

## THIRD DIVISION

[ G.R. Nos. 137661-63, July 04, 2002 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ADRIANO PONSICA, ACCUSED-APPELLANT.**

### D E C I S I O N

**PUNO, J.:**

Before us on appeal is the consolidated decision of the Regional Trial Court of Urdaneta City, Pangasinan, Branch 46,<sup>[1]</sup> promulgated on August 8, 1998, in Criminal Case Nos. U-9631, U-9632, and U-9633 finding appellant Adriano Ponsica guilty of three counts of rape and sentencing him to suffer the penalty of *reclusion perpetua* in each case.

For allegedly violating the womanhood of his 13-year old neighbor, Melba R. Quidem, appellant was charged with three counts of rape in separate Informations, the accusatory portion of each reads as follows:

*Criminal Case No. U-9631*

“That sometime on April 3, 1998 in the evening at barangay San Vicente East, Asingan, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused entered the house of Melba R. Quidem and once inside by means of force and violence, did then and there wilfully, unlawfully and feloniously have sexual intercourse with said Melba R. Quidem, a minor, 13 years of age, against her will and without her consent, to her damage and prejudice.

CONTRARY to Article 335 of the Revised Penal Code as amended by R.A. 7659 and R.A. 8353.”<sup>[2]</sup>

*Criminal Case No. U-9632*

“That sometime on April 7, 1997 at barangay San Vicente East, Asingan, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused by means of force and violence, did then and there wilfully, unlawfully and feloniously have sexual intercourse with Melba R. Quidem, a minor, 13 years of age, against her will and without her consent, to her damage and prejudice.

CONTRARY to Article 335 of the Revised Penal Code as amended by R.A. 7659.”<sup>[3]</sup>

*Criminal Case No. U-9633*

“That sometime on (*sic*) November, 1997 in the evening at barangay San Vicente East, Asingan, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused by means of force and violence, did then and there wilfully, unlawfully and feloniously have sexual intercourse with Melba R. Quidem, a minor

13 years of age, against her will and without her consent, to her damage and prejudice.

CONTRARY to Article 335, Revised Penal Code as amended by R.A. 7659 and R.A. 8353.”<sup>[4]</sup>

Upon arraignment, appellant entered a plea of Not Guilty to each of the charges. Trial on the merits thereafter ensued.

It appears from the evidence adduced by the prosecution that the victim Melba Quidem and appellant in these cases are neighbors. Their houses, which are very near each other, are located in San Vicente East, Asingan, Pangasinan. Since her family did not own any television set, Melba would usually go to the appellant's house to watch television with other companions.

It was immediately after watching television at the appellant's house on April 7, 1997, at 5:00 o'clock in the afternoon, Melba recalled,<sup>[5]</sup> that the first of the three incidents of rape happened. She and her playmates began to gather at the house at 4:00 o'clock in the afternoon to view a telecine program. After the program, which lasted for approximately one hour, her friends started to leave. She was about to follow suit when appellant suddenly placed a handkerchief in her mouth. He then carried her, using his two hands, to a corner of the house. He forced her to lie down, face up, on the cemented floor. He removed her shorts, together with her panty. After which, he removed his own pants and pulled his briefs sideways, letting his penis out. He inserted it into her sexual organ. The act caused her to experience pain in her vagina. She put up a struggle in a desperate attempt to defend her honor. She soon realized the futility of it all as the appellant was bigger and stronger than her. In time, appellant succeeded in penetrating her. After satisfying his carnal desire, appellant stood up, put his clothes back on, and left the place. Melba subsequently went home. Upon reaching their place, she washed her vagina. She chose not to tell her parents about the incident for the threat the appellant made stuck to her mind: he will kill her whole family if she even mentioned a word about the matter.

The second incident of rape happened almost exactly the same way as the first one. Melba was again watching television one night at the house of the appellant on the third week of November 1997 with several companions. They stayed there up to 9:00 in the evening. After the TV program, the people headed home one by one. Melba was likewise going to leave when she noticed that one of her slippers was missing. She looked around, but could not find it, so she went home. While she was walking, appellant chased her and overtook her. He grabbed her, covered her mouth, and placed his hands around her. He carried her to a nearby bamboo grove. At that time, he was wearing only briefs and *sandos*. He forced her to lie down face up then began to insert his penis into her vagina. He thereafter made a push and pull movement. She noticed that something came out of his penis which is hot and sticky. While in the process of making the push and pull movement, appellant tore her upper garment. He sucked her breast which, to her, felt very painful. After he succeeded in imposing his bestial will upon her, he stood up and left his ravished prey. Melba headed home. Before she went to sleep, at about 10:30 o'clock in the evening, she washed her vagina.

The boldness of the appellant seemed to increase, as he committed the third and last of the rapes inside the very house of the victim. At about 10:00 o'clock in the evening of April 3, 1998, Melba was roused from her sleep when she heard the door of the

house being opened. She got up, closed the door, and went back to sleep with her two brothers. After a while, Melba was again awakened, this time because she felt somebody on top of her. That somebody turned out to be the appellant. Then she realized that his penis was already inside her vagina. His knees were placed on top of her knees. She attempted to parry him, but instead got boxed in the stomach. While he was making his familiar push and pull movement, she felt enormous pain in her vagina. He also lowered her upper dress to suck her right nipple. All throughout, she was just lying face up, with her hands above her head as they were being held by the appellant.

Early the next morning, Melba's aunt, Rosalinda Bitana, caught her crying.<sup>[6]</sup> She asked the girl why she was crying. The young lass told her of the rape. Feeling compassion for her niece, she brought her to the Barangay Captain, who accompanied them to the Asingan Medicare Hospital for medical examination.

