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SECOND DIVISION

[G.R. No. L-31464. July 15, 1985]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **ANASTACIO MENDOZA,** *defendant-appellant.*

SYLLABUS

REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; CIRCUMSTANCES THAT UNDERMINE THE CREDIBILITY OF COMPLAINANT; CASE AT BAR.— A thorough review of the evidence, however, reveals a number of significant circumstances that seriously undermine the credibility of the complainant. The fact that immediately after complainant was allegedly raped, she voluntarily followed the appellant out of the house, and that shortly after she returned with him to the room where they copulated a second time, strongly belies the pretension that she was forcibly abused. Such conduct runs counter to the ordinary pattern of human reactions, for any woman of her disposition would have taken flight at the first opportunity in order to avoid her attacker. The fact that Eleonor did not immediately reveal the incident to relatives and friends is another circumstance that casts doubt on her veracity. In all likelihood, if complainant had not become pregnant, she would not have revealed the incident at all to anyone. The allegation that she kept her harrowing experience to herself because of fear that appellant would make good his threat hardly deserves serious consideration. From the record, it does not appear that the alleged threat had really cowed or instilled fear in the mind of the complainant. On the contrary, whenever appellant went to the house after the incident, she showed no change in her attitude to him. In fact, they continued to treat each other as if nothing untoward had ever happened between them.

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
Arsenio G. Velasquez for defendant-appellant.

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DECISION

ESCOLIN, *J.*:

Appeal from the decision of the then Court of First Instance of Rizal finding Anastacio Mendoza guilty of the crime of rape and sentencing him to *reclusion perpetua* and to indemnify the victim Eleonor Tolentino in the sum of ₱6,000.00.

After promulgation of the sentence, Mendoza was released from custody upon posting a bailbond.

Mendoza was a firewood gatherer who lived in the mountains of Hapay na Mangga in Taytay, Rizal, located about five kilometers from the *poblacion*. Whenever he was in town to peddle firewood he visited at the house of his sister, Aquilina Mendoza, at Elwood Street which was near the town plaza. Living with Aquilina in that house were her children and their families as well as the complainant Eleonor Tolentino, a distant relative. In all, 15 persons were residing in that house.

On September 27, 1967, Eleonor gave birth to a baby boy who unfortunately died a month after birth. She claimed that Mendoza raped her sometime in February, 1967. At the first stages of the trial, appellant denied the charge; however, during the proceedings for new trial granted by the court on motion of the appellant, he admitted that he had carnal knowledge of Eleonor not only on one occasion in the month of February 1967, as the complainant alleged, but on several occasions before that time. According to the appellant, he and Eleonor had carried on these sexual intimacies by mutual consent. In this appeal, therefore, the court is called upon to determine as to which of these versions is entitled to credence.

It is the appellant's allegation that their clandestine relations started sometime in October 1966. He testified that between the hours of 6:00 and 7:00 in the evening of October 15, 1966 he was whiling away the time in his sister's house, clad only in his undershirt and drawers. As he was carrying a bowl of soup from the kitchen to the dining table, someone from under

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the table suddenly held his genitals. Upon seeing Eleonor, he put down the bowl of soup and asked an explanation for her behaviour. Her response was curt: "So what." A few days later, while appellant was in a room putting on his underwear after taking a bath, Eleonor entered the room. There and then, they voluntarily consummated their first sexual intercourse. They had several other trysts thereafter, twice in November and December 1966, and twice more in January 1967.

For her part, Eleonor, a 14-year old maiden, narrated a different version of the incident. According to her, one afternoon in February 1967 — neither the information nor the complainant's testimony stated the exact date of the incident — she was alone in the house cooking in the kitchen when the appellant arrived as he was wont to do whenever he came to town. He went to the kitchen and suddenly dragged her into a room. There he gagged her mouth with a piece of torn undershirt and tied her feet together. He also bound her hands behind her back. With her arms and feet immobilized, she was pushed unto the bed. Appellant then placed himself on top of her and started to rape her. During the period of 2 ½ hours, he succeeded in satisfying his lust two times. After the first sexual intercourse, appellant untied her and removed the gag from her mouth. When he went out of the house, she followed him.[1]

Shortly after, they returned to the room and, according to Eleonor, she was raped anew by the appellant. After the second sexual intercourse, appellant left the house, while she resumed her cooking chore at the kitchen. Thus,

"Q - After the second act was committed, you did not go out immediately?

A - I went out, sir.

Q - And you proceeded to the kitchen and continued the cooking that you started?

A - Yes, sir.

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[1] TSN, p. 12, Nov. 29, 1967.

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Q - And the accused was there?

A - He went down from the house, sir."[2]

Eleonor further declared that the appellant threatened to kill her should she report the incident to anyone. Because of such threat, she did not breathe a word to anybody about her alleged defloration — not to her father nor to any of her relatives. But sometime in July, 1967, her abdomen had become so enlarged that she could no longer conceal her pregnancy. Confronted by her father as to her condition, she pointed to the appellant as the person responsible for her pregnancy. Her father immediately brought her to Dr. Serafin Cruz, the municipal health officer of Taytay. The doctor testified that after examination, he found that she was already 5-month pregnant.[3]

On September 21, 1967, appellant was charged with the crime of rape before the Court of First Instance of Rizal. A few days later, on September 27, Eleonor gave birth to a baby boy who died a month later.

