

## FIRST DIVISION

[ G.R. No. 132064, September 07, 2001 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ISAGANI BAYENG AND NOEL IBENG, ACCUSED-APPELLANTS.**

### D E C I S I O N

**PUNO, J.:**

The common notion is that, in all cases, the **initial** sexual congress of a woman results in the rupture of her hymen. The case at bar illustrates that this concept is a myth.

Accused **ISAGANI BAYENG and NOEL IBENG** were charged with two counts of rape before the Regional Trial Court of Balaoan, La Union. They now appeal the decision finding them guilty and sentencing them to suffer *reclusion perpetua* and to solidarily pay the rape victim the amount of two hundred thousand pesos (P200,000.00).

The Information<sup>[1]</sup> against them reads:

"That on or about the 27<sup>th</sup> day of November 1992, at **Barangay Porporiket, Municipality of Sudipen, Province of La Union, Philippines**, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with Reoves Ducao y Jamandre, a virgin of over twelve (12) but under eighteen years of age, against her will thereby causing greatest pain to her, to the damage and prejudice of said offended party.

"CONTRARY TO LAW."

The prosecution's case was based mainly on the testimony of fifteen (15) year old barrio lass **REOVES DUCAO**. Reoves grew up in the mountainous area of Sitio Lacong, Up-uplas, Sudipen, La Union. In 1992, she was a second year high school student at Balbalayang National High School in Sugpon, Ilocos Sur. She stayed in the boarding house of Ofelia Sibayan in Sugpon during schooldays.

Accused **ISAGANI BAYENG and NOEL IBENG** were no strangers to Reoves. She has known them since childhood. They were her barriomates. Reoves' house in La Union and that of accused Bayeng are just a kilometer apart, while accused Ibeng's house is only about fifty (50) meters away. Accused Ibeng is also a distant relative of Reoves, while accused Bayeng is her schoolmate and uncle.<sup>[2]</sup>

On November 27, 1992, a Friday, at about 3:00 p.m., Reoves left her boarding house in Sugpon and proceeded on her three-kilometer trek back to her family's house in Sudipen, Ilocos Sur. After crossing the Amburayan River<sup>[3]</sup> in Sitio Palapac, Porporiket, Sudipen, La Union, and while walking on the pathway, Reoves saw the two (2) accused a few meters in front of her, seated on a stony place. As she walked past them, accused Bayeng suddenly grabbed her hands from behind and covered her mouth. She struggled in vain. Without wasting time, accused Ibeng pulled off her skirt. Reoves tried to kick him but missed. Her failed attempt angered accused Ibeng. He retaliated by striking her on the stomach with his knee. Reoves slumped on the ground. Accused Bayeng forcefully laid her on the ground, pinned her hands over her head and covered her mouth with his other hand. Accused Ibeng then pulled down her panty, lowered his pants and rammed his organ into hers. Reoves felt intense pain. All the while, Reoves struggled to free herself but her strength was no match to that of the accused. After Ibeng had his fill, he switched places with Bayeng. Reoves weakly resisted Bayeng's lecherous attack as she was still reeling from the stomach pain caused by Ibeng's knee attack. Eventually, Bayeng also succeeded in ravishing Reoves. Again, Reoves felt pain in her organ. The hapless girl could not shout for help as the accused took turns in covering her mouth.<sup>[4]</sup>

After the accused satisfied their bestial desires, they warned Reoves to keep the incident to herself or they will kill her and her family. An hour after they left, Reoves regained her strength and some degree of composure. She put on her underwear and skirt and proceeded on her way home. She felt so helpless and angry that she threw away her stained underwear when she got home. She did not tell a soul about her ordeal for fear that the accused would make good their threat. She had no inkling there was more to come.<sup>[5]</sup>

On February 26, 1993, a Friday, the two (2) accused, together with one Mario Catcatan, tried to accost Reoves again in Calipayan, Sugpon, while she was walking on her way home. The three men blocked her path. They were about to get closer to her when they saw the approaching jeepney of her uncle Nonoy Generosa. The three men scampered and immediately disappeared from sight. Reoves hurriedly boarded the jeepney. When she reached Up-Uplas, Sudipen, Reoves could no longer hold back her anguish. She revealed to her aunts Dolores Ducao and Ofelia Sibayan how she was ravaged by the two accused in November 1992 and their attempt to accost her again that day.<sup>[6]</sup>

Ofelia reported the crime to the Sugpon police authorities. They advised her to submit Reoves to a medical examination. Reoves proceeded to the Southern Ilocos Sur District Hospital where she was examined by Dr. Eugene Dauz. Upon ocular examination, Dr. Dauz declared that Reoves' hymen was still intact. In view of the negative findings of Dr. Dauz, the police authorities in Sugpon did not act on Reoves' complaint for rape, claiming there was insufficient evidence to prosecute the accused.

Totally unbelieving of the medical findings, Reoves and her family sought a second opinion. An examination was thus conducted by Asst. Medical Director Dr. Beatriz Dela Cruz of the Lorma Hospital. Dr. Dela Cruz found that Reoves' organ easily admitted two fingers and she felt no pain. She also found evidence of a healed laceration on the posterior part of Reoves' genitalia. Dr. Dela Cruz concluded that

Reoves was no longer a virgin<sup>[7]</sup>

Accused set up the defense of denial and alibi. Both claimed they were in another place at the time of the commission of the rape.

