

EN BANC

[G.R. No. 131609, August 27, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BONIFACIO PUERTA Y RODRIGUEZ, ACCUSED-APPELLANT.**

D E C I S I O N

PER CURIAM:

For automatic review before this Court is the decision^[1] of the Regional Trial Court of San Jose, Camarines Sur, Branch 30, dated August 21, 1997, in Criminal Case No. T-1591, finding accused-appellant Bonifacio Puerta guilty of the crime of rape committed against his nine-year old daughter, Janet Puerta.

The information reads:

"That on or about [the] 12th day of August, 1996 at about 3:00 o'clock in the afternoon at Barangay San Antonio, Municipality of Tigaon, Province of Camarines Sur, 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 have carnal knowledge with his daughter, Janet B. Puerta, an 8-year old girl against her will and to her damage and prejudice.

"ACTS CONTRARY TO LAW."^[2]

Upon arraignment, accused-appellant pleaded not guilty.^[3] At the trial, the prosecution presented three (3) witnesses, namely: Janet Puerta, private complainant; Nieves Puerta, private complainant's mother; and Dr. Peñafrancia Villanueva, municipal health officer of the Tigaon (Camarines Sur) Rural Health Unit. The defense, on the other hand, presented the accused himself, Bonifacio Puerta.

The facts are as follows:

The private complainant^[4] testified that on the day of the incident, August 12, 1996, she was nine (9) years old.^[5] At around 3:00 p.m. of the same day, she was in their house at Cagayagayahan, San Antonio, Tigaon, Camarines Sur with her younger siblings Junjun,^[6] Jennifer^[7] and Jenalyn.^[8] Accused-appellant attended the fiesta at Tigaon. When private complainant was asked by the prosecutor as to what happened then, the former did not answer. The trial judge observed that private complainant was about to cry and her hands were "pressed hard."^[9] After a while, private complainant answered that when accused-appellant arrived, they

approached him. They followed him when he entered their house. Thereafter, accused-appellant drank the *San Miguel* gin that he was carrying and lay down. Private complainant and her siblings were then on the bench when accused-appellant called her. Accused-appellant told her to massage his aching head. While at that task, accused-appellant pulled her hand and took off her panty. He then kissed her lips, pulled down his pants and briefs, and laid on top of her. Accused-appellant held his penis and inserted it inside her vagina.^[10] Private complainant recounted that "it was painful"^[11] and she was crying at that time.^[12] Accused-appellant threatened her not to tell anyone about the incident; otherwise, he would kill them, including her mother and grandmother.^[13] At the time of the sexual assault, private complainant's siblings were on the bench, which was located just inside their house. The sexual assault occurred in the sleeping area of the house. The said house had no bedroom. Afterwards, private complainant dressed up while accused-appellant slept. In addition, private complainant testified that while her father was sexually molesting her, her mother arrived and saw them.^[14] Her mother, with her younger sister Jenalyn, went to her grandmother's house.^[15] Private complainant also testified that it was not the first time that accused-appellant sexually assaulted her but about the 10th time.^[16] On cross-examination, she further testified that her birthday is on February 26, 1987, as told by her mother. She reaffirmed her testimony on direct examination that her siblings were around when her father sexually assaulted her. She also reiterated that when her father sexually assaulted her in the afternoon of August 12, 1996, he inserted his penis into her vagina.^[17] She stated that there was ejaculation within her vagina.^[18] When her mother arrived at their house, she heard her brother Junjun tell their mother that their father laid on top of her ("*si Ate pigbabawan ni Papa*").^[19] Afterwards, her mother and younger sister Jenalyn went to her grandmother's house. Private complainant and her other siblings followed their mother to their grandmother's house. Her mother reported the incident to her grandmother. The following day, August 13, 1996, her grandmother brought her to the Regional Hospital in Naga where she was examined by Dr. Peñafrancia Villanueva.^[20]

Nieves Puerta, private complainant's mother, testified that on August 12, 1996, the private complainant was nine (9) years old, having been born on February 26, 1987. At about 3:00 p.m. of the same day, she came from the house of a certain Ka Lorie located in Kagayagayahan, San Antonio, Tigaon, Camarines Sur and when she arrived at their house, she saw accused-appellant "doing the act on my daughter," "[h]e is doing a bad act on my daughter and he is above her," "he was having sexual act with my daughter."^[21] She witnessed the incident from a distance of about 2-1/2 ft. as she entered the door of their house and saw the private complainant and accused-appellant in the sleeping area. After seeing them, she went to her mother's house and reported the incident to her mother.

