

FIRST DIVISION

[G.R. No. 176154, October 05, 2007]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MARCELINO PAREDES Y ALGARA, ACCUSED-APPELLANT.**

DECISION

GARCIA, J.:

Assailed and sought to be reversed and set aside in this appeal by accused-appellant Marcelino Paredes y Algara, assisted by the Public Attorneys' Office, is the decision^[1] dated May 30, 2006 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00366, affirming an earlier decision^[2] of the Regional Trial Court (RTC) of Calamba City, Branch 34, in Criminal Case No. 11761-B, which adjudged appellant guilty beyond reasonable doubt of the crime of rape and sentenced him to *reclusion perpetua* with moral and exemplary damages and civil indemnity.

Conformably with our decision in *People v. Cabalquinto*,^[3] and subsequent cases, the real name of the rape victim in this case is withheld and instead fictitious initials (XXX) are used to represent her. Also, the personal circumstances of the victim or any other information tending to establish or compromise her identity, as well as those of her immediate family or household members, are not disclosed in this decision.

The case commenced with a complaint,^[4] dated July 29, 2001, signed by MMM,^[5] therein alleging that sometime in the morning of the same date, at Jesusa Subdivision in Barangay Poooc, Santa Rosa, Laguna within the jurisdiction of the Municipal Trial Court (MTC) of Santa Rosa, the appellant, with intent to satisfy his lust, did then and there willfully, unlawfully and feloniously insert his penis into the labia of the pudendum of her daughter, XXX, then only about ten years old.

Appellant was detained since July 29, 2001 and continues to remain on detention until today.

Accompanying the aforesaid complaint is a Salaysay^[6] of MMM dated "**ika-30 ng Hulyo 2001**" or one (1) day after the complaint date. In question-and-manner form, MMM's Salaysay reads:

1. TANONG: Maari mo bang sabihin ang iyong tunay na pangalan at ilang bagay na maaaring pagkakilanlan sa iyo?

SAGOT: [MMM], 40 taong gulang, biyuda at kasalukuyang naninirahan [sa] xxx.

2. T: Anong dahilan at naririto kayo sa aming Himpilan?

- S: Idinudulog ko nga po ang anak ko.
3. T: Bakit ano ang nagyari sa iyong anak?
- S: Sinabi po niya sa akin na ipinasubo ni Lino ang ari nito sa kanya.
4. T: Anong ginawa mo ng malaman mo ang ginawa ni Lino sa anak mo?
- S: Nagpunta agad ako sa barangay at isinumbong ko ang ginawa ni Lino sa aking anak at hinuli siya ng Barangay at dinala dito.
5. T: Alam mo ba ang tunay ng pangalan ni Lino?
- S: Marcelino Paredes y Algaraz.
6. T: Kilala mo ba itong si Marcelino?
- S: Kalapit bahay po namin.
7. T: Nasaan ka ng maganap ang mga pangyayari?
- S: Nasa [amin] po natutulog.
8. T: Paano mo naman nalaman ang naganap?
- S: Ng dumating kasi ang anak ko ay naiyak siya kaya tinanong ko at doon niya sinabi ang ginawa ni Lino sa kanya.

xxx xxx xxx

Likewise accompanying the same complaint is another Salaysay,^[7] dated **ika-30 ng Hulyo 2001**, purporting to be the statements of XXX in answering the questions of a police investigator. It reads:

01.TANONG:Ano ang iyong tunay na pangalan?

SAGOT: [XXX].

02.TANONG:Ilan taon ka na?

SAGOT: Ten.

03.TANONG:Nag-aaral ka na?

SAGOT: Opo.

04.TANONG:Anong grade mo na?

SAGOT: Grade II sa Zavalla.

05. TANONG: Marunong ka bang bumasa?

SAGOT: Hindi pa po.

05. TANONG: Marunong kang sumulat?^[8]

SAGOT: Opo.

06. TANONG: Anong pangalan ng nanay mo?

SAGOT: [MMM].

07. TANONG: Anong pangalan ng tatay mo?

SAGOT: FFF

08. TANONG: Saan ka nakatira?

SAGOT: Sa Pooc.

09. TANONG: Kailan ang birthday mo?

SAGOT: December 23.

10. TANONG: Galit ka ba kay Kuya Lino?

SAGOT: Opo.

11. TANONG: Bakit ka galit kay Kuya Lino?

SAGOT: Kinantut ako.

12. TANONG: Paano ka kinantut ni Kuya Lino?

SAGOT: Hinimod ang pepe ko hinubad ang panty ko tapos yung tite niya sa ipinasok sa pepe ko tapos nilagyan ng laway yung tite niya tapos isinubo sa bibig ko tapos tinagpan niya ako sa bibig.

