

EN BANC

[G.R. No. 131848-50, September 05, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODOLFO VILLARAZA Y PANIS, ACCUSED-APPELLANT.**

DECISION

VITUG, J.:

For automatic review by the Court is the decision rendered by the Regional Trial Court, Branch 28, of Naga City, in Criminal Cases No. 97-6670, No. 97-6671 and No. 97-6672, finding the accused therein, RODOLFO VILLARAZA y PANIS, guilty of three (3) counts of rape and imposing upon him in each of the cases the penalty of death.

The conviction of the accused stemmed from three separate informations that read:

"CRIMINAL CASE NO. 97-6670

"The undersigned Prosecutor, based upon a complaint of herein offended party Jennifer Garcia, which is attached and marked "Annex A", accuses RODOLFO VILLARAZA y PANIS of the crime of RAPE defined and penalized under Article 335 of the Revised Penal Code, as amended by R.A. No. 7659, committed as follows:

"That on or about the 1st day of March 1997, in Barangay Bell, Municipality of Magarao, Province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, stepfather of herein complainant, by means of violence and intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of complainant JENNIFER GARCIA y DANABAR, an eleven-year old minor, against her will.

"CONTRARY TO LAW."^[1]

"CRIMINAL CASE NO. 97-6671

"The undersigned Prosecutor, based upon a complaint of herein offended party Jennifer Garcia, which is attached and marked "Annex A", accuses RODOLFO VILLARAZA y PANIS of the crime of RAPE defined and penalized under Article 335 of the Revised Penal Code, as amended by R.A. No. 7659, committed as follows:

"That on or about the 26th day of February 1997, in Barangay Bell, Municipality of Magarao, Province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, stepfather of herein complainant, by means of violence and intimidation,

did then and there willfully, unlawfully, and feloniously have carnal knowledge of complainant JENNIFER GARCIA y DANABAR, an eleven-year old minor, against her will.

"CONTRARY TO LAW."^[2]

"CRIMINAL CASE NO. 97-6672

"The undersigned Prosecutor, based upon a complaint of herein offended party Jennifer Garcia, which is attached and marked "Annex A" accuses RODOLFO VILLARAZA y PANIS of the crime of RAPE defined and penalized under Article 335 of the Revised Penal Code, as amended by R.A. No. 7659, committed as follows:

"That on or about the 21st day of February, 1997 in Barangay Bell, Municipality of Magarao, Province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, stepfather of herein complainant, by means of violence and intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of complainant JENNIFER GARCIA y DANABAR, an eleven-year old minor, against her will.

"CONTRARY TO LAW."^[3]

At his arraignment, the accused entered a plea of "not guilty." On motion of the prosecution and without opposition on the part of the accused, the three (3) cases were then jointly heard.

On 13 October 1997, the trial court rendered its decision convicting the accused; the court adjudged:

"WHEREFORE, in view of all the foregoing findings that the prosecution was able to prove beyond reasonable doubt the guilt of the accused Rodolfo Villaraza y Panis of the crime of rape in Crim. Case No. RTC 97-6670, 6671, and 6672 of which he is presently charged, judgment is hereby rendered whereby said accused is hereby sentenced in Crim. Case No. RTC 97-6670 to suffer the penalty of death and to pay the complainant moral damages in the amount of Fifty Thousand (P50,000.00) Pesos. The accused in Crim. Case No. RTC 97-6671 is hereby sentenced to suffer the penalty of death and to pay the complainant moral damages in the amount of Fifty Thousand (P50,000.00) Pesos. The accused in Crim. Case No. RTC 97-6672 is hereby sentenced to suffer the penalty of death and to pay the complainant moral damages in the amount of Fifty Thousand (P50,000.00) Pesos. With costs de officio.

"SO ORDERED."^[4]

In its *ponencia*, the court summed up the evidence that led it to the judgment of conviction; thus:

"The evidence adduced by the prosecution in these three (3) cases consisted of the testimonies of Wenifreda Garcia, Jennifer Garcia, and Dr. Ana Dominica M. Perol. Wenifreda Garcia testified that she is married to Benjamin Garcia with whom she has three (3) children, namely: Jerry, Jennifer, and Jennilyn. She and her husband separated sometime in 1990. In 1993, she lived with the accused with whom she has a child by the name of Rowena. In 1994, Wenifreda Garcia left the accused. In 1995, she and the accused lived together again with her children in Bell, Magarao, Camarines Sur. They separated again but on January 1, 1997, the accused was able to find her in Magarao, Camarines Sur. On January 2, 1997, her daughter Jennifer was brought to her by her half-brother from Pio Duran where she was studying. From January 1, 1997, she started living x x x again with the accused who promised her that he would change for the better. On January 15, 1997, she and her children, together with the accused, transferred to a house in the middle of the rice field at Magarao, Camarines Sur.

"On February 21, 1997, Wenifreda Garcia noticed that her daughter Jennifer, herein complainant, was weak. She asked Jennifer why she was weak, but Jennifer did not tell her anything. In the afternoon of March 1, 1997, she and her daughter Jennifer went together to catch snails, and during that time, she noticed the unusual behavior of Jennifer. She told Jennifer not to go with the accused and after telling her Jennifer stared at her and cried. When she asked her daughter what happened, Jennifer told her that she was raped by the accused. Jennifer told her mother that the accuse pulled down her panty and then he inserted his penis inside her private part, causing it to bleed and causing her pain also.

