

## SECOND DIVISION

[ G.R. No. 121210, August 11, 1997 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RIZAL SAGUCIO, ACCUSED-APPELLANT.**

### DECISION

**PUNO, J.:**

Accused-appellant Rizal Sagucio was charged with the crime of rape,<sup>[1]</sup> docketed as Criminal Case No. 1051-19 before the Regional Trial Court of Ilocos Norte (Branch 19), allegedly committed against Salvacion Cariaga as follows:

"That on or about June 18, 1993, between the hours of 11:30 and 12:30 in the morning at Brgy. Dilavo, Pasuquin, Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, thru force, violence and intimidation, did then and there wilfully, unlawfully and feloniously had sexual intercourse with the undersigned against her will and consent.

"CONTRARY TO LAW."

The prosecution's evidence came mainly from the testimonies of Salvacion Cariaga, single, 39 years old and a resident of Barangay Nagabungan, Davila, Pasuquin, Ilocos Norte, and her elder sister, Reynalda Tinay.

On June 18, 1993, at about 11:00 p.m., Salvacion was working alone in her kaingin when accused, Rizal Sagucio, 45 years old, single, and also a resident Davila, Pasuquin, Ilocos Norte, suddenly emerged from nowhere. He held Salvacion's waist with one hand and her foot with the other hand, and carried her into the forested part of the mountain. Salvacion was taken aback and dropped the scythe she was using for clearing the kaingin. She shouted and struggled but her efforts were futile. Upon reaching the forest, accused put her down and pushed her hard on the ground. Accused immediately laid on top of her and tried to kiss her but she kept moving her face. He started to remove her panty but she held its garter. It was torn in the process. The struggle sapped her strength and he succeeded in taking her panty off. Thereafter, he lowered his pants and ravished her. She was shouting and crying while accused was on top of her.<sup>[2]</sup> She was afraid to resist him because accused had a bolo, about one and a one-half feet long, which he placed beside her during the carnal act.<sup>[3]</sup> She tried to reach for the bolo but accused threatened her with death. After satisfying his lust, accused warned Salvacion not to report the incident to anyone otherwise she would be killed.

Salvacion went home and tearfully told her sister, Reynalda, that accused raped her. Reynalda flared up upon learning Salvacion's misfortune. Salvacion washed herself and noticed blood on her panty, thighs and the sole of her left foot.<sup>[4]</sup>

The same afternoon, the two sisters reported the incident to the police authorities. Salvacion brought her blood-stained panty wrapped in a cellophane bag. The policemen took Salvacion's complaint lightly and refused to look at her panty. Instead, they asked for her clothings. The police laughed while they were asking her questions. Slighted, Salvacion threw her panty away.<sup>[5]</sup>

The following day, at about 9:00 a.m., Dr. Rolando Dumlao medically examined Salvacion. His findings<sup>[6]</sup> are as follows:

"- Lacerated wound, 1 inch in length, plantar area of left foot.

- Vaginal Examination: Hymenal Laceration, .1 cm. at 5:00 o'clock site.

- Vaginal smear: negative for spermatozoa."

After the case was filed in court, the parents of the accused, the barangay captain and other persons came to Salvacion's house. They tried to convince her to marry accused. She refused.

Another attempt to settle the case was held at the mayor's house. Salvacion was then accompanied by her sister. Accused's cousin offered to give her P500.00 to drop the case. After her sister left, the mayor spoke harshly to her. She was rattled and she agreed to withdraw the case for P5,000.00. She went home and cried.

Thereafter, they tried to pay her off. She refused to take the money and told them that it is up to the court to decide the case.<sup>[7]</sup>

The version of the defense is different.

At 8:00 a.m. of June 18, 1993, accused saw Salvacion in her uncle's house in Sitio Narbaan. They talked and agreed to meet at her kaingin in Barangay Dilavo at 9:00 a.m.<sup>[8]</sup>

Accused helped Salvacion clean the kaingin from 9:00 a.m. to 11:00 a.m. Since it was getting warm, they rested, sat side by side under a tree and discussed how they would clean the kaingin.<sup>[9]</sup> Accused made inuendoes about engaging in sexual intercourse. Salvacion outrightly refused his proposal for they were not married. Accused then caressed her back and embraced her. Salvacion reciprocated by embracing him too. When he reiterated his offer to have sex, she agreed. She stood up and took off her panty. Accused then lowered his pants and they had coitus.

After the sexual act they parted ways because Salvacion was afraid that someone might see them. Salvacion proceeded to her uncle's house in Sitio Narbaan, while accused returned to his house in Dilavo. That afternoon, Salvacion divulged to her uncle that she had carnal knowledge with accused. Her uncle went to accused house where accused promised he would marry Salvacion.<sup>[10]</sup>

Days later, a conference was held at the house of the mayor of Pasuquin. Accused, Salvacion, their respective relatives, and the mayor attended the conference. Mayor Aguinaldo asked accused if he would marry Salvacion and he said "yes." Salvacion,

however, refused to marry him and, instead, wanted to be paid damages. Accused's cousin offered to pay P500.00 but no settlement was reached on that occasion.

They again met at the mayor's house where Salvacion asked for P5,000.00 as damages. Since accused did not have the money, the mayor instructed him to pay on another day. However, when he was ready to give the money, Salvacion's sister, Reynalda Tinay, refused to receive it. They decided to file the case in court.<sup>[11]</sup>

The court a quo found accused guilty as charged and sentenced him to reclusion perpetua. It also ordered accused to pay Salvacion the amount of P50,000.00 as damages.<sup>[12]</sup>

Hence, this appeal. Appellant contends that the trial court erred in: (1) giving weight and credence to the testimony of the complainant; and (2) convicting him of rape despite the absence of force and intimidation on his part.

We affirm the judgment of conviction.

Appellant alleges that Salvacion Cariaga is not a credible witness. He avers that, at one instance, she was smiling while narrating in open court about the rape. He also avers that her testimony was not straightforward and, at times, evasive. Allegedly, she could not comprehend the questions and a court personnel had to shake her before she would answer. It is also contended that Salvacion got mad when asked questions repeatedly. Appellant likewise charges that her testimony suffers from contradictions, i.e., she could not remember how accused carried her and which was taken off first, her panty or his pants.

On the first issue. The assessment of the credibility of the complainant in a rape case falls primarily with the trial judge. He is in a better position to determine if the victim is telling the truth or merely narrating a concocted tale, and to weigh conflicting testimonies because he heard the witnesses themselves, observed their deportment and manner of testifying, and had full access to vital aids: e.g., the furtive glance, the blush of conscious shame, the hesitation, the sincere or flippant or sneering tone, the heat, the calmness, the yawn, the sigh, the candor or lack of it, the scant full realization of the solemnity of the oath, the carriage and mien.<sup>[13]</sup> In this case, we respect the trial judge's assessment on the complainant's credibility and will not disturb it unless he overlooked certain facts of substance and value which, if considered, might affect the result of the case.

In finding the complainant credible, the trial court said:

"The Court painstakingly and thoroughly examined, evaluated and weighed the evidence. The complainant testified in plain, unadorned, forthright and straightforward manner. The Court entertains no doubt of her credibility and the reliability of her recollection of the incident in question. Her demeanor while testifying evinced sincerity and candor. Her testimony was clear and free from serious contradiction; her story is impeccable and rings true throughout and bears the stamp of truth and candor. The Court finds no ill-motive for her to fabricate her story imputing so serious an offense against the accused, except to bring him to the bar of justice so that he could be made to account for his felony. The Court finds that the People's evidence satisfies the standard of moral certainty required to