

EN BANC

[G.R. Nos. 140333-34, December 11, 2001]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LOVE JOY DE GUZMAN, ACCUSED-APPELLANT.

DECISION

PER CURIAM:

Lust is no respecter of time or place. Neither is it deterred by age nor relationship and there is no better illustration of its despicability than incestuous rape. This case is another odious example.

Accused Love Joy De Guzman was charged with two (2) counts of statutory rape in Criminal Cases Nos. 99-564^[1] and 99-565^[2] allegedly committed against his seven-year old niece Geneva Daugherty.

The Information in Criminal Case No. 99-564 alleges -

That sometime in the month of December 1998, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the maternal uncle of the complainant GENEVA DAUGHERTY, with lewd design and taking advantage of the innocence and tender age of the victim did then and there have carnal knowledge with said GENEVA DAUGHERTY, a girl 7 years of age, by means of force and intimidation and against her will and consent.

CONTRARY TO LAW.

The Information in Criminal Case No. 99-565 is a reproduction of the above-quoted information, the only difference being that the rape was committed in February, 1999.

Upon arraignment, accused pleaded not guilty to the charges.^[3] Trial thereafter ensued, after which the Regional Trial Court of Angeles City, Branch 59, rendered judgment^[4] imposing the death penalty against accused thus:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. In Criminal Case No. 99-564, after finding accused Love Joy De Guzman GUILTY beyond reasonable doubt, said accused is hereby sentenced to suffer the supreme penalty of DEATH.
2. In Criminal Case No. 99-565, after finding the accused Love Joy De Guzman GUILTY beyond reasonable doubt, said accused is also sentenced to suffer the supreme penalty of DEATH.

Said accused is further ordered to indemnify the victim Geneva Marie Daugherty the sum of Seventy Five (P75,000.00) Thousand Pesos in each case.

SO ORDERED.

On automatic review before us, accused-appellant alleges that -

I

THE LOWER COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF TWO (2) COUNTS OF STATUTORY RAPE DESPITE THE DEFECTIVE INFORMATION FILED AGAINST HIM WHICH FAILED TO SPECIFY THE DATE WHEN THE ALLEGED RAPE WAS COMMITTED.

II

THE LOWER COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF TWO (2) COUNTS OF STATUTORY RAPE DESPITE THE FAILURE OF THE PROSECUTION TO PROVED (*sic*) HIS GUILT BEYOND REASONABLE DOUBT.

The facts as summed by the trial court are as follows:

Geneva Marie Daugherty was born on August 18, 1991 as evidenced by her birth certificate. They were living at Hadrian St., Don Bonifacio Subd., Pulong Maragul, Angeles City. Her mother, Liwayway Marie Scott-Daugherty, has a maternal half-brother by the name of Love Joy De Guzman who also lived at Hadrian St. in her (Geneva's) grandmother's hut. Her uncle Love Joy is jobless and oftentimes ate at their house. One morning of December 1998 before Christmas and while she was in front of their house, her uncle Love Joy asked her to go to his house. Once inside the house, accused asked her to buy coffee for him. After buying coffee, Geneva fell asleep. When she woke up, she was already naked and the accused was on top of her. Her uncle was also naked and she felt his penis was inside her vagina. Accused was making a push-up movement and she felt pain in her vagina. After her uncle removed himself on top of her, she saw blood in her vagina. Her uncle told her not to tell anyone what he did or he may kill her and her mother. Accused then asked her to leave. As told by her uncle, she did not inform her mother nor anyone of what Love Joy did to her.

Sometime in February 1999 and while she was watching video at the store, her uncle Love Joy called her again and asked her to go to his house. Once inside Love Joy's house, the latter kissed her on the neck. Accused removed her skirt and panty and he undressed himself. Accused mounted her and inserted his penis into her vagina. Again she felt pain. After the sexual attack, she went back to the store and saw a certain "Boy Pabalan." She told Boy Pabalan what Love Joy had done to her and the latter brought her to the Barangay Hall. Her mother, who was informed by her brother, Joseph Scott, brought her to a doctor for examination. She was examined by Dr. Lauro C. Biag of the Ospital Ning Angeles (ONA) on February 15, 1999 and the doctor found in her

genitalia complete healed lacerations at 7, 11, 1 o'clock and incomplete healed lacerations at 3, 5, 12 o'clock. On the same date, the doctor issued a medical certificate^[5] indicating therein his findings. When the doctor testified in court, he alleged that the hymenal lacerations on the victim's genitalia may have been caused by the insertion of a hard object inside the vagina. She was also brought to a police station where she filed a complaint against her uncle Love Joy De Guzman. She and her mother executed sworn statements.^[6]

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Accused Love Joy De Guzman admitted that the victim Geneva Marie Daugherty is his niece and the latter's mother is his half-sister. He however denied the rape accusations made against him. He alleged that he had not seen the latter on the dates mentioned by her, specifically in the months of December 1998 and February 1999, when the rapes were allegedly committed. He reasoned out that he was always out during the nighttime as he had to meet his barkadas at Check-point, Balibago, Angeles City. He usually went home at 6 o'clock in the morning and will sleep the whole day. He will only wake up at around 5 to 6 in the evening to see his barkadas again. He further alleged that there was no chance or opportunity for him to see Geneva because at daytime he was sleeping the whole day. He never woke up even at noon in order to eat lunch. He only stayed awake at daytime during Sundays. However, during the Sundays of the months above-mentioned, he had no opportunity to see Geneva Marie. He does not know the reason why Geneva Marie complained that he raped her as he was maintaining a good relationship with her and her mother.

