

EN BANC

[G.R. No. 145730, March 19, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ARMANDO ALVARADO, ACCUSED-APPELLANT.**

DECISION

MENDOZA, J.:

This is an appeal from the decision^[1] of the Regional Trial Court of Sorsogon, Sorsogon, Branch 52, finding accused-appellant Armando Alvarado guilty of rape of his 14-year old daughter Arlene and sentencing him to suffer the death penalty and to pay the latter the amounts of P75,000.00 as civil indemnity and P50,000.00 as moral damages.

The information against accused-appellant reads:

That on or about the midnight of July 26, 1997, in [B]arangay Rawis, [M]unicipality of Donsol, [P]rovince of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there, wilfully, unlawfully, and feloniously had carnal knowledge of his own daughter, ARLENE B. ALVARADO, a 14-year old minor, against her will and without her consent, to her damage and prejudice.

The offense is aggravated by relationship, the accused being the father of the victim.

CONTRARY TO LAW.^[2]

Upon arraignment, accused-appellant pleaded not guilty, whereupon trial ensued.

The evidence for the prosecution is as follows:

On the night of July 26, 1997, accused-appellant Armando Alvarado and his friends had a drinking spree near his house in Rawis, Donsol, Sorsogon, as a result of which he became drunk. When he returned to his house, he saw his eldest daughter, complainant Arlene Alvarado, and kissed her on the cheeks and on the lips. In fright Arlene fled to the kitchen. She heard her father call complainant's younger sister, Analene, so that, he said, he could look at her private parts. Then accused-appellant left and returned to his friends.

At around midnight of the same date, accused-appellant went home and proceeded to the room where Arlene was sleeping. He removed Arlene's shorts and panties and went on top of her. Arlene could not shout because her father threatened to kill her and her family if she did so. Overcome with fear, Arlene submitted to her

father's advances. Accused-appellant held her hands on her sides and stretched her legs forward. He then inserted his penis into her vagina, which hurt her. After satisfying his lust, accused-appellant went to his room and slept beside his wife Lonelisa and their youngest child Armando, Jr. Arlene cried and went to sleep. The following morning, Arlene had difficulty urinating because her vagina was very painful. She saw blood coming out of her genitals.

Arlene told no one of her ordeal, lest her father harmed her. She believed that accused-appellant was capable of killing his entire family for accused-appellant was a violent man.^[3] In August 1997, Arlene worked as househelper and babysitter of a couple, Arnulfo and Mely Ocharan, who were also residents of Donsol, Sorsogon. During her stay with the Ocharans, Arlene suffered dizziness and fainting spells. This alarmed her employers, who summoned her mother. Arlene was taken to a doctor and given some medicines, but Arlene's condition did not improve.^[4] Arlene was often observed to stare blankly, as if in deep thought, but she would not say what was wrong with her. As Mely Ocharan had already paid in advance Arlene's one month salary of P800.00 to the latter's grandmother, Maria, the Ocharans decided to let Arlene finish the month and afterward to let her go home.^[5]

At the end of August 1997, the Ocharan couple informed Arlene that she was going home. Arlene told them that she did not want to do so because she was afraid of her father. As the couple insisted to know why, Arlene was prevailed to tell them that she had been raped by her father. Mely Ocharan promised to help her, after which Arlene was sent home. In September 1997, she reported complainant's case to Nida Balictar, a social worker of the Department of Social Welfare and Development in Donsol, Sorsogon. Arlene was eventually placed in the custody of the DSWD.

On September 18, 1997, Balictar accompanied Arlene to the Donsol Police Station where she executed a *Sinumpaang Salaysay*^[6] regarding the incident. The following day, Arlene was examined at the Donsol District Hospital by Medical Officer IV Ester Espedido-Villarosa, M.D.^[7] Dr. Villarosa's medical certificate, dated September 19, 1997,^[8] contained the following findings:

P.E.

There are no physical findings. No marks, contusion and hematoma on all parts.

I. Exam:

Introitus: Admits small ring finger, middle and forefinger with ease, but with thumb, shows some difficulty.

