

EN BANC

[G.R. Nos. 142561-62, February 15, 2002]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE VELASQUEZ Y LUALHATI @ "UTE" AND "BANGKUTA", ACCUSED-APPELLANT.

DECISION

YNARES-SANTIAGO, J.:

These cases are before us on automatic review pursuant to Article 47 of the Revised Penal Code, as amended.^[1]

Accused-appellant Jose Velasquez y Lualhati was charged in two separate informations for rape, committed as follows:

Criminal Case No. 9278 –

That sometime in the month of December, 1997 at Sitio Maysahing, Brgy. Haligue Silangan, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd design, by means of force, violence and intimidation, did then and there, wilfully, unlawfully and feloniously have carnal knowledge to (*sic*) one Annine^[2] de Guzman y Lualhati, a 9-year old girl, against the latter's will and consent.

That the commission of the offense was attended by the aggravating circumstance of grave abuse of trust and confidence, the accused being the uncle of the undersigned offended party.

CONTRARY TO LAW.^[3]

Criminal Case No. 9281 –

That sometime in the month of December, 1997 at Sitio Maysahing, Brgy. Haligue Silangan, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd design, by means of force, violence and intimidation, did then and there, wilfully, unlawfully and feloniously have carnal knowledge to (*sic*) one Nancy de Guzman y Lualhati, a 6-year old girl, against the latter's will and consent.

That the commission of the offense was attended by the aggravating circumstance of grave abuse of trust and confidence, the accused being the uncle of the undersigned offended party.

CONTRARY TO LAW.^[4]

The two cases were assigned to Branch 4 of the Regional Trial Court of Batangas City. At his arraignment, accused-appellant entered a plea of not guilty to the two charges.^[5]

After trial, the court *a quo* rendered judgment as follows:

WHEREFORE, accused Jose Velasquez y Lualhati alias "Ute" alias "Bangkuta" is hereby sentenced to Death in the manner provided for by law in each of these two (2) cases. Further, he is directed to indemnify Annie de Guzman y Lualhati and her sister, Nancy de Guzman y Lualhati in the amount of Fifty Thousand Pesos (P50,000.00) each and to pay the costs.

SO ORDERED.^[6]

From the evidence of the prosecution, it appears that one afternoon sometime in December, 1997, Annie de Guzman, then nine years old, was asked by her Tia Arda, wife of accused-appellant, to come to their house to take care of their baby, Rica. While Annie was in the house, accused-appellant dragged her into the bedroom. He made Annie lie down on the floor and then took off her panties. Then accused-appellant unzipped his pants and took his penis out of his briefs. He lay on top of Annie and made jerking motions, trying to insert his penis into her vagina. Annie felt pain in her genitals. However, she did not shout because she was afraid.^[7]

After a while, Annie felt hot sticky substance come out of accused-appellant's organ. Then accused-appellant put on his briefs and left. Annie also put on her panties and went out to take care of Rica.^[8]

Subsequently, on December 11, 1997, Annie's sister, six-year old Nancy, was brought by accused-appellant to a banana plantation near their house. Accused-appellant undressed Nancy and took off his clothes. Then he lay himself on top of Nancy and inserted his penis into her vagina, causing her to feel pain. Accused-appellant told Nancy not to shout and she obeyed him. Moments later, Nancy felt something sticky come out of accused-appellant's penis. When accused-appellant got up, she saw white fluid on his penis. After sexually abusing Nancy, accused-appellant gave her three pesos.^[9]

When Nancy got home, her mother, Luisa, noticed that she was behaving strangely. When she asked Nancy, the latter told her what happened. She inspected Nancy's vagina and saw that it was reddish. Immediately, she brought her to the Batangas Regional Hospital for medical examination. From there, they proceeded to the police station to report what happened.^[10]

Nancy told her mother that accused-appellant also raped her older sister, Annie. Luisa confronted Annie, and the latter confirmed she had been raped by accused-appellant. Thus, Annie was also brought to the Batangas Regional Hospital for medical examination, then to police headquarters to report the incident.^[11]

Accused-appellant denied the charges. When asked why his nieces filed the complaints against him, he testified that their parents envied him because he was closer to his parents-in-law. On the other hand, his brother-in-law and his parents-in-law did not see eye to eye.^[12]

In his Appellant's Brief, accused-appellant maintains that the evidence of the prosecution was insufficient to prove his guilt beyond reasonable doubt. He makes capital of the findings of the Medico-Legal Officer, Dr. Melissa Lim, that the hymens of Annie and Nancy were both intact and had no lacerations.

We are not convinced.

In order to establish rape, it is not necessary to show that the hymen was ruptured, as full penetration of the penis is not an indispensable requirement. Even the absence of spermatozoa in the vagina or thereabouts does not negate the commission of rape. What is fundamental is that the entrance, or at least the introduction of the male organ into the *labia* of the pudendum, is proved. The mere introduction of the male organ into the *labia majora* of the victim's genitalia, and not the full penetration of the complainant's private part, consummates the crime. Hence, the "touching" or "entry" of the penis into the *labia majora* or the *labia minora* of the pudendum of the victim's genitalia constitutes consummated rape.^[13]

xxx xxx xxx. Jurisprudence abound that full or complete penetration of the vaginal orifice is not required to consummate rape, for what is essential is the **introduction of the male organ into the labia of the pudendum, no matter how slight.** In *People v. Villanueva*,^[14] this Court emphasized: "In order that the crime of rape may be consummated, the successful penetration by the rapist of the female's genital is not indispensable. **Penile invasion, it has often been held, necessarily entails contact with the labia and even the briefest of contacts under circumstances of force, intimidation or unconsciousness, even without laceration of the hymen, is deemed to be rape in our jurisprudence.**"^[15]

To be sure, a medical examination of the victim, as well as a medical certificate, is merely corroborative in character and is not an essential element of rape.^[16] The accused may be convicted even on the basis of the lone uncorroborated testimony of the rape victim, provided that her testimony is clear, positive, convincing and otherwise consistent with human nature and the normal course of things.^[17]

After a careful scrutiny of the testimonies of the two victims in the cases at bar, we find that their narration of the events are worthy of credit. They contain peculiar details, specifically referring to the male genitalia, which could not have been known to girls of their young age. Moreover, they did not waver even during cross-examination. They remained consistent in their story. In sharp contrast, accused-appellant merely offered bare denials of the rape charges. Indeed, our review of the records point to no other conclusion than that the trial court did not err in convicting accused-appellant of the two counts of rape.

It bears stressing that the victims herein are minors, whose testimonies therefore deserve full credence.^[18] Courts usually give greater weight to the testimony of the