

EN BANC

[G.R. No. 145995, March 20, 2003]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SATURNINO ILUIS Y JANDOC, ACCUSED-APPELLANT.**

DECISION

VITUG, J.:

In Criminal Case No. V-0786, the Regional Trial Court of Pangasinan, Branch 50, found Saturnino Iluis y Jandoc @ "Masong" guilty beyond reasonable doubt of rape "defined and penalized under Item No. 4 of the last paragraph of Article 335 of the Revised Penal Code, as amended," and sentenced him to suffer the penalty of death, as well as to pay civil indemnity of fifty thousand pesos (P50,000.00) to the victim, AAA, for the crime.

The Information that AAA, assisted by her grandmother, caused to be filed in court on 23 June 1998, read:

"That sometimes [sic] between the months of August and October, 1997 at ██████████, Municipality of ██████████, Province of ██████████, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one AAA being below twelve (12) years old, against the latter's will and consent, to the damage and prejudice of said AAA.

"Contrary to Art. 335, in relation to R.A. No. 8353 of the Revised Penal Code."^[1]

At his arraignment, Saturnino Iluis entered a plea of not guilty.

The evidence adduced by the prosecution, upon which the trial court based its finding of guilt, tended to show that -

AAA^[2] was born on 23 September 1991 in Siniloan, Laguna,^[3] to a single parent, ██████████, who, unfortunately, would not live long enough to see her daughter pass through her formative years. AAA was barely four years old when her mother died. She was left to the care of ██████████, ██████████'s sister, who had several children of her own. Ultimately, ██████████ gave the child to ██████████ for "adoption." ██████████ gave ██████████ the birth certificate of AAA that she had taken from ██████████'s wallet. With her husband Dominador Raguindin, ██████████ executed a document in the dialect, dated 13 October 1993,^[4] to confirm that the couple had entrusted AAA to the custody of ██████████. Two days after giving the custody of AAA to ██████████, ██████████ received from ██████████ dollars equivalent to P10,000 "as a sort of help." ██████████ would also give some sums to ██████████ whenever she would come around and

visit AAA, also called Jing, at the [REDACTED] residence.

[REDACTED], 71, named [REDACTED] at birth, decided for reasons of her own to call herself [REDACTED] when she had started to become sickly. She turned American citizen in 1981. In October 1993, AAA became her *taraken* or “adopted” child. In school, AAA was thought to have been legally adopted and was made to use the surname [REDACTED]. Whenever [REDACTED] would go to the United States, she would entrust AAA to the custody of Saturnino Iluis, his sister-in-law Teresita Iluis or Tessie and his mother Basilia, in [REDACTED]’s house at [REDACTED].

In August 1997, [REDACTED] left for the United States; she returned on 18 November 1997. A few days later, on the early evening of 21 November 1997, [REDACTED] was viewing a television show with AAA when the latter held [REDACTED] and meaningfully pressed the middle of [REDACTED]’s palm. Realizing that the gesture conveyed something that was “not a nice act,” [REDACTED] told AAA, “Whoever did that thing to you tell me his name because that man might kidnap and kill you.” When AAA refused to talk, [REDACTED] “threatened” AAA that she would not give the girl the things that had been bought for her. AAA uttered, “I am afraid, Grandma, but I will tell his name. He is Uncle Masong.” [REDACTED] called Tessie and her nephew so that they could also hear what the child was saying. Once again when asked, AAA disclosed that Masong molested her. He would embrace, kiss, touch her private part, and then *garawen* her. When [REDACTED] asked AAA what she meant by *garawen*, AAA said that Masong would put his penis into her vagina.

[REDACTED] decided to have AAA medically examined. Since it was a Friday, [REDACTED] waited for Monday before she brought AAA to Dr. Hian Kiat Dy for examination. Not satisfied with the findings of Dr. Dy, [REDACTED] brought AAA to the Don Amadeo J. Perez, Sr., Memorial General Hospital in Urdaneta, Pangasinan. Dr. Jeanna Nebril-Ramilo who examined AAA on 28 November 1997 made her findings thusly:

- “External Genitalia: No abrasion, scar noted on pubic/escutchen.
- Labia Major – Labia Minor gaping, positive rounding fourchette
- Deep healed laceration 1:00 o’clock position hymen.
- Healed laceration 3:00 position
- Admits index finger midway with slight resistance.”^[5]

According to Dr. Nebril-Ramilo, these findings revealed the “possibility of penetration” of the child’s sex organ by a blunt object.^[6]

On Monday, 24 November 1997, Jonathan Fernando-Manlongat, AAA’s kindergarten teacher at the St. Anthony Abbot Academy, noticed that it was *Manang* Tessie who accompanied AAA to school. When Jonathan asked *Manang* Tessie why AAA was absent the previous Friday, *Manang* Tessie replied that AAA’s grandmother had just arrived from America. When he inquired why it was she, not Masong, who accompanied AAA to school, *Manang* Tessie told Jonathan that Masong had been fired because “he had done something wrong to the child.” Jonathan wanted to know what had happened but *Manang* Tessie told him to just speak to the child. At recess period, Jonathan asked AAA what her “uncle” Masong did to her. At first, AAA just stared at Jonathan but, when Jonathan persisted, AAA reluctantly answered that Masong had molested her.

According to AAA herself, during the months of August to October 1997, Masong would let her smoke, take off her panty, and put his penis into her vagina. She would feel pain whenever Masong inserted his penis into her vagina but, fearful, she kept quiet about the matter. Eventually, however, AAA told her Grandma [REDACTED] about the molestations and that Masong did the acts of taking off her panty and putting his penis into her vagina three times in the *kubo-kubo* (nipa hut). Her grandma being then abroad, AAA would sleep with her aunt Tessie but it was Masong who would bring and fetch her to and from school.

The defense interposed denial. Saturnino Iluis (Masong), single, 42, reached only the 6th grade in the Elementary School and also answered to the nickname "Melchor." He worked in the [REDACTED] household from 1 April 1995 until 24 November 1997. His sister-in-law, Teresita, who was hired to work in the same household on 27 August 1997, was responsible for the laundry work and for looking after AAA. Saturnino treated AAA both as a sister and as his own child. He denied the accusation against him which he attributed to his having spent the household allowance of P5,850 for the dress and pictures of AAA when she became a beauty contest candidate in her school. He was sent home on 19 November 1997 after [REDACTED] previously warned him, through Teresita, that should he be unable to pay that amount, she would file a rape case against him. He was at home in Amamperez when the police arrested him. Teresita Iluis sought to corroborate, in part, the testimony of her brother-in-law.

The defense also presented Dr. Hian Kiat C. Dy who was the first physician to examine AAA upon the request of Chief of Police Patricio Fantin Piñol. In the medical report, he inscribed the following findings:

- "1. Redness – area between urethra opening and vaginal opening.
- "2. Vaginal Opening – about 0.3 cm. in diameter
- "3. Hymen – intact/no laceration
- "4. Pain and tenderness of the vulva."^[7]

The redness of the urethra could have been due, he said, to inflammation or infection, and an intact hymen implied that there was no laceration and that no foreign object had been inserted into the vagina. He admitted, however, that the redness between the urethra opening and the vaginal opening could have been caused by an erect penis coming into contact with the vaginal opening.

The trial court found Saturnino Iluis guilty of the crime of qualified rape for which it imposed upon him the death penalty; it concluded:

"WHEREFORE, the Court finds the accused Saturnino Iluis y Jandoc @ `Masong' guilty beyond reasonable doubt of the crime of rape defined and penalized under Item No. 4 of the last paragraph of Art. 335 of the Revised Penal Code, as amended, and is hereby accordingly sentenced to suffer the penalty of death.

"The accused is further ordered to pay AAA the sum of FIFTY THOUSAND PESOS (P50,000.00) as indemnification."^[8]

In this automatic review, appellant would have it that –

"I.

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT SATURNINO ILUIS Y JANDOC BEYOND REASONABLE DOUBT OF STATUTORY RAPE NOTWITHSTANDING THE WEAKNESS OF THE PROSECUTION EVIDENCE.

"II.

ASSUMING ARGUENDO THAT THE ACCUSED IS GUILTY, THE TRIAL COURT ERRED IN IMPOSING THE DEATH PENALTY BECAUSE THE TRUE AGE OF THE VICTIM, WHICH WAS 6 YEARS OLD AT THE TIME OF THE RAPE, WAS NOT ALLEGED IN THE INFORMATION NOR WAS IT DULY PROVED BEYOND REASONABLE DOUBT."^[9]

The Court finds no sufficient basis for ignoring, let alone overturning, the factual assessment made by the court below. Once again, the Court must reiterate the familiar rule that the task of taking on the issue of credibility is a function properly lodged with the trial court and whose findings are entitled to great weight.^[10]

In this case, the trial court observed that AAA had remained consistent and demonstrated her credibility even with the extensive and rigorous cross-examination conducted by appellant's counsel.^[11] In assailing the credibility of the victim, who was only seven years old when she testified on the sexual ordeal she had suffered a year before, appellant would stress on her failure to give details of the commission of the crime. That, however, would not exactly appear to be the case. The victim testified:

"PROS. MAPILI:

"Q Between the months of August to October, 1997 do you remember if 'Masong' did something to you Madam Witness?

"A Yes, sir.

"Q What was that something which 'Masong' did to you?

"A He let me smoke, he took off my panty and he put his penis into my vagina, sir.

"Q And where were you when 'Masong' put his penis into your vagina?

"A In a little 'kubo-kubo' (small nipa hut), sir.

"COURT:

"Q Where is that little 'kubo-kubo'?

"A Near our shed, sir.

"PROS. MAPILI:

"Q That little 'kubo-kubo' is located near the house of your grandma [REDACTED]?

"A Yes, sir.

"Q Is that 'kubo-kubo' still there at this time?

"A Yes sir, it still exists.

"Q So [how] did you feel when `Masong' put his penis into your vagina?

"A I felt pain, sir.

"Q So what did you do when you felt the pain?

"A I remained silent, sir.

"Q Why did you not say or do something?

"A I was afraid, sir.

"Q Why were you afraid at that time?

"A Because of that thing that he did to me, sir.

"Q And what did `Masong' do or tell you if any when he put his penis into your vagina?

"A That I will not tell the matter, sir.

"Q Now you said that `Masong' warned you not to tell the matter, did you tell the matter to anyone?

"A Yes, sir.

"Q To whom did you tell what Masong did to you?

"A To my grandma [REDACTED], sir.

"Q And what did you tell to your grandma [REDACTED]?

"A I told her what he did to me, sir.

"Q You are referring [to] what Masong did to you?

"A Yes, sir.

"COURT:

"Q How did you tell your grandma [REDACTED]...what did you say to her?

"A I only had my left forefinger pointed at the middle of her palm, Your Honor.

"PROS. MAPILI:

"Q So that is the sign [of] what Masong did to you?

"A Yes, sir.

"Q And what was the response of your grandma [REDACTED] when you demonstrated to her what Masong did to you?

"A She asked me, `what did he do to you?'

"COURT:

"Q What was your answer?

"A I told her what he did to me, sir (witness turning her head to the place of the accused.)

"Q What did he do to you?

"A He took off my panty and put his penis into my vagina Your Honor.

"Q How many times did Masong do that to you?