

## SECOND DIVISION

[ G.R. Nos. 145163-65, June 05, 2002 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. HENRY BARELA Y DOE, ACCUSED-APPELLANT.**

### D E C I S I O N

**MENDOZA, J.:**

This is an appeal from the decision,<sup>[1]</sup> dated July 14, 2000, of the Regional Trial Court, Branch 35, Iriga City, convicting accused-appellant Henry Barela of three counts of rape against complainant Helen Plotado, a 14-year old minor, and sentencing him to suffer the penalty of *reclusion perpetua* and to pay P150,000.00 as indemnity and the costs of suit.

The facts are as follows:

Complainant Helen Plotado filed several complaints for rape against accused-appellant,<sup>[2]</sup> on the basis of which three separate informations were filed against him before the Regional Trial Court, Branch 35, Iriga City. In Criminal Case No. 5013, the information charged —

That on or about 3:00 o'clock in the early morning of May 6, 1999, at Sitio Burias, La Purisima, Nabua, Camarines Sur, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, and while armed with a bladed instrument, did then and there, willfully, unlawfully and feloniously, entered the room then occupied by Helen Plotado y Bombase, a fourteen-year old lass, thereafter, by means of force, threats and intimidation, that is – by poking his knife at said victim and threatening to kill her if she will not submit herself to his carnal desire, and thus, succeeded in having sexual intercourse with the said private complainant against her will and without her consent, to her damage and prejudice.

ACTS CONTRARY TO LAW.<sup>[3]</sup>

In Criminal Case No. 5014, the information alleged —

That on or about 4:00 o'clock in the early morning of May 7, 1999, at Sitio Burias, La Purisima, Nabua, Camarines Sur, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, with lewd design, and while armed with a bladed instrument, did then and there, willfully, unlawfully and feloniously, entered the room then occupied by Helen Plotado y Bombase, a fourteen-year old lass, thereafter, by means of force, threat and intimidation, that is – by poking his knife at said victim and threatening to kill her if she will not submit herself to his carnal desire, and thus, succeeded in having sexual

intercourse with the said private complainant against her will and without her consent, to her damage and prejudice.

ACTS CONTRARY TO LAW.<sup>[4]</sup>

In Criminal Case No. 5015, the information recited —

That about 8:30 o'clock in the evening of May 9, 1999 at Sitio Burias, La Purisima, Nabua, Camarines Sur, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, with lewd design and while armed with a bladed instrument, did then and there, willfully, unlawfully and feloniously, blocked the way of Helen Plotado y Bombase, a fourteen-year old lass while on the way home, thereafter, by means of force, threats and intimidation, that is – by poking his knife at said victim and threatening to kill her if she will not submit to his carnal desire, and thus, succeeded in having sexual intercourse with said private complainant against her will and without her consent to her damage and prejudice.

ACTS CONTRARY TO LAW.<sup>[5]</sup>

When arraigned on October 1, 1999, accused-appellant, assisted by counsel, pleaded not guilty to charges against him,<sup>[6]</sup> whereupon trial ensued.

The following testified for the prosecution: complainant Helen Plotado, her mother Natividad Plotado, Dr. Stephen A. Beltran, the health officer who examined complainant, Gemalil Bonaobra, a social worker, Glicerio Bonador, a barangay tanod, and SPO1 Adonis Lomatoa.

Complainant Helen Plotado testified that at around 3 o'clock in the morning of May 6, 1999, she and her two sisters, aged nine and 11 years old, were sleeping in a room inside their house in Burias, La Purisima, Nabua, Camarines Sur. Complainant was awakened when accused-appellant sneaked into their house and, at knifepoint, undressed her. According to complainant, accused-appellant inserted his finger into her private parts and then had sexual intercourse with her, after which he left.

The second rape took place at around 4 o'clock in the morning of May 7, 1999, also in their house in Burias, La Purisima, Nabua, Camarines Sur. Accused-appellant again entered their house and at knifepoint forced complainant to have sexual intercourse with him.

The third rape took place at around 8:30 p.m. of May 9, 1999. Complainant was coming home from a neighbor's house after watching television when accused-appellant blocked her way. He pulled her towards a dark area, and, again at knifepoint, he forced complainant to stand against a tree and undressed her. In a standing position, accused-appellant succeeded in having sex with complainant.