Dr. Noemie M. Taganas physically examined Melba.<sup>[7]</sup> Her examination indicated the following external findings: swelling of both nipples and swelling of labia majora, labia minora and clitoris. The following, on the other hand, were her internal findings: (1) hymen ruptured showing incomplete old lacerations at about 12:00, 2:00, 5:00, 6:00 and 9:00 o'clock positions; hymenal orifice admits one finger tip with difficulty and pain; and whitish discharge coming from vagina. She also found the presence of spermatozoa. Her overall diagnosis is that the girl has lost her virginity. The doctor opined that the laceration could have possibly been caused by a human penis, and that the presence of wounds in different positions indicates that there could have probably been several sexual intercourse which caused them.

After the medical examinations were finished, Rosalinda brought Melba to the Asingan Police Station for the girl to lodge a formal complaint against the appellant. When they arrived at the station, the police investigator on duty, SPO1 Patricio Badua, Jr., investigated Melba's grievance.<sup>[8]</sup> He took her statements, which became the basis of the complaint he himself later filed with the court.

In a bid for exculpation, appellant interposed denial and alibi, contending that on the dates the three instances of rape happened, he was in another place or otherwise doing something else.<sup>[9]</sup> The defense called to the stand, aside from the appellant himself, the following witnesses to corroborate his story: his wife Carlina Ponsica, his son-in-law Virgilio Quidem, and his friend Romulo Lapena.

Appellant declared that on April 7, 1997, he arrived at his house at about 2:00 o'clock in the afternoon. He came that day from his work at a machine shop owned by a certain Jun Subido and located at San Juan, San Manuel, Pangasinan. As a mechanic, he specializes in engine overhauling and welding. He went home unusually early that day because his eyes were painful caused by the flaks of a welding machine. He remembered that from 4:00 to 5:00 o'clock in the afternoon that day, he was just seating with his wife in front of their house. After which, his wife proceeded to fix the family's meal. At the dinner table, the two of them were joined by their children, Novalyn and John Ponsica. After finishing their food, they all prepared to sleep. His wife arranged their beddings in front of the television in the *sala*, where they all eventually retired. He admitted that he knows Melba, since she was their neighbor. He, however, denied that the young girl would visit their house to watch television. Also, he never recalled seeing her that day inside their house or anywhere else.

Carolina Ponsica, the appellant's wife, corroborated the story of her husband.<sup>[10]</sup> She narrated that her husband indeed arrived unusually early that day. They sat and talked and whiled away the time in front of their house until she had to cook dinner. They ate with their two children, Novalyn and John, before all of them went to sleep. She and appellant slept at the sala in front of the television while the kids stayed near their *aparador*. She stated that Melba never came to their house to watch television, as their TV set was only black and white. She insisted that on April 7, 1997, the girl did not go to their house.

The second rape, which happened on the third week of November, appellant contends, could not have also been committed by him. He claimed that on November 4, 1997 he went to Abolog, Cagayan, where he stayed until December 27, 1997. He went to the province in connection with a contract he obtained to repair a rice-milling machine, owned by a certain Wilma Guillermo. According to him, in the almost two months that he stayed there, not even once did he come home.

This story was corroborated by his son-in-law Virgilio Quidem, who is also the first cousin of Melba.<sup>[11]</sup> He testified that he accompanied appellant to Cagayan in the afternoon of November 4, 1997 to do some repair jobs on a rice-milling machine. He acted as his assistant. They stayed there during the whole time of the project and only went home on December 27, 1997.

At the time of the third and last of the rape incidents on April 3, 1997, appellant similarly maintains that he was not present at the alleged scene of the crime. He claims that at approximately 7:30 in the evening, he went to the house of his friend Romulo Lapena. There was a wedding celebration to be held there the next morning and he volunteered to help in the preparation of the food. From 7:30 that night up to 5:30 the next morning, he kept himself busy cooking different kinds of food.

This story was confirmed by defense witness Romulo Lapena.<sup>[12]</sup> He testified that in the evening of April 3, 1998, both he and appellant went to the house of his brother Alfredo Lapena, whose daughter was going to walk the aisle the next morning. They offered their assistance as *kusineros* in preparing the food. He remembered that when he arrived at his brother's house, appellant was already there. The latter stayed with them until about 5:00 o'clock in the morning the next day when they all left together.

After analyzing the evidence, the trial court adjudged the appellant guilty of three counts of rape as charged in the Informations and meted out the penalty of *reclusion perpetua* for each conviction. The dispositive portion of its consolidated decision reads:

"Wherefore, the Court finds ADRIANO PONSICA guilty beyond reasonable doubt of RAPE under Article 335 of the Revised Penal Code, in relation to Republic Act 7659 and the Court sentences ADRIANO PONSICA, as follows:

1. In CRIM. CASE NO. U-9631, to suffer the penalty of RECLUSION PERPETUA. To indemnify Melba Quidem the sum of ₱50,000.00 for moral damages plus ₱20,000.00 as exemplary damages;
2. In CRIM. CASE NO. U-9632, to suffer the penalty of RECLUSION PERPETUA. To indemnify Melba Quidem the sum of ₱50,000.00 for moral damages plus ₱20,000.00 as exemplary damages;
3. In CRIM. CASE NO. U-9633, to suffer the penalty of RECLUSION PERPETUA. To indemnify Melba Quidem the sum of ₱50,000.00 for moral damages plus ₱20,000.00