The trial court found the account given by the complainant more plausible than the testimony of the appellant, a mere firewood gatherer. In rendering the judgment of conviction, the court *a quo* said, "the vivid details of her experience with the accused cannot but inspire belief in the mind of the court, taking into consideration that the girl appears to be unschooled and inexperienced especially in the matter of sex."[4]

A thorough review of the evidence, however, reveals a number of significant circumstances that seriously undermine the credibility of the complainant.

It appears that during the period of 2 ½ hours that she was allegedly raped inside the room, Eleonor did not put up any resistance, much less make any outcry against the alleged attack of her honor. The house where the rape was committed was very close to the Juan Sumulong Memorial School as well as

[2] TSN, p. 18, Sept. 1968.

[3] Exhibit A.

[4] p. 26, *Rollo*.

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the municipal building of Taytay where the police station was located. She only had to shout for help to attract the attention of the people in the neighborhood. And she could have done so without danger to her life, for the appellant was not armed. That she had every opportunity to make an outcry had she wanted to is reflected by the record thus:

"Q - After the first act, (what) was the only thing (done) by the accused. Was it the taking out of the piece of cloth inside your mouth?

A - Yes, sir, and he went out for a while and return.

Q - So that for about three or four minutes nothing was inside your mouth?

A - Yes, sir, but I was unconscious.

x x x x x x x x x

Q - How long did it take the accused to tie your hands?

A - About two minutes.

Q - Did you not shout for help?

A - No, sir.

Q - And after your hands were tied and before your mouth was covered with a ball of cloth you did not shout for help?

A - No, sir."[5]

Eleonor declared that after the consummation of the first sexual intercourse, appellant untied her hands and removed the cover of her mouth. Then, when he went out of the house, she followed him. On this point, Eleonor gave the following testimony:

"Q - How long did you stay in the room?

A - Around 2 ½ hours.

Q - How long did the first act last?

A - Around one hour.

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[5] TSN, pp. 21-23, Sept. 20, 1968.

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Q - After the first act what did he do?

A - After that he untied my hands and removed the cover of my mouth.

Q - What did you do after that?

A - He went out of the house and I followed."[6]

The fact that immediately after complainant was allegedly raped, she voluntarily followed the appellant out of the house, and that shortly after she returned with him to the room where they copulated a second time, strongly belies the pretension that she was forcibly abused. Such conduct runs counter to the ordinary pattern of human reactions, for any woman of her disposition would have taken flight at the first opportunity in order to avoid her attacker.

Eleonor further declared that when appellant had left the house after satisfying his lust, she promptly proceeded to the kitchen to resume her cooking chore. That she had been able to assume such serene and composed bearing after her horrid experience is indeed palpably dubious and provokes disbelief.

The fact that Eleonor did not immediately reveal the incident to relatives and friends is another circumstance that casts doubt on her veracity. In all likelihood, if complainant had not become pregnant, she would not have revealed the incident at all to anyone.

The allegation that she kept her harrowing experience to herself because of fear that appellant would make good his threat hardly deserves serious consideration. From the record, it does not appear that the alleged threat had really cowed or instilled fear in the mind of the complainant. On the contrary, whenever appellant went to the house after the incident, she showed no change in her attitude to him. In fact, they continued to treat each other as if nothing untoward had ever happened between them.

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[6] TSN, p. 12, Nov. 29, 1967.

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In the case of *People v. Romero*,[7] where the complainant remained silent for eight months after she had lost her virginity, this court said, "needless to state such conduct runs counter to the reaction of an outraged maiden despoiled of her honor. The aphorism that evidence to be believed must not only proceed from the mouth of a credible witness but it must be credible in itself in conformity with the common experience and observation of mankind is nowhere of more relevance than in cases involving prosecution for rape."

A baby boy was born to Eleonor on September 27, 1967, *i.e.*, 7 months after the alleged rape in February. Bella P. Medina, the midwife who assisted in the childbirth, affirmed that the child was a "full-term," "normal," "9-month old" baby.[8] The birth of a normal baby 7 months after the alleged incident confirms the appellant's allegation that even before the incident of February 1967, he and complainant had been carrying on their clandestine relations.

In *People v. Ariarte*,[9] this Court said, "a conviction for rape based on the uncorroborated testimony of the complaining woman requires that her story should be carefully examined and weighed. The accused should not be convicted unless the complainant's testimony is impeccable and rings true throughout."

In the case at bar, the uncorroborated testimony lacks that ring of sincerity and candor necessary to overturn the constitutional presumption of innocence.

WHEREFORE, the judgment appealed from is hereby set aside, and the appellant acquitted of the crime charged, with costs de oficio.

SO ORDERED.

Makasiar (Chairman), Aquino, Concepcion Jr., Abad Santos, and *Cuevas, JJ.*, concur.

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[7] 117 SCRA 897.

[8] TSN, p. 4, Nov. 13, 1968.

[9] 60 Phil. 326.