

[G.R. Nos. 131167-68, August 23, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
NELSON DELA CRUZ Y VILLATORA, ACCUSED-APPELLANT.**

D E C I S I O N

PER CURIAM:

This is an automatic review of the judgment of conviction of the accused NELSON DELA CRUZ y VILLATORA rendered by the Regional Trial Court, 4th Judicial Region, Branch 34 of Calamba, Laguna, in Criminal Case Nos. 4804-96-C and 4805-96-C, both for the crime of rape. Complainants were his minor daughters, JARDELIZA DELA CRUZ and REDELIA DELA CRUZ.

At the outset, we note that the prosecutor overlooked the revelations of the two (2) complainants in their sworn statements that they had been raped by the accused on numerous occasions yet the two (2) Informations against the accused charged him with only one (1) count of rape in each case, thus:

In Criminal Case No. 4804-96-C:

"That on or about March 20, 1996, at Sitio Tambacan, Barangay Lingga, Municipality of Calamba, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, thru force, violence and intimidation, did then and there wilfully, unlawfully and feloniously have carnal relation with one JARDELIZA DELA CRUZ, a minor of 14 years old (sic), and daughter of the accused, against her will and consent.

"CONTRARY TO LAW."^[1]

In Criminal Case No. 4805-96-C:

"That on or about April 5, 1996, at Sitio Tambacan, Barangay Lingga, Municipality of Calamba, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, through force, violence and intimidation, did then and there wilfully, unlawfully and feloniously have carnal relation with one REDELIA DELA CRUZ, a minor of 15 years old (sic), and daughter of the accused, against her will and consent.

"CONTRARY TO LAW."^[2] (emphasis supplied)

The accused pled not guilty to the two (2) charges of rape. Joint trial of the cases ensued.

The prosecution evidence consisted of the testimonies of complainants JARDELIZA and REDELIA DELA CRUZ, and their mother DELIA DELA CRUZ. Complainant JARDELIZA DELA CRUZ, the accused's fourteen (14) year old daughter who finished

only Grade 5, narrated her harrowing experience, thus: On the night of March 20, 1996, they slept in their house in Sitio Tambakan, Brgy. Lingga, Calamba, Laguna. Their house had three (3) rooms which were separated only by partitions. Her mother slept in one room, while her siblings slept in the room near the kitchen. At about 11:30 p.m., the accused tapped her shoulder but she failed to fully awaken. He then pinched her, and ordered her to position herself in the room so she could not be seen from the outside. She refused but the accused scolded her, poked a knife at her and threatened to kill her if she made a noise. The accused took off her shorts and panty and ordered her to lie down. He then removed his shorts and brief, went on top of her and inserted his organ into hers. She felt intense pain but she could only sob in silence. She could not shout to her mother for help as the accused punched her whenever she cried audibly. Her ordeal lasted for about three (3) minutes. After satisfying his lust, the accused left the room and went out of the house. She awakened her mother and her sister Redelia and informed them about her violation. All they could do was cry. She revealed that her sister Redelia had been repeatedly raped by the accused in the past but could no longer recall the first incident.

On cross-examination, Jardeliza also revealed that she herself had been previously ravished by the accused. The last occasion happened on the night of March 20, 1996. Their family originally came from the Visayas and their nearest relatives lived in Manila. They had no relatives in Laguna. Her mother knew about the sexual abuses she and Redelia suffered but could not complain due to intense fear of the accused. Jardeliza said they could all freely go out of their house but they did not dare report the crime to the police authorities for fear that the accused would make good his threat to kill them all. It took several days after she was ravished by the accused on March 20, 1996 for her mother to gather the courage to tell Jardeliza's aunt, Mely Balasa, about the rape incidents. Balasa helped them report the bestial acts of the accused to the police authorities.^[3]

