

## EN BANC

[ G.R. No. 148138, April 11, 2003 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
JOHNNY VIAJEDOR, ACCUSED-APPELLANT.**

### D E C I S I O N

**AZCUNA, J.:**

Before the Court for automatic review is the Decision<sup>[1]</sup> of the Regional Trial Court, Branch 59, of San Carlos City, Negros Occidental, in Criminal Case No. RTC-1735, finding appellant Johnny Viajedor guilty of the crime of rape and sentencing him to suffer the death penalty.

The Information<sup>[2]</sup> filed against appellant reads:

That, on or about the 14<sup>th</sup> day of December, 1997, in the Municipality of Escalante, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who is the father of the herein offended party, JONAH VIAJEDOR y MAHINAY, after the latter was forced to drink "Tuba" by the former which weakened and deprived said offended party of her strength and resistance, with the use of force and/or intimidation, did then and there, willfully, unlawfully and feloniously have carnal knowledge with the latter who was then 13 years old, without her consent and against her will, and to her damage and prejudice.

CONTRARY TO LAW.

When arraigned on March 2, 1999, appellant pleaded not guilty.<sup>[3]</sup> Trial ensued.

#### *The Prosecution's Evidence*

Private complainant **Jonah Viajedor** (Jonah) testified that on December 14, 1997, she was in their house in Balintawak, Escalante, Negros Occidental, watching her younger brother and two sisters. At that time, she was 13 years old. Her mother left the house at 6:00 a.m. to sell clothes. In the morning of said date, her father was at work. Her father was working with the municipal government of Escalante, Negros Occidental as a street cleaner of the public market.<sup>[4]</sup>

Jonah testified that her mother was not able to return to their house on December 14, 1997. Although her father's dismissal time from work was at 5:00 p.m., on December 14, 1997 her father arrived home, drunk, at 4:00 p.m. He brought home one gallon of tuba. He made her and her younger brother and sisters drink the tuba. She drank three glasses of tuba and became weak. She asked permission from her father to sleep. Her father made her sit on his lap. He told her that she was already

a big girl, as big as her mother. She replied, "You have now a daughter who becomes a lady." Her father then touched her right nipple.

At that time, they were in the sala, while her younger brother and sisters were already asleep in their room. Then her father carried her to her bedroom. She did not resist or struggle because she was very weak. While they were lying down on the bed, her father embraced and kissed her. She turned to her side. Her father undressed her, and she protested. Her father also undressed himself. When her father was undressing himself, she tried to shout but he covered her mouth. She tried to resist her father, but to no avail. Her father then lay on top of her and held his penis. He forced her to spread her legs and inserted his penis into her vagina. She felt pain and tried to shout, but her father covered her mouth. Her father started pumping. After her father made the push and pull movement, he warned her not to tell anyone. Then he went back to work. After her father left, she cleaned herself of bloodstain.<sup>[5]</sup>

Jonah further testified that after the incident she went to her classmate Noli Obregon who accompanied her to the police station. She reported the incident to the police authorities, but they did not believe her because they said she was still a minor. So she went home. When she arrived home, her mother was already in their house. She reported the incident to her mother. Her mother went to the workplace of her father to confront him and returned home with a black eye. The following day, her mother brought her to her grandmother's house in Sipalay to keep her away from her father. She stayed there until March 1998 when she was fetched by her parents. She did not immediately file a case against her father because she was afraid he might kill them. On July 27, 1998, she reported the incident to the police and it was recorded in the police blotter.<sup>[6]</sup>

On cross-examination, Jonah testified that her father had many mistresses. Her mother quarreled with his mistresses. Her mother convinced her to file a complaint against her father because her mother was angry at him because of his mistresses and also because of what happened to her. She filed her complaint directly with the Department of Social Welfare and Development (DSWD) in Escalante after she returned from Sipalay.<sup>[7]</sup>

**Dr. Nelly Ortines Añonuevo**, rural health physician of the Municipality of Escalante, Negros Occidental, testified that on July 24, 1998, she conducted a medical examination on private complainant. Her two fingers were easily admitted in the vagina of complainant; hence, complainant was no longer a virgin. Moreover, complainant's hymen had incomplete lacerations at the 2:00 o'clock, 3:00 o'clock and 4:00 o'clock positions and a complete laceration at the 6:00 o'clock position. Said lacerations had healed. The lacerations could have been caused by the forceful penetration of a penis. The lacerations were possibly sustained by complainant around 5 months before the examination.<sup>[8]</sup>

Dr. Añonuevo issued a medical certificate<sup>[9]</sup> with the following findings:

Internal examination:

= Admits two fingers easily

= Hymen – with incomplete lacerations located at 2:00 o'clock, 3:00 o'clock and 4:00 o'clock

= complete laceration located at 6:00 o'clock

### *The Defense's Evidence*

**Johnny Viajedor**,<sup>[10]</sup> 40 years old, a resident of Barangay Balintawak, Escalante, Negros Occidental, admitted that the private complainant is his daughter. He testified that he was a street cleaner of Balintawak. He worked from Monday to Sunday from 8:00 a.m. to 12:00 noon, then from 1:00 p.m. to 5:00 p.m. On December 14, 1997, he declared that he worked from 8:00 a.m. to 12:00 noon, then from 1:00 p.m. to 5:00 p.m. After he was off from work, he immediately went home. All the members of his family, including his wife, were at home. Nothing unusual happened on that day. He denied that he drank tuba or brought home a gallon of tuba. He denied that he raped his daughter Jonah on said date. <sup>[11]</sup>