13. TANONG: Alam mo ba ang tunay na pangalan ni Kuya Lino?

SAGOT: Hindi.

14. TANONG: Kailan ka kinantot ni Kuya Lino?

SAGOT: Kahapon ng umaga.

15. TANONG: Saan ginawa ni Kuya Lino ang mga sinasabi mo?

SAGOT: Sa kanila.

16. TANONG: Bakit ka nasa bahay nila Kuya Lino?

SAGOT: Tinawag niya ako.

17. TANONG: Ng tinawag ka ni Kuya Lino ano ang sabi niya sa iyo?

SAGOT: Wag kang maingay.

18. TANONG: Ng isubo ni kuya Lino ang kanyang tite sa iyong bibig ano ang ginawa mo?

SAGOT: Tinakpan niya ako ng bibig.

19. TANONG: Ipinasok ba ni Kuya Lino ang kanyang tite sa pepe mo?

SAGOT: Ipinatong lang.

20. TANONG: May hawak bang si Kuya Lino ng kantutin ka niya?

SAGOT: Wala.

21. TANONG: Ng kantutin ka ni Kuya Lino sumakit ba ang pepe mo?

SAGOT: Opo.

22. TANONG: Kanino mo sinabi ang ginawa sa iyo ng Kuya Lino?

SAGOT: Sa nanay ko.

23. TANONG: Anong sinabi mo sa nanay mo?

SAGOT: Nanay kinantot ako ni Lino.

24. TANONG: Tutoo bang lahat ang sinabi mo?

SAGOT: OO.

The last attachment to the complaint is a Medico-Legal Report^[9] of 1000H 30 July 2001, purporting to be the result of a medical examination conducted on XXX within approximately twenty-four (24) hours from the time of the incident in question, therein finding as follows:

EXTRA-GENITAL FINDINGS:

Fairly nourished, fairly developed female child. Breasts are undeveloped. Abdomen is soft and flat.

There are no pubic hair noted. Labia majora are full, convex and coaptated with light brown and non-hypertrophied labia minor presenting in between. On separating the same is disclosed and elastic and fleshy type of hymen with **NO LACERATION NOTED (Intact Hymen)**. Posterior fourchette is sharp and **ABRADED**. External vaginal orifice offers moderate resistance to the examiner's little finger. Vaginal canal is narrow with prominent vaginal folds or rugosities.

CONCLUSION:

The subject is in VIRGIN STATE physically.

There are no external signs of application of any form of physical trauma.

Negative for Spermatozoa and Gram Negative Diplococci.

The complaint was docketed as Criminal Case No. 14056 in the MTC of Santa Rosa, Laguna which court, after preliminary examination, issued an Order^[10] finding probable grounds to believe that the crime complained of has been committed and that appellant may be held guilty thereof. No bail was recommended.

The same Order required the accused to file his counter-affidavit and those of his witnesses. Complying thereto, his wife, Juliana B. Perez-Paredes, filed a *Sinumpaang Salaysay*^[11] dated September 21, 2001. Another *Sinumpaang Salaysay* ^[12] also dated September 21, 2001 was filed by a certain Engineer Bienvenido O. Onayan of the Poor Voters Association of the Philippines (PVAP) and the Jesus Providence Victory Association of the Philippines Church. Lastly, it appears that appellant signed a *Sinumpaang Salaysay*^[13] dated September 25, 2001 while on detention.

In an order^[14] dated October 16, 2001, the MTC forwarded the case to the Office of the Provincial Prosecutor which, in due time, filed with the RTC of Laguna an Information^[15] for Rape under Article 334 of the Revised Penal Code, in relation to Republic Act No. 7610, allegedly committed as follows:

That on or about July 29, 2001, in the Municipality of Sta. Rosa, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, accused Marcelino Paredes y Algara, with lewd design, did then and there willfully, unlawfully and feloniously had carnal knowledge with one [XXX], a ten (10) year old minor, against her will and consent.

CONTRARY TO LAW.

The case was docketed in the RTC of Calamba City as Criminal Case No. 11761-B and was raffled to Branch 34 thereof. On arraignment, appellant, assisted by a counsel *de officio*, pleaded NOT GUILTY to the charge.^[16]

In a decision^[17] dated September 15, 2004, the trial court found appellant guilty beyond reasonable doubt of the offense charged against him. Dispositively, the decision reads:

ACCORDINGLY, this Court finds accused Marcelino Paredes y Algara GUILTY beyond reasonable doubt of the crime of Rape, as defined and penalized under Article 266-A 1 (d) and 2 of the Revised Penal Code, as amended, and hereby sentences him under paragraph 1 of Art. 266-B of the Revised Penal Code to suffer the penalty of *Reclusion Perpetua* with all its attendant accessory penalties.

Accused is further directed to indemnify the victim [XXX] the sum of