- Healed laceration at 9:00 o'clock
- Pregnancy test (-)

On September 22, 1997, Arlene filed a criminal complaint^[9] for rape against her father before the Municipal Trial Court of Donsol, Sorsogon. In the meantime, accused-appellant was detained by the Donsol police.^[10]

Lonelisa Alvarado, Arlene's mother, also testified for the prosecution. She said she married accused-appellant in April 1996 in Pilar, Sorsogon, after three children had already been born to them, namely, Arlene, Analene, and Armando, Jr. Arlene, the eldest, was born on November 23, 1983. Lonelisa testified that she never had any problem with Arlene, who was obedient in helping with the household chores and doing errands. Arlene finished only the fifth grade and was no longer attending school when she was raped. Lonelisa testified that her husband was a trouble-maker whenever he was drunk.

According to Lonelisa, at the time of the incident, her family lived in Donsol, Sorsogon together with her mother-in-law Maria, her nephew Fermin, and her niece Maylene. The house they lived in had two rooms. She, accused-appellant, and their youngest child Armando, Jr. occupied one room, Arlene occupied the other, while the rest slept in the sala.

Lonelisa confirmed that Arlene worked for the Ocharan family for about a month only because she became sick. She said that after Arlene had returned home from the Ocharans' household, she stayed in the DSWD. Later, accused-appellant was arrested. It was only then that Lonelisa learned that Arlene had accused her father of rape. Lonelisa said she was caught by surprise since she did not notice anything unusual about the relationship between Arlene and accused-appellant. When she confronted her husband and her daughter, accused-appellant told her the charge was false, but Lonelisa did not believe him. On October 1997, Lonelisa left their house in Donsol with Analene and Armando, Jr. and transferred to Barangay Sapnangan, Pilar, Sorsogon.^[11]

Accused-appellant anchored his defense on denial and alibi. According to him, at about midnight of July 26, 1997, he was at the wake for Pining Go in Rawis, Donsol, Sorsogon, about 250 meters away from his house. He arrived at the wake at around 3:00 p.m., and came home at 5:00 a.m. of the following day. When he arrived home on July 27, 1997, he cooked breakfast for their family. At that time, only two of his children, Analene and Armando, Jr., were at home. His eldest daughter Arlene, then 14 years old, was away working as a babysitter for the Ocharan family, whose house in Donsol, Sorsogon was about 700 meters away. Accused-appellant returned to the wake to help in cooking for the family of the deceased, and went home only at about 10:00 a.m. of July 28, 1997.

Accused-appellant also testified that he did not know that Arlene had filed a rape charge against him until he was invited over to the station by the police of Donsol, Sorsogon. No warrant of arrest was shown to him, but when he arrived at the precinct, he was shown Arlene's complaint, after which he was detained. He denied raping Arlene and threatening to kill her. He did not know of any reason why she filed a case against him. He expressed hurt at what Arlene had done in spite of his being a good father to her. He denied maltreating Arlene and stated that he only wished her well. Accused-appellant also stated that he never wanted Arlene to work, and his daughter's working for the Ocharan couple was his wife's idea. He wanted Arlene to finish schooling, but she reached only Grade 5 because he claimed that all she wanted to do was to attend dances and to flirt with boys. Accused-appellant surmised that, although there was nothing abnormal about Arlene, she might have accused him of rape because she had many boyfriends. Accused-appellant presented in evidence three letters^[12] written by Arlene to Jisos, Isus,

and Rine, turned over to him while he was already in jail by his mother, Maria. The letters had been found among Arlene's things.

To corroborate his testimony, accused-appellant presented as witnesses his niece Maylene, his mother Maria, and his brother Nelson.

Maylene Alvarado testified that her father Seferino was the brother of accused-appellant and that their family resided in Giron, Pilar, Sorsogon. She stayed in the house of her paternal grandmother in Rawis, Donsol, Sorsogon from June 1997 up to March 1998 because she was then studying at the Donsol National Comprehensive High School. According to her, on July 26, 1997, she was at her grandmother's house, but Arlene was not staying there since she was working in Pilar, Sorsogon. Maylene saw her uncle, accused-appellant, at 9:00 a.m. that day, but he attended a wake in the evening. Maylene stated that she only saw Arlene on August 7, 1997, when the latter returned home because she was bitten by a dog. She also knew that three or four days after her return, Arlene started working with the Ocharan couple. She did not know what was the nature of her cousin's work. Arlene stayed with her employers until the end of August 1997. She also did not know why Arlene left her job.

