

EN BANC

[G.R. Nos. 142602-05, October 03, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BONIFACIO ARIOLA, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

These cases are here on automatic appeal from the decision,^[1] dated September 30, 1999, of the Regional Trial Court, branch 36, Santiago City, Isabela, in view of the penalty imposed on accused-appellant who was found guilty of four counts of rape and sentenced to suffer in each case the penalty of death and to pay the victim, Maribel Ariola, the sum of P50,000.00 as indemnity and the costs of suit, without subsidiary imprisonment in case of insolvency.

Except as to the dates of commission of the crime, four informations^[2] filed against accused-appellant identically charged-

That on or about _____,^[3] in the City of Santiago, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force, intimidation and with lewd design, did then and there willfully, unlawfully and feloniously lay with and have carnal knowledge with one MARIBEL ARIOLA against her will and consent.

CONTRARY TO LAW.^[4]

Accused-appellant entered a plea of not guilty when arraigned on July 14, 1997,^[5] whereupon a joint trial of the cases against him was held.

The prosecution presented four witnesses, namely, Maribel Ariola, Zenny Ariola,^[6] Maximo Palalay, and Dr. Jeffrey Demano, whose testimonies show the following facts:

On December 16, 1994, Maribel Ariola was alone with her father, accused-appellant Bonifacio Ariola, in their house in Sapang Palay, Mabini, Santiago City, Isabela. Maribel went to sleep at around 8 o'clock that evening, but she was awakened when she felt someone kissing her on the lips. She found it was her father, herein accused-appellant. Maribel tried to push accused-appellant away, but he hit her right leg. He mashed her breasts and later had sexual intercourse with her.

On December 17, 1994, Maribel was again raped by her father. She said she wanted to fight back, but she felt helpless. The next day, December 18, 1994, accused-appellant raped Maribel for the third time. Maribel was completely

helpless. All she could do was cry. She was raped by her father a fourth time at around 1 o'clock in the morning of December 19, 1994 in their house.

Maribel said she was afraid her father might kill her if she did not give in to his desires. Accused-appellant was a violent person who once hit her with the scabbard of his bolo and boxed her brother.

At the time of the incidents, Zenny Ariola, Maribel's mother, was working in Madadamian, Echague, Isabela. Her brother and sister were also not at home during those times. Although her mother and siblings returned home towards Christmas, it was only on March 31, 1997 that Maribel finally told her mother what had happened to her. Maribel was afraid accused-appellant would hurt her again.^[7]

When Zenny Ariola learned about her daughter's fate, she immediately took her to the police station at the old city hall. They took the tricycle driven by Maximo Palalay and went to Santiago City. Zenny then accompanied her daughter to the Southern Isabela District in Rosario, Santiago City where she was examined by Dr. Jeffrey Demano. Dr. Demano's findings, as contained in his report, are as follows:

There were fully developed pubic hair noted. The hymen shows old hymenal lacerations at several positions giving a serrated appearance. The vagina admits 2 fingers with difficulty.

There was minimal whitish vaginal discharge noted.^[8]

Dr. Demano explained that the serrated appearance of the hymenal lacerations could be due to the forcible entry of a foreign object into the vagina. However, he said these could also be caused by the passage of large clotted blood during menstruation, by falling on hard and sharp objects, by jumping or running, by the insertion of a medical instrument, by masturbation, the insertion of a foreign object into the vagina, or by a previous operation. Dr. Demano admitted that he could not categorically state whether the lacerations were due to sexual intercourse. He also explained that when the vagina was able to admit two fingers with difficulty, this meant that it was possible that there had been no previous entrance of an object into the vagina or there had been a few, from one to four instances. There could not have been repeated entrance because such would cause the vaginal canal to become loose.

The defense presented accused-appellant as its sole witness. He testified that he had been a tenant-farmer in Batal for the past five years. He acknowledged that Maribel Ariola and Zenny Ariola were his daughter and wife, respectively. He testified that he lived in Sapang Palay, Mabini, Santiago City with his wife and children, namely, Celso, Imelda, Almario, and Maribel. He said that Maribel was 16 years old at the time of his testimony.

Accused-appellant claimed that he was in his farm on December 16, 1994 and that he went home only for lunch. He admitted that he went home that night and that only he and Maribel were staying in their house at that time. His wife was in Madadamian, Echague, Isabela, while his son was in Raniag. His other daughter, Imelda, was working in the town proper. However, accused-appellant denied that he

raped Maribel on December 16, 17, 18, and 19, 1994. He said that his wife instigated the filing of these cases against him because he wanted to separate from her. He also testified that Maribel filed charges against him because he whipped her for disobeying him and because he scolded her on March 31, 1997. Maribel threatened him on that day that she would charge him with rape. He was incarcerated that same day. He said that his wife visited him and brought him food in prison, but Maribel did not visit him. He had no criminal record prior to the filing of rape charges against him.

