

EN BANC

[G.R. No. 139962-66, March 07, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EUGENIO MANGOMPIT, JR., ACCUSED-APPELLANT.**

DECISION

GONZAGA-REYES, J.:

This is an automatic review of the decision^[1] of the Regional Trial Court, Branch 11, Sindangan, Zamboanga del Norte^[2] convicting accused-appellant of five (5) counts of rape committed against Marites Quirante, his sixteen year old niece, and imposing on him the supreme penalty of death.

The five (5) informations^[3] charging accused-appellant of the crime of rape, except for the specific dates and time when the crimes of rape were allegedly committed, uniformly read, as follows:

"The undersigned, First Assistant Provincial Prosecutor, upon a sworn complaint originally filed by the private offended party, accuses EUGENIO MANGOMPIT, JR., of the crime of RAPE, committed as follows:

That, at dawn, on or about the 20th day of July 1994, in the municipality of Siayan, Zamboanga del Norte, within the jurisdiction of this Honorable Court, the said accused, moved by lewd and unchaste design and by means of force, violence and intimidation, did then and there wilfully (sic), unlawfully and feloniously succeed in having sexual intercourse with one MARITES QUIRANTE, 16 years old, single and of good reputation, against her will and without her consent.

CONTRARY TO LAW (Viol. of Art. 335, Revised Penal Code)."^[4]

The other informations^[5] charge accused-appellant with the crime of rape allegedly committed on the following dates: at midnight on 9 September 1994, in the afternoon of 12 September 1994, in the afternoon of 15 September 1994, and in the evening of 20 September 1994.

Accused-appellant was arraigned on 17 November 1995. With the assistance of counsel, he pleaded not guilty to the charges leveled against him^[6].

The prosecution presented three witnesses, namely Marites Quirante, the private complainant, Bienvenido Quirante, the father of the victim, and Dr. Raymund Nadela, the medico-legal officer who examined the victim. The evidence for the prosecution reveals the following:

In 1994, accused-appellant stayed at the house of Bienvenido Quirante, the father of the victim, in Balok, Siayan, Zamboanga del Norte. Bienvenido Quirante was accused-appellant's brother-in-law as he was married to accused-appellant's sister. The victim, Marites Quirante, was accused-appellant's niece and she was fifteen years old at that time^[7].

At around 1:00 a.m. of 20 July 1994, Marites was sleeping with her siblings and parents inside a room in their house. Accused-appellant was also sleeping with them in the same room. With a bolo in one hand, accused-appellant suddenly held Marites's hands, took off her underwear, laid on top of her, and inserted his penis into her vagina^[8]. Accused-appellant then made a push and pull movement while on top of Marites. Marites shouted for help while all this was happening but her parents and other siblings remained in deep slumber^[9]. This went on for about five minutes and after satisfying his lust, accused-appellant threatened to kill Marites if she told anybody about the incident.

Accused-appellant allegedly raped the victim again on 9 September 1994 at around 12:00 midnight. The incident allegedly happened in the same room of their house while her parents and other siblings were sound asleep. Accused-appellant again threatened her with a bolo and he then proceeded to have carnal knowledge with her. She again shouted for help but her parents and siblings did not wake up. Accused-appellant again threatened to kill her if she told anyone about the incident.^[10]

The last three incidents allegedly also took place at the house of the victim. During these incidents however, the parents and siblings of the victim were not at home. The third incident allegedly occurred on 12 September 1994 at around 5:00 p.m. This was followed by a fourth rape incident three days later on 15 September 1994 at around 5:00 p.m. The last rape allegedly occurred on 20 September 1994 at around 6:00 p.m. In these three instances, the other family members were allegedly still at the family farm and had not yet returned home. Accused-appellant again threatened her with a bolo before having his way with her and, afterwards, threatened to kill her and her parents if she reported the incidents to anyone,^[11]

Because of her fear that accused-appellant would make good his threats, Marites did not tell anyone about her harrowing experience with her uncle. It was only on 5 December 1994 when her parents noticed that she was pregnant that she told them that accused-appellant had raped her five (5) times^[12]. Three days later, she had herself examined at the Siayan Main Health Center. On that same date, she filed a complaint for rape against her uncle, accused-appellant Eugenio Mangompit, Jr. On 13 April 1995, Marites gave birth to a baby girl.^[13]

Bienvenido Quirante, the father of the victim, told the court that accused-appellant first came to live with them in June of 1994. He claimed that accused-appellant had no job and that he did not even help in their farm.^[14] He testified that he first asked Marites about the rape incidents when he saw that her stomach was already bulging and upon learning about it, he immediately reported the matter to the police.^[15]

On cross-examination, the witness described their house as a regular sized one

measuring two fathoms in width and two and a half fathoms in length. He stated that there were no divisions inside the house except for the kitchen which was separated by a small divider.^[16] At the time of the alleged incidents, there were nine (9) people staying at the house who all slept together inside the house.^[17] He admitted that at the time of the first two rape incidents, neither he, his wife, nor their children woke up or heard Marites scream for help. He claimed that they were in deep slumber as they were all too tired from work.^[18] He likewise stated that prior to the time that he noticed that the stomach of his daughter was bulging, she did not inform him or any member of the family about her rape at the hands of accused-appellant.^[19]

The last witness for the prosecution, Dr. Raymund Nadela, testified on the results of the medical examination he conducted on Marites Quirante on 8 December 1994. He stated that based on his findings, there is a possibility that Marites had been raped as her hymen was no longer intact although there was no sign of any laceration.^[20]

For its part, the defense presented three witnesses namely accused-appellant himself, his brother Primitivo Mangumpit, and Miraflor Acopiado.

Primitivo Mangumpit testified that his brother could not have committed the crimes of rape charged against him because during the dates when the alleged rapes were committed, accused-appellant was with him in Paraiso, Kalawit, Zamboanga del Norte. During the month of July when the first rape incident allegedly occurred, accused-appellant was working with him on his farm. He claimed that accused-appellant stayed at his farm until January 1995 when accused-appellant became sick with malaria and he had to be brought to the hospital.^[21]

On cross-examination and on questions propounded by the court, he admitted that the place where his niece, Marites, lived was about six (6) hours away from his place by public transportation.^[22] He likewise admitted that he can no longer recall the days of the week when the alleged rapes occurred because of the lapse of time.^[23] He asserted, however, that accused-appellant never stayed with his sister, the mother of Marites, during the dates when the incidents of rape were allegedly committed.

For his part, accused-appellant denied ever having committed the crimes for which he was being held^[24]. He claimed that from 1993 to 1994, he was staying at El Paraiso, Kalawit, Zamboanga del Norte in the house of his brother, Primitivo Mangumpit^[25]. He admitted that he stayed in the house of his mother in Siayan, Zamboanga del Norte from 1980-1983 but he denied ever having stayed at the house of Marites Quirante in Baloc, Siayan, Zamboanga del Norte in 1994^[26]. He also claimed that in 1994, he became afflicted with malaria which necessitated his treatment at the District Hospital in Labason, Zamboanga del Norte in January of 1995^[27]. He surmised that the reason why the cases were filed against him is because of the interest of his sister, the mother of the complainant, in acquiring his coconut plantation in Sapang Dalaga, Misamis Occidental.^[28]

The last witness, Miraflor Acopiado, stated that she is the daughter of witness Primitivo Mangumpit and, as such, she is the niece of accused-appellant. She

testified that from July 18 to 25, 1994, she was visiting her father at his home in Kalawit, Zamboanga del Norte. She stated that accused-appellant could not have committed the rape incident on 20 July 1994 as she personally saw accused-appellant at the house of her father and he was sick with malaria. In fact, she stated that the reason why she went to Kalawit was because her father needed money for the treatment of accused-appellant's sickness^[29]. On cross-examination, however, she admitted that she went back home to Dapitan City on 25 July 1994 and that she did not know the whereabouts of accused-appellant in September of 1994 when the other alleged rapes occurred.^[30]

On 6 August 1999, the trial court rendered its decision convicting accused-appellant of five (5) counts of rape. The dispositive portion of the decision reads, as follows:

"WHEREFORE, accused Eugenio Mangumpit, Jr., is found guilty beyond reasonable doubt of five (5) Counts of Rape and is sentenced to suffer the mandatory penalty of DEATH for each count. In addition, accused is ordered to indemnify the offended party Marites Quirante P250,000.00 plus P125,000.00 as exemplary damages.

ACCUSED is further ordered to acknowledge and support the offspring born of the rape.

COSTS de officio.

SO ORDERED."^[31]

Hence, this appeal with accused-appellant raising the following assignment of errors^[32]:

I.

THE COURT OF ORIGIN ERRED SERIOUSLY IN NOT ABSOLVING THE ACCUSED-APPELLANT OF THE CRIMES CHARGED DUE TO THE PRESENCE OF REASONABLE DOUBT.

II.

THE COURT A QUO ERRED GRAVELY IN IMPOSING THE SUPREME PENALTY OF DEATH AGAINST THE ACCUSED-APPELLANT CONSIDERING FULLY THE PRONOUNCEMENTS IN THE RECENT AND RELEVANT CASES OF PEOPLE VERSUS GARCIA (281 SCRA 463), PEOPLE VS. RAMOS (G.R. NO. 129439, SEPT. 25, 1998) AND PEOPLE VS. OMAR MEDINA (G.R. NO. 126575, DEC. 11, 1998)

After a conscientious review of the records of the case, we agree with the lower court that the crimes of rape have indeed been committed and that accused-appellant is the author thereof.

The trial court drew its conclusions from the direct, positive and categorical statements made by complainant Marites Quirante on the witness stand on the material circumstances regarding the commission of the crimes committed against her person. Marites did not waver during her testimony when asked by the judge,

the public prosecutor and the defense counsel to narrate the specific instances when accused-appellant raped her.

On direct examination, Marites candidly answered the questions of the public prosecutor on her harrowing experience at the hands of accused-appellant. She told the court how she was sexually assaulted by accused-appellant on five occasions and how the accused-appellant always threatened her with a *bolo*.^[33] She likewise recalled how she finally had to tell her parents about the rape incidents as she had become pregnant with accused-appellant's child.

On questions propounded by the trial court, Marites gave the details on her ordeal. Thus:

COURT: I have a few questions.

Q: Are you familiar with Eugenio Mangompit, Jr.?

A: Yes, sir. Because he is the brother of my mother.

Q: In other words he is your uncle?

A: Yes, sir.

Q: You said a while ago that on July 20, 1994 at about 1:00 a.m. you were allegedly sexually abused by your uncle Eugenio Mangompit, Jr., am I right?

A: Yes, sir.

Q: At that time he was holding a bolo, am I right?

A: Yes, sir.

Q: You said a while ago that you were sleeping together with your father, mother, brothers and sisters including Eugenio Mangompit in one room, am I right?

A: Yes, sir.

Q: And at that time Eugenio Mangompit, Jr. went near you, am I right?

A: Yes, sir.

Q: You said a while ago that Eugenio Mangompit, Jr. sexually abused you. Before he abused you, you were wearing a panty?

A: Yes, sir.

Q: What happened to your panty at that time when Eugenio Mangompit went near you?

A: He took off my panty.

Q: Who took off your panty?

A: Eugenio Mangompit, Jr.

Q: When Eugenio Mangompit, Jr. took off your panty, you shouted, am I right?

A: Yes, sir.