On cross-examination, appellant testified that it would take about 5 minutes by *triskad* from his workplace to their house. Sometimes he rode his bike to work. <sup>[12]</sup>

Moreover, appellant testified that as an employee of the local government, he was required to fill up a daily time record. He requested a copy of his daily time record for December 14, 1997 from his foreman, but it was already thrown away. <sup>[13]</sup>

Appellant further testified that the reason why Jonah filed this case against him was because he and his wife were always quarelling because he had a mistress. They said that they would put him in jail to stop his vicious habit. <sup>[14]</sup>

**Mary M. Viajedor**<sup>[15]</sup> (Mary), appellant's wife, declared that Jonah was the eldest of her seven children. Her children knew that her husband had a mistress. Jonah told her that she would find a way to separate her father from his mistress. <sup>[16]</sup>

Mary testified that at 4:00 p.m. of December 14, 1997, she went after her husband at the market to ask money for viand. She returned home with her husband. They ate supper together with their children. That night, Jonah and her sisters and brothers occupied one bed, while she and her husband occupied another bed. <sup>[17]</sup>

According to Mary, it was not true that her husband raped Jonah because Jonah had a boyfriend with whom she would go out at night. When Jonah informed her on December 15, 1997 that she was raped by her father, she told Jonah not to file a case because she had a boyfriend. Jonah told her that the reason why she filed this case against her father is to stop him from going around or living with his mistress. <sup>[18]</sup>

On cross-examination, Mary admitted that she accompanied Jonah to the DSWD and told Mrs. Cañete, a social worker, that Jonah was raped. After one week, her second child told her that Jonah's complaint was not true. She did not inform the DSWD that Jonah's allegation against her husband was false because, at that time, Fely Pallotas of the DSWD already brought Jonah to Bonifacio. She however informed the police, particularly one Bobby Dejas, that the allegation of Jonah was false. <sup>[19]</sup>

Mary further testified that on December 16, 1997, she brought Jonah to Sipalay because she had a boyfriend. At that time, Jonah was 13 years old.<sup>[20]</sup>

On September 27, 2000, the trial court rendered a decision, the dispositive portion of which reads:

WHEREFORE, it having been established beyond reasonable doubt that accused Johnny Viajedor had raped his own daughter, who at the time of the incident was only thirteen (13) years of age, he is hereby found GUILTY beyond reasonable doubt of the crime of "Rape," as charged, and is hereby sentenced to suffer the death penalty, as provided for by law, to pay the costs and to pay the victim, his daughter Jonah Viajedor, the sum of P50,000.

SO ORDERED.<sup>[21]</sup>

Appellant contends that the trial court erred, thus:

#### I

THE TRIAL COURT ERRED IN NOT ABSOLVING AND FREEING THE ACCUSED-APPELLANT OF THE CRIME CHARGED IN THE INFORMATION IN THE CASE AT BAR DUE TO THE EXISTENCE OF REASONABLE DOUBT.

#### II

THE REGIONAL TRIAL COURT IN SAN CARLOS CITY, NEGROS OCCIDENTAL (BRANCH 59) HAS COMMITTED AN ERROR IN IMPOSING OR METING OUT THE SUPREME PENALTY OF DEATH ON THE ACCUSED-APPELLANT.<sup>[22]</sup>

#### *The Court's Ruling*

#### *First Issue: Whether appellant's guilt has been proven beyond reasonable doubt*

Appellant contends that the trial court erred in not absolving him of the charge of rape. He denies that he raped his daughter Jonah in the afternoon of December 14, 1997 in Escalante, Negros Occidental. He asserts that his defense of denial was corroborated by his wife, who was in their house in the afternoon and in the evening of December 14, 1997. Moreover, he claims that the charge was only fabricated by his daughter who wanted him to leave his mistress. Hence, he prays for his acquittal on the ground of reasonable doubt.

Appellant's contention is without merit.

In adjudging rape cases, the Court is guided by the following principles: (a) an accusation of rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (b) in view of the nature of the crime in which usually only two persons are involved, the testimony of the complainant must be scrutinized with extreme caution; and (c) the evidence for the

prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.<sup>[23]</sup>

Nevertheless, it is settled doctrine that the testimony of a rape victim alone, if found credible, is competent to convict the accused.<sup>[24]</sup> When a rape victim's testimony is straightforward, without material or significant inconsistency, it deserves full faith and credit.<sup>[25]</sup>

In this case, the trial court found Jonah's testimony to be categorical, straightforward, spontaneous and frank and gave it full credit.<sup>[26]</sup> The trial court held that said testimony could not have been concocted by a 13-year-old girl against her father, just to make him leave his mistress.<sup>[27]</sup> The trial court's findings on the credibility of witnesses carry great weight and respect and will be sustained by the appellate courts unless the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which will alter the assailed decision or affect the result of the case.<sup>[28]</sup> The Court has carefully reviewed the records of this case and found no reason to disturb the findings of the trial court.

Jonah convincingly testified that appellant raped her on December 14, 1997, thus:

Prosecutor Libutan –

Q In other words, your father is working in the municipal government of Escalante, Negros Occidental as a street cleaner?

A Yes.

Q Was your mother able to return to your house on December 14, 1997?

A No.

Q How about your father, was he able to return to your house on December 14, 1997?

A Yes.

Q What time did your father return to your house on December 14, 1997?

A At 4:00 o' clock.

Q In the morning or in the afternoon?

A In the afternoon.

Q When your father returned to your house on December 14, 1997 at about 4:00 o' clock in the afternoon, what did you notice if any?