Accused IBENG recalled that on November 27, 1992, at about 12:00 noon, his neighbor, Sansio Cuyapen, came over his house and asked his help to bring down sacks of palay from Mt. Rabao. He acceded. They asked another neighbor, Inocensio Tubedan, to join them. At about 1:00 p.m., the three left for Mt. Rabao. They each carried a sack of palay back to Sansio's house.

At about 3:00 p.m., Ernesto Cuyapen, father of Sansio, directed Ibeng to cook chicken for their *pulutan*. He did as he was told. The four of them then had drinks of native wine (*basi*). It was already 6:00 p.m. when Ibeng left the Cuyapens'.<sup>[8]</sup> Ibeng's alibi was corroborated by Ernesto.<sup>[9]</sup>

Accused Ibeng claimed that before the filing of the rape case, the Ibengs had a close, harmonious relationship with Reoves' family. Allegedly, after the alleged rape in November, 1992, Reoves still joined him and his friends in going around various houses to sing Christmas carols in December that year. Reoves even talked to him about four (4) times that December when they saw each other in the basketball court.<sup>[10]</sup>

Accused BAYENG proffered another alibi. On November 27, 1992, at about 2:00 p.m., he was in the house of Michael Pang-lao in barangay Duplas, Sudipen, La Union.<sup>[11]</sup> Rodolfo, Michael's father, won in the *jueteng* (illegal numbers game) and to celebrate, he directed Bayeng and his friends to look for a dog to butcher. At 5:00 p.m., after cooking the dog, they started their drinking session. At 10:00 p.m., Bayeng turned in for the night. He slept with Michael in the latter's room. He returned to his house the following day.<sup>[12]</sup>

Bayeng admitted his relation to Reoves. The paternal grandmother of Reoves is the first cousin of Bayeng's father. Before the filing of the rape case against him, there was no bad blood between the Ducao and Bayeng families. He claimed that he used to go to the same school with Reoves. He used to walk with Reoves to school from December 1-16, 1992, after the alleged rape in November of that year.<sup>[13]</sup> Bayeng theorized that the rape charge against him was a mere fabrication to destroy the political career of his father who was holding a position in the Sangguniang Bayan in 1992. Reoves' father was then a councilman in their barangay.<sup>[14]</sup>

After trial on the merits, the court *a quo* found that the two accused, acting in concert, sexually abused Reoves. They were found guilty of two (2) counts of rape, thus:<sup>[15]</sup>

"WHEREFORE, in the light of the foregoing, the Court hereby renders judgment declaring the accused ISAGANI BAYENG and NOEL IBENG guilty beyond reasonable doubt of the crime of RAPE as defined and penalized in Article 335 of the Revised Penal Code. Considering the existence of conspiracy, where the act of one is the act of all, the Court

thereby sentences EACH of the accused to RECLUSION PERPETUA for two (2) counts and to pay private complainant Reoves Ducao P200,000.00 jointly and severally as civil indemnity and costs."

"SO ORDERED."

In their appeal, the appellants raise the following assigned errors:

#### I

"THE HONORABLE TRIAL COURT ERRED BY FAILING TO CONSIDER THE HIDDEN AGENDA OF PRIVATE COMPLAINANT, REOVES DUCAO, IN HER SUSPICIOUS SHIFT OF VENUE OF HER COMPLAINT WHICH WAS ACTUALLY AT SITIO SIMERON, CALIPAYAN, SUGPON, ILOCOS SUR, TO SITIO PALAKAPAK, PORPORIKET, LA UNION, HER HOMETOWN, WHICH WAS TANTAMOUNT TO FORUM SHOPPING, SO TO SPEAK, EITHER PROBABLY TO GENERATE HOMETOWN SYMPATHY OR TO AFFORD COMPLAINANT AND HER SUPPORTERS AN OPPORTUNITY TO MANIPULATE EVIDENCE.

#### II

THE HONORABLE TRIAL COURT ERRED BY FAILING TO CONSIDER AND APPRECIATE IN APPELLANTS' CAUSE AND FAVOR THE IMPACT OF THE MEDICAL CERTIFICATE (EXH. "4") ISSUED BY THE SOUTHERN ILOCOS SUR DISTRICT HOSPITAL AT TAGUDIN, ILOCOS SUR, AND IGNORING ALTOGETHER THE TESTIMONIES OF DR. EUGENE DAUZ AND DR. MARIA ANGELITA SANTOS WHO BOTH ISSUED SAID EXH. "4" WITH THEIR NEGATIVE FINDINGS PERFORMED ON MARCH 10, 1993.

#### III

THE HONORABLE TRIAL COURT ERRED IN ACCEPTING THE TESTIMONY OF THE PRIVATE COMPLAINANT AS GOSPEL TRUTH IN THE LIGHT OF PATENT IMPROBABILITIES, MATERIAL INCONSISTENCIES AND UNEXPLAINED DISCREPANCIES IN DIFFERENT VERSIONS GIVEN BY HER ON DISTINCT OCCASIONS.

#### IV

THE HONORABLE COURT ERRED IN CONVICTING THE APPELLANTS SEEMINGLY ON THE WEAKNESS OF THEIR DEFENSE, RATHER THAN ON THE STRENGTH OF THE EVIDENCE FOR THE PROSECUTION.