

## FIRST DIVISION

[ G.R. No. 121627, November 17, 1997 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGER  
EVANGELISTA, ACCUSED-APPELLANT.  
D E C I S I O N**

**BELLOSILLO, J.:**

Credibility of the complainant is the linchpin in a rape case concerning as it generally does only the dramatis personae in an atmosphere of isolation and secrecy. The burden of proof then rests on her shoulders. Thus, in this case, the main defense of accused-appellant is the alleged inability of the eleven-year old victim to identify him.

The defense makes much of the testimony of the victim on cross-examination to bolster his theory that the offended party could not possibly point to him because the crime happened in the late hour of the night and her identification of him was made only with the promptings of the police investigators.<sup>[1]</sup>

Analiza Paraat recounted that on 1 November 1991 a community dance was held at the dance hall of Sitio Dubdub, Libacao, Negros Occidental. She, her mother Virginia and sister Margie sold beer at their store near the dance hall. The accused, whom she later came to know as Roger Evangelista, was one of their customers. At midnight, a fight took place at the dance hall so Analiza was sent home by her mother. Their house was only 40 - 50 meters from the dance hall. However, she was not able to reach home because a man forcibly grabbed her from behind, covered her mouth with his hand and dragged her to the sugarcane field along the road about 10 meters from where she was accosted. At the point of a knife she was told to undress. She had to remove her clothes including her underwear. Then the man kissed her all over and licked her vagina. Afterwards, he told her to masturbate him. He tried to penetrate her but was unable to do so as her genitalia was small. He nevertheless insisted on inserting his finger. He tried to stick his penis into her petite fourchette for the second time but again failed to consummate the act. This time, she told him that her parents might already be looking for her but he told her to wait. She had no choice but to sleep with him, apparently exhausted. They woke up at around 5:00 o' clock in the morning. When they went out of the sugarcane field, the accused told her to take a different route from his.

On her way home, she met her mother who asked her where she came from. She could not answer. She proceeded home instead and met her sister Margie and told the latter what happened. As she was narrating her misfortune, the accused appeared from the sugarcane field. When she saw him she reflexively pointed him to Margie as the man who raped her. Upon seeing the accused and recognizing him to be Roger Evangelista, a co-worker of her husband in Hacienda Garazon, Margie told her husband to go after Roger but the latter ran back to the canefield. Soon after, however, the accused was apprehended by the police. She (Analiza) was

accompanied by her mother to the Himamaylan Hospital for physical examination.

The accused insists in this appeal that complaining witness Analiza failed to identify him with sufficiency as to put him behind bars. He claims that she testified that she did not know her defiler at the time she was abused. But extant on record is the meaning of her answers to the questions propounded to her. From a reading of her testimony we can deduce that although she did not know him at the time he molested her, she recognized his face so that when asked if she knew his appearance she positively pointed to the accused Roger Evangelista.<sup>[2]</sup> In fact, she pointed directly to him not only once but twice as the person who raped her.<sup>[3]</sup> In *People vs. Abella*<sup>[4]</sup> we held -

Charlyn's identification of Abella as her attacker was sufficient although she could not tell his name at first. She did not have to know his name to be able to point to him as the person who raped her that night. She knew him by face. They were neighbors x x x x In law, Charlyn was not even required to know her attacker's name. What is important is that at the trial, she positively pointed to him as the person who raped her.

Even the circumstance of nighttime could not be a hindrance to her discernment of the accused as her attacker considering that they were together almost intimately for several hours until dawn when there was already enough glow in the sky for Analiza to identify her attacker even assuming there was no moon at the moment nor electric lights to illumine the night. As we observed in *People v. De Guia*<sup>[5]</sup> -

The complainant admitted there was no electric light which directly illuminated the spot where she was sexually abused, but that does not suggest that there was total darkness in the area, preventing her from identifying her assailants x x x x Moreover, it would not be difficult for the complainant to recognize the accused-appellant because the rape itself lasted fifteen minutes. Such a relatively long period was sufficient time for the complainant to get a good look at her violator. It was therefore easy for her to recognize and positively identify the accused-appellant De Guia during the trial as the one who sexually abused her. Even earlier, when she was narrating her sexual abuse to the cigarette vendor, she immediately noticed the appellant and instantaneously pointed to him as the culprit. The facility by which she identified De Guia as the one who raped her even while she was running away from the threat of a second assault and although she was half-naked convinces the Court that she indeed recognized the accused as the one who raped her.

Analiza's actuations immediately after she was set free by the accused were consistent with the theory, as in *De Guia*, that she already knew the face of her ravisher even before he was presented to her by the police for identification. In fact, what led to his arrest was her instinctual recognition of the accused, a totally spontaneous declaration upon seeing him - a spur of the moment - before her mind could have any opportunity to conjure a falsehood or be influenced by any external factor or consideration. Besides, there is nothing in the record to lead us to conclude that she had any improper motive against the accused. The witnesses of the accused himself admitted, by way of establishing his alibi, that he never went to