Owing to the severity of the penalty imposed in this case, the Court must be guided by the principle that: (a) an accusation for rape can be made with facility. While the commission of the crime may not be easy to prove, it becomes even more difficult for the person accused, although innocent, to disprove that he did not commit the crime; (b) in view of the intrinsic nature of the crime of rape where only two persons are normally involved, the testimony of the complainant must be always be scrutinized with extreme caution; and (c) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence of the defense.^[7] Thus, in a prosecution for rape, the complainant's credibility becomes the single most important issue.^[8]

Considering that the persons present during a rape are usually only the offender and the offended, the core of the questions raised is the credibility of the witnesses. It is doctrinally settled in this regard that such issue is to be resolved primarily by the trial court because it is in a better position to decide the question, having heard the witnesses and observed their deportment and manner of testifying. Accordingly, its findings are entitled to the highest degree of respect and will not be disturbed on appeal in the absence of any showing that the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which would have affected the result of the case.^[9]

In the first assigned error, accused-appellant in sum insists he should be acquitted

because the Informations filed against him are fatally defective because the specific dates of the sexual assaults are not stated with particularity.

We disagree.

The exact time and date of the commission of the rape is not an essential element of the crime.^[10] As we pointed out recently in *People v. Felicito Barbosa y Turallo*:
[11]

Failure to recall the exact date of the crime is not an indication of false testimony. Moreover, **the precise dated when the victim was raped is not an element of the offense. The gravamen of the crime is the fact of carnal knowledge under any of the circumstances enumerated under Article 335** of the Revised Penal Code. As long as it is alleged that the offense was committed at any time as near to the actual date at which the offense was committed in the information is sufficient. **The allegations that rapes were committed "before and until October 15, 1994", "sometime in the year 1991 and the days thereafter", "sometime in November 1995 and some occasions prior and/or subsequent thereto" and "on or about and sometime in the year 1988" constitute sufficient compliance** with Section 11, Rule 110 of the Revised Rule of Criminal Procedure.^[12]

In the second assigned error, accused-appellant claims that his culpability was not adequately proven. However, other than his defense of denial and alibi, he did not elaborate on the particular facts or circumstances which would prove his innocence.

Accused-appellant's pretensions of innocence simply pales in comparison to the young complainant's testimony which was given in a straightforward and spontaneous manner. We have assiduously scrutinized the testimony of complaining witness Geneva Marie Daugherty and ultimately reached the conclusion that she was indeed defiled by accused-appellant. Seven-year old Geneva's testimony on the acts of rape perpetrated against her by her uncle is clear and could have only been narrated by a victim subjected to such sexual assaults. Indeed, the enormity of accused-appellant's bestiality is graphically detailed in the following sickening account of the seven-year old victim:

PROS. QUIAMBAO:

Sometime in December before Christmas, do you recall if you met the accused Love Joy?

A Yes, sir.

Q Where did you see him?

A In front of our house.

Q While you were in front of your house when you saw Love Joy, what if any did Love Joy do to you?

A He asked me to go to his house.

Q Did you go to his house?

A Yes, sir.

Q The house of Love Joy is that situated in Mt. View, Balibago,

- Angeles City?
- A Yes, sir.
- Q Did you go to his house?
- A Yes, sir.
- Q Once you were inside the house of Love Joy at Mt. View, Balibago, Angeles City, what did he accused do to you if he did any?
- A Inutusan po niya ako.
- Q What did he tell you when you said "inutusan ka"?
- A He asked me to buy coffee.
- Q Did you buy coffee for him?
- A Yes, sir.
- Q What did you do with the coffee that you bought?
- A I gave it to him.
- Q After giving the coffee to the accused, what else did the accused do to you, if any?
- A Nakatulog po ako.
- Q When did you wake up?
- A When I woke up, he was already on top of me.
- Q What was he doing when he on top of you?
- A He was raping me.
- Q Was he able to insert his penis into your vagina?
- A Yes, sir.
- Q What did you feel when he was able to insert his penis into your vagina?
- A I felt hurt.
- Q After that what else transpired, if any?
- A He asked me to leave.
- Q Did you inform your mother about it?
- A No, sir. Because he told me if I will tell my mother, he will kill me.
- Q By the way, if you will see this Love Joy again will you be able to identify him?
- A Yes, sir.
- Q Will you please look around and point to him if he is in the courtroom?

INTERPRETER:

Witness pointing to a man wearing a yellow t-shirt and when asked his name, he gave his name as Love Joy de Guzman y