

## EN BANC

[ G.R. No. 147678-87, July 07, 2004 ]

### THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EFREN MATEO Y GARCIA, APPELLANT.

#### DECISION

##### VITUG, J.:

On 30 October 1996, ten (10) informations, one for each count of rape, allegedly committed on ten different dates - 07 October 1995, 14 December 1995, 05 January 1996, 12 January 1996, 29 February 1996, 08 May 1996, 02 July 1996, 18 July 1996, 16 August 1996 and 28 August 1996 - were filed against appellant EFREN MATEO. Except for the variance in dates, the ten informations, later docketed Criminal Cases No. 9351 to No. 9360, inclusive, in the Regional Trial Court of Tarlac, uniformly read -

"The undersigned OIC Provincial Prosecutor upon preliminary investigation conducted by the MTC, Tarlac, Tarlac, Branch 1, accuses Efren Mateo of Brgy. Buenavista, Tarlac, Tarlac of the crime of Rape, committed as follows:

"That on or about January 12, 1996, in the Municipality of Tarlac, Province of Tarlac, Philippines and within the jurisdiction of this Honorable Court, the said accused Efren Mateo y Garcia, who is the guardian of the complaining witness, did then and there willfully, unlawfully and feloniously and by means of force and intimidation have carnal knowledge with said Imelda C. Mateo in their house against her consent."

[1]

The trial ensued following a plea of "not guilty" entered by appellant to all the charges.

According to Imelda Mateo, she was born on 11 September 1980 to the spouses Dan Icban and Rosemarie Capulong. Rosemarie Capulong and appellant started to live together without the benefit of marriage when private complainant was only two years old. Imelda stayed with her mother and appellant in a house in Buenavista, Tarlac, and adopted the surname of appellant when she started schooling.

Imelda recalled that each time the ten rape incidents occurred her mother, Rosemarie, was not at home. On 07 October 1995, the date of the first rape, Rosemarie went to Bamban and returned home only the next day. The second rape was said to have occurred on 14 December 1995, while her mother was attending a seminar for day-care workers. Imelda recalled the third rape to have been committed on 05 January 1996, the same day her mother resigned from her job and left for Manila. The fourth rape, she said, happened a week later, on 12 January 1996, when Rosemarie Capulong was attending yet another seminar for day-care

workers. The fifth incident was on 29 February 1996, when Rosemarie left for Manila to follow-up her application for an overseas job. The sixth rape took place on 08 May 1996 when Rosemarie was once again in Manila to attend to her application papers. On 01 July 1996, Rosemarie and appellant left for Manila as Rosemarie was scheduled to depart for Jeddah. Appellant returned home in the evening of the next day, 02 July 1996, the same day the job recruiter relayed the news that Rosemarie Capulong could not yet leave for Jeddah. During the night, appellant again molested Imelda. With Rosemarie finally away, appellant frequented his nocturnal visits. On the night of 18 July 1996, appellant went into her room and abused her while her siblings were sleeping in the *sala*. The same incident was repeated on the night of 16 August 1996 when appellant, already naked, entered the room and sexually assaulted Imelda. The last rape was committed on 28 August 1996. According to private complainant, she never reported any of the ten incidents to anybody because the accused had threatened to kill her and her mother if she were to disclose the matter to anyone.

Imelda stated that each of the ten rape incidents were committed in invariably the same fashion. All were perpetrated inside the house in Buenavista, Tarlac, during the night and, each time, she would try to ward off his advances by kicking him but that he proved to be too strong for her. These incidents occurred in the presence of her three sleeping siblings who failed to wake up despite the struggles she exerted to fend off the advances. She recalled that in all ten instances, appellant had covered her mouth with a handkerchief to prevent her from shouting. Subsequently, however, she changed her statement to say that on two occasions, particularly the alleged sexual assaults on 02 July 1996 and 18 July 1996, appellant had only covered her mouth with his hands. Still much later, Imelda testified that he had not covered her mouth at all.

The predictable pattern of the rape incidents testified to by Imelda prompted the defense to ask her whether she had, at any one time, taken any protective measure in anticipation of the rape incidents. She replied that once she had requested her brothers and sister to keep her company in the bedroom at night but appellant had scolded them. On the night of the fourth rape, she narrated that she armed herself with a knife but, when appellant entered her room that night, she was not able to retrieve the bladed weapon from under the bed as appellant was sitting right on top of it.

