

EN BANC

[G.R. No. 131472, March 28, 2000]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROMEO TIPAY Y NUITE, ACCUSED-APPELLANT.**

D E C I S I O N

MELO, J.:

On automatic review is the decision of Branch 56 of the Regional Trial Court of the 5th Judicial Region stationed in Libmanan, Camarines Sur, the Honorable Lore R. Valencia-Bagalacsa presiding, the dispositive portion of which reads:

The Court is morally convinced that the accused ROMEO TIPAY y NUITE, is GUILTY beyond reasonable doubt of the crime of RAPE, as defined and penalized under Article 335(2)(3) of the Revised Penal Code as amended by R.A. 7659, and he is hereby sentenced to suffer the maximum penalty of DEATH. He is directed to indemnify the offended party the amount of Fifty Thousand Pesos (P50,000.00) as moral damages and Fifty Thousand Pesos (P50,000.00) as exemplary damages, and to acknowledge his offspring Marissa, with the offended party.

SO ORDERED.

(pp. 36-37, Rollo.)

The instant case was initiated by a complaint against accused-appellant Romeo Tipay y Nuite filed by Flora Deguiño [also referred to in the record as Dequiño], grandmother of victim Susan Pelaez, which reads:

That sometime February or March of 1995 at Bgy. Inandaw, Ragay, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who is the step-father of the private offended party, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse for several times with one Susan Pelaez y Dequiño, 15 years of age, against the latter's will, to her damage and prejudice.

(p. 12, Rollo.)

During his arraignment on April 29, 1996, accused-appellant entered a plea of not guilty. Afterwards, trial on the merits ensued, resulting in the judgement of conviction now under automatic review considering that the supreme penalty of

death was imposed.

The inculpatory facts, as summarized by the Solicitor General, and based on the testimony of private complainant Susan Pelaez, her mother Marissa Deguiño-Pelaez, her grandmother Flora Deguiño, and Dr. Marilyn Cerilo-Foloso, the physician who examined the victim, are as follows:

Prosecution witness and private complainant Susan Pelaez was 17 year old at the time she testified in 1997. She was diagnosed as suffering from mild mental retardation and transient psychotic illness (p. 4, TSN, Dec. 6, 1996) and with the mental age of an eight to nine year old (Exhibit "A").

Sometime in February or March 1995, about three weeks before classes ended, Susan who was then fifteen years old and in Grade V, and was living with her grandmother, Flora Deguiño, in Barangay F. Simeon, was asked to stop schooling by her mother, Marilyn, and her live-in partner, the appellant Romeo Tipay. She was brought to the house in Barangay Inandawan where the couple lived.

One day in Barangay Inandawan, while Marilyn was out of the house and Susan's siblings were at school, her mother's live-in partner Romeo Tipay (herein appellant) poked a knife at her and made her lie down and ordered her to undress but Susan did not obey. Appellant got angry and slapped her and banged her head to the post and she lost her consciousness until her siblings arrived when Susan regained her consciousness. She noticed that her vagina was hurting (p 67-69, April 22, 1997). Petitioner threatened Susan not to tell anybody or he would kill all of her family (p. 75, *ibid.*). Intimidated, Susan suffered in silence while appellant was emboldened and continued to abuse her.

The above incident was repeated several times whenever her mother and sibling were not around (*ibid.*, p. 67). The abuse continued in Barangay F. Simeon where Marilyn and appellant also occupied a house next to that of Flora Deguiño who took care of their children who were attending school in Barangay F. Simeon. Appellant would not allow her to watch television with her siblings on the pretext that he would massage her. Instead he switched off the light, covered her mouth and undressed her and succeeded in having sexual intercourse with her (pp. 70-71, TSN, April 22, 1997). Out of fear for the life of her family, Susan kept her ordeal secret.

In October 19, 1995 when Susan was back in Barangay F. Simeon and in Grade VI in Pagod Elementary School, she was complaining to Flora Deguiño of headache and spoke angrily about appellant's cruelty (p. 45, April 21, 1997). In the last week of October, Flora was summoned by a midwife Mrs. Helen Inciong, who after examining Susan informed them that Susan was pregnant (p. 46, TSN, April 21, 1997, p. 18, Dec. 2, 1997). Upon reaching home, Flora Deguiño asked Susan who impregnated her. It was only then that Susan informed her grandmother that she was being raped by appellant but was too afraid to tell anyone

about it (p. 47, TSN, *ibid.*). At that time Marilyn and her children were staying in F. Simeon in a house beside the house of Flora since there was no school in Inandawa.

