

[G.R. Nos. 121651-52, August 16, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FERNANDO WATIMAR, ACCUSED-APPELLANT.**

D E C I S I O N

YNARES-SANTIAGO, J.:

Incestuous rape, such as that committed by a father against his own daughter, is a dastardly and repulsive crime^[1] that has no place in our society. Time and again the Court has condemned in no unequivocal terms the bestial acts of rape perpetrated by fathers against their daughters. The case before us now is no different.

On the basis of two (2) sworn criminal complaints executed by the offended party, accused Fernando Watimar was charged with the crime of Rape in two (2) Informations. The Information in Criminal Case No. 5513-AF^[2] alleges –

That on or about the 26th day of March 1990, in Sitio Tingga, Brgy. Macapsing, Municipality of Rizal, Province of Nueva Ecija, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused father of the victim, with lewd design and at the point of a knife and threat to kill, did then and there, wilfully, unlawfully and feloniously have carnal knowledge of her (sic) daughter MYRA WATIMAR.

CONTRARY TO LAW.

The other Information in Criminal Case No. 5514-AF is a virtual reproduction of the above-quoted information, the only difference being that the rape was committed on November 28, 1992.^[3]

Upon arraignment, accused pleaded not guilty to the charges.^[4] Trial thereafter ensued, after which the Regional Trial Court of Cabanatuan City, Branch 25, rendered judgment^[5] against accused, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows, viz:

1. In Crim. Case No. 5513-AF, the Court finding the accused Fernando Watimar guilty beyond reasonable doubt of the crime of RAPE, hereby sentences him to suffer the penalty of RECLUSION PERPETUA, with the accessory penalty of the law, to pay the complaining witness Myra Watimar P50,000.00 as moral damages, and P20,000.00, as exemplary damages, without, however, subsidiary imprisonment in case of insolvency, and to pay the costs; and
2. In Crim. Case No. 5514-AF, the Court finding the accused Fernando Watimar guilty beyond reasonable doubt of the crime of RAPE, hereby sentences him to suffer the penalty of RECLUSION PERPETUA, with the accessory penalty of the law, to pay the complaining witness Myra

Watimar P50,000.00, as moral damages, without, however, subsidiary imprisonment in case of insolvency, and to pay the costs.

SO ORDERED.

Accused-appellant interposed this appeal alleging that –

I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL CREDENCE TO THE TESTIMONY OF THE PROSECUTION WITNESS MYRA WATIMAR WHICH IS NOT SUPPORTED BY ANY MEDICAL FINDINGS WHICH WOULD BE MATERIALLY AND ESSENTIALLY RELEVANT TO THE CRIME CHARGED.

II

THE TRIAL COURT GRAVELY ERRED IN NOT GIVING ANY CREDENCE WHATSOEVER TO THE DEFENSE INTERPOSED BY THE ACCUSED-APPELLANT.

III

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

The facts as found by the trial court are:

Myra Watimar, 20 years old when she took the witness stand, single, farm helper and a resident of Macapsing, Rizal, Nueva Ecija, testified that she is the complainant in the two (2) criminal cases; that she stated that 'in the evening of March 26, 1990, she slept together with her brothers and sisters, namely: Bernardo, Marilou, Leonardo, Ariel and Lea, without her mother who went to the hospital as her aunt was about to give birth; that her father slept with them in the same room; that at about 2:00 in the early dawn of March 26, 1990, she felt that somebody was on top of her and [was] kissing her neck; that she recognized him to be her father Fernando Watimar, but when she recognized him, her father talked and a knife was pointed at her neck with an instruction that she should not resist, otherwise, she will be killed; that despite the threat of her father, she resisted and told her father not to molest her, because she is his daughter (the witness was crying); that despite the resistance and plea of the daughter, her father went on top of her, removed her panty and placed himself on top of the complaining witness; that he was able to do the bestial act despite the resistance made by kicking him; that after the father succeeded in sexually molesting her on March 26, 1990, she just kept crying in the corner of their house.

That on November 28, 1992, at 10:00 o'clock in the evening while the complaining witness was cooking alone, she was surprised when somebody was at her back who happened to be Fernando Watimar, her father, who suddenly kissed her and pulled her bringing her to the place where they used to sleep; that she resisted and wanted to extricate herself from her father by kicking him, but the accused is stronger than she is; she pleaded to her father not to molest her again but the father did not heed her plea and he again succeeded in having his sexual desire, on this point, the testimony of the victim is as follows:

Q- How can he succeed with his desire to sexually abuse you?

A- He forcibly opened my thigh[s] and I was appealing to him that I am his daughter, yet he did not heed my plea, sir.

Q- Did you offer any resistance when he was trying to separate your thigh[s]?

A- Yes, sir.

Q- How did you resist your father when he was trying to separate your thigh[s]?

Court Interpreter:

The witness is demonstrating that she is placing her two (2) legs together, yet, the father started to hurt her.

Pros. R. Beltran:

Q- How did he hurt you at that time?

A- He pushed my thigh[s], sir.

Q- Did he push your thigh[s] hardly (sic)?

A- Once, only, sir.

Q- After that what happened?

A- That was the time he succeeded with his lust, sir.^[6]

On the other hand, the defense's version of what transpired can be gleaned from the testimony of accused-appellant as summarized thus in his brief, to wit:

Fernando Watimar testified that he is 50 years old, married, a thresher by profession, and a resident of Sitio Tingga, Macapsing, Rizal, Nueva Ecija xxx.