Thereafter, she went back to their house and found accused-appellant already asleep. She fed her children and put them to sleep. She further recounted that private complainant and her other

children followed her to her mother's house. When she asked private complainant why she did not inform her of her ordeal, private complainant told her in tears that her father threatened to kill them if she informed anyone.^[22] Private complainant

told her that "[s]he did not report anything more because she is very frightened of her father ."[23] On cross-examination, Nieves reiterated her testimony on direct examination that she arrived at their house at about 3:00 p.m. on the day of the incident[24] and found accused-appellant "doing the sexual act" to private complainant;[25] that she went to her mother's house after witnessing the incident; [26] that she informed her mother of what she saw; and that she went back to their house and found accused-appellant asleep.[27] She disclosed that she registered the birth of private complainant in the local civil registry only in November 1996 because when the chief officer of the Department of Social Welfare and Development (DSWD), a certain Mrs. Portugal, asked for the birth certificate of private complainant, there was none.[28] She further revealed that on February 5, 1997, while outside the courtroom, accused-appellant asked forgiveness from private complainant[29] by saying, "please forgive me because I will reform." [30]

Dr. Peñafrancia Villanueva, municipal health officer of the Tigaon Rural Health Unit in Tigaon, Camarines Sur, physically examined the private complainant and made the following findings and conclusions in a medico legal report dated August 13, 1996:

FINDINGS:

"1. External Genitalia: Negative finding

"2. Internal Genitalia: (+) hymenal lacerations, complete (sic) healed, at the 3,6,8 o'clock positions.

"Erythematous base of the hymen at the 10 o'clock position. Admits index finger with ease."

Dr. Villanueva explained that the healed hymenal lacerations could have been made more or less a month before the medical examination. She testified that there could be a slight penetration of the vagina without causing injury on the external genitalia, [31] that the hymenal lacerations could have been caused by a penis, and that there would be no rupture/laceration if there was no sexual intercourse." [32]

In his defense, accused-appellant testified that on August 12, 1996, he was at the *peria* in the town proper of Tigaon and went back to their house at about 6:30 p.m. of the same day.[33] Upon his arrival his wife, Nieves Puerta asked him for the things he bought but he replied that he lost the money at the *peria*. Nieves Puerta got angry with him, lambasted him, went berserk, threw his clothes outside their house, told him to get lost, quarreled and boxed him. He was not able to control himself, thus, he "hurt" her. Thereafter, she ran towards her mother's house. After a while, she returned to their house and he went to sleep. At around 9:00 p.m. of the same day, a policeman arrived and told him to get out of the house because there was a complaint made against him by his daughter, Janet Puerta. He then asked his wife why there was a policeman in their house but she did not say anything. He went out of the house and was handcuffed by the policeman. He was told that he must go with them to Tigaon. Accused-appellant claimed that he was not in good terms with his mother-in-law, Amparo Butial, because the latter did not

give him the money sent by his wife while working in Batangas sometime in December 1985.^[34] He asserted that his mother-in-law told him that he must separate with his wife^[35] because he had no use to the family and it would be better if he were dead.^[36] He also claimed that his wife was actuated by improper motive in testifying against him, in particular, she wanted them to separate.^[37] He admitted having asked forgiveness from private complainant but not for the charge against him, but forgiveness for whipping her. On cross-examination, he testified that he went to the *peria* in Tigaon at 8:00 a.m. on August 12, 1996. According to him, it takes about 10 minutes for one to go to the town proper of Tigaon from their place in San Antonio.