Flora went to the police headquarters of Ragay to file a complaint against appellant (p. 48, TSN, April 21, 1997). Susan was subsequently brought to Dr. Marilyn Cerilo Foloso, officer of Municipal Health Office of Ragay, Camarines Sur, who testified that Susan had a healed hymenal-laceration at 6 o'clock and there was no menstruation due to a 4 to 5 month pregnancy (p. 38, TSN, Jan. 6, 1997). Susan gave birth to a daughter sired by appellant on October 10, 1996 (p. 78, April 22, 1997).

Appellant was arrested in October 1995 claiming that the rape complaint was a mere fabrication of Flora Deguino because she was angry at appellant for cohabiting with her daughter, Marilyn Deguino. During his testimony in court, appellant also claimed that on July 10, 1995, he saw Romeo Deguino the son of Flora raping Susan (pp. 93, 97, TSN, May 19, 1997).

(pp. 106-109, *Rollo.*)

Accused-appellant denied all of Susan's allegations. He argued that his mother-in-law, Flora Deguiño, was just angry at him because the latter was against his live-in relationship with Susan's mother, Marilyn; that he never subjected Susan to maltreatment which she imputed against him; and that his relationship with Marilyn's three children by her first husband was fine and they even called him "*itay*". As regards Susan's child, he claimed that it was sired by Mario Deguino, Marilyn's brother. He witnessed the incident when he was about to return the coconut grater to Flora's house. He saw Mario having intercourse with Susan. He informed Marilyn when he got home and the latter cried.

Atty. Edwina Romanes, the Public Assistance Office (PAO) lawyer who was assigned in Ragay, Camarines Sur, assisted accused-appellant in the circuit court and interviewed Marilyn Pelaez, her son Ariel Pelaez, and Purificacion Ipay. Said three witnesses gave statements showing that accused-appellant did not commit the crime charged.

As mentioned above, the trial court found accused-appellant guilty beyond reasonable doubt of the crime of rape as defined and penalized under Article 335 (2) (3) of the Revised Penal Code, as amended by Republic Act No. 7659. Its ruling reads in relevant part as follows:

In an almost inaudible voice, Susan related how Romeo Tipay, the person whom she recognized as her surrogate father, told her to undress then slapped her and banged her head when she disobeyed. She could not remember her sexual defloration, but she vividly recalled that when she came to after accused's physical assault, her vagina was painful. She was however consistent and steadfast in her declaration that her stepfather, Romeo Tipay, sexually abused her. She did not waver in her testimony despite the lengthy cross-examination. She emphatically asserted that it

was the accused, not any other person who raped her and positively identified him as the person who ravished her. Her statements clearly indicate that her answers are neither rehearsed nor dictated upon by her vindictive grandmother, or even her mother. So it was held that **"when a woman, more so a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed."** (*Pp. vs. Vitor*, 245 SCRA 392 [1995]). Moreover, **"a candid and straightforward narration by the victim of how she had been raped bears the earmarks of credibility"** (*Pp. vs. Umali*, 242 SCRA 17 [1995]).

There is no showing that the offended party harbored evil motives against the accused. Even if she was taught by her grandmother to point out to Romeo Tipay as her rapist, there was no way for the latter to let her memorize the details of what was done to her. Victim's answers to the questions propounded were spontaneous and categorical, lending credence to her narration. Her declarations are substantiated on material points by the testimonies of the other prosecution witnesses and the medical certificate issued by the doctor who examined the victim. Such medical evidence is an eloquent proof of the 'after the fact condition' of the coerced sexual congress. Moreover, even without the testimonies of the other witnesses for the prosecution, **it is axiomatic in rape cases that the lone declaration of facts of the offended party if credible, is sufficient to sustain a conviction** (*Pp. vs. Rivera*, 242 SCRA 26 [1995]).

(p. 32, Rollo.)

