

FIRST DIVISION

[G.R. No. 132322, February 23, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANTHONY ESTRELLA Y IGNACIO, ACCUSED-APPELLANT.**

D E C I S I O N

KAPUNAN, J.:

Anthony Estrella (accused-appellant) appeals the decision, promulgated on November 18, 1997, of the Regional Trial Court of Manila, Branch 26, finding him guilty of the crime of Rape and sentencing him to suffer the penalty of *reclusion perpetua* and to indemnify private complainant the sum of fifty thousand pesos as damages.

The Information filed against accused-appellant reads as follows:

The undersigned upon sworn statement filed by the offended party MA. CRISTINA R. GLORIA attached herewith as Annex "A" accuses ANTHONY ESTRELLA Y IGNACIO of the crime of Rape, committed as follows:

That on or about June 2, 1994, in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and feloniously, have carnal knowledge with the undersigned complainant, minor, 9 years of age, by then and there lying on top of her in a bed and thereafter removing her panty, kissing her and inserting his penis into her private parts, and thereafter also inserted his finger then succeeded in having carnal knowledge of her, against her will and consent.^[1]

At his arraignment on August 1, 1994, accused-appellant pleaded not guilty.^[2] Thereafter, trial ensued.

The prosecution's version of the facts is as follows:

At around 10:00 p.m. of June 2, 1994, complainant, Maria Cristina R. Gloria, who was then 9 years old and a Grade I student, was requested by her father to buy cigarettes at a store near their house.^[3] On her way back to her house at around 10:30 p.m., while passing through an alley, accused-appellant, who was then behind her, called her attention.^[4] She was able to recognize accused-appellant, a former neighbor, because the alley was lighted.^[5] He approached her and said: "*Pango, sumama ka sa akin.*" Accused-appellant then held her tightly by the hand and led her to his house nearby. Upon reaching his house, accused-appellant took off her clothes and, thereafter, undressed himself. He forcibly laid her on the bed and began to insert his organ into her most private part. He, however, failed to penetrate her vagina.^[6] Accused-appellant then introduced his finger into her organ and made in and out movements with his hand. This made the victim cry as she felt pain. He

then said to her: "Pango, ikaw lang ang batang nasa isip ko."^[7] After inserting his finger into her organ for sometime, accused-appellant again tried to insert his penis into her vagina. However, accused-appellant still failed to insert his penis. Accused-appellant stopped his efforts to have coitus and re-inserted his finger into her organ.^[8] After taking out his finger from her vagina, Cristina told her: "*Kuya, uuwi na ako. Hinahanap ako ng nanay ko.*" Unmindful, accused-appellant told her that she will leave later and again tried to insert his penis into her organ two more times but his efforts were in vain. Thus, he persisted in inserting his finger into her private part four more times. Eventually, accused-appellant allowed complainant to go home. Cristina went out of his house and cried while walking home. However, before she could reach her house, she saw her mother who was then looking for her and shouting "Pango! Pango!"^[9] She approached her mother and told her of the harrowing ordeal she experienced in the hands of accused-appellant. Angered, her mother brought her to the house of accused-appellant. Upon reaching the said house, her mother shouted: "Anthony, lumabas ka dyan. Hayop ka!"^[10] They stayed there for an hour but accused-appellant did not come out of his house.^[11] Disturbed by the commotion, neighbors started going out of their houses. Suddenly, accused-appellant kicked the door of his house and emerged therefrom holding a knife. Cristina's grandfather, Jose, then entered accused-appellant's house and was nearly stabbed by accused-appellant.^[12] Accused-appellant then ran out of his house which led the barangay tanods to run after him. When accused-appellant was caught by the barangay tanods, he was mauled and held on his hands and feet. Accused-appellant was then brought to the police station.^[13]

The following day, or on June 3, 1994, Cristina was brought to the Philippine General Hospital (PGH) for an examination. The examining physicians, Drs. Luna and Bermudez, accomplished a Gynecologic Emergency Sheet^[14] where it was noted that there was negative bleeding but there was *erythematous* in the labial fold.

Three days thereafter, or on June 6, 1994, Dr. Mylene Pinggol of the Ob-Gyn department of the PGH examined the victim pursuant to the request of the pediatrics department. The examination was for the purpose of inspecting the patient's vulva and the internal genitalia for foreign body discharge or bleeding.^[15] Accordingly, Dr. Pinggol issued a medical report where she noted the following findings:

normal external genitalia

(+) 0.2 cm. abrasion at the (L) paraurethral area

(+) erythema (on same area)

hymen intact

(-) vaginal DIC/bleeding

cervix pink (-) laceration^[16]

Dr. Pinggol explained that her observation that there was a 0.2 cm. abrasion at the left paraurethral area meant that there was, using the vernacular, a "*maliit na*

gasgas" of 0.2 cm. "around the opening where the urine comes out."^[17] Furthermore, her finding that there was *erythema* in the same area meant that there was redness present in the 0.2 cm. abrasion.^[18]

For his part, accused-appellant denied the accusations against him. However, he could not think of any reasons why Cristina would fabricate the accusation against him.^[19] In his defense, accused-appellant claimed that at 10:30 p.m. of June 2, 1994, he was at his house sleeping.^[20] Accused-appellant averred that in the early evening of that fateful day, he, along with Jr. Ignacio, a cousin, and Penggoy, a friend, were at a store to buy food. At around 8:00 p.m., they proceeded to his house to watch television.^[21] While watching television, he fell asleep and awoke at around 11:00 p.m. when he noticed that someone kicked open the door of his house.^[22] When this happened, Jr. Ignacio and Penggoy had already left his house.^[23] The grandfather of Cristina then entered his house and tried to hack him with a bolo.^[24] He was able to parry the blow and run out of his house towards the direction of a certain Chairman Mendoza. Before he could reach Chairman Mendoza, however, somebody held him by his neck and boxed him. He lost consciousness and when he regained his senses he was already in the Barangay Hall.^[25] He was then brought to the police station where he was incarcerated.^[26]