On cross-examination, accused-appellant stated that he told his wife to leave him after she said that she felt only pity, not love, for him. He admitted that his love for his wife was also waning at that time, but he denied that it was because he was attracted to Maribel. He never felt any physical attraction towards his daughter despite the fact that she was a beautiful young woman, he said. Although he was alone with his daughter on December 16 to 19, 1994, accused-appellant said they slept apart from each other. However, he admitted that their house had only one room.^[9]

On September 30, 1999, the trial court rendered a decision, the dispositive portion of which stated:

AS A CONSEQUENCE OF ALL THE FOREGOING, the Court finds the accused "GUILTY" beyond reasonable doubt of four (4) counts of rape provided for and penalized under Article 335 of the Revised Penal Code, as amended, and hereby sentences the accused to suffer the penalty of DEATH; to pay the victim the sum of FIFTY THOUSAND (P50,000.00) PESOS for each of the four (4) rapes committed against her, or the total sum of TWO HUNDRED THOUSAND (P200,000.00) PESOS, without, however, subsidiary imprisonment in case of insolvency, and to pay the cost.

SO ORDERED.^[10]

Hence this appeal. Accused-appellant contends that-

- I. THE TRIAL COURT ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE EVIDENCE OF THE PROSECUTION IT APPEARING TO BE INSUFFICIENT, IMPROBABLE AND INCREDIBLE.
- II. ASSUMING WITHOUT ADMITTING THAT [THE] ACCUSED RAPE[D] THE COMPLAINANT, THE TRIAL COURT ERRED IN IMPOSING THE EXTREME PENALTY OF DEATH CONSIDERING THAT THE FOUR INFORMATIONS DID NOT CHARGE HIM WITH COMMITTING FOUR COUNTS OF QUALIFIED RAPE.^[11]

First. Accused-appellant questions the credibility of the prosecution witnesses. He argues that it is improbable for the rapes to have occurred only on December 16 to 19, 1994 and not thereafter. He insists that even complainant did not know the

dates of the alleged rapes. Accused-appellant further questions the delay of three years before complainant reported the alleged rapes to her mother. Finally, he contends that the testimonies of Zenny Ariola and Maximo Palalay as regards the manner in which the rape incidents were reported to the police authorities are doubtful and inconsistent.

To begin with, it is well-settled that the conclusions of the trial court with respect to the credibility of the witnesses are generally accorded great respect by this Court because the trial court is in a unique position to observe their demeanor on the witness stand. Only if it is shown that the trial court's evaluation is arbitrary or that the trial court has overlooked, misunderstood, or misapplied some facts or circumstances of weight and substance which, if properly considered, would affect the outcome of the case would its findings be overturned.^[12] That is not so in these cases.

Indeed, Maribel's testimony is straightforward, categorical, and convincing. Recounting her ordeal at the hands of accused-appellant, Maribel told the trial court:

Q Madam witness, we would like to recall your attention to the last statement when you [were] presented before this court for your direct examination, the question was after mashing your breast what other things did the accused do and your answer was no[ne] sir, the question is what do you mean by your answer nothing more or no more sir?

....

A I was just afraid Your Honor.

....

Q When you said that you are afraid with whom were you afraid at that time when you made your answer?

A Bonifacio Ariola, sir.

Q Now will you tell us if you are still afraid at this particular hour of trial?

A No more sir.

Q So, feeling now secured madam witness will you explain then what did your father do after mashing your breast?

....

A After that he took my virginity.

COURT:

What do you mean by your virginity?

A No answer from the witness.

ATTY. DELA CRUZ:

We would like to make on record that the witness cannot answer the question.

COURT:

Put it on record that the court also observed that the witness cannot answer the question.

A He fucked me sir.

Q You said that the accused fucked you, how did he do that to you?

A No answer from the witness.

COURT:

She refused to answer the question, ask another question.

Q What part of your body was used by him in fucking you madam witness?

A My vagina sir.

Q Do you know the reason why he did that to you?

A I do not know sir.

....

COURT:

When you said that he fucked you did he use his private part?

A Yes sir.

Q When he was doing that what did you do then?

A I was crying sir and when I try to fight back he boxed me.

Q What part of your body [did] he box?

A My legs sir.

Q What leg?

A My right leg sir.

Q How many times did he box you on December 16, 1994?

A Once only sir.

Q And how many times did he fuck you on that night of December 16, 1994?

....

A Once only sir.

Q On December 17, 1994, according to you, he raped you again, is that correct?

A Yes sir.