

EN BANC

[G.R. No. 129533, April 30, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANTONIO PEDRES Y BUAG, ACCUSED-APPELLANT.**

D E C I S I O N

GONZAGA-REYES, J.:

Antonio Pedres y Buag was accused of the crime of rape under the following information:

"The undersigned Assistant Provincial Prosecutor of Albay, upon written complaint of MARIBEL PEDRES, offended party, assisted by her aunt, Julita M. Garcia, hereby accuses ANTONIO PEDRES y BUAG of the crime of RAPE, defined and penalized under Art. 335 of the Revised Penal Code in relation to Sec. 11 of Republic Act No. 7659, committed as follows:

That on or about midnight of January 5, 1996, at Barangay Macalidong, Municipality of Ligao, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and in grave violation of his moral ascendancy and thru force and intimidation, did then and there wilfully, unlawfully and feloniously had sexual intercourse with his own daughter, the herein offended party, Maribel M. Pedres, against her will and consent, to her damage and prejudice.

ALL ACTS CONTRARY TO LAW."

The accused pleaded not guilty upon arraignment.

At the trial, the offended party Maribel Pedres testified for herself, together with her older sister Maricel and Dr. Maria Nimfa Joji Quiñones.

The defense presented the accused, his sister Angelita Bron and his brother-in-law Norberto Bulacan.

The prosecution's version is summarized in the appellant's brief as follows:

"Maribel testified that on the evening of January 5, 1996, while she was sleeping with her two (2) brothers, she was suddenly awakened by the sensation that somebody was on top of her and was tying her hands and feet. She identified this person as her father, accused-appellant herein. She further narrated that her father lowered her short pants up to her ankle and proceeded to rape her. When the accused had allegedly finished, he dressed up and untied Maribel.

The following day, Maribel went with her mother to Manila to work as a housekeeper. She did not tell anybody about her ordeal until June 28, 1996 when she, allegedly, decided to tell her sister about the incident. (TSN, October 2, 1996, pp. 7-15).

Maricel, for her part, testified that after she was told by Maribel of the alleged rape, she decided to send Maribel back to Ligao with their mother. After two days, she followed them and without being advised by anyone, had her sister examined by a physician. (TSN, October 3, 1996, pp. 7-10).

The physician who examined Maribel revealed the following findings:

'scanty pubic hair scattered over the mons pubis extending downward to the upper portion of the labia majora, meaning on the upper portion of the mons there are some pubic hair up to labia majora. Labia majora, meaning the outer lip is gaping exposing the inner lip. Labia minora, meaning the inner lip is gaping at the posterior portion. Hymen, pinkish in color and whitish discharge which is a normal secretion found in the female genitalia organ. Vaginal opening is comparable to a face of a clock, so healed laceration is found at one o'clock, eleven o'clock and seven o'clock lacerations. Vaginal orifice, vaginal opening accepted one examining finger with ease, meaning without difficulty, without resistance, prominent vaginal corrugation, two (2) fingers inserted with slight resistance.'

From the aforequoted findings, it would appear that lacerations in the various sections of the vaginal orifice of the victim were present although according to the physician, the time when they were inflicted was not within her knowledge as per examination since the lacerations were already healed. She stated, however that it is possible that the lacerations were inflicted six (6) months before the examination. She further testified that the findings on the labia minora, gaping to the posterior forchette, manifests that the labia majora was opened, exposing the labia minora, was caused by the application of force or sexual intercourse. (Decision, pp. 3-4)"^[1]

The accused denied the charge and claimed that he could not have committed the rape for the reason that he was not in Macalidong, Ligao, Albay on January 5, 1996 as he was in Bagsa, Oas, Albay from January 4 up to January 7, 1996. The trial court correctly summarized the testimony of the accused as follows:

"The accused himself testified that he could not have committed the offense charged for the reason that he was not in Macalidong, Ligao, Albay on January 5, 1996 as he was working on the ricefield owned by his sister Angelita Bron and her husband at Bagsa, Oas, Albay. He started working on the ricefield from January 4 and stayed up to January 7 when they finished working on the field and that was the time when he went home to Macalidong, Ligao, Albay. On January 4, after they finished working on the farm at about five o'clock in the afternoon, his brother-in-law took a bottle of gin and the three of them together with Norberto

