

SECOND DIVISION

[G.R. No. 119963, November 06, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUSSEL
FUENSALIDA ACCUSED-APPELLANTS.
D E C I S I O N**

REGALADO, J.:

In Criminal Case No. Q-93-43902 filed in the Regional Trial Court, Branch 79, of the National Capital Judicial Region, accused-appellant Russel Fuensalida y Almodal was charged with raping his daughter, Maria Corazon. He was eventually convicted on February 13, 1995 in a decision which sentenced him to suffer imprisonment for thirty-four (34) years, four (4) months and one (1) day of *reclusion perpetua*, with full credit for his preventive imprisonment, and to indemnify his daughter in the sum of P50,000.00.^[1]

The accusatory portion of the information filed under the oath of complainant on April 28, 1993 alleges:

That on or about the 27th day of January 1993, in Quezon City, Philippines, the above-named accused with lewd design and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the undersigned MARIA CORAZON FUENSALIDA Y ORADA, a minor 12 years of age, with the use of a knife, without her consent and against her will, to the damage and prejudice of said offended party.^[2]

At his arraignment, appellant, with the assistance of a counsel of his choice, entered a plea of not guilty.^[3] Thereafter, the trial of the case proceeded and decision thereon was rendered, the dispositive portion of which states:

WHEREFORE, judgment is hereby rendered in this case finding the accused Russel Fuensalida guilty beyond reasonable doubt of the crime of rape and after considering the aggravating circumstance of relationship, sentence him to suffer an imprisonment of thirty-four (34) years, four (4) months and one (1) day of *reclusion perpetua* and to indemnify the complaining witness (in) the sum of P 50,000.00.^[4]

The evidence adduced by the prosecution tends to establish that on January 27, 1993, at around three o'clock in the afternoon, Maria Corazon was sleeping inside their room. She later testified that she dreamt of her deceased grandmother pulling her legs, but when she woke up her father entering the room holding a knife and a blanket. She was frightened and when her father approached her, she stood up and run out of the room. Her father was able to catch up with her. He locked the door and pushed her against the cabinet. Then, he dragged her to the sofa and boxed her on the stomach, rendering her weak and unable to resist his incestuous advances.

While she was in reclining position, appellant went on top of her and tore her shorts and underwear with the use of the knife. He then inserted his organ into hers, and consummated the sexual act. Appellant only stopped when the victim told him that her mother would be arriving soon. The appellant told her to dress up and warned her not to report the incident to her mother, otherwise he would kill them.^[5]

Maria Corazon noticed blood and whitish semen flowing down her legs as she stood up. Her father told her to bathe and, later, he hid her underwear. Thereafter, he went to bed and slept the entire afternoon.^[6] Meanwhile, the victim stayed outside the house, crying while waiting for her mother to arrive.

Maria Corazon's testimony was corroborated by her mother, Corazon Fuensalida, who testified that she came home at around seven o'clock in the evening. She identified appellant in open court and stated that he was her common-law husband. They had lived together as husband and wife from 1979 to 1980 and out of that union, herein private complainant was born on May 2, 1980. When their relationship became strained due to the fact that appellant was an irresponsible man and a drunkard, she and her daughter left their house and lived with appellant's mother in Murphy, Quezon City. On several occasions, appellant would visit her and force her to have sex with him.^[7]

When his mother died, appellant convinced Corazon to live with him again and promised to make amends. They were thus living together when she came upon her daughter crying outside their house on January 27, 1993. When asked what her problem was, Maria Corazon cursed appellant and told her mother that she was raped by him. Corazon was dumbfounded at the revelation of her daughter, but when she decided to confront her husband, her daughter told her of the warning made by him. The victim also pleaded with her mother not to leave her alone in the house, especially when her father was there.^[8]

On the first death anniversary of appellant's mother Corazon entrusted her daughter to appellant's sister and, after a few months, she joined her daughter. By this time, they had mustered enough courage to report the incident to the police.^[9]

Dr. Vladimir B. Villaseñor , the medicolegal officer who conducted the physical and genital examination of the victim, told the trial court that the victim was no longer a virgin. In his examination he found shallow healed hymenal laceration at 3 and 9 o'clock and a deep, healed laceration at 7 o'clock, and he concluded that these may have been caused by sexual intercourse.^[10]