On direct examination, he testified that during the month of March 1990, he was working as a thresher operator. He testified that he arrived at 1:00 o'clock a.m. on March 27, 1990 and found his family sleeping. His wife woke up and gave him something to eat. Later that same day, his wife was no longer at home when he woke up but his daughter Myra Watimar, the herein complainant was still asleep. Nothing unusual happened from the time he arrived home until the time he woke up and readied himself to report for work. He reported for work to Valentin Santiago at the latter's residence in Vega, Bongabon, Nueva Ecija, which was about 1 kilometer away from his house. When he inquired from his children as to the whereabouts of his wife, he was told that the latter had brought the wife of his brother-in-law to the hospital to give birth. His wife did not leave any messages for him nor did she ask his permission before leaving the house. Upon his arrival at the house of Valentin Santiago, the latter instructed him to thresh the palay of a certain person whose name, due to lapse of time, he could no longer recall. That morning, he prepared breakfast for himself and did not order his daughter Myra to serve him because she was a lazy person and did not even wash clothes when told to do so.

In November 1992, particularly on the date when she allegedly raped his daughter again, he testified that he was working as a truck helper for Valentin Santiago in Angeles City. On that date, the truck was in Angeles City before proceeding to Ilocos. There were three of them on that truck, the accused-appellant, the truck driver and the merchant or biyahero. In Angeles City, they went to the Tibagan

Market to load the truck with watermelons which would be brought to Manila. They arrived in Angeles City around 11:00 o'clock in the morning after departing from Bongabon, Nueva Ecija at around 7:00 o'clock in the evening on Nov. 28, 1992. He left Angeles City at around 7:00 o'clock in the evening and proceeded to Ilocos where they again loaded the truck with watermelons. According to him, he was unable to go home for a period of one month due to his work as truck helper.

He also testified that he could think of no reason why his daughter would charge him falsely but he knew that the false accusations had been instigated by his father-in-law who had told him that it was "better that the family name Watimar will sink rather than the family name Benolias". According to the accused-appellant, this was because the one who caused the pregnancy of his daughter was his brother-in-law Celestino Benolias, Jr., the youngest brother of his wife. He learned all this when he asked his daughter at one time why she no longer went to her grandmother's house and she had answered that she would not do so "as long as that man is there", supposedly referring to Celestino Benolias, Jr. He was never in good terms with his brother-in-law to the extent that the latter had threatened him at gun point and even mentioned "salvaging" him and throwing him in the river. He also characterized his brother-in-law as a drug user who, when he was under the influence, had twice poked a gun at him. Accused-appellant could not remember when he brought his daughter to the hospital but remembered that he was one of those who had brought her to the hospital. He no longer stayed at the hospital because he still had work to do. He also said that he gave a total of P3,000.00 for his daughter's hospitalization but that, as he had already been apprehended, he no longer knew what happened to the money. He only learned about his daughter's giving birth the following afternoon. The knowledge of his daughter's condition affected him so much that, had he known for certain who caused her pregnancy, he would have killed that person. He said he did not notice his daughter's pregnancy. He asked his daughter who the father of her child was but the latter did not reply. When he asked his wife, the latter merely insisted that his surname should be given to the child, a fact he disagreed with. It was out his hands, however, as his sister-in-law affixed the name Watimar on the birth certificate. He is convinced now that the father of the child is none other than his brother-in-law Celestino Benolias, Jr.

In reviewing rape cases, the Court is guided by the following principles: 1.] to accuse a man of rape is easy, but to disprove it is difficult though the accused may be innocent; 2.] considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and 3.] the evidence for the prosecution must stand or fall on its own merit and not be allowed to draw strength from the weakness of the evidence for the defense.^[7] Corollary to the foregoing legal yardsticks is the dictum that when a victim of rape says that she has been defiled, she says in effect all that is necessary to show that rape has been inflicted on her and so long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof.^[8]

The Court has said time and again that in reviewing rape cases, it will be guided by the settled realities that an accusation for rape can be made with facility. While the commission of the crime may not be easy to prove, it becomes even more difficult for the person accused, although innocent, to disprove that he did not commit the crime. In view of the intrinsic nature of the crime of rape where only two persons are normally involved, the testimony of the complainant must always be scrutinized

with great caution.^[9] Thus, in a prosecution for rape, the complainant's credibility becomes the single most important issue.^[10]

Guided by these principles, the Court has meticulously scrutinized the testimony of complaining witness Myra Watimar and ultimately reached the conclusion that the acts charged did in fact occur. Myra's testimony on the acts of rape perpetrated against her by her father is clear and could have only been narrated by a victim subjected to those sexual assaults. Nowhere is accused-appellant's bestiality graphically detailed than in the following narration of the victim:

Q. At about 2:00 in the early morning of that date, was there anything unusual that happened to you?

A. Yes, sir.

Q. What is that?

A. On that night, sir, I was sleeping and there was somebody on top of me and kissing my neck.

Q. Were you able to recognize that somebody who was kissing your neck?

A.

Yes, sir.

Q. Who was he?

A. Fernando Watimar, sir.

Q. How did you recognize him?

A. I recognized him, sir, because he talked and a knife was pointed at my neck, and he instructed me not to resist because, otherwise he will kill me, sir.

Q. What did you do when he pointed that knife on your neck and threatened you?

A. I resisted him, sir, and told him not to do it to me because I am his daughter.

PROSECUTOR R. BELTRAN:

At this point, Your Honor, may I place on record that the witness is crying.

COURT:

Place that on record.

PROSECUTOR R. BELTRAN:

Q. What happened to your plea to your father not to molest you because you are his daughter?

A. He continued his lust to me, sir.

Q. After that what happened?

A. I was appealing to him, sir, but because of his superior strength he continued with his lust. I pleaded to him but he continued by removing my panty, sir.