

EN BANC

[G.R. No. 141599, June 29, 2004]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. CHRISTIAN GONZALES Y CAYUBIT, APPELLANT.

DECISION

PER CURIAM:

Before us for automatic review is the Decision^[1] dated December 27, 1999 of the Regional Trial Court, Branch 259, Parañaque City, in Criminal Case No. 98-371, convicting Christian Gonzales y Cayubit, herein appellant, of rape perpetrated against his own teenage daughter, Mary Grace Gonzales, and imposing upon him the supreme penalty of death. The trial court also ordered him to pay her P50,000.00 as civil indemnity and P50,000.00 as exemplary damages.

The Information filed against appellant charges him as follows:

“That on or about and sometime in August 1997, in the Municipality of Parañaque, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with his 15-year old daughter Mary Grace Gonzales against her will and consent.

CONTRARY TO LAW.”

Upon arraignment, appellant, assisted by his counsel *de officio*, entered a plea of not guilty to the crime charged. Pre-trial proceedings having been terminated, trial on the merits ensued.

During the pre-trial, the parties stipulated that appellant and Lydia Gonzales were married on June 21, 1981 as shown by their Marriage Certificate.^[2] They have four (4) children, including Mary Grace Gonzales, who was born on January 26, 1983.^[3] They all reside in the two-storey house of Lydia Gonzales’ mother located at No. 6080 Dimatimbangan St., Don Galo, Parañaque City.^[4]

Mary Grace testified that in 1992, when she was nine (9) years old and a Grade III pupil, appellant abused her for the first time inside their room at home. At that time, she asked appellant to help her with her school assignments as her mother and some neighbors were holding a prayer session (*padasal*) downstairs. While appellant was teaching her, he suddenly placed his hands around her shoulders, held her hand tightly and commanded her to remove her clothes. He ordered her not to resist. Terrified and hurt by his fingernails pressed deep into her skin, she unwillingly took off her clothes. (At this juncture, she was crying while narrating). He then touched her private parts but stopped when he noticed that the prayer

session was about to end.^[5]

In 1994, when Mary Grace was in Grade V, appellant had sexual intercourse with her by force.^[6] It happened in the same room where she was doing her school assignment. This time, she did not ask him anymore to help her in her assignment due to her previous terrifying experience. Suddenly, he entered and locked the door. He approached her and showed her a fan knife, telling her to keep quiet. He then held her tightly, ordered her to undress, and laid her on bed. Thereupon, he forcibly inserted his penis into her vagina. She felt pain but he ordered her not to shout.^[7]

Thereafter, appellant sexually assaulted Mary Grace several times. The last time was in **August 1997** when she was a high school sophomore,^[8] now the subject of the instant case. After doing her school assignment that afternoon, she laid on her bed to rest. Suddenly, she sensed someone closed the door quietly. It was appellant. He approached her, laid beside her, and ordered her to be quiet. He held her legs tightly and removed her shorts and underwear. After that, he removed his pants, kissed her, touched her private parts, and forcibly inserted his penis into her vagina. She was hurt as he was making a push-and-pull movement. After satisfying his lust, he left the room. She was crying in fear and kept mum about the incident.^[9]

On March 24, 1998, Mary Grace finally confided to Bryan Esteban, her best friend and suitor, the sexual abuses she suffered in the hands of appellant. Immediately, Bryan reported the incident to his uncle, a police officer. With his assistance, a complaint for rape was filed against appellant, resulting in his arrest. It was only then that her mother learned of the rape incidents.

Subsequently, Dr. Valentin Bernales, Medico-Legal Officer of the National Bureau of Investigation (NBI) examined her. The Medico-Legal Certificate^[10] he issued and confirmed before the trial court shows the following findings:

"GENITAL EXAMINATION:

Pubic hair, fully grown, abundant. Labia majora, gaping and minora, coaptated, hypertrophied. Fourchette, lax. Vestibular mucosa, pinkish. Hymen, tall, thick with an old-healed complete laceration at 6:00 o'clock position, corresponding to a face of a watch; edges rounded and non-coaptable. Hymenal orifice admits a tube of 2.5 cms. in diameter with marked resistance. Vaginal walls, tight and rugosities, prominent.

CONCLUSIONS:

1. No evident signs of extragenital physical injuries noted on the body of the subject at the time of examination.
2. Old-healed complete laceration, present."

Dr. Bernales testified that complainant was no longer a virgin when she examined her; and that the "old-healed complete laceration at 6:00 o'clock position" was caused by sexual intercourse.^[11]

Appellant denied the charge and raised the defense of alibi. He claimed that his

work at the Towing and Impounding Division of the Metropolitan Manila Development Authority (MMDA) requires him to stay at their office in Pasig City during weekdays. He only goes home every Saturday evening then leaves Monday morning. Thus, it was impossible for him to have sexually abused his daughter at home after her classes. Sometime in March 27, 1998, he scolded her for coming home late from an excursion and for entertaining her suitors. These are the reasons why she charged him.^[12]

On December 27, 1999, the trial court rendered the assailed Decision, the dispositive portion of which reads:

“WHEREFORE, PREMISES CONSIDERED, finding accused Christian Gonzales GUILTY beyond reasonable doubt for the crime of Rape as defined and penalized under Art. 335 of RPC, as amended by RA 7659, and considering the qualifying circumstance of father-daughter relationship as alleged in the information and duly established in the course of the proceedings, this Court sentences accused Gonzales to the supreme penalty of DEATH by lethal injection and to suffer the accessory penalties provided by law, specifically Art. 40 of the RPC, and to indemnify private complainant Mary Grace Gonzales P50,000.00 in line with existing jurisprudence, and P50,000.00 as exemplary damages.

