

EN BANC

[G. R. No. 149557, March 16, 2004]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RYAN TORRES Y CERVANTES, APPELLANT.

DECISION

VITUG, J.:

In its decision, dated 01 June 2001, the Regional Trial Court, Branch 31, of San Pedro, Laguna, convicted appellant Ryan Torres y Cervantes of robbery with rape and sentenced him to suffer the penalty of death.

Ryan Torres y Cervantes was charged with the crime of robbery with rape in an information that read:

"That on or about August 26, 1999, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, said accused, armed with a bladed knife and with intent to gain did then and there willfully, unlawfully and feloniously with violence against and intimidation of person take, steal and carry away at knife's point the sum of TWENTY SIX PESOS (P26.00), Philippine Currency, belonging to Rhosella Marie Burlagda y Nuguit; that on the occasion or by reason of said robbery the said accused, then and there willfully, unlawfully and feloniously by means of force, violence, intimidation and threat had carnal knowledge of said RHOSELLA MARIE BURLAGDA y NUGUIT, against her will, and to her damage and prejudice."^[1]

The case for the prosecution. —

Private complainant Rhosella Marie Burlagda, said to be 13 years of age and a first year high school student, testified that on 26 August 1999, around 5:45 a.m., she was walking along the town proper of San Pedro, Laguna, on her way to school in Muntinlupa City. Suddenly, a man, whom she later identified to be appellant Ryan Torres, held her up at knife point and demanded to hand over to him her money. After she gave him twenty-six pesos (P26.00), appellant put his arm around her shoulder and covered her mouth with a handkerchief while poking a "*balisong*" at her. Appellant ordered her not to shout. He then forced her towards an alley on the side of the public market. Upon reaching the highway, they boarded a tricycle and proceeded to Elvinda Village, San Pedro, Laguna. He took her to an abandoned house inside a compound. Before entering the house, appellant tied her feet with the strap of his bag and her hands with the cord of her school I.D., gagged her mouth with his handkerchief, and secured her to a tree using his belt bag strap. Appellant then took a ladder and used it to enter the house through a small opening. Rhosella was then brought by appellant inside the house.

Once inside, appellant showed her a picture of his wife. Appellant told private complainant that he "felt hot." He removed his pants exposing his penis. He removed her blouse. He got a piece of newspaper and spread it on the floor. He proceeded to remove the victim's underwear and shorts. He lifted her and laid her down on the newspaper. Appellant then placed himself on top of her and tried to insert his penis into her vagina while kissing and touching the different parts of her body. Rhosella tried to struggle away from him but she was unsuccessful. She felt pain even if appellant was unable to fully insert his penis into her vagina. Abruptly, a noise coming from outside the house prompted appellant to immediately withdraw and to dress up. Appellant then wiped the wall using her shorts to erase the fingerprints on it and fled. After appellant left, Rhosella was able to untie herself. Hurriedly, she sought the help of a tricycle driver who brought her to McDonalds, a restaurant, located at the town proper where she boarded a passenger jeep in going back home.

Arriving home between 7:00 to 7:30 a.m., she immediately narrated the incident to her mother. Forthwith, they proceeded to the San Pedro Police Station to report the incident. She later submitted herself to a physical examination at the National Bureau of Investigation (NBI).

The NBI medico-legal officer, Dr. Ida de Perio-Dumul, testified that she examined the victim on 26 August 1999, and while the latter showed no hymenal laceration, Dr. de Perio-Dumul noted two (2) reddish contusions on the victim's vagina which appeared to have been inflicted within a 24-hour period preceding the examination. According to Dr. de Perio-Dumul, most of the young rape victims she had examined showed labia penetration with no extra-genital physical injury and laceration of the hymen because of the difficulty in having the male organ into a partially developed vagina. She opined that since the orifice of private complainant's vagina only measured 1.5 diameters, it was possible that a mere partial or an incomplete hymenal penetration resulted in the sexual assault.

