

## EN BANC

[ G.R. No. 146106, December 16, 2002 ]

### PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FERNANDO VILLANUEVA, JR., APPELLANT.

#### DECISION

##### PER CURIAM:

On automatic review is the decision<sup>[1]</sup> dated September 25, 2000 of the Regional Trial Court of Aparri, Cagayan, Branch 8, in Criminal Case No. 08-1066 convicting the appellant, Fernando Villanueva, Jr. of rape and sentencing him to suffer the penalty of death.

Fernando Villanueva, Jr. was charged with the crime of rape, defined and penalized under Article 335 of the Revised Penal Code, as amended by Section 11 of RA 7659,<sup>[2]</sup> in an Information that reads:

That on or about January 22, 1994, in the municipality of Aparri, province of Cagayan and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, by means of force or intimidation, did then and there have carnal knowledge of his daughter, the herein offended party, a woman under eighteen years of age, all against her will and consent.

Upon arraignment, Fernando Villanueva, assisted by his counsel, entered the plea of "not guilty." Thereafter, trial ensued.

It appears that during their marital union, spouses Fernando and Erlinda Villanueva were blessed with eight children, of which the private complainant, Ruth T. Villanueva, was the third. On December 6, 1992, appellant Fernando became a widower. Not long thereafter, he took another wife and left his children under the care of their maternal grandparents in Sta. Teresita, Cagayan. However, in January 1994, Fernando took his younger children, namely, Joy, Loida and Harold, to Macanaya, Aparri, Cagayan and lived in a house owned by his sister. It was in this house in Macanaya where appellant Fernando allegedly raped the private complainant as charged in the information.

On January 22, 1994, then 13-year-old private complainant, Ruth T. Villanueva, paid a visit to her younger siblings who were living with their father in Macanaya, Aparri, Cagayan. At 8:00 in the evening and while his other children were out, appellant summoned Ruth to his bedroom. When she entered the room, he pulled the private complainant to himself and began to remove her pants and panty. She cried in protest but appellant was undeterred. He threatened her with a knife so he was able to ravish his daughter without much resistance. He kissed her while making pumping motions, thereby consummating his carnal desire.<sup>[3]</sup>

Ruth no longer felt physical pain from the sexual act since, according to her, she had been sexually molested by her father, appellant herein, many times before.<sup>[4]</sup> The following day, she went home to her grandparents in Centro, Sta. Teresita, Cagayan. She could not muster enough courage to expose her father's bestiality since he also threatened to kill her younger siblings should she do so. In fact, the sexual assault on January 22, 1994 would have remained under wraps like the other rape incidents in the past had it not been for the incident between appellant Fernando and his father.<sup>[5]</sup>

It happened that appellant Fernando hacked his father when the latter chanced upon him (Fernando) molesting his daughter, Joy. To spare her other sisters from suffering a similar fate, Ruth finally revealed her misfortune to an uncle. When confronted about his daughter's revelation, Fernando fumed and chased Ruth who managed to flee unharmed.<sup>[6]</sup>

Accompanied by her grandparents, Ruth lodged a complaint for rape with the police authorities on September 1, 1997.<sup>[7]</sup> The physical examination which was conducted by Dr. Romulo de Rivera, M.D., showed that Ruth suffered hymenal lacerations at the 3, 6, 9 and 12 o'clock positions. Her vaginal orifice admitted two fingers with slight resistance. She was no longer a virgin. According to Dr. de Rivera, the lacerations which were sustained at least several months earlier, may have been caused by the penetration of a hard object like a penis.<sup>[8]</sup>

Traversing the evidence of the prosecution, appellant testified that he was in Sta. Teresita, Cagayan together with his younger children in the evening of January 22, 1994. Therefore, he could not have raped Ruth that same evening in Macanaya, Aparri, Cagayan. He claimed that Ruth apparently resented his second marriage a mere four months after the demise of their mother, and his abandonment of his children. He was unable to provide them any material support as his second wife always took all his earnings. In support of his claim, he mentioned the alleged letters<sup>[9]</sup> he sent his daughter while in detention seeking forgiveness for not being a good provider. He vehemently denied hacking his father nor molesting one of his younger daughters.<sup>[10]</sup>

On September 25, 2000, the trial court rendered a decision, the dispositive portion of which is quoted hereunder:

WHEREFORE, the court finds the accused Fernando Villanueva, Jr., GUILTY beyond reasonable doubt of the crime of RAPE as defined under Article 335, Revised Penal Code, as amended by Sec. 11, Republic Act No. 7659, for sexually abusing her (sic) own daughter Ruth Villanueva who was then only fourteen (14) years of age at the time of the incident complained of, and hereby sentences him to:

1. suffer the supreme penalty of DEATH by lethal injection;
2. indemnify the victim Ruth Villanueva in the amounts of:
  - P75,000.00 - as civil indemnity;
  - 50,000.00 - as moral damages;
  - 20,000.00 - as exemplary damages;
3. pay the costs of litigation.