REDELIA DELA CRUZ, the 15-year old daughter of the accused who finished only Grade 3, recounted her agonizing ordeal, thus: On April 5, 1996, at about 11:00 p.m., she was sleeping in their house in Sitio Tambakan, Calamba, Laguna. Her mother and her siblings were in Manila, but her two brothers, Ericson (then 5 years old) and Jonelle (11 years old), were with her in the house. At about 12:00 midnight, she woke up to look after her brothers. Upon seeing her, the accused stood up and ordered her to fix her bed sheets. He followed her into the room and warned: "*Huwag kang magsusumbong.*" He threatened to kill her if she did. Then, he began to undress her. She cried and tried to leave the room but the accused held her tightly. When she tried to break free, the accused punched her and she weakened. She tried to cover herself with a blanket but her attempt to resist his advances was in vain. She cowered in fear as he threatened to kill them all. She did not shout to her neighbors for help as they lived far away. She did not ask help from her brother Ericson as she knew that the accused would hurt him as he did in the past. The accused succeeded in molesting her that night. Her ordeal lasted for about two (2) minutes. Thereafter, he admonished her again not to tell anyone about the incident. That was the last time he molested her. She said she was first raped by the accused in a field.^[4]

DELIA DELA CRUZ, the 33-year old mother of the complainants, completed only Grade 6. On the witness stand, she confirmed that the accused had been abusing their daughters since 1993. Some of the rapes were committed in her presence. She

was hurt by the accused whenever she tried to prevent him from molesting their daughters. She had tried to use a bladed weapon on the accused to defend the honor of her daughters but her efforts were fruitless. When she asked the accused why he was ravishing his own flesh and blood, the accused would reply that he was re-channeling his love for her to his daughters. It took her years to report to the police authorities for fear that the accused would make good his threat to kill them, including her other children. She finally summoned enough courage to confide to her sister the bestial acts of the accused when she visited her relatives in Manila. Her sister promised to help them.^[5] When they finally reported the incident to the police authorities, she brought her daughters to Manila for fear of their lives. They returned to their house in Laguna only, when she learned that the accused had already been detained in jail.^[6]

For his defense, the accused NELSON DELA CRUZ claimed that Delia and her daughters filed the rape charges as they harbored ill feelings against him. Prior to his arrest on April 14, 1996, he and Delia had strained relations as he failed to attend to her when she suffered a miscarriage because he was then working in the field. On the other hand, Jardeliza was angry with him for not allowing her to marry her boyfriend Ramil Mendoza.^[7]

The accused denied the accusations against him. He declared that at about 6:00 a.m. of March 20, 1996, he was in Huyang, Calamba, Laguna, planting rice. He was accompanied by his daughter Jardeliza, his son Jonel, Marlon Julian (the live-in partner of Redelia), Ramil Mendoza (the suitor of Jardeliza), and his other laborers. At about 11:00 a.m., they returned to the house of the accused, ate lunch and counted their earnings from working the field that day. Thereafter, his wife Delia arrived with her brother Vicente Malasa and his wife Mely. The accused, his laborers, Lingga councilor Jimmy Lontoc, Marion and Vicente had a drinking spree until about 11:00 p.m. Then, the Malasa spouses requested Delia and Jardeliza to accompany them to Manila and oversee their house as they were going to the Visayas for the Holy Week. Delia and Jardeliza agreed. They left for Manila that night, hence, he could, not have sexually abused Jardeliza.^[8]

He likewise denied abusing Redelia. He alleged that on April 5, 1996, at about 6:30 a.m., he worked in the farm of Mang Serving in Huyang, together with his son Jonel and Marlon. Delia and Jardeliza were then in Manila. When the accused returned to his house at 11:00 a.m., his cousin Tessie dela Cruz and his friend Naldo arrived and invited Redelia to go with them to the church. The four (4) left and returned at about 11:30 p.m. after attending the procession. The accused learned from Tessie that Marlon met them in the barrio and beat up Redelia as he was jealous of Naldo. He then admonished Redelia and Marlon to retire for the night and discuss the incident the following morning.^[9] The next day, he asked Redelia and Marlon to part ways temporarily. The two agreed. On April 7, 1996, Marlon and his friends returned and had a drinking spree in his house. Thereafter, Marlon and his brother Jun forcibly took Redelia with them without his permission as Marlon wanted to resume his relationship with her. The accused looked for her but she did not return to their house for fear that he would hurt her.^[10]

On September 2, 1997, the trial court convicted the accused and imposed on him two death sentences, thus:

"ACCORDINGLY, in Criminal Case No. 4804-96-C, this Court finds Nelson dela Cruz y Villatora GUILTY beyond reasonable doubt of the crime of rape and hereby sentences him to suffer the penalty of death.

