

EN BANC

[G.R. Nos. 145343-46, December 03, 2002]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EDUARDO CALDERON, APPELLANT.

DECISION

PER CURIAM:

For automatic review by this Court is the decision^[1] of the Regional Trial Court of Iloilo City dated March 31, 2000, finding the accused-appellant Eduardo Calderon guilty beyond reasonable doubt of one (1) count of attempted rape and three (3) counts of consummated rape.

The similarly worded complaints against the accused-appellant read as follows:

"That sometime in the month of March, 1997, in the Municipality of Janiuay, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, taking advantage of his superior strength, abuse of confidence and trust, he, being the father of the undersigned, with deliberate intent and by means of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse of the undersigned who, at that time was 10 years of age when she was raped for the first (second/third/fourth) time."^[2]

When arraigned on September 16, 1997, the appellant pleaded "not guilty."^[3]

In the appellee's brief, the Solicitor General summarized the evidence for the prosecution thusly:

"Complainant Cheryl Calderon was born on May 18, 1986 to spouses appellant Eduardo Calderon and Melanie Calderon. She has two (2) younger brothers. She was ten (10) years old when appellant raped her four (4) times inside their house in Tambal, Janiuay, Iloilo. Her mother, Melanie Calderon, was then working in Manila.

"The first rape incident happened in the evening of March 20, 1997. She, her two (2) younger brothers and appellant were all asleep on the floor of their house. Their house had no partition. She slept farthest from appellant with her two (2) younger brothers between them.

"About midnight, she was awakened when appellant placed himself on top of her. Her panties had already been removed. Appellant inserted his penis into her vagina and made push and pull movements for quite sometime. She felt pain in her organ. However, she did not shout for help nor wake her brothers up because appellant had a bolo with him. She just cried and asked appellant why he did it to her but the latter gave no

reply. After appellant was through, he returned to his place on the floor and went back to sleep.

"Complainant was again raped by appellant on March 21, 22 and 23, 1997. The three (3) succeeding rapes were all committed about the same time, in the same place and in the same fashion and manner as the first. Thus, she would be awakened about midnight with appellant on top of her. Appellant would then insert his penis into her vagina and proceed to make push and pull movements. Appellant would thereafter return to his place on the floor and go back to sleep. She did not shout for help nor wake her brothers up because appellant had a bolo with him. She merely cried.

"Meantime, in the morning of the day following the third time she was raped, complainant told her cousin Lorna Sta. Cruz what appellant had done to her. Lorna Sta. Cruz relayed the information to complainant's aunt, Merlyn Hilado who, in turn, reported the matter to complainant's grandmother, Juliana Correal.^[4] Consequently, Juliana Correal brought complainant to Dr. Noel G. Gigare of the Federico Roman Tirador, Sr. Memorial Hospital in Janiuay, Iloilo, for medical examination. Dr. Gigare issued a medical report dated April 29, 1997 with the conclusion that the 'patient is in a virgin state physically albeit 'there is a presence of deep, old hymenal laceration at 3 o'clock.'

"On April 18, 1997, complainant's mother, Melanie Calderon, arrived in Janiuay, Iloilo. She came home from Manila because complainant called her up by telephone twice asking her to come home. The first time she called, complainant gave the pretext that her younger brother was in the hospital and, on the second time, that the barangay captain wanted to see her. It was only on her arrival that she came to learn the true cause why complainant wanted her to come home. Complainant confided to her that she was repeatedly raped by appellant.

"Melanie Calderon brought Cheryl to their barangay captain Virgilio Escander who then accompanied them to the police. On July 8, 1997, Cheryl was examined by Dr. Owen Libaquin, medico-legal officer, PNP Crime Laboratory, Camp Delgado, Iloilo City. The doctor issued the following report on the result of his examination, thus:

GENERAL AND EXTRAGENITAL:

Fairly developed, fairly nourished and coherent female child. Breasts are conical, with light brown areola and nipples from which no secretions could be pressed out. Abdomen is flat and soft.

GENITAL:

There is absent growth of pubic hairs. Labia majora are full, convex and coaptated with the light brown labia minora presenting in between. On separating the same disclosed an elastic and fleshy hymen with deep healed lacerations at 3 and 7 o'clock. External vaginal orifice offers moderate resistance to the introduction of the examining index finger and the virgin-

sized vaginal speculum. Vaginal canal is narrow with prominent rugosities. Cervix is normal in size, color and consistency.

CONCLUSION:

Subject is in non-virgin state physically. There are no external signs of application of any form of violence.”^[5] (Citations omitted)

On the other hand, the appellant raised the defense of denial and alleged that the charge had been merely concocted by his wife’s relatives, who disdained him for his laziness. He added that when he and his wife quarreled, the latter was joined by his mother-in-law in beating him up. He claimed that on the nights of March 20, 21, 22 and 23, 1997, private complainant slept in his sister’s house, which was 100 meters away from their conjugal dwelling:^[6]

Aida Dalisay, sister of the accused-appellant, testified “[t]hat on March 16, 1997 up to March 24, 1997, private complainant stayed in their house because she is afraid of her father as she was beaten by the latter. When she asked her niece why her father has beaten her, the private complainant answered that she was lazy in fetching water when asked to do so. The latter stayed there for almost five (5) weeks and left on April 25, 1997 when her mother came home from Manila.”^[7]

The trial court ruled that “Cheryl’s straightforward and vivid account of her traumatic experience shows that she was impelled by no other impetus than to bring to justice the defiler of her virtue.”^[8] It considered as outlandish and preposterous the allegation of the appellant that she had fabricated the charges of rape against him. It thus decreed:

“WHEREFORE, premises considered and in the light of the facts obtaining and the jurisprudence aforecited, judgment is hereby rendered finding the accused GUILTY beyond reasonable doubt of one (1) count of Attempted Rape hereby sentencing the accused to an indeterminate penalty of EIGHT (8) YEARS and ONE (1) DAY of *prision mayor* as minimum to FOURTEEN (14) YEARS, EIGHT (8) MONTHS and ONE (1) DAY of *reclusion temporal* as maximum, and three (3) counts of consu[m]mated Rape hereby sentencing the aforementioned accused to the supreme penalty of DEATH by lethal injection in each of these three (3) cases, further condemning said accused to indemnify the victim the sum of P75,000.00 or in the total sum of P225,000.00 and P30,000.00 for each case by way of moral damages.

“The accused who is presently detained is ordered immediately remitted to the New Bilibid Prison, Muntinlupa City at the earliest opportunity.

“Let the entire records of this case be elevated to the Honorable Supreme Court, Manila for automatic review.

SO ORDERED.”^[9]

In his appeal Brief, the accused-appellant argues that “THE COURT A QUO ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME OF RAPE AND GIVING CREDENCE AND WEIGHT TO THE TESTIMONY OF THE PRIVATE COMPLAINANT

DESPITE HER TESTIMONY BEING INCONSISTENT WITH THE MEDICAL FINDINGS, THUS, INHERENTLY FULL OF MATERIAL INCONSISTENCIES THAT BELIE HER CREDULITY [sic].”^[10]

The accused-appellant avers that the testimony of the private complainant is uncorroborated and materially inconsistent with the first examining doctor’s medical findings and hence not credible. He also claims that during the month of March, she slept either in his sister’s or his mother-in-law’s house; thus, the alleged rape incidents could not have taken place.

Time and time again, the Court has held that appellate courts will not disturb the evaluation by the trial court of the witnesses’ credibility because, having observed their deportment and manner of testifying, it was in a better position to weigh conflicting testimonies. This rule stands, unless the trial judge has overlooked certain facts of substance and value which, if considered, might affect the result of the case.^[11] Herein appellant has failed to give us cogent reasons to disturb the ruling of the court *a quo* upholding the private complainant’s credibility.

With regard to the sleeping arrangement, the evidence shows that the girl slept at her aunt’s house for a few days after she had been scolded and beaten up by her father, and at her grandmother’s house after the alleged rape incidents had taken place. Such evidence, however, does not foreclose her claim of having slept in their own house with her brothers and father on the nights of March 20 to 23, 1997 when the rapes occurred. When tested against normal human experience, her claim is more credible than that of the accused-appellant, who insists that she did not sleep at all in their own house during the month of March 1997.

Neither do we find any reason to overturn the factual findings of the court *a quo* regarding the credibility of her testimony on the rape incidents. The medical report of Dr. Noel Gigare that “the patient is in virgin state physically” does not warrant the reversal of the trial court’s finding. It must be noted that in that same report, the doctor also reported the “presence of deep, old hymenal laceration at 3 o’clock.”

This finding indicates that the girl’s vagina may have indeed been penetrated by something that could cause such deep laceration. Furthermore, Dr. Gigare was not presented as an expert witness during the trial. Neither the prosecution nor the defense admitted or showed to the satisfaction of the RTC that he was an expert on the subject of examining rape victims. Hence, his conclusions were correctly disregarded by the trial court.

On the other hand, Dr. Owen Libaquin was presented by the prosecution as an expert witness, and the defense accepted his qualifications. His medical findings were as follows: the hymen of the girl was (1) elastic and fleshy with deep healed lacerations at the 3 and the 7 o’clock positions, and her external vaginal orifice offered moderate resistance to the introduction of the examining index finger and the virgin-sized vaginal speculum; and (2) she was in a non-virgin state physically. These findings corroborated and lent truth to her account that she had been raped.

Verily, the testimony of a rape victim against her father is entitled to greater weight, since reverence and respect for elders is too deeply ingrained in Filipino children and is even recognized by law.^[12] A daughter would not accuse her own father of a serious offense like rape had she not really been aggrieved.^[13] Moreover, when a victim says that she has been raped, she says in effect all that is necessary to show

that rape has been committed; and if her testimony meets the test of credibility, the accused may be convicted on the basis thereof.^[14]

In the present case, the complainant testified on the fact of carnal knowledge as follows:

“Q By the way, that midnight of March 20, 1997, could you tell this Court what were you doing at that time?

A I was sleeping.

Q Now, where did you sleep, in what part of your house did you sleep that night of March 20, 1997?

A At the side of our house.

Q What side of your house?

A At my back.

COURT:

Q Is it inside or outside the house?

A Inside the house.

COURT:

Proceed.

FISCAL:

Q How many rooms did your house have?

A None, Ma’am.

Q Now, your house is only a one-room affair?

A Yes, Ma’am.

Q In sleeping, could you tell us who was your companion at that time sleeping inside your house?

A Me, my father and brothers.

Q In what particular part inside your house did you sleep on that particular hour and date, on the bed or on the floor?

A On the floor.

Q Could you tell us the sequence how you were situated at that time while sleeping on the floor of your house?

A Yes, Ma’am.

Q Tell this Honorable Court.

A I was sleeping with my other brothers.

Q What side of your body was your brother sleeping with you?

ATTY. DALIPE:

No basis that the brother was sleeping.