On 09 September 1999, the San Pedro, Laguna, police arrested appellant. Indicted for the special complex crime of robbery with rape, appellant, on arraignment, entered a plea of not guilty.

The case for the defense. —

Appellant denied the accusation against him. He claimed that on 26 August 1999, he had left his house at GMA, Cavite, at around 6:15 a.m. to report for work at the EDSA Shangri-la Hotel in Mandaluyong City. He boarded a passenger jeepney bound for San Pedro, Laguna, where he got off along the national highway near a gasoline station and the public market at between 6:45 to 7:00 a.m. from where he boarded a passenger bus bound for Mandaluyong City. He arrived at his place of work at 9:30 a.m. He was informed, however, that he was not among those scheduled to work on that day. He stayed at the hotel for about three hours before he left for the house of his mother in Antipolo, Rizal, arriving thereat at about 1:30 p.m. He stayed at his mother's house to spend the night. The following morning, he went back to the hotel where he was able to get a slot in the list of waiters for the day. After working, he returned to his house in GMA, Cavite, arriving thereat around 10:00 p.m.

The judgment of the trial court. —

The trial court concluded that appellant had indeed committed the crime with which he was charged; it held:

"WHEREFORE, the Court hereby sentences accused Ryan Torres y Cervantes to suffer the penalty of death; to pay private complainant Rhosella Burlagda the sums of P26.00 as actual damages, P50,000.00 as indemnity ex delicto and another P50,000.00 as moral damages. Costs against the accused."^[2]

Appellant's case is now before the Court on automatic review.

In seeking to establish his innocence, appellant assails the reliance made by the trial court on the testimony of private complainant which, he argues, is uncorroborated and replete with inconsistencies.

The Court has closely examined the records, and it has found nothing so substantial as to warrant a reversal of the assessment made by the trial court on the narration given by the young victim of the incident. The alleged inconsistency in her testimony with respect to the time when the picture of the wife of appellant has been shown to her, whether before or after the rape incident, is but a minor point which does not seriously affect her credibility. The matter is trivial in nature, and it does not in anyway put a dent on the evidence of rape.^[3] It is not unnatural for inconsistencies to in fact creep into the testimony of a rape victim in recounting the details of a harrowing experience.^[4] There is no evidence to show that private complainant has been motivated by any improper motive to testify against appellant. Indeed, private complainant's act of immediately reporting the matter, first to her mother and then to the authorities, is a factor that strengthens her credibility.^[5]

Even in the absence of corroborative testimony of other witnesses, the straightforward testimony of a rape victim should suffice. Rape, by its nature, is usually committed in a place where only the rapist and the rape victim are present.^[6] In a rape case, the prosecution is not bound to present witnesses other than the victim herself, and an accused may be convicted solely on the testimony of the complaining witness provided such testimony is credible, natural, convincing and otherwise consistent with human nature and the course of things. The declaration at the witness stand of young victims is often given credit, and it is when the courts would readily accept the rule that when such a victim says that she has been raped, she is held to state, in effect, all that would be necessary to show that rape has indeed been committed against her.^[7]

This Court is not persuaded by appellant's assertion that there has been no penetration whatsoever of the sex organ of Rhosella. Observe what she has said in open court –

"Q.After removing your clothes, what did the accused do to you?

"A. He tried to and then he raped me, sir.

"Q.Did his penis touch your vagina?

"A. Yes, sir.

"Q.How did you know that?

"A. It was so painful, sir.

"Q.How long did that thing go on, that touching, go on? If you can still recall?

"A. I do not know anymore but it was painful while inserting it, sir.

"x x x

x x x

x x x

"PROS. LOMARDA:

"Q.You said that while the accused was inserting his penis you felt pain. In which part of your body did you feel pain?

"A. In my vagina, sir.

"Q.And while inserting his penis into your vagina, you felt pain, what was your position in relation to the floor?

"A. He was on top of me, sir.

"Q.How about you?