

## **FIRST DIVISION**

**[ G.R. No. 129248, December 07, 2001 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
JUSTINIANO GLABO ALIAS "TOTO BUGOY", ACCUSED-  
APPELLANT.**

### ***DECISION***

**YNARES-SANTIAGO, J.:**

One afternoon in October, 1991, 21-year old victim Mila Lobricco, a mental retardate, and her 11-year old sister, Judith, were summoned by accused-appellant, their maternal uncle, to his house. He told them to wash the clothes of his wife. After the two sisters finished their chore, accused-appellant ordered Judith to wash the dishes in the nearby creek, about 200 meters away from his house. When Judith was gone, accused-appellant dragged Mila from the yard, where she was hanging the washed clothes, into the house. He pushed her to the floor and made her lie down. He undressed the victim, then he inserted his penis into her private organ and made push and pull motions. Mila was overpowered by accused-appellant's brute strength. She shouted for help, but there were no neighbors nearby.

Suddenly, it started to rain hard, so Judith had to run back to the house for shelter. She went directly under the house, which was elevated 3 feet above the ground. While underneath the house, she heard someone crying on the floor above. She looked up through the bamboo floor and saw accused-appellant on top of her elder sister. Both were naked. Judith went to the kitchen, and she saw accused-appellant's penis as he stood up and raised his briefs.

The two girls went home silently. They did not say a word about the incident. However, the victim became pregnant as a result of the rape, and after six months her condition could no longer be concealed. Severino Lobricco, Mila's father, confronted her, but she said nothing. It was her sister, Judith, who told their father that accused-appellant raped Mila. Severino brought Mila to the police and filed a complaint for rape before the Municipal Trial Court. After the preliminary investigation, the following Information was filed against accused-appellant:

That on or about the month of October, 1991, at Sitio Siniaran, Bgy. Banbanan, in the Municipality of Taytay, Province of Palawan, Philippines and within the jurisdiction of this Honorable Court, the said accused with lewd design and by means of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with one Mila Lobricco against her will and consent to the damage and prejudice of said Mila Lobricco in such amount as may be awarded her by the court.

CONTRARY TO LAW.<sup>[1]</sup>

In his defense, accused-appellant alleged that during the entire month of October 1991, he was plowing the field of one of his sisters in Sitio Yakal, new Guinto, Taytay, Palawan. The victim's mother, Gloria Glabo-Lobrico, testified for the defense. She stated that she wanted the case to be settled to restore her good relationship with accused-appellant, who is her brother.

On September 30, 1996, the Regional Trial Court of Puerto Princesa City, Palawan, Branch 51, rendered judgment convicting accused-appellant, thus:

WHEREFORE, premises considered, judgment is hereby rendered, finding the accused JUSTINIANO GLABO, ALIAS TOTO BUGOY, guilty beyond reasonable doubt as principal in the crime of rape, and there being no modifying circumstances appreciated and not being entitled to the benefits of the Indeterminate Sentence Law, he is hereby sentenced to RECLUSION PERPETUA, with the accessory penalties of civil interdiction for life and of perpetual absolute disqualification; to pay complainant moral damages in the amount of P50,000.00; to give support to complainant's child who was born as a result of this offense; and to pay the costs.<sup>[2]</sup>

Hence, this direct appeal.

After carefully reviewing the evidence on record, we find no reason to reverse the judgment of the trial court. The prosecution established by sufficient evidence the guilt of the accused-appellant by proof beyond reasonable doubt.

Sexual crimes where the culprit denies culpability is actually a test of credibility.<sup>[3]</sup> The issue of credibility has, time and again, been settled by this Court as a question best addressed to the province of the trial court because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying which opportunity is denied to the appellate courts. Absent any substantial reason which would justify the reversal of the trial court's assessments and conclusions, the reviewing court is generally bound by the former's findings, particularly when no significant facts and circumstances were shown to have been overlooked or disregarded which when considered would have affected the outcome of the case.

Moreover, the fact that the victim was about six months pregnant in March 1992 confirms the commission of the rape sometime in October 1991. There was no showing that Mila had sexual relations with other men during that time.

It was sufficiently proved that Mila was a mental retardate. Both her parents testified that their child, Mila, is mentally retarded. In addition, the psychiatrist who examined her testified as to her mental state:

Q Will you please tell the court whether that sickness of Mila Lubrico was in-born or only acquired?

A Based on the medical history of Mila Lobrico she has a medical sickness with typhoid which lasted for three (3) weeks and that otherwise fever might have affected or impaired her mental faculties.

Q At the time you examined Mila Lubrico will you say in your own

opinion that she was suffering from mental disturbance.

A Yes, sir.<sup>[4]</sup>

Thus, Mila could not have consented to engage in sexual intercourse with accused-appellant.<sup>[5]</sup> Her condition falls under the definition of a person "deprived of reason." These include those suffering from mental abnormality or deficiency; or some form of mental retardation; the feeble minded but coherent; or even those suffering from mental abnormality or deficiency of reason.<sup>[6]</sup>

Mentally deficient persons generally share certain social behavior characteristics that undermine their ability to give statements voluntarily, knowingly and intelligently - they "may be vulnerable to exploitation by others."<sup>[7]</sup> Where the rape victim is feeble-minded, even if there may have been no physical force employed on her, there is authority to the effect that the force required by law is the sexual act itself.<sup>[8]</sup>

Accused-appellant was positively identified as the perpetrator of the rape by both the victim and her sister. There is no showing that the latter harbored ill motive against accused-appellant. Hence, his defense of alibi must fail.<sup>[9]</sup> Alibi and denial are inherently weak and unreliable defenses.<sup>[10]</sup>

The silence of the victim and her sister for about six months does not render their testimony doubtful. Delay for six months in reporting a sexual attack does not detract from the veracity of her charge.<sup>[11]</sup> The failure to disclose defilement or rape does not warrant the conclusion that she was not sexually molested and that her charges are baseless, untrue and fabricated.<sup>[12]</sup> Rape is not only a physical but also an emotional assault on women, which places tremendous stress on the human mind. Hence victims of rape react, even cope, differently from one another - some may shout, others may faint; some may collapse into a trance-like state, and others may lose their sanity.<sup>[13]</sup> Moreover, there is no standard form of behavioral response whenever one is confronted with a startling or frightful experience.<sup>[14]</sup> Rape is unquestionably a frightful experience. To discredit a witness merely for her understandable procrastination is to forever seal the lips of any reluctant or fearful witness.<sup>[15]</sup>

Accused-appellant contends that the victim's father coached his children to make up the charges because he maltreats his wife and he wants a piece of land belonging to his family. The contention has no merit. It is unnatural for a parent to use his daughter as an instrument of malice, especially if it will subject her to embarrassment and even stigma.<sup>[16]</sup>

The fact that the Information did not specify the precise date in October 1991 when the rape was committed does not render the same defective. The precise time of commission of rape is not an essential element.<sup>[17]</sup> Such allegation in the Information does not violate due process and is sufficient to sustain guilt.<sup>[18]</sup> Besides, considering the mental status of the victim and the tender age of her sister, they cannot be expected to recall and keep track of the date, particularly when they had apparently chosen not to recall that day.