

THIRD DIVISION

[G.R. No. 137649, March 08, 2001]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODOLFO VILLADARES, ACCUSED-APPELLANT.**

DECISION

GONZAGA-REYES, J.:

Before us is the appeal of Rodolfo Villadares from the decision^[1] of Branch 166^[2] of the Regional Trial Court of Pasig City, in Criminal Case No. 109934-H, convicting him of the crime of rape and imposing on him the penalty of *reclusion perpetua*, and ordering him to indemnify the victim, Eliza Sabanal, in the amount of P50,000.00 as moral damages.

The Information against him alleges as follows:

"That on or about the 20th day of January, 1996 in the Municipality of Tagig, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force, threats, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one Eliza Sabanal y Estillana, a twelve (12) year old girl, against her will and consent.

CONTRARY TO LAW."^[3]

On March 13, 1997, accused-appellant assisted by counsel was duly arraigned and, after his plea of not guilty to the charge of rape, the court *a quo* proceeded to trial.

The facts as presented by the prosecution and given credence by the lower court are summarized in the Brief for the Appellee submitted by the Office of the Solicitor General as follows:

"About 2:30 p.m. of January 20, 1996, private complainant Eliza Sabanal was invited by Margarita Villadares, daughter of appellant, to play at the house of appellant in No. 46, Bagong Sikat, Ligid Tipas, Taguig. Appellant's house is adjacent to that of private complainant. Private complainant and Margarita played with a plastic doll. Later private complainant and Margarita fell asleep (p. 3, TSN, May 7, 1997; Exhibit A).

Private complainant was awakened when she felt that her short pants and panty were being removed by appellant. Appellant touched her private organ and breast. Later, he inserted his penis into her private organ (tapos ipinasok po niya iyong titi niya sa kiki ko po; Exhibit A). Eliza cried and went home. The following day, Emma Sabanal, sister of

private complainant who witnessed the incident, informed Rosa Sabanal, their mother, about the rape (Exhibits A and C).

On January 29, 1996, Rosa Sabanal accompanied private complainant to the Philippine National Police Crime Laboratory Service (PNPCLS), Camp Crame for medical examination (p. 3, TSN, November 5, 1997). On January 31, 1996, Dr. Jesusa Vergara, Chief of the Medico-Legal Division completed the examination and issued Medico-Legal Report No. M-0165-96 stating the following:

Findings:

GENERAL AND EXTRAGENITAL:

Fairly developed, fairly nourished and coherent female child. Breasts are undeveloped. Abdomen is flat and soft.

GENITAL

There is laguno-type growth of pubic hair. Labia majora are full, convex and keeping with the pinkish brown labia minor presenting in between. On separating the same disclosed an elastic, fleshy-type hymen with deep healed laceration at 6 o'clock. External vaginal orifice admits tip of the examiner's smallest finger with strong resistance.

CONCLUSION

Subject is in non-virgin state physically.

There are no external signs of application of any form of violence.

REMARKS:

Vaginal and peri-urethral smears are negative for gram-negative diplococci and/or spermatozoa.

TIME AND DATE COMPLETED: 1620H 31 January 1996.

(Exhibit B; Underscoring supplied)

On February 3, 1996, the sworn statements of private complainant, Emma Sabanal and Rosa Sabanal were taken by Senior Police Officer 4 Eufemia Tagale Mendoza at the Taguig Police Station (Exhibits A, C and D)."^[4]

For his part, accused-appellant interposed denial and alibi as his defense. On the witness stand, he testified that on January 20, 1996, he and his wife left their house in Taguig at 3:00 in the morning and proceeded to Pasig to sell newspapers. He stayed in Pasig to sell newspapers and shine shoes until he went home at 4:00 in

the afternoon and arrived thereat an hour later. He knows the Sabanal family as they are neighbors and he has a good relationship with them. He had been giving the Sabanal family food during the time he was living in his house in Taguig because the income of private complainant's father was not enough. He could not think of a reason why the Sabanal family would hate him, but he surmised that he was falsely accused with rape because he sometimes failed to give them food which the children badly needed.^[5] Accused-appellant's daughter Margarita and granddaughter Melvie corroborated accused-appellant's testimony that he left the house at 3:00 in the morning of January 20, 1996 and proceeded to Pasig to work. They testified that he was back home at 6:00 in the afternoon.