Dr. Rosario Fider, the second witness for the prosecution, stated that she had physically examined private complainant on 14 October 1996 and found superficially healed lacerations at 3:00, 6:00 and 9:00 positions on her private organ that could have been caused by an insertion of an instrument or by sexual intercourse. According to Dr. Fider, the lacerations pointed to possibly one or two, and at most three, incidents of rape, which had happened not earlier than two weeks before the date of the physical examination.

Appellant denied each of the charges. On 07 October 1995, the date of the first rape, he claimed that he was in *Barangay* Talaga, Capas, to pick up newly hatched ducklings, numbering about a thousand, which had to be properly fed, kept warm and constantly cared for that required him to be around the entire day and night for two weeks. The fowls had then to be brought into an open field located one and a half kilometers away which could be traversed by foot. He continued to tend to the animals from 20 October 1995 until sometime in February 1996. During the

period, he was able to go home only once a week or three times a month.

On 14 December 1995, the supposed date of the second rape, appellant admitted that he had temporarily left the care of his ducks to go caroling with his wife, their daughter Imelda and some friends. He immediately returned to care for his ducks, located some 500 meters from their residence, that kept him busy and away from home when the third, fourth and fifth rape incidents were said to have taken place on the 5th and 12th of January and 29th of February of 1996. While he admitted to leaving occasionally the animals in order to go home, these visits, however, were said to be brief and mainly for getting some food and fresh clothes. Appellant could not recall when exactly he sold the ducks but it was definitely prior to 08 May 1996, the day he was accepted and reported for work at the LA Construction of Hacienda Luisita, Tarlac, located some three kilometers away. On 08 May 1996, the date of the sixth rape, he was at work from seven o'clock in the morning until the following day to finish a rush job.

On 01 July 1996, he accompanied his wife, Rosemarie, to Manila who was scheduled to leave for Jeddah the following day. Upon being advised that her flight was postponed, the couple stayed in the house of one Luding Sevilla in Caloocan. On 03 July, he returned to Tarlac. From 15 July to September, 1996, he was given the nightshift at the LA Construction. Appellant asserted that it was impossible for him to have raped private complainant on 28 August 1996 because at six o'clock that evening, his friends Boy Botio, Boy Pineda, Marvin Dalangin and Nelson Castro had picked him up at his house to attend the *fiesta* at *Barangay* Murcia, Concepcion, Tarlac, where they spent the night.

Appellant dismissed the charges against him as being the malicious "retribution" of a vengeful stepdaughter. Allegedly, on 11 October 1996, he took private complainant to task after his son, Marlon Mateo, who had reported seeing her engaged in sexual intercourse with one Pikong Navarro inside the room of their house. Earlier, on 05 August 1996, he also learned that Sharon Flores, a neighbor and a friend of private complainant, had caught his stepdaughter and Navarro in a very compromising position. In anger, he hit Imelda twice with a piece of bamboo. He then forbade her from going out at night and leaving her siblings alone in the house.

Rosemarie Capulong, the mother of private complainant, rose to testify in defense of her common-law husband. Capulong asserted that she had not at any time, prior to her departure for Jeddah, spent any night outside their house. Rosemarie said that she was a day-care teacher from June 1990 until June 1996. On 07 October 1995, the date of the supposed first rape, she was at home and did not go to Bamban as so claimed by private complainant. Capulong disputed the claim of private complainant that she attended a seminar for day-care workers on 12 January 1996 since her job did not require her to attend seminars except for regular meetings held on the last Friday of every month, with each meeting lasting for only half a day. The last seminar she had attended was in June of 1990 in Tarlac. On 29 February 1996, Rosemarie was also certain that she spent the night at home as she had to report for work the following day. She started obtaining documents for her planned employment abroad only on 12 February 1996, when she secured her birth certificate in Bamban as so attested by the date appearing on the certification from the Municipal Civil Registrar of Bamban. On 08 May 1996, she admitted being away from home while attending a general assembly of day-care workers in Zambales. On that day, appellant was likewise not at home due to his overtime work up until