Appellant, on the other hand, denied the accusations made against him, claiming that this case was filed because his daughter got angry when he scolded and maltreated her on different occasions. He told the court that his daughter was a liar and a very disobedient child. He also insisted that he was at the pigpen, located around 100 meters from their house, cooking pig feed the whole day of January 27, 1993. He returned to their house only at five o'clock in the afternoon to dress up because he had agreed with his common-law wife, Corazon, and daughter to watch a movie.^[11]

Appellant further claimed that Corazon had an axe to grind against him because he

caught her kissing another man inside a car. However, on questioning conducted by the court he admitted that before the filing of the case, his relationship with Corazon was cordial and their domestic life was going along smoothly.^[12]

Appellant is now before us insisting on his innocence. He belabors the testimony of Maria Corazon regarding her position when he inserted his penis and had sex with her, claiming that it would be extremely difficult for a male organ to penetrate the vagina of complainant while she was in reclining position, especially since the victim was tender age.

He likewise reported that his daughter had ill feelings against him because he often scolded and beat her. Additionally, he harped on Maria Corazon's failure to immediately report the matter to the police and submit herself to medical examination. For if it were true, he asserted, she would not have waited for two months to elapse before going to the police.^[13]

Appellant's arguments are specious. In contrast, the court below found the testimony of Maria Corazon to be "categorical, positive and convincing." We are consequently inclined to accord full faith credence to her narration that she was really ravished by her own father.

The victim's straightforward, firm and positive narration of her horrible ordeal, explained in between sobs, convinces us that the acts complained of did actually take place. It would be worthwhile to quote the same, with appropriate corrections in the transcription, to illustrate the spontaneity of her answers as an indicium of her credibility. Thus:

Q Do you know the accused?

A Yes, ma'am.

Q Is he inside the court room?

A Yes, ma'am.

Q Will you please identify him?

A That one ma'am. (Witness is pointing to the accused who identified himself by the name of Russel Fuensalida.

Q Now, Maria Corazon, how are you related to the accused?

A He is my father, ma'am.

Q Now, do you where were you at 3:00 o'clock in the afternoon of January 27, 1993?

A Yes, ma'am I was sleeping in our room.

Q Where is that place located?

A 31 Nueva Ecija St., Bagubantay, Quezon City, ma'am.

Q That place, the room yo(u) are telling, is that the place, the house you (were) living (in) at that time?

A Yes, ma'am.

Q Who was with you at that time, on that very same afternoon of

January 27, 1993?

A My father, ma'am.

x x x

Q What were you doing inside your room?

A I was sleeping, ma'am.

Q While you were sleeping, what happened, if any?

A I was dreaming that my foot was pulled by my grandmother who is already dead, ma'am.

Q While you were dreaming and you said as if your dead Lola was pulling your foot, what happened to you?

A I was surprised and awaken(ed), ma'am.

Q After you have awaken(ed), what did you see?

A I saw my father entering the room carrying a blanket and a knife, ma'am.

Q You said you were awaken(ed) and then when you woke up you saw your father holding a knife and a blanket, what happened?

A He was coming near me and I was afraid so I stood up, ma'am.

Q When you stood up, what did you do next, if any?

A I ran out of the room, ma'am.

x x x

Q When your father blocked your way going outside the door, what happened next?

A He locked the door and pushed me against the cabinet, ma'am.

Q When he pushed you towards the cabinet, what did you do next?

A He came near me and pulled both my hands and pulled me to the sofa, ma'am.

Q When your father pulled you to the sofa, what was your position while you were at the sofa?

A When he pulled me I was still standing, ma'am and then he boxed me on my stomach.

Q When he boxed your stomach what happened to you?

A I was weaken(ed) and sat to the sofa, ma'am.

Q While you were already at the sofa weakened by the punch of your father, what did you do next?

A He held my right hand (with) his left hand and then he went on top of me, ma'am.

Q How about his right hand, what was he doing on his right hand?

A He reached for the broken knife which was placed near the edge of