In his brief, accused-appellant argues that the trial court erred in: (1) finding him guilty beyond reasonable doubt of the crime charged; (2) not considering his testimony that it was Mario Deguiño that he saw raping Susan Pelaez; and (3) disregarding the affidavit executed by Marilyn Deguiño.

In support of the aforementioned arguments, accused-appellant reiterates that Flora Deguiño, grandmother of Susan, harbored ill-feelings against him since she vehemently objected to the live-in partnership of her daughter Marilyn and accused-appellant, and that Flora's antipathy toward him and her desire to have Marilyn break up with him was the primary motive why Flora prosecuted him. Considering Flora's moral ascendancy over Susan, accused-appellant insists that the latter was manipulated to believe that it was her stepfather who impregnated her. Further, he contends that he wanted to leave Marilyn and that was why the latter had him jailed. Initially, she executed an affidavit favoring accused-appellant and denying the latter's culpability for the crime charged. Later, however, she realized that accused-appellant wanted to leave her. She then had a change of heart, and reneged on her earlier statement, to prevent accused-appellant from leaving her. This was also the reason for Marilyn's belated act of having accused-appellant incarcerated (which was only in October, 1995) when in truth and in fact she had known about the alleged rape as early as February, 1995.

Accused-appellant also argues that Susan Pelaez's testimony creates a doubt on a very material point considering that in her testimony in court, she said that she was

raped at Barangay F. Simeon, Ragay, Camarines Sur, or in her grandmother's home; whereas the criminal complaint avers that it took place at Barangay Inandawa, Ragay, Camarines Sur, particularly at her mother's house.

Accused-appellant likewise supports his denial by insisting that he saw Mario Deguiño actually rape Susan Pelaez. Consequently, the trial court gravely erred in not considering accused-appellant's testimony that he actually saw said man as the perpetrator of the crime, as well as in disregarding the affidavit of Marilyn Deguiño dated November 13, 1995, which was voluntarily executed, attesting to accused-appellant's innocence. Accused-appellant also posits that Marilyn's disclaimer was prompted by her desire to get back at him since he expressed his intentions to separate from her. Lastly, he argues that it was grave error for the trial court to convict him under a fatally defective complaint as it was Susan's grandmother who filed the same, when it should have been Marilyn, in accordance with Section, 5, Paragraph 3, Rule 110, Rules of Court.

In a long line of cases (*People vs. Guamos*, 241 SCRA 528 [1995]; *People vs. Ramirez*, 266 SCRA 336 [1997]; *People vs. Abad*, 268 SCRA 246 [1997]; *People vs. Corea*, 269 SCRA 76 [1997] *People vs. Perez*, 270 SCRA 526 [1997]; *People vs. Casinillo*, 213 SCRA 777 [1992]; *People vs. Pizarro*, 211 SCRA 325 [1992]; *People vs. Dela Cruz*, 207 SCRA 449 [1992]), the Court has laid down certain guiding principles in reviewing rape cases, to wit: (a) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused, although innocent, to disprove the charge; (b) considering the intrinsic nature of the crime, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution, and (c) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense.

The crux of the prosecution's evidence would then rely on the credibility of Susan Pelaez's testimony. As mentioned above, the trial court found Susan's testimony spontaneous and categorical, and not based on any ill motive. The trial court recognized the probability of her grandmother pointing out accused-appellant as her aggressor but held that this did not affect the credibility of her testimony.

It has long been held that the trial court's evaluation as to the credibility of witnesses is viewed as correct and entitled to the highest respect because it is more competent to so conclude, having had the opportunity to observe the witnesses' demeanor and deportment on the stand, and the manner in which they gave their testimonies. The trial judge, therefore, can better determine if such witnesses were telling the truth, being in the ideal position to weigh conflicting testimonies. Thus, unless the trial judge plainly overlooked certain facts of substance and value which, if considered, might affect the result of the case, his assessment on credibility must be respected (*People vs. Ramirez, supra*; *People vs. Gabris*, 258 SCRA 663 [1996]; *People vs. Vallena*, 244 SCRA 685 [1995]).

This spontaneity is exhibited in the following excerpt of Susan's direct testimony:

Q: While you were still in Grade V, do you know what unusual thing done by Romeo Tipay?