

EN BANC

[G.R. No. 139552, May 24, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
REYNALDO REBATO, ACCUSED-APPELLANT.**

D E C I S I O N

PER CURIAM:

Before us for automatic review^[1] is the decision^[2] dated 11 August 1999 of the Regional Trial Court of Malolos, Bulacan, Branch 78, in Criminal Case No. 609-M-98 finding accused-appellant Reynaldo Rebato (hereafter REYNALDO) guilty beyond reasonable doubt of the crime of Rape and sentencing him to suffer the penalty of death and pay complainant Jessabel Mitra (hereafter JESSABEL) P75,000 as moral damages.

The criminal complaint^[3] filed on 28 April 1998 reads as follows:

The undersigned offended party Jessabel Mitra assisted by her mother under oath accuses Reynaldo Rebato, stepfather of the offended party of the crime of rape, penalized under the provisions of Art. 266-B of the Revised Penal Code, as amended, committed as follows:

That on or about the 11th of December, 1997, in the municipality of Bocaue, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused being the stepfather of the offended party, did then and there wilfully, unlawfully and feloniously, by means of force, threats and intimidation and with lewd designs, have carnal knowledge of said Jessabel Mitra, a nine (9) year old girl, against her will and without her consent.

Contrary to law.

At his arraignment on 25 May 1998, REYNALDO pleaded not guilty.^[4] Trial on the merits followed.

The prosecution presented as its witnesses JESSABEL and Dr. Manuel C. Aves and offered documentary exhibits, among which was the Certificate of Live Birth^[5] of JESSABEL showing that JESSABEL was born on 2 October 1988 to Rosalinda de la Cruz.

JESSABEL testified that she was nine (9) years old and that on 11 December 1997, at 3:00 a.m., she was sleeping on the floor of their small house in Antipona, Bocaue, Bulacan. With her were her mother, stepfather REYNALDO, 7-year-old sister, and 3-

year-old brother. Her five other siblings were sleeping on a wooden bed some distance away from where she was lying. Their house was lighted by an electric bulb on the ceiling. She was awakened by the movement of her stepfather REYNALDO removing her panty, dress and shorts. She told him to stop, but he persisted. Then REYNALDO removed his shorts and brief, kissed her on her face and arms, went on top of her, and inserted his penis in her vagina. She felt pain. REYNALDO made a push and pull movement. He then threatened to kill her should she report the incident to anyone. JESSABEL cried. Her mother and other siblings did not notice what had happened, as they were all sound asleep at the time.^[6]

Unable to endure any longer the trauma of the incident, JESSABEL decided three days later to tell her mother what REYNALDO had done to her. Her mother brought her to her natural father in Bocaue and reported the incident to him. Afterwards, her mother accompanied her to the police to file a complaint and to have herself medically examined.^[7]

JESSABEL also recalled that her stepfather had sexually abused her seven times prior to the incident on 11 December 1997, which prompted her to file a case for acts of lasciviousness against REYNALDO. She had also been medically examined and executed a sworn statement on 30 July 1997 before the Bocaue police in the presence of her mother. The case was dismissed; however, the judge ordered her mother to bring her to her natural father. But her mother did not, and when she was raped by REYNALDO on 11 December 1997 she was still living with her mother and REYNALDO.^[8]

Dr. Manuel C. Aves, a medico-legal officer assigned at the Bulacan Provincial Crime Laboratory Office, testified that on 17 December 1997 he conducted an extra-genital examination on JESSABEL. The genital examination disclosed multiple healed hymenal lacerations which could have been due to past sexual manipulation or intercourse; and fresh superficial hymenal laceration, abrasion and congestion in the external vaginal orifice, which indicated recent sexual activity. Dr. Aves further declared that JESSABEL had been complaining of having been raped since 1993.^[9]

The witnesses presented by the defense were REYNALDO and his sister Teresita Belena. REYNALDO denied the accusation against him and claimed that at the time the rape in question was alleged to have been committed, he was sleeping in the house of his sister Teresita at Barangay Buro 1, Balagtas, Bulacan. Barangay Buro 1 is far from Antipona and could be reached from the latter after a 30-minute jeepney ride.^[10]

He admitted that he married Rosalinda, JESSABEL's mother, in September 1995^[11] and that JESSABEL is his stepdaughter.^[12] He lived continuously with Rosalinda until his first arrest in July 1997. When he was arrested again in 1998, he was already living with his sister and had been separated from his wife.

Teresita Belena testified that on 11 December 1997, she was in her residence in Buro 1, Balagtas, Bulacan, together with her husband, children, nieces and nephews, and brother REYNALDO. On 10 December 1997, REYNALDO slept in her house at 9:00 p.m., and she saw him at 7:00 a.m. of the next day as he was preparing for work.^[13] On cross-examination, Teresita stated that she went to sleep

at 8:00 p.m. on 10 December 1997 and woke up at 5:00 a.m. of the following day, but between those hours she did not know what transpired in her house because she was asleep.^[14]

The trial court gave full faith and credit to JESSABEL's testimony. It declared that her inability to prevent the accused from committing the crime by shouting or forcibly resisting could not be taken against her. REYNALDO, being her stepfather "definitely exercised moral and physical ascendancy over [her] which could be sufficient to cow her into submission to his bestial desire."^[15] It disregarded REYNALDO's defense of alibi not only for being self-serving, but also for lack of proof of physical impossibility for him to be at the *locus criminis* at the time of its commission. It then convicted him as charged, and imposed upon him the death penalty considering the relationship of REYNALDO as stepfather to JESSABEL and the fact that she was only nine (9) years old at the time the crime was committed.

In his Appellant's Brief, REYNALDO raises this lone assignment of error:

THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

In support of this contention, REYNALDO argues that JESSABEL's testimony should not be received with precipitate credulity considering that her testimony is uncorroborated and does not bear the stamp of truth and candor. She categorically stated that the room where the alleged rape had taken place was just small and that she was sleeping beside her mother and her other siblings. Thus, had it been true that he had committed the crime charged on that date and time, their respective body movements and JESSABEL's cries could have awakened Rosalinda, who was then beside JESSABEL. REYNALDO further claims that JESSABEL could easily have concocted the story, as she had earlier filed a similar complaint against him, which only showed that she is not the typical naive barrio lass.

In the Appellee's Brief, the Office of the Solicitor General prays for the affirmance of REYNALDO's conviction and sentence, but recommends that in addition to the award of moral damages, a civil indemnity of P75,000 be awarded.

We find REYNALDO's contentions to be totally devoid of merit.

The main issue here is the credibility of JESSABEL. Long settled is the rule that the assessment of the credibility of the complainant in a rape case falls primarily within the province of the trial judge. He is in a better position to determine whether the complainant is telling the truth or merely narrating a concocted tale. He could weigh conflicting testimonies because he heard the witnesses themselves, observed their deportment and manner of testifying, and had full access to the vital aids of determining truth or falsehood, such as the furtive glance, the blush of conscious shame, the hesitation, the sincere or the flippant or sneering tone, the heat, the calmness, the yawn, the sigh, the candor or lack of it, the scant or full realization of the solemnity of an oath, the carriage and mien. Therefore, unless the trial judge plainly overlooked certain facts, the substance and value of which, if considered, might affect the result of the case, his assessment on credibility must be respected.

^[16]