

EN BANC

[G.R. No. 129164, July 24, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALEJANDRO SURILLA Y AYENG, ACCUSED-APPELLANT.**

DECISION

DE LEON, JR., J.:

Before us for automatic review is a decision rendered by the Regional Trial Court (RTC) of Quezon City, Branch 103 sentencing accused-appellant Alejandro Surilla y Ayeng to the supreme penalty of death for the crime of rape committed against his 14 year-old daughter, Maricel Surilla y Gonzaga.

The facts of the case are as follows:

Maricel Surilla was born on July 3, 1981 to Gigi Gonzaga and herein accused-appellant Alejandro Surilla y Ayeng, who is a bus driver by profession. In 1983, when Maricel was two (2) years old, Gigi and Alejandro separated. Thereafter, Alejandro lived with Renilda Saludes. Maricel went to live with Alejandro and Renilda when she was nine (9) years old.

Alejandro begot three (3) children with Renilda namely, Marivic (who was then 5 years old in 1996), Malou, four (4) years old and Marlon seven (7) months old. Alejandro, Renilda, Maricel and the three (3) children lived in Laguna before they transferred to Renilda's home province in Lipata Buenavista, Marinduque. On January 6, 1996, however, the entire family transferred to a one room house in No. 769 Kalayaan-C, Barangay Commonwealth, Quezon City.

On the evening of March 16, 1996, while Maricel was sleeping in their house with her three siblings and herein accused-appellant Alejandro, she awoke to find the latter on top of her. Accused-appellant who was wearing shorts at that time, removed Maricel's skirt and shirt including her underwear. He then kissed her and mashed her breast and proceeded to do the same with her private part. He threatened to kill the hapless girl should she report the incident to anyone. Then he inserted his penis in her genitals.^[1] Renilda was not around at the time because she went home to Marinduque.^[2]

Maricel testified that it was not the first time that she was raped by herein accused-appellant. She declared that he had forced himself on her on various occasions even before March 16, 1996. However, except for May 22, 1995, she could not recall the exact dates when the other incidents occurred.^[3]

Renilda Saludes testified that she has been living with accused-appellant Alejandro Surilla since January 1990. Renilda said Alejandro had two children by his previous relationship with Gigi Gonzaga. One of the children died while complainant Maricel came to live with them when she turned nine years old. Renilda, Alejandro, Maricel

and her siblings lived in Laguna but they subsequently transferred to the home province of Renilda in Marinduque. The entire family, however, relocated to no. 769 Kalayaan Street in Commonwealth, Quezon City on January 6, 1996.^[4]

On April 21, 1996, Renilda asked Maricel to buy gas. Since Maricel was gone for a considerable period of time, accused-appellant became impatient and asked Renilda to fetch Maricel. Renilda found Maricel talking to a playmate ("kalaro") at that time. When Renilda recounted to accused-appellant that she saw Maricel talking to a playmate, accused-appellant got mad and boxed Renilda. Renilda then left their house and proceeded to her cousin's residence a few meters away to avoid accused-appellant's fury but he followed her and boxed her thrice, prompting Renilda's relatives to intervene. Renilda reported the matter to the police but they took her complaint lightly saying that it was just a petty domestic quarrel.^[5]

When Renilda finally decided to go home, she found their house locked, so she had no alternative but to return to her cousin's house. A few minutes after Renilda arrived at her cousin's home, Maricel herself arrived with some personal belongings and disclosed that accused-appellant forced himself on her while Renilda was in Marinduque. In the morning of April 22, 1996, Renilda accompanied Maricel to the police station to file a complaint against accused-appellant. After going to the police station, they proceeded to the Philippine National Police (PNP) Crime Laboratory Service in Kamuning, Quezon City for medical examination.^[6]

The medical examination conducted on Maricel Surilla by Rosaline O. Cosidon, MD revealed the following findings:

GENERAL AND EXTRAGENITAL:

Fairly developed, fairly nourished and coherent female subject. Breasts are conical with pale brown areola and nipples from which no secretion can be pressed out. Abdomen is flat and soft.

GENITAL:

There is scanty growth of pubic hair. Labia majora are full, convex, and gaping with the pinkish brown labia minora presenting in between. On separating the same is disclosed an elastic, fleshy type hymen with deep healed laceration at 6 o'clock position. External vaginal orifice offers moderate resistance to the introduction of the examining index finger and virgin sized vaginal speculum. Vaginal canal is narrow with prominent rugosities. Cervix is normal in size, color and consistency with moderate amount of menstrual blood oozing from the external os.

CONCLUSION:

Subject is in non-virgin state physically.

There are no external signs of recent application of any form of trauma.

REMARKS:

Vaginal and peri-urethral smears are negative for gram-negative diplococci and for spermatozoa.^[7]

On the same day, accused-appellant was arrested and brought to the Philippine National Police (PNP) Central Police District Command, Batasan Hills, Police Station 06 for investigation.

On April 24, 1996, a complaint was filed against accused-appellant before the Regional Trial Court of Quezon City which reads as follows:

The undersigned accuses ALEJANDRO SURILLA Y AYENG of the crime of RAPE, committed as follows:

That on or about the 16th day of March 1996 in Quezon City, Philippines, the said accused, with lewd design, by means of force, violence and intimidation, did there and then, willfully, unlawfully and feloniously have carnal knowledge with the complainant, MARICEL SURILLA Y GONZAGA, 14 years of age, all done against her will and consent, to the damage and prejudice of said Maricel Surilla y Gonzaga.

CONTRARY TO LAW.^[8]

Accused-appellant pleaded not guilty upon arraignment^[9] and instead offered the following version of the story:

Accused-appellant is a bus driver by profession. Complainant is his daughter with Gigi Gonzaga who now resides in Butuan. On March 16, 1996, accused-appellant was assigned to ply a route in Tacloban. He stayed there for four (4) days.^[10] When he returned home, he brought with him two young women, namely, Tata and Anjanette, who were reportedly passengers in the bus he was driving in Tacloban. The two girls, however, were in dire need of money and had nowhere else to stay so accused-appellant generously offered the ladies to stay at his house in Commonwealth, Quezon City for the time being.^[11] On April 19, 1996, which was a Sunday, accused-appellant just got his salary so he decided to have a drinking spree with his friends. His daughter, Maricel, was then outside of their house when he saw a man touch her belly. Accused-appellant asked Maricel who the man was but Maricel refused to divulge the man's identity, thus catching accused-appellant's ire and prompting him to spank her with a leather belt.^[12]

In the evening of the same day, accused-appellant indulged in a drinking spree with his friends including Tata and Anjanette. The nephew of Renilda was also around at that time and was exchanging jokes with the two women. Renilda, however, got jealous of the two women. Although accused-appellant requested her to just stay inside their house, Renilda did not take heed. Renilda later decided to go to the house of her cousin so accused-appellant followed her and asked her to come home. When Renilda refused, he boxed her twice.^[13]

Accused-appellant averred that, except for the aforesaid incidents when he hit his live-in partner, Renilda, and his daughter Maricel, he could think of no reason why they would impute so grave crime as the rape of his own daughter to him.

The trial court, however, did not give credence to his testimony and on March 20, 1997 rendered its decision, the dispositive portion of which reads as follows:

ACCORDINGLY, judgment is hereby rendered finding the accused ALEJANDRO SURILLA Y AYENG, GUILTY beyond reasonable doubt of the

crime of RAPE as a principal and he is hereby sentenced to the supreme penalty of DEATH, the accused being the father of the victim.

The accused is also ordered to pay Maricel Surilla the sum of P50,000.00 as damages. Costs vs. the accused.

SO ORDERED.^[14]

Accused-appellant now contends that the trial court erred in not acquitting him of the crime of rape on the ground of reasonable doubt.

Accused-appellant maintains that the charge of rape against him was merely fabricated by Renilda and Maricel to get back at him for maltreating them. Accused-appellant avers that had there been no quarrel between him and Renilda, and had he not spanked Maricel, Renilda and Maricel would not have filed the complaint of rape against him.

We are not convinced.

This Court has set three guiding principles in reviewing rape cases, viz.: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent to disprove; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) 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 for the defense.^[15]

Accused-appellant would have this court believe that his live-in partner Renilda, and his daughter, Maricel, are so consumed with feelings of hatred and revenge that they filed the present complaint for rape against him for physically manhandling them. Accused-appellant, in his peculiar brand of logic, points out that Maricel and her stepmother are city dwellers who have been exposed to television, movies, tabloid and printed matters. Hence, they are aware that a complaint for rape could be made with facility and could be used against him for his stern treatment towards them. Accused-appellant even goes so far as to imply that his own daughter, Maricel, at the tender age of fourteen (14), is not as innocent in the ways of the world since she often comes home late and was even seen allowing a man to hold her belly.

Accused-appellant's bare and uncorroborated allegations are self-serving to say the least. Despite his testimony that it was while he was having a drinking spree with his friends that he had a quarrel with his live-in partner, Renilda, and spanked his daughter, Maricel,^[16] he failed to present any of his so-called friends to testify for him during trial. Moreover, despite his claim that on March 16, 1996, he was in Tacloban plying a route for Ciudad Transport, the bus company he was working for,^[17] he could not present any evidence to corroborate his claim that he was indeed assigned to work in Tacloban on the particular date that the alleged rape occurred. He could have even presented the two women who were his alleged passengers in Tacloban and who, according to him, were the recipients of his magnanimous offer of free board and lodging in Quezon City to bolster his claim that he was indeed in Tacloban on the aforesaid date but he chose not to do so.

We find complainant's testimony, as well as the testimony of her stepmother, Renilda, more credible than that of accused-appellant's. As noted by the Solicitor