Maylene further testified that she and Arlene were close. She claimed that Arlene confided to her about her boyfriend, Rico. She allegedly learned from Arlene that Rico stayed with the Ocharans. According to her, she thrice saw Arlene and Rico together in August 1997. The first time was at the plaza when she was invited one evening, around 9:00 p.m., by Arlene's sister, Analene, to accompany her. Maylene saw Rico with Arlene at the back of a store, the former fondling the latter in different parts of her body. The second time the witness saw Arlene was at the Rawis Elementary School. It was also in the evening, around 8:30 p.m. Analene was also the one who invited her to come along. Arlene wanted to go there and told her that she would study in that school. The third time was at a place near the house of a certain Tonga. Arlene invited her to join her and Rico to find Arlene's belt, which was lost somewhere in that place. Maylene later saw Rico pressing Arlene with his body.^[13]

Nelson Alvarado, accused-appellant's younger brother, testified that he lived only three meters away from his mother's house, where accused-appellant and his family also resided. According to him, the charge of rape against accused-appellant could not be true because the latter was not home on the night of July 26, 1997. Nelson vouched for his brother's absence since accused-appellant was at a wake located about 200 to 300 meters away from his house. Accused-appellant left at 9:00 p.m. on that date and did not go home for the rest of the night. In fact, Nelson was sent by his mother to look for accused-appellant. He found him at the wake at around 9:30 p.m. Nelson also testified that Arlene was also not home on that date as she was working as a stay-in helper at the Ocharan household.^[14]

Maria Alvarado, the mother of accused-appellant, also testified that her son Armando was not home on the night of July 26, 1997. She knew this for a fact because, before leaving, accused-appellant asked permission from her and his family to attend a wake at the farthest portion of Rawis, which could be negotiated by more than an hour's walk. She confirmed accused-appellant's statement that he returned only at 5:00 a.m. the following day. She likewise testified that Arlene was

absent as she was then a babysitter of the Ocharan couple. She knew about Arlene's alleged boyfriend Rico, the cousin of Mely Ocharan.^[15]

On June 15, 2000, the trial court rendered its decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the Court finds the accused Armando Alvarado guilty beyond reasonable doubt of the crime of Rape defined and penalized under Article 335 of the Revised Penal Code as amended by Sec. II, RA 7659 and he is hereby sentence[d] to suffer the maximum penalty of DEATH and to pay the amount of P75,000.00 as civil indemnity and P50,000.00 as moral damages without subsidiary imprisonment in case of insolvency, without pronouncement as to cost.

SO ORDERED.^[16]

Hence, this appeal. Accused-appellant contends that --

- I. THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.
- II. GRANTING ARGUENDO THAT ACCUSED IS GUILTY, THE COURT A QUO NONETHELESS ERRED IN IMPOSING THE SUPREME PENALTY OF DEATH DESPITE THE FAILURE OF THE PROSECUTION TO PRESENT INDEPENDENT EVIDENCE TO PROVE THE QUALIFYING CIRCUMSTANCE OF PRIVATE COMPLAINANT'S ALLEGED MINORITY.

^[17]

Except for the penalty imposed by the trial court upon accused-appellant, we find no cogent reason to overturn its decision.

First. Accused-appellant argues that complainant's testimony should not have been given credence. He contends that, although Dr. Villarosa found that complainant had sexual intercourse recently, it could not have been with accused-appellant since the examining physician testified that complainant might have had sexual intercourse either a week or a month before her examination on September 19, 1997, and complainant had sexual relationships with different men in August 1997. He contends that the trial court should have given greater weight to his defense as the same purportedly conformed to the findings of the expert witness.

We disagree. It is a time-honored rule that the assessment of the trial court with regard to the credibility of witnesses deserves the utmost respect, if not finality, for the reason that the trial judge has the prerogative, denied to appellate judges, of observing the demeanor of the declarants in the course of their testimonies. The only exception is if there is a showing that the trial judge overlooked, misunderstood, or misapplied some fact or circumstance of weight and substance that would have affected the case.^[18] In this case, we find no compelling reason to depart from this rule. Indeed, complainant proved herself to be a credible witness. Her narration of how she was sexually assaulted by her own father remained, as also noted by the trial court, plain, candid, straightforward, and unflawed by serious contradictions^[19] in spite of the lengthy and tedious cross-examination by the