

[G.R. No. 130631, August 30, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SEGUNDO CANO, ACCUSED-APPELLANT.**

D E C I S I O N

PUNO, J.:

Segundo Cano appeals his conviction for two counts of raped^[1] he committed against his daughter, Juanita Cano, on September 14 and 16, 1985. Juanita was only fifteen (15) years old then. Two informations both dated July 17, 1996, similarly worded except for the date of the commission of the crime, aver:

"That on or about (date of commission), in Barangay Cabanbanan, Balatan, Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence, threat and intimidation, and with the use of a bolo, did then and there willfully, unlawfully and feloniously have carnal knowledge with one Juanita Cano his own minor daughter with age 15 years, but this present is already Juanita Cano Quingquing, against her (sic) daughter's will and without her consent, to the latter's damage and prejudice in such amount as may be proven in court."

The facts show that on September 14, 1985, Juanita was left alone with her father in their house at Sitio Manghit, Cabanbanan, Balatan, Camarines Sur. At about 7:00 p.m., while preparing dinner, her father poked a bolo at her and started removing her blouse, shorts and panty. He then slid his pants below his knees and held Juanita with his hands. While in a standing position, he pushed his buttocks toward her private organ. She kept pushing her father away but he still consummated the intercourse.^[2] The coitus lasted for five (5) minutes. It left a throbbing pain in her organ. After copulating with his daughter, the accused warned her not to reveal the incident to anyone lest she will be killed.^[3] His threat terrified Juanita.

At about 8:30 p.m., her mother and siblings arrived. Her father was not at home then. Despite her father's threats, Juanita told her mother that she was raped. Her mother did not believe her. Instead, she struck her with a piece of wood.^[4]

The accused again abused Juanita on September 16, 1985. At about 8:00 a.m., he sent her to gather vegetables at their farm, one to two kilometers^[5] away from their house. While she was gathering "gabi" leaves, the accused came and poked a bolo, locally known as "ginunting", at the right side of her body. He dragged her to a stony portion of their land where she was made to lie down. Her dress and panty were torn when he forcibly removed them. He held one of her shoulders and his bolo with his other hand. He straddled her and executed push and pull movements. He penetrated Juanita. After the sexual abuse, Juanita ran home and found no one in their house. To avoid a repetition of her fate in the hands of her father, she transferred to San Nicolas, Iriga City where she served as a housemaid.^[6] Since

then, Juanita neither returned nor communicated with her family. She married Andres Quingquing on October 1, 1986.^[7]

On April 6, 1996, Juanita went to the public market of Balatan. She learned that her sister-in-law, Belen Camiro-Cano,^[8] filed rape charges against the accused but withdrew them later.^[9] This prompted her to give a statement,^[10] to SPO1 Romeo Junio of the Balatan Police Station about the rapes committed against her by the accused a decade and a year ago. On April 10, 1996, she filed two complaints for rape.^[11]

The rape of Juanita on September 16, 1985 was corroborated by Claudio Sinfuego, an old acquaintance of the Canos.^[12] He testified that on that fateful day, he went to the land of Candido Junio to buy bananas. The land of Candido adjoins the farm of the Canos. At about 8:00 a.m., Claudio saw Juanita gathering "gabi" leaves. Later, the accused arrived and pointed a bolo at Juanita. He dragged her to a nearby rock. Juanita tried but failed to escape from the clutches of the accused. He forced her down to the ground and went on top of her. Juanita cried and struggled in vain. The accused's lust died down only after he relished two minutes of sexual abuse.^[13] Claudio and Candido stood frozen while the accused ravished his own daughter. Juanita and the accused did not see the duo.^[14] Juanita left after the accused finished the coitus. That was the last time Claudio saw Juanita. He met her again only in 1996 when she filed the charges of rape.^[15]