The Clerk of Court is also directed to prepare the Mittimus for the immediate transfer of the accused from Parañaque City Jail to the Bureau of Correction in Muntinlupa City and finally to forward all the records of the case to the Supreme Court for automatic review in accordance with Sec. 9, Rule 122 of the Rules of Court and Art. 47 of the Revised Penal Code, as amended by RA 7659.

SO ORDERED.”^[13]

Appellant now seeks the reversal of the above Decision, ascribing to the trial court the following errors:

“I

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE ON THE BASIS OF THE **UNCORROBORATED** TESTIMONY OF THE ALLEGED VICTIM.

“II

THE TRIAL COURT ERRED IN NOT GIVING CREDENCE TO THE TESTIMONIAL EVIDENCE FOR THE DEFENSE.”^[14]

The Solicitor General, in his appellee’s brief,^[15] asserts that the evidence for the prosecution has adequately proved appellant’s guilt for qualified rape. He thus prayed that the appealed Decision be affirmed.

The law governing the instant case is Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659,^[16] which provides:

"ART. 335. *When and how rape is committed.* – Rape is **committed by having carnal knowledge of a woman** under any of the following circumstances.

1. **By using force or intimidation;**
2. When the woman is deprived of reason or otherwise unconscious;
and
3. When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by reclusion perpetua.

x x x

The **death penalty** shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

1. When **the victim is under eighteen (18) years of age** and **the offender** is a **parent**, ascendant, step parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

x x x." (Underscoring ours)

In the review of rape cases, we are guided by certain precepts: (a) an accusation of rape can be made with facility, but more difficult for the accused, though innocent, to disprove it; (b) the complainant's testimony must be scrutinized with extreme caution since, by the very nature of the crime, only two (2) persons are normally involved; and (c) if the complainant's testimony is convincingly credible, the accused may be convicted of the crime.^[17]

Thus, in a prosecution for rape, the complainant's credibility becomes the single most important issue.^[18]

Here, Mary Grace's testimony clearly shows that appellant, her very own father, had carnal knowledge of her by force and intimidation, thus:

"Q: You claimed madam witness that you were sexually ravished by your father. When did this start?

A: *Noong Grade III po ako.*

Q: How old were you then?

A: Nine (9) years old sir.

Q: Where did this happen, madam witness?

A: Inside our house, sir.

x x x

Q: *Sabihin mo nga sa Hukumang ito kung paano nangyari iyong unang pang-aabuso sa iyo ng iyong ama?*

A: *Bandang hapon po iyon, nagpapaturo po kasi ako sa tatay ko sa paggawa ng assignment sa Math at saka sa English*

kasi po iyong mama ko po noon ay nasa baba dahil may padasal po kasi noon.

x x x

Q: *Sinabi mo sa daddy mo na magpapaturo ka ng assignment?*

A: *Opo.*

Q: *Pagkatapos nun', anong sumunod na nangyari?*

A: *Noong tinuturuan na po niya ako, bigla po niya ako'ng inakbayan, tapos sabi niya huwag daw po akong kakalag. At iyon, doon na po nagsimula iyong ano, bale pinatanggal niya po sa akin iyong suot-suot ko. (Witness is crying).*

Q: *Sabi mo pinatanggal niya sa iyo iyong damit mo o siya mismo ang nagtanggal sa damit mo?*

A: *Siya po ang nagpatanggal.*

Q: *At tinanggal mo naman, ganun' ba?*

A: *Opo kasi po, natatakot po ako sa kanya.*

Q: *Bakit ka natatakot?*

A: *Kasi po hinahawakan niya po ako ng mahigpit na may kasamang mga kuko, paganun' po.*

Q: *So bumabaon ang mga kuko niya sa kamay mo, ganun' ba?*

A: *Opo.*

Q: *At nasasaktan ka?*

A: *Opo.*

Q: *Pagkatapos nun', ano na ang sumunod na nangyari?*

A: *:Tinanggal ko na po iyong suot kong damit.*

Q: *At ano ang ginawa niya pagkatapos mong tanggalin iyong damit mo?*

A: *Hinawakan niya po ang maselang bahagi ng katawan ko.*

Q: *At pagkatapos, ano pa ang pinagagawa niya sa iyo?*

A: *Sinimulan niya na po akong halayin.*

Q: *Iyong unang pagkakataon na iyon, nagtagumpay ba siya na kunin ang iyong pagkababae o hindi?*

A: *Hindi po.*

Q: *Bakit hindi siya nagtagumpay sa gusto niyang mangyari?*

A: *Kasi po parang naaaninagan niya po na matatapos na iyong padasal, siguro kinabahan na po siya kaya inisip niya na ihinto na lang.*

Q: *So hindi niya nakuha ang iyong pagkababae sa attempt na iyon?*

A: *Opo.*