

SECOND DIVISION

[G.R. No. 134294, May 21, 2001]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDILBERTO VILLALOBOS, ACCUSED-APPELLANT.**

DECISION

MENDOZA, J.:

This is an appeal from the decision,^[1] dated April 20, 1998, of the Regional Trial Court, Branch 9, of Balayan, Batangas, finding accused-appellant Edilberto Villalobos y Tinaypan guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of *reclusion perpetua*, to indemnify complainant Esperanza Villalobos y Tanallon in the amount of P50,000.00, and to pay the costs.

The information against accused-appellant alleged $\frac{3}{4}$

That on or about the 19th day of September, 1995, at about 8:00 o'clock in the evening, at Brgy. 8, Municipality of Balayan, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there wilfully, unlawfully, and feloniously lie with, and have carnal knowledge with the said Esperanza Villalobos y Tanallon, accused's own daughter, against her will and consent.

CONTRARY TO LAW.^[2]

When arraigned, accused-appellant pleaded not guilty to the charge, whereupon trial commenced.

The prosecution presented complainant as its lone witness.

Complainant, who was 31 years old at the time she testified, is the eldest daughter of accused-appellant Edilberto Villalobos and Anita Tanallon. She only finished Grade IV of the elementary school. She had two other sisters, Dorotea and Imelda. Except for her two sisters, complainant and her parents lived together in a house in Barangay 8, Balayan, Batangas. Complainant worked as a housemaid at the residence of Lilibeth de los Reyes. As their house had to be repaired, complainant and her two children and mother stayed in the house of her uncle, Anatalio Villalobos.

Complainant claimed that she had been raped by accused-appellant several times, the first of which was when she was only 13 years old, as a result of which she begot four children by accused-appellant, namely, Regante, 12 years old, Remuel, 7

years old, and two others who died upon delivery. Had the latter two lived, they would have been four years old and one year old, respectively, at the time complainant testified.^[3]

At about 7:00 p.m., on September 19, 1995, complainant said that she and her mother, and sister Dorotea were having dinner when she heard accused-appellant making a secret call "*Pssst.*" She knew that it was accused-appellant calling her, being the way accused-appellant called her whenever he wanted to have sexual intercourse with her. According to complainant, when she heard the call, she asked permission from her mother to leave on the pretext that she needed to buy something from a nearby store. She said she would have heeded the call of accused-appellant, who was in their house which was being repaired, even if she was not allowed to leave. Complainant said she went to accused-appellant and found him standing by the door of their house. When she asked him what it was he wanted, accused-appellant answered that he needed her. ("*Kailangan kita.*") What accused-appellant meant was that he wanted to have sex with her ("*Gusto niyang gumamit*"), complainant said. Accused-appellant told her to get inside the house, and once she was in, she was asked to undress and lie down. At first, complainant claimed, she refused, but accused-appellant assured her the act would not take too long. ("*Sandali lang.*") Although she objected, she followed accused-appellant's order because the latter threatened her with a dagger as he again asked her to undress. ("*Maghubad ka.*") She was made to lie down on the folding bed and was then raped. Complainant said accused-appellant placed his dagger beside her pillow. Complainant said she tried to extricate herself from accused-appellant's hold, but he was too strong for her.

After consummating the act, accused-appellant allowed her to leave the house. According to complainant, upon arriving home, she pretended she had been to a store and did not tell anybody what had happened to her, afraid as she was that accused-appellant might kill her mother. ("*Baka po tuluyang patayin ang Nanay ko.*")

Complainant said she decided not to report the matter to the authorities until after her mother died. But after her mother died on November 4, 1995, she immediately reported the rape incident to the police authorities. With the help of Barangay Chairman Renato Atienza of Barangay 8, Balayan, Batangas, complainant gave a sworn statement (Exh. A)^[4] to the police on November 5, 1995 and filed a criminal complaint (Exh. B)^[5] against accused-appellant.^[6]

Testifying in his behalf, accused-appellant, then 56 years old, denied the allegations against him and claimed that he and complainant were lovers. He said that although complainant bears the surname Villalobos, complainant was not really his daughter as she is really the daughter of his common-law wife Anita Tanallon by another man. Complainant recognized and respected him as her father because complainant was just one year old when he and Anita started living together.

Accused-appellant testified that he and complainant voluntarily entered into a relationship, a fact known even in their neighborhood. Accused-appellant said that his wife did not object to his relationship with complainant because his wife could no longer meet his sexual needs due to her kidney ailment. He admitted that at about 9:00 p.m. of September 19, 1995, he had sexual intercourse with complainant but

he denied calling complainant to go to their house. He said he found complainant already lying in his bed when he arrived home that evening. He said that complainant would often lie in his bed while waiting for him to have sex with her. On the night in question, he claimed he asked complainant why she was there, and she answered, "I am waiting for you." She then held his hand as she asked him to turn off the lights. Accused-appellant said he obliged her and they had sexual intercourse. Accused-appellant said complainant in fact stayed with him that night and only left at about 5:00 a.m. the following day. Accused-appellant also admitted that prior to September 19, 1995, he and Esperanza had sex about 10 times. Their trysts took place either in the house of Anatalio (Esperanza's uncle), whenever nobody was around, or in their own house, whenever there was an opportunity. As to his four children by complainant, he said that the eldest, Regante, was 14 years old, while the next Remuel, was 10 years old. The other two were given away to be adopted ("*pinaampon*").^[7]

On April 20, 1998, the trial court rendered its decision finding accused-appellant guilty of rape. The dispositive portion of its decision reads:

WHEREFORE, premises considered, the Court finds accused EDILBERTO VILLALOBOS GUILTY beyond reasonable doubt of the crime of rape committed against the person of Esperanza Villalobos and is hereby sentenced to suffer the penalty of *reclusion perpetua* and to indemnify the victim in the sum of P50,000.00 and to pay the cost.

SO ORDERED.^[8]

Accused-appellant seeks the reversal of his conviction, alleging errors in the trial court's decision. Accused-appellant maintains that he and complainant were lovers as shown by the fact that (1) they had four children; (2) he would just make his secret call whenever he wanted to have sex with her and complainant would come; (3) complainant's mother, uncle, and sisters all knew about their relationship.

In considering this appeal, it is well to recall certain principles which have guided this Court in the review of trial court decisions, to wit: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution stands or falls on its own merits and cannot be allowed to draw strength from the weakness of the defense.^[9] Mere accusation is not enough to convict. By the very nature of the crime, the issue in rape cases turns on the credibility of the complainant as only the participants can testify as to its occurrence.^[10] In this case, the choice is between the claim of complainant that she was raped on September 19, 1995 by accused-appellant and that of accused-appellant that he and complainant actually engaged in consensual sexual intercourse on the date in question.

We have held that the accused may be convicted solely on the basis of the lone uncorroborated testimony of the complainant, but her testimony must be credible, natural, convincing, and consistent with human nature and the normal course of

things.^[11] On the other hand, we have likewise ruled that the testimony of the complainant should not be received with precipitate credulity, but with the utmost caution.^[12]

The test for determining the credibility of complainant's testimony is whether it is in conformity with common knowledge and consistent with the experience of mankind. Whatever is contrary to common knowledge and general experience is incredible and lies outside of judicial cognizance.^[13] In the case at bar, the application of these principles leads us to the conclusion that accused-appellant's conviction cannot stand.

First. It is noteworthy that complainant has four children by accused-appellant and that this fact is known to her mother and sister and even to their neighbors. As a matter of fact, complainant and accused-appellant invited their neighbors to the baptism of their children. At the time complainant testified on September 19, 1995, her oldest child was 12 and the second was seven years old, while the last two could have been four years old and one year old had they not died. On the night of September 19, 1995, complainant claimed she was in the house of her uncle, Anatalio, having dinner with her mother and her sister Dorotea when she heard accused-appellant call her "*pssst.*" Without losing time, she went to their house on the pretext that she needed to buy something from the store. Then she went inside the house and she and accused-appellant had sexual intercourse. The following is complainant's testimony to this effect:

ATTY. LAGUARDIA:

Q In other words, when you said you were inside your house and you testified that your father stayed and sleep in the house under repair?

A Yes, sir.

Q And you were staying at the house of Anatalio together with your mother and sister and children?

A Yes, sir.

Q You said that you are a housemaid and you were at the house of Anatalio on September 19, 1995 at around 8:00 o'clock in the evening, was your purpose there to visit or to stay there with your mother and sister?

A To visit.

Q And you said to visit but you sleep there in the house of Anatalio?

A Yes, sir. I will sleep in the house of Anatalio.

Q In the following morning were you going to report with your employer or you stayed there in the house of your mother?

A I was still there.

Q But at that time you were employed with Lilibeth de los Reyes?

A Yes, sir.

Q When you said your employer and you said that [you] were inside the house of Anatalio on September 19, 1995, what time did you arrive there?

A 7:00 p.m., sir.

Q You said that your father is in the house under repair, how do you know that your father is in the house under repair?

A He was calling me up.

Q What did the accused say when you said he was calling you?

A He asked me to come there.

Q What did the accused actually said to you?

A He needs me there, sir.

Q Do you know the reason why he needs you there?

A No, sir.

Q But your mother and sister know that your father is calling you?

A No, sir.

Q And was your father shouting at you when he was calling you?

FISCAL:

I would like to make it of record that the witness is crying.

COURT:

Okey.

A Pasitsit.

ATTY. LAGUARDIA:

Q When you said "pasitsit", can you please demonstrate it?

A Pst.

Q When your father is making a call by means of psst, that he was