

FIRST DIVISION

[G.R. No. 144082-83, April 18, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FAUSTINO DULAY @ "FAUS", ACCUSED-APPELLANT.**

D E C I S I O N

YNARES-SANTIAGO, J.:

This is an appeal from the decision^[1] of the Regional Trial Court of Urdaneta City, Branch 46, in Criminal Case No. U-10305, convicting accused-appellant of the crime of rape, sentencing him to suffer the penalty of *reclusion perpetua* and ordering him to pay the victim the amounts of P50,000.00 as moral damages and P25,000.00 as exemplary damages.

Accused-appellant was originally charged with rape in Criminal Case No. U-10305, and sexual assault in Criminal Case No. U-10306, defined in Articles 266-B, and 266-A, paragraph (2), respectively, of the Revised Penal Code as amended by Republic Act No. 8353. He was acquitted in Criminal Case No. U-10306 for sexual assault but was convicted for simple rape in Criminal Case No. U-10305 under an Information which reads:

That in January, 1999, or thereabout, at Poblacion, Binalonan, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, who well knew that he was afflicted with Gonorrhea, a sexually transmitted disease, common-law husband of Cresencia Olimpo, the adoptive mother of herein complainant Princess Diana Olimpo, a minor, 9 years of age, through threat and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with said complainant who was transmitted with Gonorrhea as a consequence, against her will, to her damage and prejudice.

CONTRARY to Article 255-A, (*sic*) par. 1, in relation to Article 266-B, pars. 1 and 6, Revised Penal Code, as amended by Republic Act Nos. 7659 and 8353.^[2]

Upon arraignment on November 11, 1999, accused-appellant pleaded not guilty.^[3] Trial thereafter followed.

The facts show that complainant, Princess Diana Olimpo, is the biological child of Lolita Cervesa. After her birth on September 21, 1989, complainant was entrusted to Gloria Olimpo and her common-law spouse, accused-appellant Faustino Dulay. Complainant was thereafter registered in the Office of the Civil Registrar of Villasis, Pangasinan, as the child of Cresencia Olimpo and accused-appellant Faustino Dulay. In July 1998, Gloria Olimpo flew to the United States and left the complainant with her sister-in-law, Juanita Fariñas. Accused-appellant, however, took custody of

complainant and brought her to Poblacion, Binalonan, Pangasinan.^[4]

Sometime in January 1999, when the victim was nine (9) years of age, accused-appellant fingered her anus and inserted his penis into her vagina many times, causing her to feel pain. The victim narrated the incident to Gloria's son, Donald Olimpo, who in turn relayed the matter to her sister, Cristy Olimpo.^[5] Consequently, the victim was examined and was found to be suffering from gonorrhea. Further examination yielded the following results:

S/S: Patient is conscious, coherent, F/N, F/D well kept.

Breast: Infantile, symmetrical, non tender.

Genitalia:

Pubic hair: none

Labia majora/Labia minora: well coaptated

Hymen: (+) deep healed laceration at 9 o'clock position

Vaginal Orifice: (+) erythema admits tip of 5th finger examining with resistance.^[6]

In his defense, accused-appellant vehemently denied the accusations against him and insinuated that it was Donald Olimpo who molested the victim.^[7] He stressed that if he indeed raped the victim, her sex organ would have been severely injured considering the size of his penis. To bolster his claim, he requested the court to examine his sex organ. Upon ocular inspection, the trial court found that there were embedded therein 3 pellets; and the same measures 6 inches in length and 2 inches in diameter when not fully erect.^[8] The defense, likewise, proffered the theory that the rape charge was a mere fabrication of Gloria Olimpo's relatives who were opposed to his relationship with the latter.

On May 15, 2000, the trial court rendered the assailed decision. The dispositive portion thereof states:

WHEREFORE, JUDGMENT is hereby rendered:

1. In CRIM. CASE NO. U-10305, CONVICTING FAUSTINO DULAY @ "FAUS" of the crime of Simple Rape, and the Court sentences Faustino Dulay @ "Faus" to suffer the penalty of *Reclusion Perpetua*; to indemnify Princess Olimpo the sum of P50,000.00 as moral damages and further sum of P25,000.00 as exemplary damages.
2. In CRIM. CASE NO. U-103506, ACQUITTING FAUSTINO DULAY @ "FAUS" of the crime of Rape for failure of the prosecution to prove his guilt beyond reasonable doubt.

The Branch Clerk of Court is hereby ordered to prepare the mittimus.

The Jail Warden, Bureau of Jail Management and Penology, Urdaneta District Jail, Urdaneta City, is hereby ordered to deliver the person of Faustino Dulay @ "Faus" to the National Bilibid Prisons, Muntinlupa City, immediately upon receipt of this Decision.

SO ORDERED.^[9]

Accused-appellant appealed his conviction for rape in Criminal Case No. U-10305, on the following assignment of errors:

I

THE TRIAL COURT ERRED IN NOT CONSIDERING THAT IT WAS IMPOSSIBLE FOR ACCUSED-APPELLANT TO HAVE RAPED THE VICTIM WITHOUT CAUSING SERIOUS INJURY ON HER GENITALS.

II

THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE RAPE CHARGE DESPITE ABSENCE OF ANY EVIDENCE SHOWING THAT HE WAS INFECTED WITH GONORRHEA.

III

THE TRIAL COURT ERRED IN NOT CONSIDERING THAT THE RECORDS ARE REplete WITH OTHER CIRCUMSTANCES CLEARLY POINTING TO THE INNOCENCE OF THE ACCUSED-APPELLANT OF THE CRIME CHARGED.^[10]

In resolving rape cases, the complainant's credibility becomes the single most important issue. In view of the intrinsic nature of the crime of rape where only two persons normally are involved, the testimony of the complainant must always be scrutinized with great caution, and the evidence for the prosecution must stand or fall on its own merits and should not be allowed to gain validity from the lack of evidence for the defense.^[11]

Guided by the foregoing principles, we have carefully examined the testimony of Princess Olimpo and found no error on the trial court's giving credence to her declarations. Complainant, who was only 10 years old when she testified, was candid and straightforward in her version of the facts. She was not shown to have the shrewdness and callousness of a woman who would concoct such a story and endure physical examination and public trial if her story were untrue. The Court has consistently held that when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed.^[12] Moreover, the records show that the complainant was crying when she testified. In a number of cases, this has been held to be evidence of truthfulness of the rape charge with the verity born out of human nature and experience.^[13]

The Court sees no reason to depart from the conclusions of the trial court whose findings of facts are accorded great respect, being in the unique position to observe the demeanor, act, conduct, and attitude of the witnesses in court while testifying.^[14] Verily, the trial court correctly disregarded the ill motive imputed by accused-appellant on the relatives of the complainant. It is highly improbable that they would concoct a story of defloration, allow an examination of complainant's private