

SECOND DIVISION

[G.R. No. 128384, June 29, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
REYNALDO SAHOR BAÑAGO, ACCUSED-APPELLANT.**

DECISION

PUNO, J.:

Accused-appellant Reynaldo Sahor Bañago was charged before the Regional Trial Court of Malolos Bulacan with the crime of rape committed as follows:

"That on or about the 15th day of October, 1993, in the municipality of Marilao, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a gun, did then and there wilfully, unlawfully and feloniously, by means of force and intimidation and with lewd designs, have carnal knowledge to (*sic*) said Dolores C. Jaurigue, against her will and without her consent."^[1]

Accused-appellant pleaded "not guilty" to the charge.^[2] Hence, trial proceeded in due course.

The prosecution presented the testimony of the thirteen-year-old victim, Dolores Jaurigue. She testified that on October 15, 1993, she visited her sister, Dorotea Jaurigue-Mejico, who was staying with her husband at the bodega of Bauer Company in Marilao, Bulacan. That evening, she was left alone in the bodega as her sister attended a party. She went to bed at around seven o'clock. She was later roused from her sleep when she felt someone embracing her. It turned out to be accused-appellant. Accused-appellant poked a gun at her and started to remove her short pants and underwear. She tried to shout but accused-appellant slapped her twice. Then, he took off his pants and underwear and succeeded in having carnal knowledge of Dolores. He admonished her not to tell anybody about the incident. Thereafter, accused-appellant put on his pants and left the room.^[3]

When Dorotea arrived from the party, she saw accused-appellant coming out of the bodega zipping his pant. Dorotea asked Dolores what happened but she did not answer.^[4]

The following day, Dorotea again asked Dolores what happened the previous night. Dolores told her sister that accused-appellant raped her. Afraid of what accused-appellant might do to them, Dolores and Dorotea kept the incident to themselves.^[5]

It was only on March 18, 1994 that Dolores had the courage to tell her aunt, Lourdes Corcuera, about the assault on her womanhood. Lourdes tried to talk to accused-appellant but nothing happened.^[6]

During an altercation with Dolores' mother, Antonina Jaurigue, Lourdes divulged that Dolores was no longer a virgin. Shocked about the revelation, Antonina sought for an explanation. Dolores was compelled to tell her mother about the rape incident.^[7]

Antonina brought Dolores to the Philippine National Police Crime Laboratory for physical examination on March 29, 1994. The medico-legal report executed by Dr. Jesusa N. Vergara of the Philippine National Police Crime Laboratory revealed that Dolores was "in a non-virgin state physically" and that "there (were) no signs of recent application of any form of violence"^[8]

On July 14, 1994, Dolores, assisted by her mother, filed a criminal complaint for rape against accused-appellant.

For their part, the defense presented the testimonies of accused-appellant and Delfin Castillo.

Accused-appellant testified that he was a welder at Bauer Company. In the afternoon of October 15, 1993, he, together, with Delfin Castillo and Rolando Pambico, went to the office of their employer, Mr. Mariano Takbas, in Quezon City to get their salary. They left the office at about six o'clock in the evening and then they went home to Marilao, Bulacan. They reached Marilao at about eight o'clock in the evening. Accused-appellant proceeded to his residence in Constantino Street, Poblacion, Marilao, Bulacan. Accused-appellant denied having raped Dolores Jaurigue on the evening of October 15, 1993.^[9]

Defense witness Delfin Castillo corroborated accused-appellant's testimony. Castillo testified that he was with accused-appellant in the afternoon of October 15, 1993 when they went to Quezon City to get their salary. From Quezon City, they proceeded to Marilao, Bulacan. He spent the night at the bodega of Bauer Company but he did not see private complainant there. He also stated that accused-appellant did not go to the bodega that evening.^[10]

The trial court found accused-appellant guilty beyond reasonable doubt of the crime charged. It sentenced him to *reclusion perpetua* and ordered him to indemnify the victim the sum of P50,000.00 as moral damages.^[11]

Accused-appellant appealed the decision of the trial court. He raised the following errors:

1. The court *a quo* erred in finding accused-appellant guilty beyond reasonable doubt of the crime of rape; and
2. The court *a quo* erred in ordering accused-appellant to indemnify (the) victim in the amount of P50,000.00 as moral damages.^[12]

Accused-appellant assailed the credibility of private complainant who alone testified for the prosecution. In his brief, accused-appellant harped on the alleged flaws in the testimony of private complainant. He contended that it was unlikely for Dorotea Jaurigue, Mejico and her husband to use the bodega as their living quarters since the bodega had no division and was open to anyone who wished to enter; that although private complainant testified that her sister saw accused-appellant coming