Sotera Junio, wife of Candido Junio^[16] and a barangay kagawad of Cabanbanan, testified that her husband told her about the rape of Juanita on September 16, 1985. On the same day, between 10:30 and 11:00 a.m., she met a crying Juanita on a trail near their house. She carried clothes in a plastic bag. Although Sotera knew of the rape incident, she still asked Juanita why she was crying. Juanita refused to answer but after much prodding, she revealed that her father raped her on September 14 and earlier that day. She also told Sotera that she was going to her uncle Bonifacio in Iriga City. Sotera offered her help in filing charges against the accused. Juanita could not make up her mind that time.^[17]

On April 6, 1996, Sotera met Juanita again at the public market of Balatan. Juanita learned that the accused was in jail and she wanted him to remain behind bars for abusing her in the past. She sought the help of Sotera who accompanied her to the police station.^[18]

The accused denied the charges against him. He testified that Juanita was employed as a housemaid in San Nicolas, Iriga City starting April 1985. She left their home after she graduated from grade six on the same month. She did not return to Balatan. He saw her again on April 1996 after she accused him of rape.

He declared that the cases at bar were filed at the insistence of Sotera and Lolita Dela Cruz. Lolita is the older sister of his wife. She had a score to settle against him as she did not want to pay her debt to him. Also, two of his nieces, Winefreda and Rosana, were brought by Lolita to Manila as housemaids. Winefreda never returned but her salary was collected by Lolita. Rosana was brought by Lolita to Manila when Rosana's mother got sick. Rosana's mother sought his help in finding and bringing them back. He then had a confrontation with Lolita.^[19] On the other hand, Sotera

got angry with him when he succeeded in buying the land of Porfirio Ardoro in Cabanbanan. The land adjoins that of Sotera. She resented the sale.^[20]

Belen Camiro-Cano testified that the rape charge she filed against the accused was false. She stated that the case was filed only to pressure her husband, Antonio Cano, who was then living in Manila, to reconcile with her.^[21] Antonio corroborated her testimony.

Antonio, Elena and Purificacion Cano declared that Juanita left their house after she finished grade six in April 1985. They said that Juanita returned only when she filed the charges against the accused. Antonio added that Juanita even asked permission from her mother to work in San Nicolas, Iriga City. She left when Antonio was only eleven (11) years old.

Elena Cano, the fifth child of the accused, testified that she was only about four and a half years old when Juanita left their house. She saw Juanita again only on April 2 or 3, 1996 at the house of Sotera.^[22] She was with Lolita. Elena recounted that Juanita, Sotera and Lolita tried to convince her to file rape charges against the accused but she refused.^[23]

Purificacion Cano, mother of Juanita, also took the side of the accused. She testified that after she sent off Juanita in April 1995, they met again only on April 1996 when she and Elena were asked by Sotera to come to her house at Barangay Siramag.^[24] During the intervening period, Juanita did not visit them as she resented being told of her wrongdoings. She was stubborn and always resisted the authority of her parents.^[25] Purificacion opined that the cases at bar were filed at the instigation of Lolita.

On rebuttal, Sotera denied that she instigated Juanita to file the cases at bar. She confirmed that Purificacion and Elena went to her house on April 6, 1996 because they asked her to be a witness to the sale of the land of the accused to Dominador Todiño. She also denied that she tried to convince Elena to charge the accused with rape. Sotera said that since Elena was her goddaughter, she merely asked her if she was also molested by her father. That time, the accused was already in jail because of the case filed by Belen.^[26]

On sur-rebuttal, Purificacion reiterated that Elena told her that Sotera tried to convince Elena to file a rape case against the accused. When she failed, she tried to persuade Elena just to be a witness against him.^[27]

On June 25, 1997, the trial court convicted the accused. The dispositive part of the decision states:

"WHEREFORE, premises considered, the Court finds the accused Segundo Cano guilty beyond reasonable doubt of the crime of rape in two counts as charged in the two informations, as principal thereof, without mitigating circumstances to be considered in his favor."

"Accordingly, in Crim. Case No. IR-4183, the Court imposes upon the accused Segundo Cano the penalty of Reclusion Perpetua with the accessory penalties provided by law, to indemnify Juanita Cano-Quingquing P50,000.00 as moral damages, to pay exemplary damages in the sum of P50,000.00, and to pay the costs.