

FIRST DIVISION

[G.R. NO. 139695, August 26, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GUILLERMO FERRER, ACCUSED-APPELLANT.**

D E C I S I O N

VITUG, J.:

Accused Guillermo Ferrer was indicted before the Regional Trial Court, Branch 79, of Morong, Rizal, for the crime of rape defined in Article 266-A and Article 266-B, under its first paragraph, of the Revised Penal Code, as amended by Republic Act 8359, in relation to Section 5(B), Republic Act 7610, in an information worded thusly:

"That on or about the 20th day of February, 1998 in the Municipality of Tanay, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force, violence and intimidation, did, then and there willfully, unlawfully and feloniously have carnal knowledge of the complainant, said Leonisa Apolinario, 13 years old, against her will and consent."^[1]

According to the prosecution, on 20 February 1998, around four o'clock in the morning, private complainant Leonisa Apolinario was asked by her aunt Amelia Imbat, a house companion, at Sitio Lalabasin, Sampaloc, Tanay, Rizal, to get some pieces of plywood from a certain Marina. She immediately proceeded, just as she was told, to Marina's place, then took the plywood, carried it over her head and started to walk back home. On her way, she noticed a man who apparently had been tailing her. She would later identify the man to be the accused, Guillermo Ferrer, wearing shorts and covering his face with a T-shirt. He appeared to be watchful and, after a short while, when nobody seemed to be in sight, he hastily went after her, caught her and covered her mouth. The man warned her not to shout or she would be killed. He brought her inside Peralta Farm at a grassy area near a "kasay" tree. He ordered her to lie down; when she refused, he pushed her and told her to remove her shorts but, again, she refused. He then forcefully took her shorts off. The man then hastily did away with his own pair of shorts and proceeded to take her. She felt pain during the ordeal. Shortly after the first sexual assault, he had her for the second time. Her strong resistance and struggles proved to be futile. On these two occasions, private complainant felt something being discharged inside her from the man's organ. She was able to recognize the accused, although his face was covered with a t-shirt, through his voice and general physical features with which she was familiar because she had known him since she was in grade three and he would often visit her cousin in their house. These visits were corroborated by the complainant's cousin, Ferdinand Imbat, a close friend of the accused.

As soon as private complainant had reached home, she reported what had happened to her aunt who forthwith accompanied her to the barangay hall. After being informed of the incident and told of the identity of the rapist, the barangay officials promptly apprehended the accused. At the barangay hall, the accused was confronted and identified by private complainant. Later, private complainant was brought to the Philippine National Police (PNP) Sub-station in Sampaloc, Tanay, Rizal, where her sworn declaration was taken.

A medico-legal examination, conducted on the person of private complainant at the PNP crime laboratory at Camp Crame, Quezon City, by Dr. Winston Tan, revealed a deep laceration at a nine o'clock position in her vagina. During his testimony in court, Dr. Tan concluded that the healing laceration coincided with the date when the rape was committed. Also, he found that the victim sustained general and extra-genital injuries which could have been caused by a struggle.

In his defense, the accused, 22 years old, single and a resident of Sitio Lalabasin, Sampaloc, Tanay, Rizal, testified that he was only able to attain first grade schooling. He claimed that on 20 February 1998, he was in his house at the Ilustre compound within Camp Capinpin. At nine o'clock in the morning that day, he constructed a chicken house and then weeded the farm until hours later when his brother, Teofilo, arrived to fetch him. On their way, the two brothers met a barangay tanod who asked them if they knew a person named "Elmo." When the accused acknowledged that he was Elmo, the tanod informed him that Leonisa Apolinario had accused him of rape. He was brought to the barangay hall where he was confronted by Leonisa. From the barangay hall, the accused was brought to the PNP sub-station in Tanay, Rizal, to force him to admit the commission of the offense. The accused denied having known or having even met Leonisa before although he admitted visiting her uncle, Rogelio Imbat, in the house where she also resided.

Antonio Banlizo, a neighbor of the accused for two years, testified that on the morning of 20 February 1998 he had seen the accused fixing a chicken house. After the witness had taken his lunch just hours later, he saw the accused being accosted by a barangay tanod. Teofilo Ferrer, a brother of the accused, claimed that the latter was at the house of their parents on 20 February 1998 from nine o'clock to eleven o'clock in the morning. SPO2 Ambrosio Anero, sub-station commander at PNP Barangay Sampaloc, Tanay, Rizal, investigated Leonisa Apolinario. The latter, at first, told him that she was able to recognize the accused through his voice and pointed to the accused to be her attacker. When he conducted a second investigation, however, Leonisa supposedly said that it was not the accused who had violated her.

