

## SECOND DIVISION

[ G.R. NO. 172226, March 23, 2007 ]

**THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS.  
HERMINIGILDO SENIERES, APPELLANT,**

### D E C I S I O N

**TINGA, J.:**

On automatic review is the Decision<sup>[1]</sup> dated 6 December 2000 of the Regional Trial Court of Baguio City, Branch 6, convicting Herminigildo Senieres of raping AAA<sup>[2]</sup> on two (2) occasions. The dispositive portion of the decision reads:

WHEREFORE, Judgment is hereby rendered as follows:

1. In Criminal Case No. 16691-R, the Court finds the accused Herm[e]nigildo Senieres guilty beyond reasonable doubt of the offense of rape as charged in the Information, defined and penalized under Section 2, Par. 1 (a) and (d) of Republic Act [No.] 8353 which amended Article 335 of the Revised Penal Code\* and hereby sentences him to suffer the penalty of *Reclusion Perpetua*; to indemnify the complainant [AAA] the sum of P100,000.00 as Moral Damages without subsidiary imprisonment in case of insolvency; and to pay the costs.

The accused Herm[e]nigildo Senieres, being a detention prisoner, is entitled to be credited 4/5 of his preventive imprisonment in the service of his sentence in accordance with Article 29 of the Revised Penal Code.

2. In Criminal Case No. 16692-R, the Court finds the accused Herm[e]nigildo Senieres Guilty beyond reasonable doubt for (sic) the offense of rape committed on December 17, 1998 as charged in the Information, defined and penalized under Sec. 2, Par. 2 of Republic Act [No.] 8353\* and hereby sentences him, applying the Indeterminate Sentence Law, to suffer imprisonment ranging from four (4) years two (2) months and one (1) day of *prision correccional* as Minimum to ten (10) years and one (1) day of *Prision Mayor* as Maximum, to indemnify the offended party [AAA] the sum of P20,000.00 as Moral Damages without subsidiary imprisonment in case of insolvency and to pay the costs.

The accused Herm[e]nigildo Senieres, being a detention prisoner, is entitled to be credited 4/5 of his preventive imprisonment in the service of his sentence in accordance with Article 29 of the Revised Penal Code.

SO ORDERED.<sup>[3]</sup>

Initiated by AAA's sworn statement,<sup>[4]</sup> accused Senieres was charged with two (2) counts of rape in the following Informations, to wit:

CRIMINAL CASE NO. 16691-R

The undersigned accuses HERM[E]NIGILDO SENIERES [a.k.a.] "EMING" of the crime of RAPE DEFINED AND PENALIZED UNDER R.A. [No.] 8353, committed as follows:

That on or about the 22nd day of November 1998, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously and by means of force and intimidation lie down and have carnal knowledge of the complainant [AAA], a minor[, ] 11 years of age, against her will and consent.

CONTRARY TO LAW.<sup>[5]</sup>

CRIMINAL CASE NO. 16692-R

The undersigned accused HERM[E]NIGILDO SENIERES [a.k.a.] "EMING" of the crime of RAPE DEFINED AND PENALIZED UNDER R.A. [No.] 8353, committed as follows:

That on or about the 17th day of December 1998, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously by means of force, threat or intimidation, commit an act of sexual assault upon the person of [AAA], a minor[, ] 11 years of age, by inserting his penis into the anal orifice of the latter.

CONTRARY TO LAW.<sup>[6]</sup>

At his arraignment on 18 June 1999 for both cases, Senieres with the assistance of his counsel, entered a plea of not guilty to the two (2) counts of rape.<sup>[7]</sup> Joint trial on the merits of the criminal cases ensued. The prosecution presented as witnesses, the victim AAA, her aunt BBB<sup>[8]</sup> and Dr. Vladimir Villaseñor, the physician who conducted an examination on AAA.

AAA testified that on the night of 22 November 1998, she fell asleep on the floor of the sala of her aunt CCC's house at T. Alonzo Street, Baguio City.<sup>[9]</sup> She awoke when she felt the presence of someone beside her. When she opened her eyes, she saw that it was Senieres, her uncle,<sup>[10]</sup> who had then started removing her shorts and underwear. She said, "No!" but Senieres threatened to harm her younger sister if she did not allow him to proceed. Next, Senieres turned her body to face him. AAA clipped together her legs to resist him but Senieres separated them using his feet. AAA shouted but Senieres covered her mouth with her hands. Senieres then

inserted his penis into her vagina and made "push and pull" movements. AAA cried in pain. AAA also felt a mucous-like substance enter her vagina. After satisfying himself, Senieres repeated his threat of harm to AAA's sister and then went back to sleep at the sofa in the sala. AAA put her panty and shorts back on and went back to sleep still crying.<sup>[11]</sup>

When AAA awakened the following day, Senieres was no longer around. She, however, did not report the incident to her aunt CCC or to anyone else as she was afraid that Senieres would make good his threat to harm her younger sister.<sup>[12]</sup>

After the incident, AAA stayed at her godmother's house which is a few houses away. On 16 December 1998, she returned to her aunt CCC's house as she thought that Senieres no longer stayed there.<sup>[13]</sup>

On 17 December 1998, while AAA was watching TV, Senieres arrived. In fright, AAA invited her male cousin DDD to go to sleep already. She and DDD slept on the floor facing each other. Again, she awoke when she felt Senieres go down to the floor next to her. Then she felt him remove her panty and shorts.<sup>[14]</sup> AAA kicked Senieres' feet but he managed to remove her shorts and panty. AAA tried to rouse DDD from sleep by elbowing him but he could not be awakened. AAA was lying on her left side, facing DDD, with her thighs bent forward and lower legs bent backwards. Next, Senieres inserted his penis into her anus. She felt a slippery substance and then Senieres pulled his penis out of her anus. He went back to sleep at the sofa. Senieres left the house the following morning.<sup>[15]</sup>

Sometime after the incident, AAA left for her uncle EEE's house, in a town somewhere in Benguet, in order to be away from Senieres.<sup>[16]</sup> On 28 January 1999, her aunt BBB arrived and took AAA to another town in Benguet.<sup>[17]</sup>

In April 1999, AAA reported for the first time what had happened to her aunt BBB. AAA was emboldened by the courage of a child who had reported a similar incident of sexual abuse against her father.<sup>[18]</sup> AAA and her aunt BBB then traveled to Baguio City. On 27 April 1999, AAA, accompanied by her aunt BBB, gave her sworn statement<sup>[19]</sup> to the Baguio City Police.<sup>[20]</sup> On 28 April 1999, she was examined by Dr. Vladimir Villaseñor.<sup>[21]</sup>

Dr. Villaseñor testified that he found a shallow, healed laceration located at 7 o'clock and 9 o'clock positions and a deep, healed laceration at 3 o'clock position.<sup>[22]</sup> He explained that a shallow laceration is a laceration that does not extend to the base of the hymen while a deep laceration is a laceration which extends from the periphery to the base of the hymen. He also discussed that a healed laceration is one that is more than seven (7) days old.<sup>[23]</sup> He stated that based on their number and depth, the lacerations could have only been caused by the insertion of a male genital organ into the vagina.<sup>[24]</sup> Dr. Villaseñor issued a medico-legal report containing his findings.<sup>[25]</sup>

For his part, Senieres denied the charges against him. He claimed that he could not have raped AAA on 22 November 1998 as he was in the house of a relative in San Carlos Heights, Baguio City<sup>[26]</sup> and AAA was still in Manila.<sup>[27]</sup> On 17 December

1998, he was likewise at his relative's house in San Carlos Heights, Baguio City.<sup>[28]</sup>

The trial court favored AAA's version of the events and convicted Senieres of the crimes charged, ruling in this wise:

The Court cannot give credence to the assertion of the accused that he could not have raped AAA on the night of November 22, 1998 at x x x T. Alonzo Street, because she was not yet in Baguio City at that time.

AAA categorically testified that she arrived in Baguio on November 7, 1998 and since then stayed at x x x T. Alonzo Street until she was raped on the night of November 22, 1998. There is no reason to doubt her testimony since, as already discussed previously, it bears the earmarks of credibility.

x x x

Likewise, the Court cannot give weight to the claim of the accused that on the night of November 22, 1998[,] as well as December 17, 1998, he was at San Carlos Heights, Baguio City with his relative Mary Jane Tumbagahan and the latter's family.

He failed to present his alleged relative Mary Jane or any other member of the latter's family or any other person to corroborate his claim. It should not be difficult for him to secure their presence in court if indeed he was with his relatives on those nights or that he spent those nights at San Carlos Heights.

