

EN BANC

[G. R. Nos. 146464-67, November 15, 2002]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE VILLANUEVA, ACCUSED-APPELLANT.

DECISION

PER CURIAM:

The words detestable, condemnable, abhorrent, disgusting, and abominable are not enough to describe a rape committed by a father against his own progeny. Indeed, the proliferation of incestuous rape is a revolting phenomenon in a catholic country like the Philippines.^[1] It is beyond comprehension that the Filipino values, close-family-ties culture, and religious beliefs inculcated in every Filipino could in some, like herein accused-appellant Jose Villanueva (hereafter JOSE), be easily outweighed or overshadowed by beastly sexual desires - and, worse, against one's own flesh and blood.

Four Informations docketed as Criminal Cases Nos. 8355,^[2] 8356,^[3] 8357^[4] and 8358^[5] were filed before the Regional Trial Court of Legazpi City charging JOSE with rape allegedly committed against her own daughter Gina Villanueva (hereafter GINA) as follows:

Criminal Case No. 8355

That on October 8, 1995 at around 5:00 o'clock in the evening, more or less, at Sitio Recudo, Barangay Calanaga, Municipality of Rapu-Rapu, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with his 10-year-old daughter GINA VILLANUEVA, against her will and consent, to her damage and prejudice.

ACTS CONTRARY TO LAW.

Criminal Case No. 8356

That sometime in the month of September 1995, at around 12:00 noon, more or less, at Sitio Palo, Barangay Calanaga, Municipality of Rapu-Rapu, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, by means of force, threat and intimidation did then and there willfully, unlawfully and feloniously poke a knife at her own daughter, GINA VILLANUEVA, 10 years of age, and then undress her and succeed in having carnal knowledge with her, against her will and consent, to her damage and prejudice.

ACTS CONTRARY TO LAW.

Criminal Case No. 8357

That sometime in August. 1995, in the evening, at Sitio Palo, Barangay Calanaga, Municipality of Rapu-Rapu, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, did then and there willfully, unlawfully and feloniously have carnal knowledge with her own 10-year-old daughter GINA VILLANUEVA while the latter was sleeping or otherwise unconscious, against her will and consent, to her damage and prejudice.

ACTS CONTRARY TO LAW.

Criminal Case No. 8358

That in the evening of April 18, 1998, at Sitio Recudo, Barangay Calanaga, Municipality of Rapu-Rapu, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with his own 12-year old-daughter, GINA VILLANUEVA, against her will and consent, to her damage and prejudice.

ACTS CONTRARY TO LAW.

The cases were consolidated and jointly tried. At his arraignment on 26 March 1999, JOSE entered a plea of "not guilty" in each case.^[6]

At the pre-trial, the parties admitted that GINA was a minor, who was born on 23 May 1985. They further admitted the identities of the parties.^[7]

The witnesses presented by the prosecution were complainant GINA; Raymundo Sarga, Jr., a National Bureau of Investigation (NBI) investigator; Vilma Villanueva, the older sister of GINA and daughter of JOSE; and Dr. Lilli-Melrose Camara, the medico-legal officer who examined GINA.

GINA testified that sometime in August 1995, at around 5:30 A.M., in their house in Palo, Calanaga, Rapu-Rapu, Albay, she woke up and saw her father JOSE standing naked in front of her with his penis erect. He forcibly removed her dress and panty, and laid down with her. She tried to avoid him by pushing him. She complained and told him that this was enough because he had already done the same to her two elder sisters. Still, JOSE persisted and inserted his penis into her vagina against her will. He then made push and pull movements, causing pain to her vagina. Thereafter, he threatened her with a knife and told her that he would kill her if she reported the matter to anyone.^[8]

On cross-examination, however, GINA admitted that she was unconscious at the time JOSE was satisfying his sexual desire. She clarified that she was awakened when he was undressing her. She tried to resist him, but she lost consciousness when he placed a piece of cloth on her mouth, which smelled like gin that caused her to sleep again. It was when she regained consciousness that she saw JOSE standing naked in front of her with his penis erect. GINA knew that she was raped

because she felt pain inside her vagina and there was blood flowing therefrom. She also noticed something whitish coming out from JOSE's penis.^[9]

GINA further declared that at the time the foregoing incident took place only she, JOSE and her younger sister Alma were in the house. Her mother and her two elder sisters were then in Tabaco, Albay, to buy something. When her mother Rosalina arrived, GINA reported to the latter the sexual assault committed by JOSE. Rosalina told GINA that she would be the one to take care of it. However, Rosalina just remained silent because she herself was also threatened by JOSE.^[10]

The second time JOSE raped her, according to GINA, was sometime in September 1995, at 12:00 noon. At that time, she was alone with JOSE in their house in Palo, Calanaga, Rapu-Rapu, Albay. Her mother was washing their laundry in the well, together with her younger sister; and her two elder sisters were in school. While GINA was sitting at the porch, JOSE held her two hands and pulled her to the bedroom. She pushed him and tried to free herself from his hold, but he was far stronger than her. She shouted but not loud enough because JOSE, who was holding a knife, threatened to kill her if she would create any noise. He then forcibly removed her dress and panty, mounted her, and inserted his penis into her vagina. She felt something warm come out from his penis while it was inside her vagina.^[11]

The third rape allegedly took place on 8 October 1995 at 5:00 P.M. in their house. On that occasion, her mother and younger sister were in their neighbor's house, while her two elder sisters were sent out by their father on an errand to borrow a hammer from a certain Manay Rolly, whose house was very far from theirs. JOSE brought her from the porch to the bedroom. She resisted and cried, telling him to have pity on her, but he did not heed her plea. After undressing her, he placed himself on top of her and inserted his penis into her vagina. She could not shout because he placed a hand on her mouth; she just kept on crying. She did not report to her mother the incident because of JOSE's threat to kill them.^[12]

The fourth time GINA was allegedly raped by JOSE was on 18 April 1998 at 8:00 P.M., also in their house in Palo, Calanaga. At that time, her mother and her 10-year-old sister were sleeping. GINA was not able to shout because JOSE placed a piece of cloth on her mouth. As in the other rape incidents, she resisted by kicking and scratching him. He, however, succeeded in removing her dress and panty and in inserting his penis into her vagina. After he finished his bestial act, he sat beside her and told her to suck his penis. She refused and he left.^[13]

Four days thereafter, at dawn, GINA left her parents' house without permission. She went to her uncle Efren Sarza, who in turn brought her to her grandfather Francisco Sarza or Lolo Kikoy. With the help of Lolo Kikoy and the Barangay Captain of Sagrada, she reported the rape incidents to the NBI in Legazpi City,^[14] where she executed a sworn statement.^[15]

Raymundo D. Sarga, Jr., testified that he was the one who took the sworn statement of GINA on 22 April 1998 at the headquarters of the NBI in Legazpi City. On the basis of GINA's sworn statement and the medical examination conducted by a doctor from the Philippine National Police Crime Laboratory at Camp Simeon Ola, Legazpi City, he filed a complaint for rape against JOSE before the Municipal Trial Court of Rapu-Rapu.^[16]

Vilma Villanueva testified that she was told by GINA of the four incidents of rape committed by JOSE. One time, she saw his father naked from waist down, with GINA seated near him. She and her other sister Salvacion were also raped by him. She was 12 years old when JOSE started subjecting her to a series of sexual assaults. While she was aggrieved by her father's acts, she never thought of going to somebody to ask for help because of his threats. Since her father is already detained, she would file charges against him.^[17]

Dr. Lilli-Melrose Camara, a medico-legal officer of the PNP Technical Service Crime Laboratory, testified that she examined GINA sometime in April 1998. The examination results revealed that GINA was in a non-virgin state and that she had healed hymenal lacerations at 7:00 and 9:00 o'clock positions. These lacerations could have been caused by any blunt instrument or a penis.^[18]

The witnesses presented by the defense were GINA's eldest sister, Salvacion Calaes; her youngest sister, Alma Villanueva; her mother, Rosalina Villanueva; and her father, accused-appellant JOSE.

Salvacion denied having told GINA and Vilma that she was raped by JOSE. She left their home because she had to work. GINA left their home on 21 April 1998 and testified against JOSE because the latter was very strict. She likewise asserted that Vilma could not have seen JOSE rape GINA in 1995 because she (Vilma) was then working in Tabaco, Albay, as a household helper.^[19]

On cross-examination, Salvacion admitted that she loved her father very much. She volunteered to testify for him because she did not want her father to suffer the same fate as that of Leo Echegaray, who was put to death by lethal injection for raping his own daughter.^[20]

Alma Villanueva testified that she was staying with her sister Salvacion in Panal, Tabaco, Albay, to take care of Salvacion's children. She denied having been abused by her father. She testified that she went with her mother and father to look for GINA, who had escaped after their parents refused to grant her permission to work. Alma admitted that she loved her father so much that she did not want him to go to jail.^[21]

Rosalina Villanueva declared that GINA was born on 11 October 1982. She was married to JOSE on 15 August 1978. GINA never revealed to her that JOSE raped her. The testimony of GINA that she was raped by JOSE in August and September 1995 in Sitio Palo, Calanaga, Rapu-Rapu, Albay, is not true because they never resided in Sitio Palo; their house was in Sitio Recudo. For unknown reasons, GINA left their home on 21 April 1998 without asking permission from her, and they tried to look for her. When she saw GINA a week after JOSE was detained, she asked her why she filed cases against her father. GINA informed her that it was Lolo Kikoy, with whom GINA was staying, who instigated her to file the case. She did not know the motive of Lolo Kikoy in inducing GINA to file the cases against JOSE. When she asked Francisco about it the latter answered that it was because JOSE was very strict.^[22]

JOSE declared that GINA is his legitimate daughter with Rosalina Villanueva. He was married to Rosalina Villanueva in August 1978. He denied the four charges of rape. He declared that he could not do that to GINA; besides, they did not have a house in Sitio Palo. He could not have committed the rape on 18 April 1998 because GINA