

THIRD DIVISION

[G.R. No. 132369, June 29, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
REMIGIO RUIZ, ACCUSED-APPELLANT.**

D E C I S I O N

VITUG, J.:

Evelyn Violeta was barely fifteen years old. An hour or so before dawn on 31 July 1994, she became another unfortunate victim of sexual assault. In open court, during the trial of the case, she was unable to contain herself and tearfully yelled, "*binaboy mo ako*," in identifying her attacker.

The accused, Remigio Ruiz, was tried before the Regional Trial Court of Malolos, Bulacan, Branch 15, for the crime of rape, with which he stood indicted in an information that read:

"That on or about the 31st day of July, 1994, in the municipality of Sta. Maria, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court the abovenamed accused, armed with screw driver and gun and by means of force and intimidation, did then and there willfully, unlawfully and feloniously, with lewd designs, have carnal knowledge of said Evelyn Violeta against her will and without her consent.

"Contrary to law."^[1]

The accused pleaded "not guilty" to the charge.

The prosecution presented its main witness, the private complainant herself, who detailed the assault on her virtue in the early morning of 31 July 1994. Evelyn was asleep in her uncle's house at Dulong Bayan, Sta. Maria, Bulacan, when she was roused from her slumber by persistent knockings at the door. Then, just moments later, the door was kicked open. She recognized the intruder to be Remigio Ruiz. Ruiz, armed with a screw driver and a gun, warned Evelyn not to make any noise. She was pushed to the wooden bed. Placing the gun in the pocket of his jacket, Ruiz forthwith started kissing her and caressing her breast. He removed her shorts and panty and pulled up her blouse. He quickly started to undress himself. Ruiz was able to introduce about two inches of his penis into Violeta's private organ. After Ruiz was done, which lasted for about five minutes, Violeta put on her shorts. Ruiz tried to drag her to a tricycle but Violeta was able to free herself from his hold. She ran, pursued by Ruiz, towards the nearby Petron station. At the gas station, Violeta sought the help of Benigno de la Cruz, the gas station cashier, who instantly confronted Ruiz with a lead pipe prompting the latter to rush back to his tricycle and escaped. Violeta later related to her uncle the incident that had befallen her. The two straightaway repaired to the police station to report the matter.

Violeta submitted herself to physical examination before the National Bureau of Investigation; the examination yielded the following findings:

"GENERAL PHYSICAL EXAMINATION:

Height: 142.5 cm. Weight: 43.4 kgs.

Normally developed, fairly nourished, conscious, coherent, cooperative, ambulatory subject.

Breasts, developed, hemispherical, doughy. Areolae, brown, 3.5 cm. in diameter. Nipples, brown, protruding, 0.7 cm. in diameter.

No extragenital physical injuries, noted.

GENITAL EXAMINATION:

* * * * *

Pubic hair, fine, short, scanty. Labia majora, gaping. Labia minora, coaptated. Fourchette, tense with abrasion at the posterior commissure. Vestibule, pinkish. Hymen, annular, moderately thick, moderately wide, intact and distensible. Hymenal orifice, admits a tube, 2.5 cm. in diameter. Vaginal walls, tight. Rugosities, prominent.

* * * * *

CONCLUSIONS:

1. No evident sign of extragenital physical injuries noted on the body of the subject at the time of examination.
2. Recent genital trauma, present."^[2]

Violeta's testimony was corroborated by Benigno de la Cruz who stated that he was manning the cash register of the Petron gas station during the early morning of 31 July 1994 when Violeta came running for help. He picked up a lead pipe and went to face the pursuer, whom he recognized to be Remegio Ruiz, but the latter immediately withdrew and drove away in his tricycle.

Another corroborating witness presented at the stand was Jose Violeta, the victim's uncle, who added that in the evening of 30 July 1994 he was invited by Ruiz to a beerhouse to celebrate the birthday of one Larry. He got drunk and fell asleep but before yielding to stupor, he noticed that Ruiz had left the group.

Police Investigator Marcelo Nolasco testified that in the morning of 31 July 1994, Violeta, accompanied by her uncle, had complained of having been raped by Remegio Ruiz. He made out a written report and had it entered in the police blotter. He later confronted Ruiz about the incident, and the latter admitted that he did go to and enter the house of Violeta but he denied the accusation of rape.

Dr. Renato Bautista of the NBI declared that Violeta had sustained a "recent genital

trauma" or an abrasion located at the entrance of the vaginal canal which could have been caused by "friction, sexual intercourse, or masturbation." The "hymen was intact (and) the orifice (hole) was 2.5 cm.," but he explained that the hymen, being elastic, might not necessarily break during sexual intercourse. He negated the presence of sperm cell in the victim's private organ.

The defense presented the accused and two other witnesses.

Ruiz testified that he was apprehended, on 31 July 1994, by Sta. Maria policemen after initially resisting arrest. He said that he was mauled by the arresting officers. The maltreatment stopped only when Pol Caguiat, a freelance reporter DZBB and Channel 7, intervened for him. Caguiat accompanied him, first to the Sta. Maria Hospital where his wounds were treated and then to the police station. The following day, he learned of the rape charge against him. He vehemently denied having molested private complainant. He averred that at around 6:00 p.m. of 30 July 1994, he was driving his tricycle and plying his usual route when he was flagged down by Winnie Violeta who invited him to a beerhouse in Bocaue. He partook of only one bottle of beer, following which he went home. Ruiz claimed that the uncle of Evelyn had demanded P100,000.00 in return for the dropping of the accusation against him. He admitted, however, both during the direct examination and the cross examination, that he did go to the house of Evelyn Violeta at about 4:00 a.m. of 31 July 1994 because he noticed that the light was on and the door was open. He called out and Evelyn showed herself. When he learned that Evelyn's uncle was not yet home, he told Evelyn to inform her uncle that he would just come back later for the latter's tricycle fare. At this juncture, Evelyn unexplainably ran away towards a nearby gas station.

Dr. David Rolen Domingo of the Sta. Maria Emergency Hospital (now Rogaciano Mercado Memorial Hospital) stated that he had treated Ruiz at around 6:35 in the evening of 31 July 1994 for a lacerated wound on the right ear lobe. He did not ask the patient where he got his wound but he diagnosed it as "physical injuries or secondary to mauling." Ruiz, who then smelled of alcohol, was brought to the hospital by Pol Caguiat.

Pol Caguiat, a freelance reporter of DZBB, Channel 7, testified that he did not personally know Ruiz before he had brought Ruiz to the hospital after seeing him evidently wounded while being chased by policemen. Caguiat said that he was not aware of the charges against Ruiz until the family of the victim went to his house two days later and informed him of the rape incident.

After the trial had concluded, Judge Carlos C. Ofilada of the Regional Trial Court of Malolos, Bulacan, Branch 15, found accused-appellant guilty of the offense charged and sentenced him thusly:

"In view of all the foregoing premises, the Court finds accused Remegio Ruiz GUILTY beyond reasonable doubt of the crime of Rape and in consonance with Art. 335 of the Revised Penal Code hereby sentences him to suffer the penalty of SEVENTEEN (17) YEARS, FOUR (4) MONTHS and ONE (1) DAY as minimum, to TWENTY (20) YEARS, as maximum of Reclusion Temporal.

"The accused is likewise ordered to indemnify the victim the amount of

P30,000.00.

"SO ORDERED."^[3]

An appeal was timely brought to the Court of Appeals where the defense contended that -

"1. THE LOWER COURT ERRED IN RELYING THE TESTIMONIES OF THE PRIVATE COMPLAINANT AND PROSECUTION WITNESSES IN CONVICTING THE ACCUSED.

"2. THE LOWER COURT VIOLATED THE RIGHT OF THE ACCUSED TO DUE PROCESS OF LAW.

"3. THE LOWER COURT, MORE SPECIFICALLY THE HON. JUDGE, COMMITTED A VIOLATION OF THE CODE ON JUDICIAL CONDUCT."^[4]

The appellate court, through its Second Division then chaired by now Supreme Court Associate Justice Arturo B. Buena, found no reason to reverse the findings of the court *a quo*. In an exhaustive discussion of the case, the appellate court, speaking through Mr. Justice Buena, elucidated:

"The appeal is devoid of any merit.

"In his first assigned error, accused-appellant questions the credibility of the private complainant as well as the other prosecution witnesses. In support thereof, appellant raised four (4) arguments. First, appellant claims that it was impossible for him to be holding both hands of the victim while he was holding a gun and a screw driver on his right and left hand respectively (Appellant's Brief, p. 33, ROLLO). Second, appellant asks what could have been so painful for the victim if the NBI found that the latter's hymen was intact (*Ibid.*, p. 37). This would also belie the victims' claim that her panty was clothed in blood (*Ibid.*, p. 39). Still in connection with the second argument, appellant also cites the NBI medico legal officer's testimony to the effect that the abrasion found at the entrance of the vaginal canal may have been caused by masturbation (*Ibid.*, p. 380). Third, appellant asserts that the absence of any external signs of physical injuries on the victim contradicted her protestation that a screw driver and a gun was poked at her (*Ibid.*, p. 39). Finally, appellant pleads that the absence of sperm cell inside the victim's vagina contradicted the latter's testimony that there was something hot with colored white which exited from the penis of accused and emitted at the victim's vagina (*Ibid.*, p. 40).

"As regards the other prosecution witnesses, appellant contends that Benigno Dela Cruz' testimony is incredible because the latter's lead pipe allegedly used in chasing appellant away was no match for the gun of accused as alleged by the victim herself (*Ibid.*, p. 41). The testimony of Jose 'Winnie' Violeta is also doubtful for there were some inconsistencies in his testimony particularly that part where appellant allegedly invited the victim's uncle to a drinking spree (*Ibid.*, p. 42). Likewise, the credibility of SPO1 Manalo Nolasco was also attacked because of the alleged inconsistency between his testimony that the sworn statement of

the victim and the complaint was submitted on August 1, 1994 and August 2, 1994, respectively, while appellant was arrested on July 31, 1994 (*Ibid.*, p. 42).

"On the first argument, We find nothing irregular in the victim's testimony. A careful review of the records show that accused placed his gun inside the pocket of his jacket (TSN, November 18, 1994, p. 16). With his right hand free, it could not have been that difficult to hold and pin down his frail victim who weighed barely 43.4 kgs. and was only 142.5 cm. tall (Exh. 'C,' p. 26, RECORDS). The Honorable Supreme Court did not find it incredible for a husky male of hefty built to be able to hold down the victim while undressing himself and his victim (**People vs. Villanueva, 211 SCRA 651, 655**). In the present case, the fifteen (15) year old lass (TSN, November 18, 1994, p. 3) was no match for the full grown thirty-four (34) year old appellant (TSN, February 27, 1995, p. 3).

"Even granting that there were indeed inconsistencies in the victim's testimony, this Court `cannot expect a rape victim to remember every ugly detail of the appalling outrage, especially so since she might in fact be trying not to remember them' (**People vs. Jimenez, 250 SCRA 349, 356**). Time and again the High Tribunal would rule that errorless testimonies of victims of this dreadful crime cannot be expected especially when a witness is recounting details of a harrowing experience (**People vs. Ibay, 233 SCRA 15, 27; and People vs. Cura, 240 SCRA 234, 244**). In fact, such errors in the testimony of the rape victim tend to buttress, rather than weaken her credibility for that would mean that her testimony was not contrived (**People vs. Ching, 240 SCRA 267, 280**). In **People vs. Sarellana, 233 SCRA 31**, the Honorable Supreme Court, speaking through **Mr. Justice Reynato S. Puno**, held that:

"`It should not be considered unusual for a person under great stress, as complainant was at the moment the unlawful coitus took place, to forget certain details of the crime. Complainant's pre-occupation at the time was to avoid the assault against her, and not to photograph in her mind the lurid details of the crime.' (p. 43).^[5]

"In **People vs. Rivera, 242 SCRA 26**, the High Tribunal declared:

"`When a woman says that she has been raped, she says in effect all that is necessary to show that she had indeed been raped, and if her testimony meets the test of credibility, as in the instant case, the accused may be convicted on the sole basis of her testimony.' (p. 36).

"Furthermore, Courts usually lend credence to testimonies of young girls, especially where the facts points to their having been victims of sexual assault, for youth and immaturity are generally badges of truth and sincerity (**People vs. Casil, 241 SCRA 285, 293**). In **People vs. Tami, 244 SCRA 1**, the Honorable Supreme Court, through **Mr. Justice Santiago M. Kapunan**, gave the following reason:

"`Considering the inbred modesty and antipathy of a Filipina to airing in public things that affect her honor, it is hard to conceive that the complainant would