Besides, granting for the sake of argument that he was at San Carlos Heights on the nights of November 22 and December 17, 1998, it is not impossible for him to be at T. Alonzo at the precise time the sexual acts were committed. San Carlos Heights is just a jeepney ride away from T. Alonzo Street as both places are within Baguio City. Such that if accused travels from San Carlos Heights to T. Alonzo Street, or vi[c]e versa, it would only take him 20 minutes, more or less.<sup>[29]</sup>

The judgment of conviction was elevated to the Court for automatic review. In a Resolution<sup>[30]</sup> dated 27 September 2004 of the Court in G.R. Nos. 147286-87,<sup>[31]</sup> the cases were transferred to the Court of Appeals pursuant to the Court's ruling in *People v. Mateo*.<sup>[32]</sup>

In a Decision<sup>[33]</sup> dated 20 December 2005, the Court of Appeals affirmed the judgment of conviction. The appellate court held that AAA's story bears the marks of a credible testimony coming from a truthful witness and, therefore, must be given full faith and credit. AAA described in a positive, natural, sincere and spontaneous manner how she was forcibly ravished by Senieres on 22 November and 17 December 1998. The appellate court noted that AAA could not have narrated her ordeal so convincingly if it was not true. Moreover, medical evidence on record corroborates AAA's testimony.<sup>[34]</sup>

The Court of Appeals also held that Senieres defenses of denial and alibi have no leg

to stand on. Senieres failed to present convincing proof that he was present at some other place about the time of the alleged crime and that he was at such other place for so long a time that it was impossible for him to be at the scene of the crime when the crime was committed. Senieres likewise failed to substantiate his claim that AAA was not in Baguio on 22 November 1998 and that she was neither at T. Alonzo Street on 17 December 1998.<sup>[35]</sup>

The Court of Appeals, however, modified the award of moral damages to P50,000.00 for each count of rape and imposed an additional amount of P50,000.00 as civil indemnity for each count of rape.<sup>[36]</sup>

In the Court's Resolution<sup>[37]</sup> dated 3 July 2006, the parties were required to submit their respective supplemental briefs. Senieres, through the Public Attorney's Office, manifested<sup>[38]</sup> that he will adopt all the issues and discussion in his appellant's brief dated 16 April 2002. The Office of the Solicitor General likewise manifested<sup>[39]</sup> that it will adopt the discussions in its appellee's brief<sup>[40]</sup> dated 4 September 2002 as its supplemental brief. The case is again before us for final disposition.

After a careful and meticulous review of the records of the case, the Court finds no reason to overturn the findings of fact and conclusions commonly reached by the trial court and the Court of Appeals. The Court affirms Senieres' conviction.

Senieres contends that no rape occurred on 22 November 1998 as AAA's injuries could have been sustained even before said date. He also maintains that AAA's injuries could have been caused only by a finger as it was not established that what was inserted inside AAA's vagina was Senieres' penis. If at all, he claims he should only be held liable for the crime of acts of lasciviousness.

Senieres' contentions are bereft of merit.

First, it should be reiterated that in a rape case, what is most important is the credible testimony of the victim. A medical examination and a medical certificate are merely corroborative and are not indispensable to a prosecution for rape. The court may convict the accused based solely on the victim's credible, natural and convincing testimony.<sup>[41]</sup> In this case, both the courts are in agreement that AAA was candid, natural, forthright and unwavering in her testimony that Senieres raped her on two occasions. AAA's credibility is strengthened by the absence of evidence showing that she had any ill-motive in testifying against Senieres.

Secondly, Dr. Villaseñor's report revealed that AAA suffered shallow, healed lacerations at 7 and 9 o'clock positions and a deep healed laceration at 3 o'clock position and that she was in a non-virgin state. It should be noted that the examination was made in April 1999, months after the incidents of rape occurred in November and December 1998. The presence of such healed lacerations is consistent with and corroborative of AAA's testimony that she had indeed been raped by Senieres months before the date of the examination. Hymenal lacerations, whether healed or fresh, are the best evidence of forcible defloration.<sup>[42]</sup> And when the consistent and forthright testimony of a rape victim is consistent with medical findings, there is sufficient basis to warrant a conclusion that the essential requisites of carnal knowledge have been established.<sup>[43]</sup>