

EN BANC

[G.R. No. 128789, May 24, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RENATO CAPARANGA JOSE, ACCUSED-APPELLANT.**

D E C I S I O N

PER CURIAM:

Accused-appellant Renato Caparanga Jose seeks reversal of the judgment of conviction rendered by Branch 274 of the Regional Trial Court of the National Capital Judicial Region stationed in Parañaque, Metro Manila on December 10, 1996 sentencing him to death for the crime of statutory rape.

The victim was then a child of barely 5 years of age, as alleged in the information and as duly proved by the Certificate of Live Birth presented at the trial (Record, p. 201; Exhibit "E"). The child acquired a sexually transmitted disease as a result of the abuse upon her innocence. From the gram staining examination conducted on her, the victim was found positive for both intracellular and extracellular gram negative diplococci, the microorganism that causes gonorrhea. The presence of sperm cells was likewise positively noted on the specimen taken from the child (Record, p. 199; Exhibit "C" [*gram staining examination report*]). All these were unmistakable signs that the child was sexually molested and abused. Thus, on February 21, 1995, an Information was filed against the suspect pointed at by the victim, charging herein accused-appellant as follows:

That on or about the 6th day of February 1995, in the Municipality of Parañaque, Metro Manila, Philippines and within and 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 complainant Agapita Tria's daughter named Aimzyl Tria, who is a minor, 5 years old, against her will.

CONTRARY TO LAW.

(Record, p. 2.)

At the arraignment, accused-appellant pleaded not guilty. Thence, trial ensued where the prosecution adduced the following evidence as summarized in the decision of the trial court, thusly:

On February 6, 1995, the victim, Aimzyl Tria a five-year old girl, was left alone in her home at 5146 P. Dandan Street, La Huerta, Parañaque, Metro Manila, watching cartoons on the television set. While she was televiewing, the accused arrived. The accused told the victim to go up to the master's bedroom of the house located upstairs wherein two (2) beds were placed therein. The accused made her lie down on the soft bed, and

thereafter, removed her clothes. She was then wearing a "sando" and shorts while the accused was in t-shirt and shorts. After undressing her, the accused inserted his middle and index fingers into her private part and put out his tongue to wet the same ("nilawayan"). He did this act to the victim twice. She began to move she felt so much pain. However, all her efforts to move away were in vain due to the superior strength of the accused. At this juncture, the accused placed again his tongue on the private part of the victim. Thereafter, the accused inserted his penis into her private part twice. She saw something like sputum ("parang sipon") which came out of his penis.

The victim then tried again to move away due to the extreme pain that she felt. However, the accused held her tender legs to bring her closer to him. She did not shout because he told her to keep quite so that the people will not hear her. She became afraid as they were the only ones left in the house. Her father was then in Bicol for a vacation. The accused then told her not to tell anyone after raping her.

There was another instance wherein the victim was again raped by the accused. This happened while she was taking a bath inside the bathroom located at the ground floor of their house in Parañaque. She was then alone in the house when suddenly the accused entered the bathroom where she was taking a bath. The accused removed his shorts, and thereafter, told her to sit on his lap facing him. The victim was naked since she was not yet through taking a bath. He again inserted his penis into her vagina twice, and she, like in the previous occasion, felt so much pain. She again observed something like sputum ("parang sipon") coming out of the penis of the accused.

x x x

The mother of the victim, Agapita Tria, noticed some mucus on the underwear of her daughter on February 7, 1995 ("Napansin ko ang mga panty ng anak ko na may uhog"). She asked her daughter about it but the latter did not answer and appeared to be so afraid. She did not press her daughter to talk, although her refusal to talk was apparent, and instead, she just continued observing her.

On February 8, 1995, the victim's mother again saw the mucus on the underwear of her daughter which she noticed on February 7, 1995. She again noticed the mucus on the panties of her daughter on the succeeding days. These series of unusual phenomena made her impatient so much so that she emphatically asked her daughter as to what happened to her, and told her not to be afraid, and tell her mother the truth if there was somebody who had done something to her private part.

Finally, the victim told her mother that "inano daw siya ni Kuya Nat niya." The victim used the word "inano" since at that time, she did not know yet the word "rape". When her mother asked her what she meant by "inano", she answered that "iano ng kamay ni Kuya Nat ang pepe niya", and that he placed his tongue into her private part before he inserted his penis into it.

(Record, pp. 499-502.)

In order to verify what really happened to her child, the mother brought her the following day to Dr. Priscilla Buenavista's clinic in Baclaran, Parañaque for examination. The physician examined the victim and took a vaginal smear specimen which was then sent to Medici Diagnostic Clinilab, Inc. for analysis. That same day, Dr. Buenavista was informed about the results of the gram staining analysis of the vaginal smear specimen, which she herself had, thereafter, an opportunity to personally look at under the microscope. The victim was found positive for both intracellular and extracellular gram negative diplococci and the presence of sperm cells was likewise noted (Exhibit "C"). Dr. Buenavista eventually decided to refer the patient and her mother to the National Bureau of Investigation for the proper handling of the case and to the Philippine General Hospital, or The Research Institute for Topical Medicine for the treatment of the disease (tsn, August 14, 1995, p. 10).

Before going to the NBI, the victim's mother thought of reporting the incident to the police in order to prevent the possible escape of the accused. At the Parañaque Station, she executed a Sinumpaang Salaysay (Exhibit "H"). The Parañaque Police gave her a referral letter to the NBI for medico-legal examination of her daughter.

The NBI medico-legal officer, Dr. Valentin T. Bernales, conducted both a physical and genital examination of the victim. He issued a medico-legal report of his findings (Exhibit "D"). His most notable findings on the genitalia of the victim are that there was the healing wound with pus formation at the root of the hymen, that the vestibular mucosa is congested, and that, the hymen is intact.

On the strength of the foregoing evidence, which established that the victim was under twelve years of age, that she had in fact been sexually abused, and that she positively identified accused-appellant as her molester, Judge Amelita G. Tolentino of the trial court rendered a judgment of conviction, which accordingly disposed:

WHEREFORE, this Court finds the accused Renato Caparangan Jose guilty beyond reasonable doubt of the crime of rape defined and penalized under Article 335 of the Revised Penal Code, as amended by Republic Act. No. 7659, and hereby sentences him to suffer the supreme penalty of DEATH.

The Court hereby orders the accused to indemnify the victim, Aimzyl Tria, in the amount of FIFTY THOUSAND PESOS (P50,000.00) as moral damages.

SO ORDERED.

(Record, p. 514-515.)

Accused-appellant, now before this Court, anchors his appeal in the lone assigned error, the catch-all argument that his guilt has not been proved beyond reasonable doubt.

Accused-appellant commiserates with the victim for he is convinced beyond any cloud of doubt of the fact that the latter was sexually abused. He, however, counts