On November 23, 1998, the court *a quo* rendered its decision, the decretal portion of which reads:

"WHEREFORE, the court finds accused **RODOLFO VILLADARES Guilty** beyond reasonable doubt of the crime of Rape as charged in the Information and is hereby sentenced to suffer the penalty of **Reclusion Perpetua** and indemnify Eliza Sabanal the sum of **Fifty Thousand (P50,000.00) Pesos**, as moral damages, and pay the costs of suit."^[6]

Hence, this appeal from the lower court's decision, with the sole assignment of error allegedly committed by and imputed to the court *a quo*:

THE LOWER COURT ERRED IN GIVING FULL CREDENCE TO THE TESTIMONY OF ALLEGED VICTIM ELIZA SABANAL AND THE RESULTS OF THE EXAMINATION OF HER GENITALS WHICH ARE WEAK EVIDENCE AND NOT SUFFICIENT TO SUSTAIN CONVICTION BEYOND REASONABLE DOUBT.^[7]

Accused-appellant avers that the trial court erred in convicting him because the testimony of the victim, Eliza, is contradictory and filled with inconsistencies. He argues that Eliza testified that when accused-appellant had sexual congress with her, she struggled and tried to shout but he covered her mouth with his left hand, at the same time, he used his right hand to undress her. However, accused-appellant points out that she likewise testified at that juncture, that he was also poking a knife at her. According to accused-appellant, it is contrary to human experience and highly incredible for him to be covering her mouth, poking a knife at her and undressing her all at the same time.

Next, accused-appellant relies on the inconsistencies between Eliza's testimony and that of Emma, her sister. He argues that Emma testified that Eliza shouted during the time of the incident in question, while Eliza declared that she could not shout because accused-appellant covered her mouth. Further, accused-appellant makes much of the alleged inconsistencies in the statement Emma executed before the police authorities and her testimony in court, citing the following: on direct examination, she testified that accused-appellant was completely naked when she was about to have sex with Eliza, but in her statement, she stated that accused-appellant was wearing shorts without briefs; and on cross-examination, she declared that the former inserted his penis into the latter's organ, but in her statement, she merely stated that accused-appellant went "on top" of Eliza. As to Emma's testimony in court, he draws attention to Emma's initial testimony that accused-appellant had sexual congress with the private complainant, but supposedly

contradicted herself by saying she only saw accused-appellant on January 20, 1996, when the latter was boarding a jeepney.

We are not persuaded. A close and detailed examination of the entire record of the case at bar impels us to affirm.

First. Accused-appellant's arguments as summarized above involve basically a question of credibility. It is doctrinal that the evaluation by the trial court of the testimony of a witness is accorded with highest respect because the trial court had the direct and singular opportunity to observe the facial expression, gesture and tone of voice of a witness while testifying and therefore, competent to determine whether or not the witness is telling the truth.^[8] There is no reason for departing from this doctrine. In the case under scrutiny, the trial court gave credence to the testimony of Eliza, who was twelve (12) years and five (5) months old when the incident happened. A perusal of the transcript of stenographic notes shows that Eliza testified in a candid and straightforward manner. She did not testify that accused-appellant held her hand with one hand, undressed her with the other, and still held a knife to threaten her. On direct examination she testified that accused-appellant poked a knife at her, to wit:

FISCAL:

Q: On Question No. 21, and I quote: "Maikuwento mo ba sa akin kung paano ka pinagsamantalahan ni Rodolfo Villadares?" "Sagot: Opo, noon pong January 20, 1996, 2:30 po ng hapon, niyaya po ako ni Margarita na makipaglaro kay Melvin. Nagpunta po kami sa bahay nila Rodolfo kasi po anak niya si Margarita at Melvin. Naglaro po kami pero nakatulog po kami. May naramdaman po ako na hinuhubaran ako ng shorts at saka panty. Hinipuan po ako sa puke at dede po at nilamas ang dede ko. Tapos po pinatungan na po niya ako. Tapos pinasok po niya iyong titi niya sa kiki ko." Do you affirm this statement, Miss Elisa?

A: Yes, sir.

FISCAL:

May I request that the questions and answer No. 17 be marked as exhibit A-6, and also Question and Answer No. 21 be bracketed and marked as Exhibit A-7.

Q: Now, you said that the accused inserted his penis into your private part, thereafter, what happened?

A: I felt pain. (May naramdaman akong masakit.)

Q: Now, when the accused put himself on top of you, did the accused do anything?

A: I struggled.

Q: What happened after that?

A: He poked a knife at me.

Q: What else did the accused do?

A: He told me not to report the matter to my parents