

## EN BANC

[ G.R. No. 146684, August 21, 2002 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMIL SAJOLGA Y OMERA, ACCUSED-APPELLANT.**

### DECISION

**MENDOZA, J.:**

This case is here on automatic appeal from the decision,<sup>[1]</sup> dated October 18, 2000, of the Regional Trial Court, Branch 8, City of Malaybalay, finding accused-appellant Ramil Sajolga guilty of rape and sentencing him to death and to pay the victim Genlei Abejaron<sup>[2]</sup> in the sum of P75,000.00 as indemnity and P50,000.00 as moral damages.

The information, filed by the Assistant Provincial Prosecutor of Bukidnon, alleged  $\frac{3}{4}$

That on or about the 17th day of October, 1998, in the afternoon, at Sitio San Ramon, Cojuangco, Kalagutay, Base Camp, Municipality of Maramag, Province of Bukidnon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, prompted by lewd designs, with the use of force and intimidation on the person of GENLEI ABEJARON, a fifteen (15) year-old minor and accused's half-sister, did then and there, wilfully, unlawfully and criminally box the latter which caused her [to become] unconscious and while at that state, undress GENLEI ABEJARON, remove her panties, insert his penis into the vagina of GENLEI ABEJARON, and have sexual intercourse with GENLEI ABEJARON, against her will, to the damage and prejudice of GENLEI ABEJARON in such amount as may be allowed by law.<sup>[3]</sup>

Upon being arraigned, accused-appellant pleaded not guilty,<sup>[4]</sup> whereupon trial ensued.

At the pre-trial conference, the parties stipulated as follows:

1. That private complainant Genlei Abejaron was born on February 15, 1983.
2. That accused and private complainant are siblings, being children of Segundina Sajolga.<sup>[5]</sup>
3. That before and up to October 17, 1998, private complainant was living with her mother in Agrosite, Poblacion, Maramag, Bukidnon.<sup>[6]</sup>

The prosecution presented two witnesses: complainant Genlei Abejaron and her teacher Mrs. Erlinda Alceso.<sup>[7]</sup> Their testimonies are to the following effect:

From 1997 up to 1998, Genlei Abejaron stayed in the house of her teacher, Mrs. Erlinda Alceso, during weekdays as a working student because the Maramag Elementary School, where she was studying, was some three kilometers away from

her mother's house in Sitio San Ramon, Cojuangco, Kalagutay, Base Camp, Maramag, Bukidnon. She went home to her mother's house only on weekends.<sup>[8]</sup>

Genlei testified that at about 5 o'clock in the afternoon of October 17, 1998, while she was alone in her mother's house playing cards, someone knocked on the door, and, when she opened it, she saw her half-brother, accused-appellant Ramil Sajolga, who was drunk. Without warning, accused-appellant boxed her in the abdomen, causing her to fall on the floor on her buttocks. Genlei said that she gasped for breath as she suffered excruciating pain. She tried to give accused-appellant some blows but accused-appellant proved to be stronger. Genlei said accused-appellant dragged her to the bedroom, made her lie on the bed, and took off her shorts and panties. Before she became unconscious, Genlei remembered that accused-appellant kissed her lips and neck.<sup>[9]</sup>

When Genlei recovered, she found herself naked and lying on the bed. Her body was aching and her vagina was sore, with a sticky substance, presumably semen, in her private part. Accused-appellant was lying beside her, asleep, with his naked body covered by a blanket. When she realized that she had been violated by accused-appellant, Genlei took hold of a pillow, the nearest weapon available, and pummeled the latter, all the while crying and cursing him. Accused-appellant calmly told her that there was nothing she could do and pointed out to her that she would not win any case against him as he had not been sued or jailed despite molesting her twice when she was eight years old.<sup>[10]</sup>

When her mother arrived, Genlei tried to tell her what had happened but, as she had expected, her mother only shouted at her. Genlei left for Mrs. Alceso's house the next day, without being able to tell her mother what had happened. Genlei tried to tell her mother again about her misfortune when the latter visited her in the boarding house, but once more she failed.<sup>[11]</sup>

Genlei kept her torment a secret until sometime in January 1999, when she told her teacher Maxima Cabang that she wanted to stop schooling. When Mrs. Cabang asked for her reason, Genlei told her that her half-brother had raped her. Mrs. Cabang then asked Genlei if she wanted to file a case, to which she replied that she would think it over because it would not be easy to file a case.<sup>[12]</sup>

Mrs. Alceso noticed that something was bothering Genlei. She once saw Genlei crying while watching a rape scene on television. Genlei had asked her as to what could possibly happen if her mother learned that she had been raped. Later, on the assurance that her teachers would help her, Genlei told Mrs. Alceso that her half-brother raped her but she was afraid her mother would not believe her.<sup>[13]</sup>

In January 1999, one of Mrs. Alceso's co-teachers informed her that Genlei could be pregnant, as she was seen vomiting. Mrs. Alceso confronted Genlei and told her that she might be carrying a baby. Genlei was made to hide in another teacher's (Mrs. Divina Flores) house, because she was afraid that her mother might learn about her pregnancy. In February 1999, Genlei's teachers, Mrs. Alceso, Mrs. Flores, and a Mrs. Bertrudes, took her to the Department of Social Welfare and Development (DSWD) in Maramag, Bukidnon. A DSWD officer assisted in filing a case against her half-brother.<sup>[14]</sup>

The results of the medical examination (Exh. A) conducted on Genlei by Dr. Evangeline C. Revilla of the Bukidnon Provincial Hospital of Maramag on February 10, 1999 showed the following:

- has minimal pubic hair at the mons pubis
- cervix has old healed lacerated wound at the 1:00 o'clock, 2:00 o'clock, 5 o'clock and the 11:00 o'clock position
- admits 1 finger very easily

NOTE: has minimal blood at examining finger because she's on her first day of menstruation.<sup>[15]</sup>

The defense offered no objection to the admission of the Medical Certificate, including the findings therein. For this reason, the testimony of the doctor was dispensed with.<sup>[16]</sup> The prosecution thereafter rested its case.

The defense thereafter presented three witnesses: accused-appellant Ramil Sajolga, his friend and neighbor Aurelio Manuel, and his mother Segundina Recaros. Accused-appellant Ramil Sajolga interposed the defense of denial and alibi. He claimed that in the morning of October 17, 1999, he and his neighbor, Aurelio Manuel, went to Purok 8, about ten kilometers from Sitio San Ramon, Cojuangco. Riding on a cart pulled by a carabao, they arrived in Purok 8 at about 3 o'clock in the afternoon. They cut bamboo poles for their houses. As they were unable to finish, they stayed at Abundio Carbona's (the uncle of Aurelio Manuel's wife) house until lunch time the following day. They arrived home at about 3 o'clock in the afternoon. Accused-appellant requested his mother for hot water for coffee when he arrived. He said he did not see Genlei as she did not come home in October 1998. Accused-appellant said that Genlei had been staying with her teacher, Mrs. Erlinda Alceso. He admits, however, that the house where he and his live-in partner and their child lived was a mere five arm's length away from his mother's house. His alibi was corroborated by Aurelio Manuel. <sup>[17]</sup>

Segundina Recaros explained that Genlei seldom went home because of the danger posed by two warring groups of land claimants in the area. Both accused-appellant and Segundina stated that Genlei allegedly came home only on September 16, 1999 but went back to Maramag on the same day. According to them, Genlei was also home on December 28, 1999 for accused-appellant's birthday.<sup>[18]</sup>

On October 18, 2000, judgment was rendered by the trial court finding accused-appellant guilty of qualified rape. The dispositive portion of the decision read:

WHEREFORE, judgment is entered finding accused RAMIL SAJOLGA guilty beyond reasonable doubt of the offense of rape and penalized under Article 266-A of the Revised Penal Code, as amended by R.A. 8353 and he is therefore sentenced to suffer the extreme penalty of DEATH. He is further ordered to indemnify his victim Genlei Abejaron the sum of P75,000.00 and moral damages of P50,000.00.

SO ORDERED.<sup>[19]</sup>

Hence, this appeal. Accused-appellant alleges that—

THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT GUILTY OF THE CRIME OF RAPE DESPITE THE WEAKNESS OF THE PROSECUTION EVIDENCE AND REASONABLE DOUBT OF ITS COMMISSION.<sup>[20]</sup>

In his reply brief dated August 1, 2002, he contends:

ASSUMING ARGUENDO THAT THE ACCUSED IS GUILTY, HE IS ONLY GUILTY OF THE CRIME OF SIMPLE RAPE BECAUSE THE ACCUSED IS NOT THE FULL-BLOODED BROTHER OF THE VICTIM AND NEITHER WAS THE CORRECT RELATIONSHIP STATED IN THE INFORMATION.

When an alleged victim of rape says that she was violated, she says in effect all that is necessary to show that rape has been inflicted on her and, so long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof. We find complainant's testimony to be straightforward, candid, and credible.

*First.* Accused-appellant contends that complainant failed to present credible and substantial evidence that he sexually abused her. He said that "the complaint of pain and sticky fluid in the vagina can also be felt or experienced by a woman even though there is no sexual abuse. . . . Thus, despite her testimony that accused kissed her and she saw him naked, it is dubious that she truly lost her consciousness and accused sexually abused her."<sup>[21]</sup>

The contention is without merit. Rule 133, §4 of the Revised Rules on Evidence provides:

*Circumstantial evidence, when sufficient.*  $\frac{3}{4}$  Circumstantial evidence is sufficient for conviction if:

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven; and
- (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

In several cases,<sup>[22]</sup> we have sustained convictions based on circumstantial evidence. Indeed, a conviction based on circumstantial evidence is proper if the circumstances proven constitute an unbroken chain which lead to a fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person.<sup>[23]</sup> In this case, the totality of circumstances warrants a finding that private complainant was raped by accused-appellant while the former was unconscious. The prosecution presented credible and substantial evidence showing interlocking circumstances that accused-appellant sexually abused complainant. As pointed out by the Solicitor-General, these circumstances are:

(a) When Genlei opened the door after hearing some knocks, appellant immediately entered and boxed her on the abdomen even without any provocation on the part of Genlei (TSN, December 2, 1999, pp. 2-17, 18);

(b) When Genlei fell but still conscious, appellant dragged her and made her lie on the bed, removed her shorts and panties, after which appellant kissed her neck and lips. Then Genlei lost consciousness. There was no other man inside the house (Ibid.);