum of P40,000.00 as moral and exemplary damages.

SO ORDERED."

Hence, this appeal.

Version of the Prosecution

Complainant was sixteen years old when she testified, in-between sobs, on how she was raped by appellant. On January 4, 1992, at 1:30 p.m., after attending a wedding reception in xxx, where she and appellant were the veil sponsors, she went with appellant and his cousin Benjie Corea to the former's house in nearby xxx to pick coconuts. She did not sense any danger because she was acquainted with appellant; and he had assured her that a lady companion would be there.^[6]

However, nobody was at appellant's house when they arrived. Appellant and his cousin went inside to speak with each other while the complainant was left outside.

^[7] When appellant returned, he pulled her right hand and took her to a nearby house about ten meters away, leaving Benjie behind. There, appellant brought her upstairs, held her hands and placed them at the back of her neck. He dragged her inside one of the rooms, saying that he would not mind if her parents and brothers would kill him as long as he had carnal knowledge of her.

Forcing her down on the floor, he professed that he loved her and would take her from her parents because he pitied her. She fought back, kicking and slapping him, telling him that she did not want to have sex with him. She also shouted, "Tabang!" (Help!) and slapped him, hitting his mouth. However, he succeeded in getting on top of her. To stifle her resistance, he held her arms, then he raised her shirt and bra to her neck. She resisted him until she lost consciousness due to exhaustion.

When she regained consciousness, her whole body, specially her genitals, was very painful. She saw appellant standing at her feet. He returned her skirt and underwear, which had been removed, and told her to get up and dress. Then he led her down the house. By that time, her mind was blank; thus she could not remember where he had brought her. (As will be shown later, she had been brought by appellant to his house.)

At about 5:00 p.m., her brother-in-law BBB fetched her from appellant's house in xxx. She did not want to go home because her sister was always scolding her and, when her brother-in-law fetched her, she saw all the people around her as demons.

^[8] Anyway, BBB brought her to his house at xxx. There, she refused to tell her sister what had happened to her. Suspecting that complainant was ill, her sister brought her to the provincial hospital at xxx, where she was confined for two days.

On rebuttal, she insisted that she and appellant were not sweethearts. She denied that she had given him any token of love, such as a Christmas card or a ring. She said she had given the picture, presented by appellant in court, to appellant's first cousin CCC, her schoolmate and friend. She could not remember meeting appellant's mother on that day.

Dr. xxx testified that, on January 4, 1992, at 8:15 p.m., she conducted a medical examination on the complainant. She noted that, upon admission, complainant was conscious but uncommunicative. The medical certificate she prepared reported the following findings:^[9]

"NOI = Alleged Rape

POI = Sinolon, T'boli, South Cotabato

TOI = 2:30 PM

DOI = Jan. 4, 1992

PE: Conscious but uncommunicative; keeps eyes close

most of the time; responds to sternal (sic) pressure.

Ecchymoses, multiple: (L) forearm mid. 1/3 palmar surface.

(L) anterior cervical triangle area.

(L) breast, inner upper outer quadrant.

Soft abdomen, (-) tenderness (+) bowel sounds.

Pelvic External: Minimal whitish discharge per vagina; &

Internal: erythema about 5-6 o'clock position,

(L) hymen with minimal bleeding.

: (-) other fresh lacerations; hymenal ring not distorted.

: Admits one forefinger up to a depth of about 3 cms then with resistance."

: Linear abrasions at 2 points on both (L) & (R) inner thighs.

: Vaginal Smear done for sperm analysis, revealed absence of spermatozoa."

The doctor explained that she observed bleeding underneath the skin at the area of the cervix and the left breast. There was no fresh laceration, only inflammation with minimal bleeding, which could have been caused by sexual contact. The hymenal ring was not distorted. There were linear abrasions on her left and right inner thighs, but vaginal smear revealed the absence of spermatozoa. In spite of this, the doctor testified that "penetration is possible."

Version of the Defense

Appellant denied that he had employed force on complainant. He testified that he had courted complainant for two months and that they became sweethearts on October 27, 1991.^[10] After the wedding in xxx, at about 1:30 p.m., they walked to appellant's farmland at xxx, about two kilometers away. At 2:00 p.m. they reached his house where they caressed each other.

