

**[ G. R. No. 132772, August 31, 2000 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOEY R. GUTIERREZ, ACCUSED-APPELLANT.**

**D E C I S I O N**

**DAVIDE JR., C.J.:**

On automatic review before us is the decision<sup>[1]</sup> of Branch 259 of the Regional Trial Court of Parañaque, Metro Manila, in Criminal Cases Nos. 96-917 and 96-918 finding accused-appellant Joey R. Gutierrez (hereafter JOEY) guilty beyond reasonable doubt of two counts of rape and sentencing him in each count to suffer the penalty of death, indemnify the victim, Gina Lequigan (hereafter GINA), the amounts of P50,000 as indemnity, P100,000 as moral damages and P100,000 as exemplary damages.

The Informations in Criminal Cases Nos. 96-917<sup>[2]</sup> and 96-918<sup>[3]</sup> charged JOEY of rape allegedly committed as follows:

**Criminal Case No. 96-917**

That on or about the 6th day of July 1996, in the Municipality of Parañaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the undersigned complainant, a minor, 9 years of age, against her will.

CONTRARY TO LAW.

**Criminal Case No. 96-918**

That on or about the 6th day of October 1996, in the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with the undersigned complainant, who is a minor, 9 years of age, against her will and consent.

CONTRARY TO LAW

JOEY was likewise charged with the violation of Section 10, Article VI of R.A. No. 7610, otherwise known as the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act in Criminal Case No. 96-916. The accusatory portion of the Information<sup>[4]</sup> in said case reads:

That on or about the 6th day of September 1996, in the Municipality of Parañaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being the stepfather of the child Gina Lequigan, whose love, care and protection are incumbent upon

him, did then and there willfully, unlawfully and feloniously inflict cruel and unusual punishment upon the said child, a minor, 9 years of age, by then and there assaulting and employing personal violence upon her person by beating her, thereby causing her trauma and physical injuries which required medical attention for a period of less than nine days.

CONTRARY TO LAW.

The cases were consolidated, and at his arraignment JOEY entered a plea of not guilty in each case.

GINA declared before the trial court that in the afternoon of 6 July 1996, she celebrated her ninth birthday by going to church with her mother, Clarissa Gutierrez, who is the common-law wife of JOEY. They later returned to their house in Multinational Village, Parañaque. JOEY was in the house at the time. GINA's mother left shortly for the market. At around 3:00 p.m. that day, JOEY, then alone with GINA inside the bedroom, started kissing the latter on the lips. He then inserted his finger into her vagina. JOEY spread her legs and tied them to the bedposts, put baby oil on his penis and tried inserting it into her vagina. GINA felt pain in her vagina. JOEY was only partially successful in penetrating it. GINA cried. JOEY stopped forcing his penis in only when he heard a knock on the door. He removed the bindings on her legs and the covering on her mouth.

On 6 October 1996, JOEY repeated the same dastardly act on GINA.

GINA informed her teacher about that incident, who then reported it to the school principal. GINA's mother, Clarissa, was summoned by the principal to the school to hear what happened to her daughter, but her mother refused to believe it. Thus, it was the principal and GINA's teacher who accompanied her to the police, which led to the filing of the criminal cases against JOEY.<sup>[5]</sup>

The witnesses presented by the defense were Clarissa Gutierrez, Mary Grace Patino, Flordeliza Patino, Epifania Gutierrez, and Narciso Gutierrez.

JOEY denied raping GINA and said he did not know why she would file a complaint for rape against him. He asserted, however, that he had beaten her up for lying.<sup>[6]</sup>

Clarissa declared that GINA could not have been raped by JOEY, her common law husband, because she was in the house at the time.<sup>[7]</sup> Mary Grace, GINA's aunt, said that she was with GINA at her cousin's birthday party on 6 July 1996, the date of the alleged first rape incident; she did not notice GINA behaving unusually; and that GINA even seemed to be very happy playing with the other children.<sup>[8]</sup> Flordeliza testified that GINA was in a jovial mood on her birthday as evidenced by the pictures she herself took (Exhibits "1-A-aa," "I-C-2" and "1-E").<sup>[9]</sup>

Epifania and Narciso both stated that JOEY was with them on 6 October 1996, so the rape could not possibly have occurred.<sup>[10]</sup>

The trial court gave full faith and credit to the testimony of GINA, and convicted JOEY of rape on two counts. However, it dismissed the child abuse case against him for lack of evidence.

In the Appellant's Brief, JOEY contends that the trial court erred:

I. ... IN NOT APPRECIATING THE JOVIAL MOOD OF THE VICTIM IMMEDIATELY FOLLOWING THE ALLEGED ASSAULT.

II ... IN NOT FINDING THAT THE PRIVATE COMPLAINANT MADE AN INCONSISTENT STATEMENT ON A MATERIAL FACT.

III. ... IN FINDING THAT THE DEFENSE MADE AN INCONSISTENT STATEMENT ON A MATERIAL FACT.

IV. ... WHEN IT RULED THAT "IT WAS NOT IMPOSSIBLE FOR THE ACCUSED TO HAVE ABUSED THE VICTIM EVEN IF A PARTY WAS GOING ON."

In support of the first assigned error, JOEY maintains that the victim was seen in a happy mood attending birthday parties on 6 July 1996 and 6 October 1996, and argues that a victim of a traumatic experience such as rape, "would not have time and spirit to be merry." As proof of her happy mood, he points to the pictures taken during the occasion by her aunt, Mary Grace Patino. As for the incident on 6 October 1996, he maintains that he could not have raped GINA because he was in the house of witness Epifania Gutierrez the whole afternoon of that day.

We find nothing incomprehensible about GINA's reaction. We have long recognized that different people react differently to a given situation and there is no standard form of behavioral response when one is confronted with a strange, startling or frightful experience. One person's spontaneous response may be aggression while another person's reaction may be cold indifference.<sup>[11]</sup> The psychiatric term for such a condition is "Post-traumatic stress disorder." It is defined as follows:

The essential feature is the development of characteristic symptoms after the experiencing of a psychologically traumatic event or events outside of human experience usually considered to be normal.

x x x

(It) has been described as a response to an enormous variety of overwhelmingly stressful situations -- prisoners of war, death camps, combat, auto accidents, industrial accidents, such mass catastrophes such as Hiroshima, as well as rape, and severe accidents in the home.

x x x

In general, the very young and the very old have more difficulty in coping with traumatic events than do those experiencing them in midlife.

x x x

Presumably, young children have not yet developed adequate coping mechanisms to deal with the physical and emotional insults of the trauma.

x x x

This disorder may begin anytime after the occurrence of an extreme or catastrophic stress. In many persons, the disorder begins hours or days

after experiencing the stressor; but in some persons the reaction may be delayed by months or even years.<sup>[12]</sup> (Underscoring supplied).

What is most damaging to JOEY is the extremely candid, straightforward and detailed testimony of GINA establishing his guilt beyond reasonable doubt. Thus:

Q: Doon sa reklamo noong July 6, 1996 na meron ginawa sa iyo si Joey Gutierrez, natatandaan mo ba kung ano ang ginawa niya sa iyo?

A: Hinahalikan po ako sa labi.

Q: Noong ginawa niya sa iyo iyon, hapon ba iyon o umaga?

A: Hapon po. Mga 3:00 p.m.

Q: Bakit saan ba iyong nanay mo noong hinahalikan ka ni Joey Gutierrez?

A: Umalis po siya. Namalengke po siya.

Q: Noong hinahalikan ka ni Joey Gutierrez, saan ang mga kapatid mo noon?

A: Nasa labas po at ang kapatid kong bunso ay nasa duyan po.

Q: Meron kayong katulong noon o wala?

A: Wala po.

Q: Di ba sinabi mo na hinahalikan ka ni Joey Gutierrez, saan parte ng bahay ka niya hinalikan?

A: Sa loob po ng kwarto.

Q: Kaninong kwarto?

A: Sa aming kwarto po.

Q: Ilan ba ang kwarto doon sa bahay ninyo?

A: Isa lang po.

Q: Pagkatapos ka niya halikan ano ang ginawa niya pagkatapos?

A: Iyong daliri po niya ipinasok sa ari ko.

Q: Pagkatapos niyang maipasok ang kamay niya sa ari mo, ano naman ang ginawa mo?

A: Tinakpan po niya ang bibig ko.

Q: Ano ang ginawa niya sa pagtakip ng bibig mo?

A: Damit niya po.

Q: Bakit itinali niya ang damit niya sa bibig mo?

A: Hindi po. Tinakpan po niya ng kamay niya.

Q: Pagkatapos, saan niya ipinasok ang daliri niya?

A: Sa ari ko po.

Q: Naipasok ba niya ang daliri niya sa ari mo?

A: Ang ari niya ay nilagyan niya ng baby oil at pinilit niyang ipasok.

Q: Ibig sabihin, noong ginagawa niya ang pagpasok ng daliri niya sa ari mo hinuhubaran ka niya?

A: Opo.