about three or four o'clock in the early morning. Imelda herself, Capulong testified, had attended on that day the San Miguel *fiesta*. Contrary to the allegation of private complainant, the witness was not in Manila on the 5th and 12th of January 1996 because, at that time, she had yet no plans of working overseas. She denied the assertions of private complainant that Capulong had resigned from her day-care work on 05 January 1996, saying it was actually months later, or in June of 1996, when she quit her job. It was on 13 February 1996 when she went to Manila for the first time to attend to her application for a possible overseas work. She made subsequent trips to the city, that is, on the 3rd, 5th, 8th and 24th of the month of June, to follow-up her employment papers and to submit herself to a medical check-up. All these visits only took a day, and she would always be home in Buenavista at nightfall. On 01 July 1996, appellant accompanied her to Manila but, upon learning that her flight was postponed, they spent the night in Caloocan. The couple stayed together in Manila until 03 July 1996, when appellant decided to return to Tarlac. Rosemarie worked in Jeddah, Saudi Arabia, until 11 November 1996 when she decided to return home.

Rosemarie Capulong corroborated the testimony of appellant regarding his whereabouts from October 1995, when the ducks were first brought to the field, until 15 December 1995, when appellant had joined her and their friends caroling. Capulong believed that the charges may have been fabricated by her relatives who were "jealous" of appellant because it was he, not they, who had been receiving the remittances of her earnings from Saudi Arabia.

Sharon Flores, a neighbor, testified that, about noontime on 05 August 1996, she repaired to the house of private complainant to investigate rumors regarding a man seen entering the Capulong residence. When she went in, she saw private complainant and Pikong Navarro lying on the bed, embracing each other under a blanket.

Anselmo Botio, a friend of appellant, and Marlon Mateo, a brother of private complainant, corroborated appellant's *alibi*. Botio said that on 28 August 1996, at six o'clock in the evening, he, together with appellant and some friends, went to attend the *fiesta* in *Barangay* Murcia upon the invitation of one Ruben Santos. The group arrived in Murcia at seven o'clock that evening and promptly had dinner and a drinking spree which lasted until the morning of the next day.

Marlon Mateo testified that one day in October 1996, while his mother was working overseas, he arrived home from school, and saw Pikong Navarro and private complainant, both naked, on the bed. Navarro was on top of private complainant and was making thrusting motions. Marlon Mateo hurriedly left to report the incident to his father.

At the conclusion of the trial, the court *a quo* issued its decision, dated 23 January 2001, finding appellant guilty beyond reasonable doubt of ten (10) counts of rape -

"WHEREFORE, the Court finds the accused guilty beyond reasonable doubt of ten (10) counts of rape and is hereby sentenced to suffer the penalty of *reclusion perpetua* for each count of rape and to indemnify the complainant the sum of P50,000.00 as actual damages and P50,000.00 as moral damages for each count of rape."<sup>[2]</sup>

More often than not, the Court has deemed it sufficient to convict an accused for rape solely on the basis of the testimony of the victim.<sup>[3]</sup> The heavy reliance normally given by the Court on the narration of the victim finds justification on the fact that, generally, she would be the sole witness to the incident and the shy and demure character of the typical Filipina would preclude her from fabricating that crime. It is imperative, nonetheless, that the testimony must be convincing and straightforward in order to avoid any serious doubt from being cast on the veracity of the account given.

Relative to the first supposed rape incident, private complainant categorically stated that she had slept in the lone bedroom of the house while her siblings and her stepfather slept in the *sala* –

“Q. How did (sic) he able to remove your t-shirt and shorts?

“A. He brought me to the sala and in that place when he undressed me, sir.

“x x x    x x x    x x x

“Q. How did (sic) he able to take you out from the room? In what way?

“A. She (sic) lifted me and still my mouth was covered, my hands were stocked and I cannot move, sir.

“Q. She (sic) lifted you by his two hands, is that right?

“A. Yes, sir.”<sup>[4]</sup>

“Q. You testified on direct examination that there is only one room in your house, is that right?

“A. Yes, sir.

“Q. And you were then sleeping inside your house in that one room, is that right?

“A. Yes, sir.

“Q. While your brothers as well as your stepfather were then sleeping outside your room, you [were] also sleeping, is that right?

“A. Yes, sir.”<sup>[5]</sup>

In the next breath, however, she testified that all her three siblings were sleeping with her on the night of 07 October 1995 -

“Q. How did (sic) he able to remove your t-shirt and shorts?