Shortly after the trial, the court a quo issued a decision convicting the accused of the crime with which he had been charged and imposing the penalty of reclusion perpetua—

"WHEREFORE, the prosecution having established the guilt of the accused beyond reasonable doubt, judgment is hereby rendered convicting him of rape and he is sentenced to suffer the penalty of Reclusion Perpetua. The accused is also ordered to pay the civil indemnity of P75,000.00 and to pay the costs."^[2]

The accused interposed an appeal, raising the familiar and all too embracing assignment of error that the trial court has erred in finding accused guilty of rape

beyond reasonable doubt “despite the fact that the testimony of complainant Leonisa Apolinario is doubtful and contrary to human experience.”^[3]

The appeal is bereft of merit.

Leonisa Apolinario was categorical and positive in identifying appellant as being the culprit who ravished her. Although appellant tried to hide his identity by covering his face with a T-shirt, Leonisa would not be fooled. She knew appellant quite well and was familiar with his voice and general physical features. Leonisa had known appellant for sometime, often frequenting their house to visit her cousin Ferdinand. She testified:

“Q. Now, you mentioned that at the time he grabbed you his face was covered by clothes, how were you able to pinpoint Guillermo Ferrer as the one who raped you, how were you able to recognize his face when you said that he has clothes in his face at that time?

“A. Because he usually go to our house, I even make him coffee.

“Q. So, you notice something familiar during the occasion of the rape?

“A. Yes, sir I notice him.

“Q. Did he remove the cloth on his face during the rape?

“A. No, sir.

“Q. You mentioned that when you reached the grassy area, Guillermo Ferrer told you to talk to you for a while, did you notice anything familiar with his voice?

“A. Yes, sir.

“Q. Now, you mentioned that you already know this Guillermo Ferrer prior to this occasion, how long have you known him?

“A. Since I was in Grade III, sir.

“Q. And how old are you at that time?

“A. Since I was Grade I, I already knew him.

“Q. And you mentioned a while ago that you even prepare coffee for Guillermo Ferrer, how come that there was occasion that you prepare coffee for Guillermo Ferrer?

“A. Because he has a friend in our house and he usually visit him.

“Q. Who is his friend in your house?

“A. My Kuya Ferdinand, sir.

“Q. How often did this Guillermo Ferrer go to your house?

“A. Sometime during daytime, sometimes during night time.

“Q. Do I understand that he is in your house almost everyday?

"A. He often go to our house."^[4]

Leonisa's act in immediately reporting the commission of rape is particularly noteworthy.^[5] Leonisa did not spare a minute in telling her aunt about the sexual assault and in later meeting with the barangay officials to whom she readily gave the identity of her assailant. She reiterated the accusation and the identity of appellant at the police station where she executed a sworn statement, in which she declared:

"T. Maaari bang sabihin mo sa akin ang iyong buong pangalan, idad, tirahan at ilang katangian sa buhay na maaaring pagkakilanlan sa iyong pagkatao?

"S. Leonisa Apolinario y Doroteo, 13 taong gulang, Sitio Lalabasin, Brgy. Sampaloc, Tanay, Rizal at tapos po ako ng Grade II.

"T. Marunong ka bang bumasa at sumulat ng salitang tagalog?

"S. Marunong po.

"T. Bakit ikaw ay naririto ngayon sa himpilan ng Pulisya sa Brgy. Sampaloc?

"S. Gusto ko pong magsumbong dahil ni-rape po ako.

"T. Sino naman itong nang-rape sa iyo?

"S. Si Guillermo Ferrer po.

"T. May ihaharap ako sa iyo na isang tao, maaari bang sabihin mo sa akin kung siya ang taong nang-rape sa iyo at siya iyong Guillermo Ferrer na sinasabi mo?

"S. Siya po (Affiant/victim pointing to Guillermo Ferrer standing in front of her).

"T. Kailan at saan naganap ang sinasabi mong pag-rape sa iyo?

"S. Ngayon po, ika-20 ng Febrero 1998 humigit-kumulang po sa ika-11:00 ng umaga duon sa malapit sa gate ng Farm ni Mr. Marcelo sa Sitio Lalabasin, Brgy. Sampaloc, Tanay, Rizal, sa may Peralta Farm.

"T. Maaari bang isalaysay mo sa akin ang buong pangyayari?

"S. Galing po ako nuon sa aking Ate Maria sa Hilltop, Brgy. Sampaloc, Tanay, Rizal, papauwi po ako sa Sitio Lalabasin, may sumusunod po sa akin na lalaki na may takip ang mukha, nuong matapat po ako sa may gate ng Marcelo Farm ay bigla po akong hinatak/hinila at kinarga papunta duon sa damuhan sa Peralta Farm. Inihiga po ako sa damuhan, hinubad ang aking short at panty, pagkatapos po ay ipinasok niya and kanyang 'titi' sa aking 'puerta.' Pagkatapos po niya ay inulit na naman po niyang ipinasok ang kanyang 'titi' sa aking 'puerta.' Nuong makatapos po siya ay tumakbo na po siya at ako po ay nagbihis na ng aking panty at short at umuwi na po ako sa aking Ate Amelia at sinabi ko sa kanya ang nangyari sa akin.