Bulacan partook of the liquor and stayed up to about ten o'clock in the evening and after which the accused slept in the house of Angelita Bron together with Norberto, Bulacan. On January 5, 1996, the accused claimed that he was at Bagsa still working on the farm and on that particular day they finished working at about five o'clock and as usual he had a drinking spree with his brother-in-law and stayed up to twelve o'clock midnight after which the accused slept in the house of his sister, Angelita Bron at Bagsa, Oas, Albay. It is impossible according to the accused for him to be in Macalidong, Ligao, Albay because of the distance and there is no regular means of transportation from Macalidong to Bagsa, Oas, Albay and vice-versa. The accused attributed the filing of this case against him by his own daughter to the fact that he is not in good terms and is being hated by his parents-in-law, especially his father-in-law, because of his allegedly having abandoned his family but the truth is that he was sending them money when he was away. But the main reason why this case was filed against him was that he had some other women aside from his wife and what hurts his father-in-law most was that two of the women were related to his father-in-law. It was for this reason that in fact his father-in-law reported him to the New People's Army (NPA) for allegedly abandoning his family and in fact he was investigated by the NPA but the NPA did not take action on the report of his father-in-law because he was actually sending them money and did not abandon them.

On December 28, 1995 at about twelve o'clock in the evening, the accused was with his wife after attending a party to celebrate the wedding of a relative and when they arrived in their house in Macalidong, Ligao, Albay, he found that a certain Topasi whom the accused claims to be the boyfriend of the private offended party was in their house sleeping. The only other persons in the house were the private offended party and another of his daughters who was in Grade 1. He did not confront Maribel about her allowing her boyfriend to sleep in their house that night as she was already asleep and he failed to confront her the following morning as Maribel left for their store in the market while he was still asleep. He was not, however, finally able to confront Maribel as Maribel left for Manila together with her mother on January 6, 1996. While his daughter was already in Manila where she worked as household help, he got an information from a certain Manay Lourdes, whom he admitted to be a certain Lourdes Miranda, that her daughter, the private offended party in this case, was sent away by her employer in order to get rid of her for fear that she might get pregnant by a tricycle driver as according to the accused his daughter, the private offended party in this case, is a flirt. He vehemently denied having sexually molested his own daughter and in fact he was surprised when he was arrested by the policemen sometime on July 3, 1996 to know that he was being charged by his own daughter with rape."^[2]

Angelita Bron, sister-in-law of the accused, corroborated the testimony of the accused that he was working in her ricefield in Bagsa, Oas, Albay from January 4 to 7 and testified that the parents in-law of the accused wanted the latter to be separated from his wife because the accused abandoned his family and there was a time that they wanted the accused to be killed by the NPA.^[3]

Norberto Bulacan also corroborated the defense of alibi; he stated that the accused worked with him on the ricefield in Bagsa, Oas, Albay from January 4 to 7, 1996, and on January 5, after working, they had a drinking spree together with Avelino Bron from 7:00 o'clock until 11:00 o'clock in the evening. There was no longer any available transportation to Macalidong, Ligao, Albay as the tricycles plying the route stop at 6:00 o'clock in the afternoon.^[4]

The trial court held that the prosecution sufficiently proved all the essential elements of the crime of rape and presented sufficient evidence to prove the guilt of the accused beyond reasonable doubt. It imposed the death penalty and ordered Antonio Pedres to indemnify Maribel Pedres in the amount of P50,000.00.

The case is before this court for automatic review. The following assignment of errors is submitted in accused-appellant's brief:

"I

THE TRIAL COURT ERRED IN RELYING SOLELY ON THE INCREDULOUS AND INCREDIBLE TESTIMONY OF THE COMPLAINANT AS A BASIS FOR ACCUSED-APPELLANT'S CONVICTION.

II

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT."

which were discussed jointly.

Accused-appellant claims that the uncorroborated testimony of the complainant should not be received with precipitate credulity, considering that her claim that her two siblings who were sleeping with her on the bed were not awakened by the movement which she and her father would have caused while the latter was raping her, and that she did not even scream or attempt to wake up her brother and sister. Moreover, Maribel testified that the accused tied her legs, already eagle-spread before removing her maong short pants up to her ankle, and the pants were not torn in the process. Also, the complainant knew that it was 12:00 o'clock when her father arrived, because she looked at her watch, when she was tied down to the bed, which act is contrary to human nature. Finally, Maribel's silence for five (5) months after the incident was unnatural and improbable considering that she was close to her mother and was admittedly "nervous" about the blood which came out of her private part. The admission of complainant that she harbored hatred towards her father because he did not perform his duties as a father rendered her credibility doubtful. Consequently, the defense of alibi assumes importance.

We are not persuaded by the submissions of the appellant. We have examined the testimony of Maribel with great care and we find nothing that would render the same incredible. She consistently stated on direct^[5], on cross-examination^[6] and on redirect examination^[7] that on January 5, 1996, at around 12:00 midnight, while her mother was in her store in the market, she was awakened when she felt the body of someone on top of her whom she recognized as her father; her hands and