"Jennifer confided to her mother that she was raped by the accused on February 21, 1997, February 26, 1997, and on March 1, 1997. The first two times that she was raped happened at the place where there are banana plants and the third time was right in their house in the middle of the rice land. Upon being informed by Jennifer of what happened to her, she told her daughter to just keep quiet as they will do something to place the accused in jail. After learning of what happened to her daughter she sought the help of a municipal kagawad of Magarao and she had Jennifer be examined by the Municipal Health Officer of Magarao, Camarines Sur as shown by the Medical Certificate issued by Dr. Ana Dominica Perol, Municipal Health Officer of Magarao, Camarines Sur.

"Jennifer Garcia testified that the accused whom she calls 'uncle' was living with her family in their house at Bell, Magarao, Camarines Sur. On February 21, 1997, in the afternoon, she and the accused went to a place at a distance of about thirty (30) meters from their house near an irrigation canal where there were banana plants. They went there because according to the accused they would get banana blossoms. When they reached the place where there were many banana plants near the irrigation canal, the accused who was holding a bolo made Jennifer Garcia lie down. After lying down on her back, the accused removed her panty and then removed his clothes also. After removing his clothes, the accused placed himself on top of her while she was lying down on her back and then he inserted his penis into her private part, causing it to

bleed and also causing her pain. Afterwards, the accused told Jennifer Garcia that she should not report to her mother of what happened, otherwise he would kill them.

"Jennifer Garcia declared that on February 26, 1997, she went with the accused again in the same place where she was raped on February 21, 1997, near the irrigation canal where there are banana plants. When they reached the place, the accused made her lie down and he removed her clothes. After removing her clothes, he removed also his clothes and then he inserted his penis into her private part. She knew that his penis entered her private part because of the pain which made her cry and that her private part also bled. Afterwards, the accused told her again not to report to her mother what happened, or else he would kill them.

"Jennifer Garcia further testified that on March 1, 1997, while she and the accused were in their house, he told her to let her sister go to sleep. After she was able to let her sister go to sleep, the accused made her lie down and then he removed her clothes. After removing her panty, he also removed her clothes and then he inserted his penis into her private part. And because of the pain, she cried. Afterwards, the accused reminded her again not to tell her mother, who was then in Calabanga, Camarines Sur, of what happened and he repeated his threat that he would kill them if she would report to her mother.

"Dr. Ana Dominica M. Perol, the Rural Health Physician of Magarao, Camarines Sur, testified that she physically examined Jennifer Garcia and that in connection with the same, she issued a medical certificate dated March 10, 1997 (Exhs. B and B-1). Dr. Perol declared that during her examination she found that there were hymenal lacerations which were already healed at 10:00 o'clock, 1:00 o'clock, and 3:00 o'clock positions. These lacerations could have been caused by penetration of the male organ, cycling, horse riding, and other factors. Her second finding was that there was no difficulty in inserting her finger into the private part of the complainant. This shows that there is already laxity of the hymen, and this could have been caused also by the penetration of the sex organ by biking, cycling, and other factors. She declared that when she examined the complainant, she did not find any vaginal smear for spermatozoa. Dr. Perol testified that the laceration which is found in the vagina of the complainant could have happened may be more than one (1) year, or more than one (1) month, or maybe even ten (10) days before she examined her on March 10, 1997. With respect also to the finding that when vaginal smear was taken and examined, there was no spermatozoa, she declared that the life span of spermatozoa may last from two (2) to three (3) days, but there is no definite medical finding that she knows of with regard to the actual life span of spermatozoa."^[5]

In his plea before this Court, accused-appellant bewails the credibility of complainant, contending that her account of the three incidents of sexual assault is so identical that it can only lead one to question its veracity.

The Court has gone over the testimony of young Jennifer, and it finds itself equally convinced, like the court below, that not only did Jennifer testify straightforwardly

and candidly on how she has been ravished by accused-appellant repeatedly but that, also, her narration of the incidents accords with human experience and the normal course of events of this nature.

Quoted below is her testimony before the trial court:

"PROS. LEAÑO

"Q. On February 21, 1997 in the afternoon where did you go together with your uncle?

"A. We went to the place where there were banana plants.

"Q. And where is that place?

"A. It is near the irrigation canal.

"Q. Were you able to reach that place where there were many banana plants?

"A. Yes, sir.

"Q. Did your uncle tell you what was your purpose in going there?

"A. Yes, sir.

"Q. Why did you go to the banana plants?

"A. Because according to my uncle we will get banana blossoms.

"Q. When you reached that place where there were many banana plants near the irrigation canal, what did your uncle do, if any?

"A. He made me lie down.

"Q. When you were lying down, what did he do?

"A. He removed my clothes and he also removed his clothes.

"Q. What clothes did he remove from you?

"A. My panty.

"Q. When you were without panty and he was also naked what did he do to you?

"A. He let his penis enter my vagina, sir.

"Q. Was he able to force his penis in your vagina?

"A. Yes, sir.