According to complainant, she did not make an outcry on each of the three occasions she was molested because accused-appellant threatened to kill her and her family if she told them what happened to her.<sup>[7]</sup> But, according to Natividad Plotado, at around 4 o'clock in the morning of May 10, 1999, a day after the third time that she was raped, complainant tried to run away from their house, but she

(Natividad Plotado) saw her and stopped her and forced her to say what the matter was. It was then that complainant disclosed what had happened to her. Complainant and her mother then went to the barangay tanod and thereafter reported the rape incidents to the police.<sup>[8]</sup>

Natividad Plotado testified about an incident which took place at around midnight of May 9, 1999,<sup>[9]</sup> prior to the occurrence of the third rape against complainant. She said that at that time a man entered their house and went to the room where complainant was sleeping. Natividad recognized the intruder to be accused-appellant because of the light from a gas lamp which was kept lighted throughout the night. Natividad said she wanted to hit accused-appellant with a bolo, but she became nervous so she fainted. She and her husband later went to the house of the chief of the barangay tanods, Glicerio Bonador, and reported the incident.<sup>[10]</sup>

Natividad's testimony was corroborated by Glicerio Bonador, who testified that Natividad went to his house at around 1 o'clock in the morning of May 9, 1999 to denounce accused-appellant for entering their house that night. Glicerio said that the next day, on May 10, 1999, Natividad went back to his house and reported that her daughter, Helen, had been raped by accused-appellant Henry Barela.<sup>[11]</sup>

Gemalil Bonaobra, a social worker, identified the Social Case Study Report (Exh. B), dated March 15, 2000, which she prepared containing her observations of the behavior and character of complainant Helen Plotado.<sup>[12]</sup>

On the other hand, Dr. Stephen A. Beltran, municipal health officer of Nabua, issued a medical report (Exh. A) on the result of the physical examination of complainant Helen Plotado. Dr. Beltran's report states in pertinent parts:

NOI -	SEXUAL ABUSE
TOI -	4:00 A.M.
DOI -	May 7, 1999
POI -	La Purisima, Nabua, Cam. Sur
POE -	Municipal Health Office, Nabua, Cam. Sur
DOE -	May 11, 1999

#### F I N D I N G S :

= VAGINAL EXAMINATION:

(+) – Healed hymenal laceration at 9:00 o'clock position

#### I M P R E S S I O N :

Vaginal penetration, complete.<sup>[13]</sup>

Dr. Beltran testified that complainant Helen Plotado sustained a hymenal laceration at the 9 o'clock position, which could possibly have been caused by the penetration of a hard object, such as an erect penis, into the vagina of the victim. He said that the hymenal laceration sustained by the victim was already healed when he examined the latter on May 11, 1999. He explained that a single hymenal laceration did not mean that there was only one incident of sexual intercourse.<sup>[14]</sup>

The prosecution also presented in evidence the certificate of birth of Helen Plotado (Exh. C), showing that the latter was born on June 25, 1985.<sup>[15]</sup>

Accused-appellant denied the charges against him. He said that he was arrested by several men, accompanied by complainant's father Mamerto Plotado, at around 3 o'clock in the morning of May 9, 1999 while he was in his friend's house. He claimed that he was not informed of the reason for his arrest, but was simply taken to complainant's house and there beaten up by members of the arresting team, some of whom were drunk. He testified that he was later taken to the barangay tanod outpost in La Purisima, Nabua, Camarines Sur, where he was questioned by the barangay captain about the alleged rape of Helen Plotado. He was later taken to the PNP Headquarters of Nabua Poblacion, but the policeman, Patrolman Lomatoa, sent him home. He claimed that he stayed home after May 9, 1999, but he was again taken into custody on May 13, 1999 by police officers, who informed him that there was a warrant for his arrest. When he asked what was the charge against him, the police told him it was for the rape of complainant Helen Plotado. Accused-appellant denied that he owned a knife or that he forced complainant to have sex with him on three occasions.

On cross-examination, accused-appellant said that he did not go to a doctor after he had been beaten up by the men who arrested and brought him to complainant's house. He denied that the reason for his arrest on May 9, 1999 was for entering complainant's house earlier that day. He said that he was never questioned by the police regarding his alleged illegal entry into the house of complainant on that date, but that he was already charged with rape at that time. Accused-appellant said that he did not know of any reason for complainant and her parents to trump up charges against him. He admitted that he had known complainant and her parents prior to May 1999.<sup>[16]</sup>

The prosecution presented as a rebuttal witness SPO1 Adonis Lomatoa of the PNP in Nabua, Camarines Sur. SPO1 Lomatoa testified that on May 12, 1999, he received a report from complainant and her mother charging accused-appellant of the crime of rape. He said accused-appellant was brought to their station in Nabua, Camarines Sur by the police at the Tandaay police station.<sup>[17]</sup>

Based on the evidence presented by the parties, the trial court rendered a decision on July 14, 2000, the dispositive portion of which states:

WHEREFORE, the Court finds the accused Henry Barela guilty beyond reasonable doubt of three (3) counts of rape, as principal, under criminal cases No. 5013, 5014, & 5015 as penalized under Art. 335 of the Revised Penal Code, as amended, and accordingly sentences accused to suffer the penalty of Reclusion Perpetua in each case or a total of three penalties, to indemnify Helen Plotado the total sum of P150,000.00 and to pay the costs.

In the successive service of his sentence, accused shall be credited with the full period of his preventive imprisonment if the conditions under Art. 29 of the Revised Penal Code are complied with.