Accused-appellant admitted that he knew complainant since she and her family were former neighbors in an apartment.^[27] In fact, accused-appellant claimed that Cristina's mother would borrow money from his mother in times of need.^[28]

After evaluation of the evidence presented by the prosecution and the defense, the trial court found accused-appellant guilty of rape. The dispositive portion of the trial court's decision reads:

WHEREFORE, PREMISES CONSIDERED, the prosecution having fully established the guilt of the accused beyond reasonable doubt, this Court finds him, ANTHONY ESTRELLA y IGNACIO, GUILTY beyond reasonable doubt of the crime of Rape under Article 335 of the Revised Penal Code, as charged in the information, and hereby sentences him to suffer the penalty of RECLUSION PERPETUA with all the accessory penalties provided by law; to indemnify the private complainant the sum of Fifty Thousand (P50,000.00) Pesos by way of moral damages; and to pay the costs of the suit.

SO ORDERED.^[29]

Hence, this appeal where accused-appellant interposed a lone assignment of error, to wit:

THE COURT A QUO ERRED IN CONVICTING ACCUSED-APPELLANT ANTHONY ESTRELLA NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.^[30]

Accused-appellant asserts that the victim's testimony was tainted with doubts and contradictions and, because of this, there was no clear and convincing proof upon which conviction could be based. Accused-appellant raises four (4) incongruities in

Cristina's testimony which allegedly render doubtful her claim that she was raped.

First, accused-appellant highlights the fact that while complainant testified that she became suspicious of his motives in approaching her in the alley on the night of June 2, 1994, she did not bother to shout for help to get the attention of the residents nearby. This, according to him, is "very incredible and incredulous."

We do not agree. Even accused-appellant admitted that the victim knew him since they were former neighbors. This personal acquaintance could have understandably been the reason why she agreed to go along with accused-appellant to his house. One cannot expect an innocent nine-year old girl to make a scene in the street and alarm the neighborhood on the basis of a mere suspicion. More importantly, this alleged improbability in the victim's testimony refers to an event that happened prior to the actual commission of the crime of rape which does not, in any way, affect the substance of her accusation that she was ravished by accused-appellant.

Second, accused-appellant puts in issue Cristina's assertion that she cried during her ordeal when she was inside his house. According to accused-appellant, this claim is inconsistent with her testimony that her father passed by accused-appellant's house at the time that she was being raped but, despite this, was unable to hear her cries of anguish.

Whether Cristina cried when she was raped is inconsequential and irrelevant in the present controversy since what is involved herein is a case of statutory rape where the consent of the victim is immaterial in disproving the same.^[31] Moreover, the failure of Cristina's father to hear her cries while she was being sexually abused in the house of accused-appellant could have been brought about by many factors. The walls of the house could have muffled the victim's cries, the other noises in the vicinity were probably too loud, thus, rendering her cries inaudible or complainant's father could have been preoccupied with other matters so as to be oblivious to the cries of his daughter.

Third, accused-appellant notes that the victim's father did not do anything even after he learned that his daughter had been raped. This, accused-appellant argues, is inconsistent with normal human behavior and, as such, only signifies that her father did not believe that his daughter was raped.

Again, we fail to see the import of this supposed inconsistency in the behavior of the victim's father to accused-appellant's claim of innocence. The less than passionate reaction of the father in his reception of the news that his daughter was raped is a matter which delves into the personality of said parent and is not determinative of the veracity of the girl's claim that she was sexually abused by accused-appellant.

Finally, accused-appellant makes much of Cristina's testimony that she did not categorically see that he inserted his penis into her vagina but that she only felt his penis when accused-appellant was trying to insert the same into her most private part. As basis thereof, accused-appellant quotes the following testimony of the victim during her cross-examination:

Q Why did you say that his organ is bigger that is why it
 couldnot [sic] be inserted in your organ, were you looking

at the organ of Anthony Estrella while he was trying to insert his organ to yours?

A No ma'am.

Q Why did you say that the organ of Anthony Estrella is big?

A I could feel it, ma'am. [32]

According to accused-appellant, the lack of a definite assertion on this matter raises reasonable doubt on Cristina's allegation that she was raped since there is no proof that he took off his underwear and that his penis actually touched her vagina. Furthermore, this would explain why Cristina's medical examination revealed that she did not suffer any laceration and that her hymen was still intact.

We are not persuaded. A more comprehensive reading and appreciation of the cross-examination testimony of complainant would reveal that she made it clear that accused-appellant was no longer wearing his underwear when the latter was pursuing his prurient intentions towards complainant.

Q Now you said that because Anthony Estrella was not able to insert his organ to yours he inserted his finger to your organ and made push and pull move of his finger?

A Yes, ma'am.

Q Why was he unable to insert his organ to your organ?

A His organ is big.

Q Very big?

A A little bit bigger.

Q When he tried to insert his organ into your organ at that precise moment what did you do, if any?

A I was crying.

Q Is that all you did?

A Yes, sir.

Q You did not box or push him?

A I was kicking him.

Q Now what happened when you kicked him?

A He continued.

Q Why did you say that his organ is bigger that is why it couldnot (sic) be inserted in you organ, were you looking at the organ of Anthony Estrella while he was trying to insert his organ to yours?

A No ma'am.

Q Why did you say that the organ of Anthony Estrella is big?

A I could feel it, ma'am. [33]

It is apparent from Cristina's testimony that the reason why accused-appellant was unable to insert his organ into hers was because it was too big and not because he was still wearing his underwear. Had it been the latter situation, the complainant