SO ORDERED.

In his brief,<sup>[11]</sup> the appellant raises the following assignments of errors:

I

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FACT THAT APPELLANT'S RIGHT TO DUE PROCESS WAS VIOLATED AS DEMONSTRATED BY THE PRESIDING JUDGE'S MANIFEST PARTIALITY IN FAVOR OF THE PROSECUTION.

Appellant contends, in essence, that the private complainant took more than three years before reporting the alleged sexual assault. This was because private complainant was merely motivated by a grudge against him, Thus the filing of this case was meant only to spite him. The prosecution cannot rely on the medical findings of Dr. De Rivera since a ruptured hymen does not prove rape. At best, it can only prove the possibility of sexual intercourse but not necessarily with the appellant.

In addition, he claims that his case was not heard by an impartial court. The judge had allegedly made suggestions to the prosecution on what questions to ask in order to ensure his conviction. The same judge allegedly even encouraged the private complainant to recall the dates of the previous sexual assaults supposedly committed by the appellant so that the same could be investigated and that charges could be filed against him.

In the review of rape cases, the credibility of the private complainant is the single most important factor for consideration. The case of the prosecution stands or falls on the credibility of the victim. This rule is in accordance with the intrinsic nature of the crime of rape where only two parties, namely the victim and the accused, are usually involved. In this regard, the appellate court will generally not disturb the assessment of the trial court on matters of credibility owing to its unique opportunity to observe the deportment and manner of testifying of witnesses firsthand during the trial<sup>[12]</sup> unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case.<sup>[13]</sup>

After a careful review of the evidence, the Court fully agrees with the assessment made by the court a quo on the credibility of the victim, herein private complainant. Her testimony has the ring of truth as it was given in a simple but clear and straightforward manner. Thus, her recollection of the sexual assault on January 22, 1994 provides a vivid picture of a beast pouncing on its helpless innocent prey as appellant forced his daughter into his room to rape her. Appellant must have been salivating with lust as no amount of supplication could deter him from ravishing her. She could only protest in tears inasmuch as appellant was armed with a knife which he used to further cow her into submission.

Ruth stuck to the details of her story and consistently pinpointed her father as the perpetrator of the crime despite rigorous interrogation by counsel for the defense during cross-examination. Her testimony stopped at least thrice<sup>[14]</sup> as she could not control the outbursts of her emotion. Her genuine cries of anguish while recounting the sexual assault carried the badge of truth.<sup>[15]</sup>

Besides, a daughter will not accuse her own father of such an unspeakable crime as incestuous rape unless she was really aggrieved.<sup>[16]</sup> Ruth was fully aware of the serious consequences of her accusation against her father.<sup>[17]</sup> It takes depravity for a young girl to concoct a story which will put her own father on death row and drag herself and the rest of her family to a lifetime of shame.<sup>[18]</sup> Such kind of character was never shown to be possessed by the victim in this case. Neither did the defense prove any ulterior motive on the part of the private complainant to perjure herself.

In addition to the private complainant's testimony, the prosecution also presented as witness the medical officer who conducted the physical examination of the victim. Dr. de Rivera testified on his findings that Ruth suffered hymenal lacerations at the 3, 6, 9 and 12 o'clock positions which may have been caused by the penetration of a hard object like the penis. He also testified that her vaginal orifice admitted two fingers with slight resistance and concluded that she was not a virgin. We have always held that a medical finding that the victim was no longer a virgin (which could have been caused by her having sex with a man) coupled with the victim's testimony of rape, is more than sufficient to establish the essential requisite of carnal knowledge.<sup>[19]</sup>

Appellant points out that the complaint against him was filed only in September 1997, more than three years after the time he allegedly raped the private complainant on January 22, 1994, thereby allegedly lending credence to his claim that the private complainant harbored a grudge against him. Well-settled is the rule that a delay in filing a criminal charge does not impair the credibility of a witness if such delay is satisfactorily explained.<sup>[20]</sup> This is specially true in rape cases, wherein young girls, such as the private complainant, usually conceal for sometime their ordeals due to the threats made by their attackers.<sup>[21]</sup> Ruth characterized her father during the trial as a cruel "beast"<sup>[22]</sup> who threatened the private complainant and her entire family with death should anyone of them dare expose his bestial instincts. Such image of her father was sufficient to cow her into silence. True enough, Ruth revealed in court how the appellant made an attempt on the life of his own father who caught him in bed with one of his younger daughters.

That private complainant allegedly harbored a grudge against him for re-marrying too soon and for being an irresponsible father are reasons too flimsy to merit even scant consideration by the Court. We reiterate that private complainant was not shown by the defense as morally depraved and capable of concocting a web of lies that could cost the life of her own father.

In a desperate attempt to escape responsibility for the crime, appellant assails the trial judge for manifesting bias and/or partiality. The judge allegedly suggested to the prosecution what questions to ask. In particular, appellant adverts to that part of the transcript where the trial judge addressed the public prosecutor, thus:

"ACP CORTES: