

FIRST DIVISION

[G.R. No. 130333, April 12, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROLANDO VELOSO Y BAER, ACCUSED-APPELLANT.**

D E C I S I O N

PUNO, J.:

In an Information^[1] filed on April 21, 1995 before Branch 11 of the Regional Trial Court, 11th Judicial Region, Davao City, accused Rolando Veloso y Baer was charged with the crime of rape, viz:

"That on or about April 12, 1995 in the City of Davao, Philippines and within the jurisdiction of this Honorable Court, the above-mentioned accused, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with SHEILA T. BESINGA, 9 years of age, against the will of the latter.

CONTRARY TO LAW."

Accused Veloso pleaded not guilty and underwent trial.

The evidence for the prosecution shows that on April 12, 1995, at about 5:00 p.m., complainant Sheila Besinga upon order by her father, Benedicto, bought fish at Purok 6, Carmen, Baguio District. She was walking on her way home to Purok 8 when she sensed somebody following her. She looked back and aimed her flashlight on the face of the person behind her. She recognized the man as the one whom she passed by relieving himself near the side of the road. Suddenly, the man grabbed her and carried her to the nearby coffee plantation. He poked a knife at her, tied her hands and made her lie down. He undressed her, placed himself on top of her and forced an intercourse with her. She felt severe pain. Shortly thereafter, he let her stand, dressed her up and left. Sheila ran home crying and told her father that she was raped. When Benedicto saw her private parts bloodied, he asked help from their neighbors. They reported the incident to the barangay captain, then proceeded to the Baguio Police Station where Sheila gave a sworn statement. The following day, Sheila was examined at the Davao Medical Center.

Dra. Floranne Margaret Lam-Vergara, who examined Sheila, testified that her hymen suffered from hyperemia, or reddening and discoloration of the skin, at 9 o'clock and 2 o'clock, and had laceration at 6 o'clock. She opined that this could have been caused by a forceful contact of the hymen with a blunt object or penetration of an erect male organ. She stated that the sexual intercourse could have happened fourteen (14) hours before her examination of the victim. Sheila was tested positive for spermatozoa or sperm cells.

On April 20, 1995, Sheila identified accused Rolando Veloso as her assailant in a

police line-up at the Baguio Police Station.

Accused Veloso's defense is alibi. He testified that on April 12, 1995, he was at the rattan furniture shop where he worked as a rattan maker. At about 4:30 p.m., he stopped working to count the rattan poles which arrived from the mountain. He finished at 5:00 p.m., and then gave rice and sardines to the two men who brought the rattan poles. He later had dinner, rested for a while, read his bible and slept. The next day, April 13, 1995, five policemen came to his house and told him that he was one of the suspects in a rape case. He denied knowledge of the crime and agreed to go to the Baguio Police Station. They passed by the house of one Junadin Empinado, also a suspect. At the police station, they waited for Sheila who came accompanied by her father. Accused Veloso and Empinado were ordered to stand in front of Sheila who was then asked to point to the person who raped her. Sheila pointed to Empinado who just kept silent. They were both released but were told that they would be called again. Accused Veloso was again picked up by the police on April 20, 1995. He protested as Sheila had already identified Empinado as the culprit, but his brother prevailed upon him to go with the policemen. At the precinct, accused Veloso was brought inside an empty room. After a while, Sheila and SPO2 Romeo Lopez came in. Sheila was again asked to point to her assailant, but she did not say a word. She was asked five times but she merely looked down and continued to thumbsuck. Visibly irritated, SPO2 Lopez banged his gun on the table and told Sheila that he had a hard time apprehending the accused and she should cooperate. At that instance, Sheila immediately pointed to accused Veloso. He demanded an explanation from Sheila since she identified Empinado in their prior meeting. Sheila allegedly answered that she was just coached by her father. Accused Veloso was detained.

Barangay Captain Crisologo Cresencio testified that when the incident was reported to him, Sheila told him that she did not recognize her assailant as it was dark and they were new in the neighborhood and did not know anybody in the place. Another defense witness, Ricardo Camarillo, testified that on April 12, 1995 at about 6:00 p.m., he went to the Panigan Creek to catch frogs, passed by the house of accused Veloso and saw him pulling rattan poles. On April 20, 1995, he was near the creek catching fish when SPO2 Romeo Lopez arrived. He requested Camarillo to carry him to the other side of the creek because he was going to the house of accused Veloso. Lopez asked him if accused Veloso raped Sheila. He answered no and informed him that accused Veloso is a good boy. Camarillo admitted that the father of the accused requested him to testify.

On April 22, 1997, the trial court rendered judgment,^[2] the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered finding Rolando Veloso y Baer GUILTY beyond reasonable doubt of the crime of RAPE as penalized under Article 335, paragraph 1, of the Revised Penal Code as amended by Republic Act No. 7659 and is hereby sentenced to RECLUSION PERPETUA. He is likewise sentenced to indemnify the victim Sheila Y. Besinga in the amount of FIFTY THOUSAND PESOS (P50,000.00) conformably with current case law.

SO ORDERED."

In this appeal, accused-appellant raises the following assignments of error:

1. The court a quo erred in not according weight and credence to the defenses of denial and alibi interposed by the accused-appellant notwithstanding the fact that the same is corroborated by a disinterested witness and the positive identification made by the victim is highly questionable and dubious.

2. The court a quo erred in finding the accused-appellant guilty of the crime of rape under Article 335 of the Revised Penal Code, as amended by R.A. 7659, and sentencing him to reclusion perpetua and to pay indemnity in the amount of P50,000.00.

Accused-appellant assails the testimony of Sheila due to its inconsistencies. First, he asserts that whereas complainant declared that on April 13, 1995 they were at the Baguio Police Station from 8:00 a.m. to 11:00 a.m., the examining physician, Dra. Vergara testified that she examined the victim at about 8:00 in the morning of the same day. Second, Sheila did not declare that he removed his pants and trousers which rendered impossible the commission of the rape. Third, while Sheila was tested positive for spermatozoa, she never testified that she felt something "hot" inside her private organ when she was penetrated. Fourth, there was no finding that Sheila suffered external injuries, and yet she stated that she was forcibly carried inside the coffee plantation and that her hands were tied.

After a careful scrutiny of the evidence, we are convinced and so hold that the guilt of accused-appellant Veloso has been proven beyond reasonable doubt.

We find no reason to doubt the testimony of Sheila. No girl would concoct a story of sexual assault, undergo gynecologic examination, or subject herself and her family to the trauma and the embarrassment concomitant to criminal prosecution unless she speaks the truth.^[3]

Sheila testified with candor and in a straightforward manner. Her narration of the sexual assault is clear and consistent. There is no iota of doubt that she was telling the truth. Thus:

"Q Now, while walking home after buying fish on April 12, 1995, was there anything that took place?

A Yes, sir.

Q Please tell the Honorable Court what was that that took place?

A Rape.

Q We will go back to specifics, Your Honor. You said you were walking home?

A Yes.

Q What did you observe while walking home?

A I was surprised because somebody was following me.

Q When you observed that somebody was following you, what did you do?

A I looked behind me and aimed the flashlight at the face of that somebody who was following me.

Q Why, were you bringing flashlight that time?

A Yes, sir.

Q After aiming your flashlight at that person, what happened?