Then they went to his grandmother's house which had been abandoned. He denied pulling complainant by her hand to be able to take her upstairs. According to

appellant, complainant voluntarily went inside a room and he only followed her. He asked her to lie on the floor, but she initially refused, telling him she was still studying.^[11]

Later, she allowed him to remove her skirt, blouse^[12] and underwear, as he stood up to remove his briefs. With him on top of her, they had sexual intercourse for about two hours. Afterwards they put on their clothes and went downstairs.

Subsequently, his mother arrived and found them at the grandmother's house at 2:30 p.m.^[13] Later, all three of them proceeded to his house in xxx, arriving there at about 4:00 p.m.^[14] When her brother-in-law came to fetch her, she refused to go with him thus; she had to be forced to board her brother-in-law's tractor.^[15]

In the evening of the same day, appellant was arrested by the barangay captain and brought to the municipal hall of xxx. The following day, complainant's brother-in-law accused appellant of raping complainant.

Appellant insisted that complainant was his girl friend. To prove this, he alleged that complainant herself had visited him in jail where they allegedly kissed and embraced each other.^[16] He also presented a Christmas card given to him by complainant. Its envelope bore the name "Boy Insik," which he claimed was his code name, to prevent discovery of their relationship by complainants' parents. He identified the writing on the card and envelope to be that of complainant, since he was familiar with her handwriting. The card was accompanied by a picture of complainant with a dedication written at the back. He also presented a ring given to him by complainant on October 27, 1991.^[17]

On cross-examination, he also claimed that they had sex even before January 4, 1992. He said that their first time to have sex was on "October 27, 1992." Upon being reminded that he was already in jail by said date, he changed the year to 1991.^[18]

Elizabeth Apac, the mother of the bride at whose wedding complainant and appellant had been veil sponsors, testified that she knew appellant and complainant to be sweethearts.^[19] They had been at her house for the wedding since eight in the morning. At 1:00 p.m., appellant asked her permission to leave with complainant. Although she did not know if they did go to their respective homes, she said that at 5:00 p.m., complainant went to her house and embraced her, saying that she would not go home anymore because she was often scolded by her sister.^[20] She sent for the elder sister of complainant. Complainant's sister and brother-in-law came to take her home, but the complainant refused to go with them; thus, she had to be forcibly taken to their house.

Felicidad Corea, appellant's mother, testified that at 4:30 p.m., she went to their house at xxx to feed their pigs. There she found appellant and complainant conversing. When she asked why they were there, complainant said that she would no longer go home because she was always scolded. As she cried, Felicidad embraced her, prevailed upon her, and even accompanied her home.^[21]

Ruling of the Trial Court

As appellant admitted having sexual intercourse with complainant, the only issue was whether it "was done (with) the use of force or intimidation." The trial court ruled that it was "improbable for a young second year student of a barangay high school in a remote town to concoct matters x x x if the said story was not true (People vs. Nunag, 173 SCRA 274)."[22] It also rejected appellant's "tokens" as fabricated because he had not rebutted complainant's denial that she ever gave them to him.

It also noted that even if appellant's "sweethearts theory" was true, rape could still be committed following the ruling in People vs. Cabilao (210 SCRA 326).

Issues

Appellant alleges that the trial court erred:[23]

I

"x x x in convicting the accused even when the prosecution's evidence failed to meet the parameters of proof beyond reasonable doubt and/or moral certainty because —

- (a) The presence of the essential elements to constitute rape was not proved.
- (b) The testimony of the complainant, standing alone, was not sufficient and substantial to completely negate the fact that she consented freely and voluntarily to the act of sexual liaison.
- (c) The prosecution prevaricated in failing to call to testify complainant's brother-in-law, or sister, or parents or even the police officer who conducted the investigation, and this only means that complainant was physically, morally and emotionally (') persuaded (') to testify falsely against her lover, the accused.

II

xxx in finding the accused guilty when it failed —

- (a) To give due weight and credit to the accused's evidence of consent and free will by the complainant to the sexual liaison, thereby negating the force allegedly committed against the person of the complainant.
- (b) To give the proper consideration to the testimonies of accused's witnesses that there was in fact consent, and that complainant was only seriously (')influenced(') and pressured by family relationship and ascendancy in testifying falsely against the accused.
- (c) To render a judgment of acquittal on the basis of the totality of the evidence proffered by both parties where the hypothesis of innocence appeared to be more consistent and substantially proved by the facts and the evidence "

In the main, appellant alleges that the evidence of the prosecution did not