On rebuttal, the prosecution recalled Nieves Puerta, private complainant's mother, who denied having been actuated by improper motive in testifying against accused-appellant.^[38]

On October 22, 1997, the Regional Trial Court of San Jose, Camarines Sur, Branch 30, promulgated a decision dated August 21, 1997 finding accused-appellant guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the maximum penalty of death. The dispositive portion of the decision reads:

"WHEREFORE, the accused Bonifacio Puerta is hereby sentenced to suffer the supreme penalty of death, to indemnify the offended party, Janet Puerta, the sum of Fifty Thousand Pesos (P50,000.00) Philippine Currency, as moral and exemplary" damages, and for him to pay the costs.

"SO ORDERED."^[39]

In this appeal, accused-appellant submits a lone assignment of error, to wit:

"THE TRIAL COURT MANIFESTLY ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE FAILURE OF THE PROSECUTION TO ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT."^[40]

Accused-appellant in the main questions the credibility of prosecution witnesses, Janet Puerta and Nieves Puerta. In particular, accused-appellant contends that the testimony of Nieves Puerta, private complainant's mother, "is full of loopholes which renders the same 'unworthy of credit and belief, "pointing out her "passive and lackadaisical attitude" at the time she came upon accused-appellant in the act of sexually assaulting private complainant, and her "quite unnatural" immediate reaction of doing nothing to stop the sexual assault and proceeding to her mother's house; and insists that "her inaction is not in accordance with human experience."^[41] Accused- appellant also avers that, considering that the alleged incident occurred at daytime, it is "highly improbable" for accused-appellant to leave the door wide open, as testified by private complainant's mother, while he was committing the alleged sexual assault. Accused-appellant also asserts that since his other children were also inside the house at the time of the alleged incident, their

presence alone would have discouraged him from committing the alleged sexual assault. Likewise, he avers that their house is not isolated and he could not have openly exposed himself to his neighbors while allegedly sexually assaulting his daughter. He further points out that Nieves Puerta "...exhibited a passive stance by attending to her other children as if nothing unusual happened to her own daughter [referring to Janet]," upon her return to their house after coming from her mother's house. As further proof of his assertion that Nieves Puerta is not a credible witness, accused-appellant faults her for the "inconsistent entries" in private complainant's birth certificate, which was registered belatedly in the local civil registry.^[42]

Accused-appellant likewise assails the credibility of private complainant's testimony that she was raped by the former, alleging that "[p]rivate complainant's failure to answer spontaneously the question about the challenged incident makes her an unreliable witness."^[43] According to him, private complainant's initial lack of response when questioned about the alleged sexual assault, and her subsequent testimony only after repeated prodding, make her accusations doubtful and a mere afterthought.^[44]

We find no merit in the appeal.

It is settled that the evaluation of the testimonies of witnesses by the trial court is binding upon the appellate court in the absence of a clear showing that it was reached arbitrarily or that the trial court plainly overlooked certain facts of substance or value which, if considered, might affect the result of the case.^[45] Time and again we have ruled that the testimony of a rape victim is credible where she has no motive to falsely testify against the accused.^[46] Courts usually give credence to the testimony of a girl who is a victim of sexual assault, particularly if it constitutes incestuous rape because, normally, no person would be willing to undergo the humiliation of a public trial and to testify on the details of her ordeal were it not to condemn an injustice. Needless to say, it is settled jurisprudence that testimonies of child-victims are given full weight and credit, since when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed. Youth and immaturity are generally badges of truth and sincerity.^[47]

In the instant case, the trial court found that the private complainant:

"xxx xxx.

...testified in a natural, simple and straight-forward manner, except on the first question [on] how the sexual act was committed to (sic) her. This is an **indication of sincerity**, if not, of **truthfulness bereft of any concoction, much less, influence** from her mother Nieves Puerta including her grandmother Amparo Butial. She identified her father, the accused in this case. It is true that when the public prosecutor propounded the first question to her eliciting the details as to how the offense of rape was committed to (sic) her, she hesitated. **This hesitation may, however, be attributed to her being practically a child and the accused is her own father, her own flesh and blood [from] whom she expects protection and care.** And besides on the