

## EN BANC

[ G.R. No. 140384, July 04, 2002 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
JONEL MANIO ALIAS "BOBONG," ACCUSED-APPELLANT.**

### D E C I S I O N

#### PER CURIAM:

On 16 October 1998, Jonel Manio, a.k.a. "Bobong," was charged before the Regional Trial Court ("RTC") of Macabebe, Pampanga, with the crime of rape -

"That on or about the third day of September 1998, in the municipality of Apalit, province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused ALIAS BOBONG MANIO, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with a minor, five years of age, Catherine Navarro."<sup>[1]</sup>

The trial ensued shortly after the arraignment at which the accused had pleaded "not guilty."

#### The case for the prosecution. -

On the evening of 04 September 1998, Beatriz Pastor-Pili Garcia noticed that her 5-year old daughter, Catherine Navarro, was crying but when asked what the trouble might be, she refused to talk. When pressed to answer, the young girl finally broke down and told her mother that, at noontime the day before while in the house of their neighbor, Bobong Manio had molested her. When the mother examined her daughter's underwear, she saw that it was stained with blood. Beatriz proceeded to the house of the barangay captain who then summoned Mania. When again queried in the presence of Manio, Catherine kept mum after having seen Manio leering at her. The following day, Beatriz took her daughter to the Apalit police station in Pampanga where sworn statements were taken. On 09 September 1998, Dr. Jaime Rodrigo L. Leal confirmed, following a medical examination, that Catherine was indeed sexually abused. The report read:

"Conclusion:

"Healing hymenal laceration, present.

There are no external signs of recent application of any form of violence.

"Remarks:

"Patient with disclosure of sexual abuse.

Physical findings of genitalia indicative of penetration."<sup>[2]</sup>

#### The defense. -

The accused testified that he only learned of the indictment when he was served with a subpoena by the court. At trial, he proffered the defense of denial and *alibi*, giving the trial court a detailed account of his whereabouts on the 3rd of September 1998 to disprove the accusation against him and to show that he did not see and could not have encountered Catherine, let alone raped her, on any hour of that day. He insisted having been then at home with his wife and two children. When his eldest son, Kenneth, shortly arrived from school, he asked his wife to prepare the table for lunch. When they were about to eat, his *compadre*, Romeo “Meo” Balgos, dropped by to have a talk with him. It was shortly before one o’clock in the afternoon, after Balgos had left and his family had finished with their noonday meal, that the accused was able to take lunch. After partaking of his meal, he took a nap with his two children before leaving with his family for his parents’ house, located just a short distance from their own house, to spruce up the place in time for the arrival from hospital confinement of her mother.

While on his way home the night of the next day, the parents of private complainant blocked his path and accused him of raping their daughter, which accusation, he described as impossible as he did not see Catherine the whole day. He asked the couple to have their daughter examined by a physician. Later, he was summoned by the barangay captain before whom he was apprised of the complaint for rape against him. Appellant vehemently denied the charge. The barangay captain and the barangay councilors asked Catherine Navarro questions but the young girl remained silent. A certain Boy Sikat, the alleged live-in partner of the mother of private complainant, told him to ask for forgiveness and suggested that he should settle the case by giving P10,000.00 to the family of the victim. The accused shrugged off the advice that would have meant admitting something he did not do.

#### The judgment. -

On 14 September 1999, the trial court found the accused guilty beyond reasonable doubt of the crime of statutory rape -

“WHEREFORE, the Court finds the accused Jonel Manio *alias* “Bobong Manio” guilty beyond reasonable doubt of the crime of Rape of a six-year old minor, and as a consequence of which and pursuant to the provisions of Article 335 of the Revised Penal Code, the mandatory penalty of death is hereby imposed on him. He is likewise ordered to pay and indemnify the offended party in the amount of P50,000.00.”<sup>[3]</sup>

In this automatic review of his conviction, appellant assails the decision, basically questioning the factual findings, of the trial court.

There is not much that the Court can do to help the cause of appellant.

Testifying on what had happened to her on 03 September 1998, the six-year old victim, Catherine Navarro, narrated thusly -

“FISCAL DATU

You said that you know Bobong Manio by having pointed to him a while ago. You also stated that something was done to you by him and when you were asked you do not want to answer.

What did Bobong Manio do to you?

“WITNESS

He inserted his penis into my vagina, sir. (*Kinarat*)

“X X X

X X X

X X X

“FISCAL DATU:

You said that Bobong Manio did something to you, ‘*kinarat*,’ what exactly did he do to you?

“WITNESS:

‘*Kinarat*,’ sir.

“Q. Do you know that you have a reproductive organ or a sexual organ?

“A. ....

“COURT

Let her point to her *pekpek*.

“FISCAL DATU

Will you please point to us your *pekpek*?

“WITNESS:

(Witness points to her *pekpek*)

“COURT:

You stated the word ‘*kinarat*,’ and this was what Bobong Manio did to you?

“WITNESS:

Yes, sir.

“X X X

X X X

X X X

“COURT:

Did Bobong Manio ever play with you?

“A. No, sir.

“Q. If he did not play with you, what was it that he did to you?

“A. ‘*Kinarat*,’ sir.

“Q. When he did that to you, what did you feel?

“A. I did not feel any, sir.

“Q. Were you not hurt?

“A. I was hurt, sir.

“Q. Did you notice if there was blood that came out from you?