

EN BANC

[G.R. No. 145305, June 26, 2003]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. REDANTE SANTOS
Y CRUZ, APPELLANT.**

DECISION

CARPIO, J.:

The Case

Before this Court for automatic review is the Decision^[1] dated 18 October 1999 of the Regional Trial Court of Pasig City, Branch 166, in Criminal Case No. 114100-H. The trial court found appellant Redante Santos y Cruz ("appellant") guilty of the crime of qualified rape and imposed on him the death penalty.

The Charge

The Amended Information charging appellant with the crime of rape reads:

On or about April 9, 1998, in Pasig City and within the jurisdiction of this Honorable Court, the accused, with lewd designs and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of his step-daughter Danly Santos y Gonzales, twelve years of age, against her will and consent.

Contrary to law.^[2]

Arraignment and Plea

When arraigned on 8 October 1998, appellant, with the assistance of his counsel *de oficio*, entered a plea of not guilty.^[3]

The Trial

Version of the Prosecution

The prosecution presented three witnesses: (1) Dr. Tomas Suguitan of the Medico-Legal Division of the PNP Crime Laboratory, who conducted the physical examination on complainant; (2) complainant Danly Santos ("Danly"); and (3) Danly's mother Dolores Santos ("Dolores").

In the People's Brief, the Solicitor General summarized the prosecution's version of the incident as follows:

On April 9, 1998, around ten o'clock in the evening, the victim Danly Santos, then only thirteen (13) years old, was sleeping with her younger

half-sister in the rented house of her stepfather, appellant herein, located at Mais Street, Manggahan, Pasig City. Danly woke up when she felt someone fondling her private parts. She saw that it was appellant fondling her. Appellant then told Danly not to make any noise otherwise he would kill her. Thereafter, appellant covered Danly's mouth with his hand, removed her shortpants and t-shirt, spread Danly's legs, and raped her. Danly felt pain at the penetration. This was, however, already the second time appellant raped Danly. The first rape occurred on March 25, 1998 which is the subject of another appeal taken by appellant before this Honorable Court, Third Division in G.R. No. 144994 (pp. 11-12, tsn, November 12, 1998).

On April 12, 1998, appellant figured in a stabbing incident and was brought to the Rodriguez Hospital. Appellant insisted that Danly should stay and look after him there. A neighbor of Danly's mother saw both appellant and victim at the hospital by chance. The neighbor reported this matter to Dolores, Danly's mother, because the latter has been looking for her young children all this time. Upon learning of this information, Dolores went to the hospital and fetched Danly (p. 18, *ibid.*; p. 12, tsn, August 5, 1999).

Thereafter, Danly told her mother that appellant raped her. They promptly went to the police authorities in Pasig City to file the corresponding complaint against appellant herein. Appellant was arrested on April 13, 1998 (p. 3, tsn, January 14, 1999).

Minor victim Danly submitted herself for genital examination. According to Tomas D. Suguitan, M.D., the medico-legal officer who prepared the Medico-Legal Report dated April 14, 1998, the following are the results of this examination:

FINDINGS:

GENERAL AND EXTRAGENITAL:

Fairly developed, fairly nourished and coherent female subject. Breasts are conical with pinkish brown areola and nipples from which no secretions could be pressed. Abdomen is flat and soft.

GENITAL:

There is scanty growth of pubic hair. Labia majora are full, convex and coaptated, with the pinkish brown labia minora presenting in between. On separating the same disclosed an elastic, fleshy-type with deep healed laceration at 3 o'clock position. External vaginal orifice offers strong resistance to the introduction of the examining index finger. Vaginal canal is narrow with prominent rugosities. Cervix is firm and closed.

CONCLUSION:

Subject is in non-virgin state physically.

There are no external signs of application of any form of violence.

(Exh. "H" for the prosecution)^[4]

Version of the Defense

The defense likewise presented three witnesses: (1) Romualdo Bernardino, (2) Juvelyn Laureto, and (3) appellant Redante Santos.

The Public Attorney summarized the defense's version as follows:

ROMUALDO BERNARDINO, a resident of Libis Concepcion, Marikina City testified on April 9, 1998 at 6:00 o'clock in the morning, accused-appellant, together with private complainant and the latter's little sister arrived in his house in order to borrow One Thousand Five Hundred Pesos (P1,500.00) from him. As security for the loan, accused-appellant pledged the T.V. set owned by his mother, who resides in Antipolo. At around 7:00 o'clock in the morning, they proceeded to Antipolo to get the T.V. set. They arrived therein at around 10:00 o'clock in the morning. They were back at noon in Marikina. Later in the afternoon, accused-appellant and the two (2) girls returned to Bernardino's house. Accused-appellant told herein witness that they were hiding from Danly's mother because they were not in good terms with each other. At around 7:00 o'clock in the evening, Bernardino accompanied them to the house of his sister-in-law where they slept. After about a month, herein witness learned that accused-appellant was charged of rape. (TSN, March 29, 1999, pp. 2-21)

