

FIRST DIVISION

[G.R. No. 133480, March 15, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FLORANTE AGUILUZ Y NUQUE, ACCUSED-APPELLANT.**

D E C I S I O N

PARDO, J.:

Accused Florante Aguiluz y Nuque appeals from the decision of the Regional Trial Court, Bulacan, Branch 20, Malolos, Bulacan finding him guilty beyond reasonable doubt of rape, the decretal portion of which reads as follows:

"WHEREFORE, the Court finds the accused FLORANTE AGUILUZ y NUQUE guilty beyond reasonable doubt of the crime of rape under Article 335, paragraph 3 of the Revised Penal Code.

"Conformable with the provisions of Section 11 of Republic Act No. 7659, the Court imposes upon the accused the penalty of reclusion perpetua.

"The Court also hereby orders the accused to indemnify the offended party Elizabeth B. Cruz the amount of P50,000.00 as moral damages.

"SO ORDERED."^[1]

On November 29, 1995, Assistant Provincial Prosecutor Emily A. Bajar of Bulacan filed with the Regional Trial Court, Bulacan, at Malolos, an information charging FLORANTE AGUILUZ y Nuque with rape committed as follows, to wit:

"That on about the 15th day of October, 1995, in the municipality of Calumpit, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with lewd designs did then and there willfully, unlawfully and feloniously by means of force and intimidation have carnal knowledge of Elizabeth Cruz, below twelve (12) years old, against her will and consent.

Contrary to law."^[2]

Upon arraignment on January 10, 1996, accused pleaded not guilty.^[3] Trial ensued.

In 1995, Elizabeth Cruz was below 12 years of age.^[4] She was a grade VI pupil at Caniogan Elementary School and lived with her grandparents Romeo and Felicidad Cruz at Sto. Niño, Calumpit, Bulacan, since the year 1984, when her parents lived separately.

Accused Florante Aguiluz was 46 years old and married to the sister of Elizabeth's grandfather. He was a caretaker of Francisco Alonzo G Building and served as lay

minister and lector at San Antonio de Padua Church, located at Iba, Hagonoy, Bulacan.

On October 15, 1995, at around 3:00 in the afternoon, Elizabeth was in the house of accused Florante Aguiluz watching television with the children of the accused, namely, Maharlika, Sara and Cherry Flor. After watching television, she went home which was only about an arm's length from the house of the accused. Upon reaching her house, she saw accused in the living room and there were no other people inside the house at that time. Accused closed the doors and windows, dragged her towards a room although she tried to push him. When they were already inside the room, accused removed Elizabeth's t-shirt and pants, including her underwear. She was forced to lie down on the floor and accused started kissing her. The accused succeeded in inserting his penis into her vagina even as she tried to push him. She felt pain and after he was through ("nakaraos"), accused went out of the room. Elizabeth went to the sala and laid down for about an hour because of the pain she felt. Later on, she went to her friends to ask them to accompany her in the house. Her friends stayed there for about half an hour until her grandfather arrived. She did not tell him what happened because she was afraid of the threat made by the accused that she would be killed if she reported the incident to anybody.^[5]

The next day, on October 16, 1995, she told her friends Margie and Michelle about the incident because she knew they could help her report what happened to her to their teacher. On October 17, 1995, she told her English teacher, Mrs. Juliet T. Ortega of Caniogan Elementary School, about the incident who, in turn, reported the incident to her grandmother. She brought Elizabeth to San Fernando, Pampanga for physical examination.^[6]

On October 18, 1995, Elizabeth was taken to the Jose B. Lingad Memorial Hospital, San Fernando, Pampanga where Dr. Sylvia Flores Garcia, a resident O.B. Gynecologist examined her. Dr. Garcia's findings are contained in the Medico-legal report^[7] she issued. The report states:

"EXTERNAL GENITALIA & PERINEUM:

"LABIA MAJORA: well cooptated

"LABIA MINORA:

"HYMEN: Deep healed laceration at 12 & 6 o'clock position; superficial, healed laceration at 2 o'clock position

"I.E. FINDINGS: Intoitus admits 2 fingers with ease; cervix closed; uterus small

"LABORATORY REQUEST:

Pregnancy test - Negative

Smear for Spermatozoa - negative for spermatozoa

At the trial, Dr. Garcia testified. After identifying her report, she declared that there was incomplete laceration involving half of the width of the hymen but did not go beyond the base of the hymen. Among the possible causes of deep lacerations are trauma, if there is passage of blood within the hymen, infection, masturbation or insertion of foreign object inside the vagina and sexual intercourse. Her internal

examination also revealed that the intoitus easily admitted two fingers which meant that the vagina canal was lax that may be caused by sexual intercourse, trauma or child bearing, although her cervix was closed and her uterus was small.^[8]

Elizabeth executed a Sinumpaang Salaysay^[9] on October 19, 1995, before PO1 Arsenio Cabral of the PNP, Calumpit, Bulacan. On October 20, 1995, the police filed a criminal complaint for rape^[10] with the Municipal Trial Court, Calumpit, Bulacan against accused Florante Aguiluz.

In his defense, accused denied sexually molesting Elizabeth. He interposed an *alibi*. According to him, on October 15, 1995, he was at San Antonio de Padua Parish Church and served as layman minister and lector for the 8:00 to 10:00 mass in the morning and 4:00 to 5:00 mass in the afternoon.^[11] Accused likewise presented Fr. Irineo Cabasal to corroborate his defense but on cross-examination, Fr. Cabasal testified that on October 15, 1995, there was only one mass, which was at 8:00 in the morning.^[12]

After due trial, on January 6, 1998, the trial court rendered a decision convicting accused of statutory rape, the dispositive portion of which reads:

"WHEREFORE, the Court finds the accused FLORANTE AGUILUZ y NUQUE guilty beyond reasonable doubt of the crime of rape under Article 335, paragraph 3 of the Revised penal Code.

"Conformably with the provisions of Section 11 of Republic Act No. 7659, the Court imposes upon the accused the penalty of *reclusion perpetua*.

"The Court also hereby orders the accused to indemnify the offended party Elizabeth B. Cruz the amount of P50,000.00 as moral damages.

"SO ORDERED.

"Malolos, Bulacan, January 6, 1998.

(Sgd.)

"OSCAR C. HERERRA, JR.

"J u d g e"

Not satisfied, accused-appellant interposed the instant appeal.^[13] He contends that the trial court gravely erred in finding the testimony of Elizabeth Cruz to be credible despite inconsistencies when taken together with the testimony of Dr. Garcia regarding her medico-legal findings on Elizabeth. He insists that the testimony of Elizabeth that she bled because of the sexual intercourse is inconsistent with the findings of Dr. Garcia that she found healed lacerations in the hymen of Elizabeth. Accused-appellant also alleges that the lower court erred in convicting him of rape notwithstanding the prosecution's failure to prove his guilt beyond reasonable doubt.

The appeal is devoid of merit.

Article 335 of the Revised penal Code provides: