

EN BANC

[G.R. Nos. 132875-76, November 16, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.,
ROMEO G. JALOSJOS, ACCUSED-APPELLANT.**

DECISION

YNARES-SANTIAGO, J.:

This Court has declared that the state policy on the heinous offense of rape is clear and unmistakable. Under certain circumstances, some of them present in this case, the offender may be sentenced to a long period of confinement, or he may suffer death. The crime is an assault on human dignity. No legal system worthy of the name can afford to ignore the traumatic consequences for the unfortunate victim and grievous injury to the peace and good order of the community.^[1]

Rape is particularly odious, one which figuratively scrapes the bottom of the barrel of moral depravity, when committed against a minor.^[2]

In view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant is always scrutinized with extreme caution.^[3]

In the present case, there are certain particulars which impelled the court to devote an even more painstaking and meticulous examination of the facts on record and a similarly conscientious evaluation of the arguments of the parties. The victim of rape in this case is a minor below twelve (12) years of age. As narrated by her, the details of the rape are mesmerically sordid and repulsive. The victim was peddled for commercial sex by her own guardian whom she treated as a foster father. Because the complainant was a willing victim, the acts of rape were preceded by several acts of lasciviousness on distinctly separate occasions. The accused is also a most unlikely rapist. He is a member of Congress. In spite of his having been charged and convicted by the trial court for statutory rape, his constituents liked him so much that they knowingly re-elected him to his congressional office, the duties of which he could not perform.

Statutory rape committed by a distinguished Congressman on an eleven (11) year old commercial sex worker is bound to attract widespread media and public attention. In the words of accused-appellant, "he has been demonized in the press most unfairly, his image transmogrified into that of a dastardly, ogre, out to get his slimy hands on innocent and naïve girls to satiate his lustful desires."^[4] This Court, therefore, punctiliously considered accused-appellant's claim that he suffered "invidiously discriminatory treatment." Regarding the above allegation, the Court has ascertained that the extensive publicity generated by the case did not result in a mistrial; the records show that the accused had ample and free opportunity to adduce his defenses.

This is an appeal from the decision^[5] of the Regional Trial Court of Makati, Branch 62, in Criminal Case Nos. 96-1985 and 96-1986, convicting accused-appellant Romeo Jalosjos of two (2) counts of statutory rape, and in Criminal Case Nos. 96-1987, 96-1988, 96-1989, 96-1990, 96-1992, and 96-1993, for six (6) counts of acts of lasciviousness defined and penalized under Article 336 of the Revised Penal Code, in relation to Section 5(b) of Republic Act No. 7610, also known as the Child Abuse Law.

There were six (6) other cases, Criminal Case Nos. 96-1991, 96-1994, 96-1995, 96-1996, 96-1997, and 96-1998, where the accused-appellant was acquitted of the charges of acts of lasciviousness for failure of the prosecution to prove his guilt beyond reasonable doubt.

On December 16, 1996, two (2) informations for the crime of statutory rape; and twelve (12) for acts of lasciviousness defined and penalized under Article 336 of the Revised Penal Code, in relation to Section 5(b) of Republic Act No. 7610, were filed against accused-appellant. The accusatory portion of said informations for the crime of statutory rape state:

In Criminal Case No. 96-1985:

The undersigned, upon prior sworn complaint by the offended party, eleven (11) year old minor ROSILYN DELANTAR, accuses ROMEO JALOSJOS of the crime of RAPE defined and penalized under Art. 335 (3) of the Revised Penal Code, committed as follows:

That on or about June 18, 1996 at Room No.1702, Ritz Towers, Makati City, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have carnal knowledge with (*sic*) eleven year old minor Rosilyn Delantar against her will, with damage and prejudice.

CONTRARY TO LAW.^[6]

In Criminal Case No. 96-1986:

The undersigned, upon prior sworn complaint by the offended party, eleven (11) year old minor ROSILYN DELANTAR, accuses ROMEO JALOSJOS of the crime of RAPE defined and penalized under Art. 335 (3) of the Revised Penal Code, committed as follows:

That on or about June 20, 1996 at Room No. 1702, Ritz Towers, Makati City, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have carnal knowledge with (*sic*) eleven year old minor Rosilyn Delantar against her will, with damage and prejudice.

CONTRARY TO LAW.^[7]

For acts of lasciviousness, the informations^[8] under which accused-appellant was convicted were identical except for the different dates of commission on June 14, 1996; June 15, 1996; June 16, 1996; June 20, 1996; June 21, 1996; and June 22, 1996, to wit:

The undersigned, upon prior sworn complaint by the offended party, eleven (11)-year old minor ROSILYN DELANTAR accuses ROMEO JALOSJOS of the crime of ACTS OF LASCIVIOUSNESS in relation to Section 5 (b), Article III of Republic Act No. 7610, otherwise known as the Special Protection of Children against Abuse, Exploitation and Discrimination Act, committed as follows:

That in the evening of June 14, 1996, or thereabout, in Room No. 1702, Ritz Towers, Makati City, Metro-Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, did then and there wilfully, unlawfully and feloniously kiss, caress and fondle said complainant's face, lips, neck, breasts, whole body, and vagina, suck her nipples and insert his finger and then his tongue into her vagina, place himself on top of her, then insert his penis in between her thighs until ejaculation, and other similar lascivious conduct against her will, to her damage and prejudice.

CONTRARY TO LAW.

In Criminal Cases Nos. 96-1988; 96-1990; and 96-1993, there were added averments that on the different dates, the accused gave the complainant P10,000.00, P5,000.00 and P5,000.00 respectively.

Upon arraignment on January 29, 1997, accused-appellant refused to enter a plea. Hence, the trial court entered a plea of not guilty for him. At the trial, the prosecution presented eight (8) main witnesses and seven (7) rebuttal witnesses as well as documentary evidences marked as Exhibits A to EEEE, inclusive of submarkings. The defense, on the other hand presented twenty-six (26) witnesses. Its documentary evidence consists of Exhibits 1 to 153, inclusive of submarkings. The records of the case are extremely voluminous.

The People's version of the facts, culled mainly from the testimony of the victim, are as follows:

Maria Rosilyn Delantar was a slim, eleven-year old lass with long, straight black hair and almond-shaped black eyes. She grew up in a two-storey apartment in Pasay City under the care of Simplicio Delantar, whom she treated as her own father. Simplicio was a fifty-six year old homosexual whose ostensible source of income was selling *longganiza* and *tocino* and accepting boarders at his house. On the side, he was also engaged in the skin trade as a pimp.

Rosilyn never got to see her mother, though she had known a younger brother, Shandro, who was also under the care of Simplicio. At a very young age of 5, fair and smooth-complexioned Rosilyn was exposed by Simplicio to his illicit activities. She and her brother would tag along with Simplicio whenever he delivered prostitutes to his clients. When she turned 9, Rosilyn was offered by Simplicio as a

prostitute to an Arabian national known as Mr. Hammond. Thus begun her ordeal as one of the girls sold by Simplicio for sexual favors.

Rosilyn first met accused-appellant, Romeo Jalosjos, sometime in February 1996 at his office located near Robinson's Galleria. Rosilyn and Simplicio were brought there and introduced by a talent manager by the name of Eduardo Suarez. Accused-appellant promised to help Rosilyn become an actress. When he saw Rosilyn, accused-appellant asked how old she was. Simplicio answered, "10. She is going to be 11 on May 11." Accused-appellant inquired if Rosilyn knows how to sing. Simplicio told Rosilyn to sing, so she sang the song, "Tell Me You Love Me." Accused-appellant then asked if Rosilyn has nice legs and then raised her skirt up to the mid-thighs. He asked if she was already menstruating, and Simplicio said yes. Accused-appellant further inquired if Rosilyn already had breasts. When nobody answered, accused-appellant cupped Rosilyn's left breast. Thereafter, accused-appellant assured them that he would help Rosilyn become an actress as he was one of the producers of the TV programs, "*Valiente*" and "*Eat Bulaga*."

Simplicio and Suarez then discussed the execution of a contract for Rosilyn's movie career. Accused-appellant, on the other hand, said that he would adopt Rosilyn and that the latter would have to live with him in his condominium at the Ritz Towers. Before Simplicio and Rosilyn went home, accused-appellant gave Rosilyn P2,000.00.

The second time Rosilyn met accused-appellant was at his condominium unit, located at Room 1702, Ritz Towers, Makati City. Accused-appellant and Simplicio discussed the contract and his plan to finance Rosilyn's studies. Accused-appellant gave Simplicio P500.00, thereafter, Rosilyn, Shandro and Simplicio left.

The third meeting between Rosilyn and accused-appellant was also at Ritz Towers to discuss her acting career. Accused-appellant referred the preparation of Rosilyn's contract to his lawyer, who was also present. After the meeting, Simplicio and Rosilyn left. As they were walking towards the elevator, accused-appellant approached them and gave Rosilyn P3,000.00.

On June 14, 1996, at about 8:30 to 9:00 p.m., Simplicio and Rosilyn returned to accused-appellant's condominium unit at Ritz Towers. When accused-appellant came out of his bedroom, Simplicio told Rosilyn to go inside the bedroom, while he and accused-appellant stayed outside. After a while, accused-appellant entered the bedroom and found Rosilyn watching television. He walked towards Rosilyn and kissed her on the lips, then left the room again. Simplicio came in and bid her goodbye. Rosilyn told Simplicio that accused-appellant kissed her to which Simplicio replied, "*Halik lang naman*."

Rosilyn was left alone in the bedroom watching television. After some time, accused-appellant came in and entered the bathroom. He came out clad in a long white T-shirt on which was printed the word, "*Dakak*." In his hand was a plain white T-shirt. Accused-appellant told Rosilyn that he wanted to change her clothes. Rosilyn protested and told accused-appellant that she can do it herself, but accused-appellant answered, "*Daddy mo naman ako*." Accused-appellant then took off Rosilyn's blouse and skirt. When he was about to take off her panties, Rosilyn said, "*Huwag po*." Again, accused-appellant told her, "After all, I am your Daddy." Accused-appellant then removed her panties and dressed her with the long white T-shirt.

The two of them watched television in bed. After sometime, accused-appellant turned off the lamp and the television. He turned to Rosilyn and kissed her lips. He then raised her shirt, touched her breasts and inserted his finger into her vagina. Rosilyn felt pain and cried out, "*Tama na po.*" Accused-appellant stopped. He continued to kiss her lips and fondle her breasts. Later, accused-appellant told Rosilyn to sleep.

The following morning, Rosilyn was awakened by accused-appellant whom she found bent over and kissing her. He told her to get up, took her hand and led her to the bathroom. He removed Rosilyn's shirt and gave her a bath. While accused-appellant rubbed soap all over Rosilyn's body, he caressed her breasts and inserted his finger into her vagina. After that, he rinsed her body, dried her with a towel and applied lotion on her arms and legs. Then, he dried her hair and told her to dress up. Rosilyn put on her clothes and went out of the bathroom, while accused-appellant took a shower.

Accused-appellant ate breakfast while Rosilyn stayed in the bedroom watching television. When accused-appellant entered the room, he knelt in front of her, removed her panties and placed her legs on his shoulders. Then, he placed his tongue on her vagina. Thereafter, he gave Rosilyn P10,000.00 and told his housemaid to take her shopping at Shoemart. When she returned to the Ritz Towers, Simplicio was waiting for her. The two of them went home. Rosilyn narrated to Simplicio what accused-appellant did to her, and pleaded for him not to bring her back to the Ritz Towers. Simplicio told her that everything was alright as long as accused-appellant does not have sexual intercourse with her.

That same evening, at around 9:00 to 9:30 in the evening, Simplicio again brought Rosilyn to the Ritz Towers. After Simplicio left, accused-appellant removed Rosilyn's clothes and dressed her with the same long T-shirt. They watched television for a while, then accused-appellant sat beside Rosilyn and kissed her on the lips. He made Rosilyn lie down, lifted her shirt above her breasts, and inserted his finger into her vagina. Then, accused-appellant removed his own clothes, placed his penis between Rosilyn's thighs and made thrusting motions until he ejaculated on her thighs. Thereafter, accused-appellant kissed her and told her to sleep.

The next day, June 16, 1996, accused-appellant roused her from sleep and bathed her. Again, he rubbed soap all over her body, washed her hair, and thereafter rinsed her body and dried her hair. While accused-appellant was bathing Rosilyn, he asked her to fondle his penis while he caressed her breasts and inserted his finger into her vagina. After their shower, accused-appellant ate breakfast. He gave Rosilyn P5,000.00 and told her to just wait for Simplicio in the condominium unit. On their way home, Simplicio told Rosilyn that if accused-appellant tries to insert his penis into her vagina, she should refuse.

At around 8:00 p.m. of June 18, 1996, Simplicio brought Rosilyn to the Ritz Towers. They found accused-appellant sitting on the bed in his bedroom. Simplicio told Rosilyn to approach accused-appellant, then he left. Accused-appellant took off Rosilyn's clothes and dressed her with a long T-shirt on which was printed a picture of accused-appellant and a woman, with the caption, "Cong. Jalosjos with his Toy." They watched television for a while, then accused-appellant lay beside Rosilyn and kissed her on the lips. He raised her shirt and parted her legs. He positioned himself