JUVELYN LAURETO, 14 years of age and a resident of Tumana, Concepcion, Marikina, testified that on April 9, 1998 at about 8:00 o'clock in the evening, accused-appellant together with private complainant Danly Santos and her sister arrived in their house. At around 10:00 o'clock after eating supper and playing cards, they slept side by side with each other near the kitchen area. She recalled that she was not able to sleep well that night, because Danly's sister suffered asthma and she had to wake up to give her a glass of water. She saw that accused-appellant and private complainant were taking turns in massaging and rubbing the back of the child so that the latter would feel better. (TSN, June 30, 1999, pp. 2-13)

Accused-appellant REDANTE SANTOS testified that, on April 9, 1998 at about 6:00 o'clock in the morning, he, together with private complainant Danly Santos and her little sister went to the house of his friend, Romualdo Bernardino and obtained from the latter a loan in the sum of One Thousand Five Hundred Pesos (P1,500.00). As security for the said loan, he pledged the T.V. set of his mother, which they picked up in Antipolo. They arrived thereat at around 10:00 o'clock in the morning and was able to return to Marikina by noon. Accused-appellant and the two (2) girls stayed in the town of Marikina at the Sports Center until late in the afternoon. They spotted private complainant's mother in the area so the three of them went into hiding. They returned to Bernardino's

house and requested if they could spend the night therein but the latter refused. Nevertheless, Bernardino accompanied them into a nearby house of his sister-in-law where accused-appellant and the two (2) girls spent the night. They woke at around 5:30 in the morning and left right after eating their breakfast.

On April 12, 1998 at around 3:30 in the afternoon, accused-appellant figured in a stabbing incident and was confined at the Rodriguez Hospital. When Dolores came to visit, she saw Danly taking care of the accused-appellant. Dolores got mad and forcibly took Danly with her. The following day, April 13, 1998, accused-appellant was arrested and detained at the Pasig Police Station. (TSN, August 5, 1999, pp. 2-23)^[5]

The Trial Court's Ruling

The trial court gave full faith and credence to the evidence of the prosecution. The trial court found that the prosecution sufficiently established the following facts:

1. On April 9, 1998, private complainant Danly Santos y Gonzales was 12 years and 7 months old.
2. Accused Redante Santos y Cruz is the stepfather of Danly Santos.
3. On April 9, 1998, at about 10:00 o'clock in the evening, in the house of accused in Manggahan, Pasig City, accused had carnal knowledge of Danly Santos by using force and intimidation.^[6]

Appellant raised the defense of alibi and asserted that Danly's mother Dolores merely fabricated the charge against him. On this, the trial court stated:

Accused was positively identified by Danly Santos as the person who raped her, so that accused's defense of alibi is unavailing.

Accused's assertion that the charge against him was fabricated by his wife and the latter's relatives because they have a grudge against him, finds no support in the record. Even assuming *in gratia argumenti* that accused's wife and his in-laws disliked and hated him, it is unthinkable and definitely inconsistent with human experience that they would utilize as instrument of revenge their own flesh and blood, a young and innocent girl, and consign her to a life of shame, embarrassment and ridicule.

The prosecution has sufficiently overcome the constitutional presumption of innocence in favor of the accused.^[7]

Thus, the trial court rendered a judgment of conviction on 18 October 1999. The dispositive portion of the trial court's decision reads:

WHEREFORE, the Court finds accused REDANTE SANTOS Y CRUZ Guilty beyond reasonable doubt of the crime of Rape, as charged in the Amended Information and defined and penalized under Article 335 of the Revised Penal Code, as amended by R.A. 7659, better known as the Death Penalty Law, and he is hereby sentenced to suffer the supreme

penalty of Death, and indemnify the victim Danly Santos y Gonzales the sum of P50,000.00, plus the costs of suit.

SO ORDERED.^[8]

Hence, this automatic review.

The Issues

Appellant seeks the reversal of his conviction by contending that:

I

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE GUILT OF APPELLANT FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT GRAVELY ERRED IN IMPOSING ON APPELLANT THE DEATH PENALTY DESPITE THE FAILURE BY THE PROSECUTION TO PROVE WITH CERTAINTY THE ALLEGED RELATIONSHIP OF PRIVATE COMPLAINANT WITH APPELLANT.^[9]

The Court's Ruling

The Court sustains the conviction of appellant, but the correct penalty is *reclusion perpetua* and not death.

We agree with the trial court that the prosecution has proven beyond reasonable doubt appellant's guilt for the crime of rape.

This Court has consistently observed the following guidelines in deciding rape cases: (1) to accuse a man of rape is easy, but to disprove the accusation is difficult even if the accused is innocent; (2) since rape usually involves only two persons, the testimony of the complainant must be examined with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merit and should not draw strength from the weakness of the evidence for the defense.^[10]

Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353,^[11] provides:

Article 266-A. *Rape. When and How Committed.* — Rape is committed —

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat or intimidation;

x x x.

To show that appellant had carnal knowledge of her by means of threat or intimidation, Danly testified thus:

Q Where were you on April 9, 1998 at around 10 p.m.?