"Accused is further ordered to indemnify the victim Jardeliza dela Cruz the sum of FIFTY THOUSAND (P50,000.00) PESOS as moral damages.

"In Criminal Case No. 4805-96-C, this Court finds accused Nelson dela Cruz y Villatora GUILTY beyond reasonable doubt of the crime of rape and hereby sentences him to suffer the penalty of death.

"Accused is further ordered to pay the victim Redelia dela Cruz the amount of FIFTY THOUSAND (P50,000.00) PESOS as moral damages.

"With costs against the accused.

"SO ORDERED."^[11]

We affirm the conviction of the appellant, with modifications.

In his Brief, the appellant avers that the trial court erred in giving full weight and credence to the testimonies of the prosecution witnesses and insists that his guilt had not been proved beyond reasonable doubt.

The appellant claims that the prosecution witnesses gave conflicting versions of the rape incidents. He cites the alleged contradiction in their testimonies with respect to the rape charges committed on Jardeliza, thus: (1) While Jardeliza declared that she was raped by the appellant while they were all sleeping in their house, Redelia testified that she saw the appellant abuse Jardeliza in their other house when she happened to pass by it and peeped through its wall; (2) Jardeliza declared that after she was raped by the appellant on March 20, 1996, she confided the incident to Redelia and Delia. In response, Redelia informed her that she (Redelia) had also been previously molested by the accused. However, during the trial, both Jardeliza and Redelia related that they knew that the appellant had been abusing the other long before 1996. The appellant argues that if Jardeliza and Redelia were aware of these prior sexual assaults, there was no reason why they had to inform each other on March 20, 1996 of their agonizing experience; and (3) Delia contradicted Jardeliza's testimony as she claimed that on March 20, 1996, the appellant raped Jardeliza twice in that same day in her presence.

With respect to the rape he allegedly committed on Redelia, the appellant charges that a discrepancy likewise exists between the testimony of Redelia and Delia. Redelia claimed that on the date she was last raped by the appellant, Delia and Jardeliza were in Manila. Delia, however, declared that she was in their house on said date.

The appellant also assails the credibility of Delia for allowing him to abuse their daughters, sometimes even in her presence. He points out that Delia was free to report the incidents to the police authorities as she was never prevented by the appellant from leaving their house in Laguna and she even visited her relatives in Manila.

We are not persuaded.

After examining the records, we are convinced that the trial court did not err in giving credence to the testimonies of the prosecution witnesses. The testimonies of the victims themselves, detailing the poignant defloration they suffered in the hands of the appellant, were clear and convincing and withstood the rigid cross-examination by defense counsel.

JARDELIZA testified thus:

"Q: Now please tell the Court Ms. Witness where you were sometime on March 20, 1996 at about 11:00 o'clock in the evening?

"A: I was in our house, sir.

x x x

"Q: On that particular date and time what were you doing Ms. Witness?

"A: I was, sleeping.

"Q: What time more or less did you go to, bed on the night of March 20, 1996?

"A: About 7:00 in the evening, sir.

"Q: And what time more or less did you rise from bed?

"A: About 11:30 in the evening of that night sir I was awakened by him.

"Q: In what part of the house you mentioned earlier were you were (sic) then sleeping?

"A: In a room sir, on the floor.

x x x

"Q: When you said him, to whom are you referring to?

"A: My father sir.

"Q: Nelson dela Cruz, the accused in this case, is that correct?

"A: Yes, sir.

x x x

"Q: And what happened after your father likewise entered that room you mentioned?

"A: He told me not to make noise.

"Q: And aside from that what else did he say, if any?

"A: Nothing sir, but immediately when he entered the room he slowly approached me and immediately removed my shorts and panty.

"Q: What was your position then when your father removed your shorts and panty?

"A: I was standing.