

THIRD DIVISION

[G.R. No. 131104, June 17, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RIZALINO P. REBOSE, ACCUSED-APPELLANT.**

D E C I S I O N

ROMERO, J.:

Appellant Rizalino Rebose was charged with the crime of rape in Criminal Case No. 95-12116 before the Regional Trial Court^[1] of Antipolo, Rizal, Branch 72, under an information^[2] dated April 25, 1995, which reads as follows:

"That on or about the 17th day of April, 1995 in the Municipality of Antipolo, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, while armed with a gun, did then and there willfully, unlawfully and feloniously have carnal knowledge of the person of one Lorena B. Rizalte, twelve (12) years of age, against her will and consent.

CONTRARY TO LAW."

When arraigned on June 6, 1995,^[3] the accused, accompanied by his counsel *de oficio*, Atty. Danilo Leyble, entered a plea of not guilty.

The prosecution sought to prove the following facts:

Lourdes Rizalte, 64 years old, a resident of Sitio San Jose, Antipolo, Rizal, and grandmother of the victim, Lorena Rizalte, testified that at around 9:00 o'clock in the morning of April 17, 1995, she asked Lorena to look after her parents' house which is just 15 meters away, to which request the latter acceded. Upon her return, Lourdes became suspicious as Lorena, with apparent kiss marks on her neck, acted incoherently. Lorena kept silent on the incident, but, after relentless questioning, she confessed to have been sexually violated by appellant Rebose. Forthwith, Lorena was brought to Camp Crame for examination where the findings revealed that she was physically no longer in a virgin state.^[4]

Medico-legal officer Owen Lebaquin of the Philippine National Police Crime Laboratory, Quezon City, narrated that the examination conducted on April 19, 1995 revealed an ecchymosis or "kiss mark" on her neck and noted healed lacerations on Lorena's private organ as compatible with the allegation of sexual assault.

Lorena Rizalte testified that on April 17, 1995, her grandmother Lourdes, told her to check their house at Sitio Panusugin. Arriving thereat, she saw appellant, accompanied by Alex Feliciano and two other unidentified persons, who immediately accosted her allegedly for the wrong done by her father, Ricardo Rizalte, and

grandfather, Lorenzo Rizalte. At this juncture, appellant started to kiss her. Alex, being the godson of Lorena's grandfather, dissuaded appellant from his amorous advances but the attempt was repulsed by threats upon his person. Thereupon, Alex and his two other companions left. Alone with the frightened victim, appellant pulled out his gun and ordered her to go inside the house where she was made to undress or else she would be killed. After the sexual congress, Lorena was allowed to leave only after being sternly warned not to reveal the incident to anybody. Upon returning to her grandmother's house, she was interrogated with regard to her kiss marks. Though she tried to conceal the fact of sexual violation even in the presence of the barangay officials, after the result of her examination at Camp Crame was released, however, she admitted that appellant Rebose was the culprit.

The defense, on the other hand, presented Alex Feliciano, Virgilio Pose,^[5] Evelina Olaez, Myrna Liwan and the appellant himself.

Alex Feliciano, a construction worker and resident of Sitio Painaan, Brgy. Pinugay, Baras, Rizal, refuted the allegations of the victim that he was with the appellant and two others in Sitio Panusugin on April 17, 1995. On the contrary, he declared that, on such day, he was at the construction site at No. 176 Wilson Street, San Juan, Manila, from 8:00 a.m. to 5:00 p.m. as evidenced by a photocopy of his daily time record which original copy is being kept by Virgilio Pose in his capacity as timekeeper of the construction business. Alex further testified that he has known the appellant for three months, having been introduced to him by his godfather Lorenzo Rizalte, as pastor of a religious group or sect.

Virgilio Pose, on the other hand, presented to the court the payroll record as proof that Alex was indeed at the construction site on the day the alleged rape was committed. To further bolster his point, he avers that no other document is maintained by their establishment as the said payroll record is their only basis for the granting of wages. In other words, if a certain worker's name is not logged thereon on a working day, it necessarily follows that he has not rendered services on such a day and, therefore, is not entitled to any wage.

Evelina Olaez and Myrna Liwan, both missionaries, testified that on April 16, 1995, appellant briefly attended one of their Sunday worships in Bontoc, Mountain Province. In corroboration, they attested that appellant was asking the people in attendance the whereabouts of his two friends from Bontoc. After the church fellowship, he was invited to have lunch with them along with other members of the congregation. At around 1:00 p.m., he allegedly left for Sagada, Mountain Province.

In his defense, appellant Rebose testified that he is a minister of a Born Again Charismatic group since 1992. In 1995, he established a congregation in Antipolo, Rizal, as a result of which he came to know the Rizalte family who consequently became members thereof. He contended that a misunderstanding arose between them when a Korean missionary donated \$1,000.00 as seed money for building a church. Instead of entrusting the said amount to the appellant as pastor of the sect, the same was handed over to the Rizalte spouses as the lot upon which the church is to be built belongs to them. During the construction of the church, however, appellant borrowed P3,000.00 from the Rizaltes purportedly sourced from the amount donated but the latter allegedly made it appear that he stole it from them. After confronting the Rizaltes concerning their malicious imputation, he was charged with the crime of rape against their granddaughter Lorena Rizalte.

In a decision dated June 23, 1997, the trial court found the accused guilty beyond reasonable doubt of the crime charged, the decretal portion of which reads:

"WHEREFORE, premises considered, the Court finds accused Rizalino P. Rebose GUILTY BEYOND REASONABLE DOUBT of the crime of Rape and he is hereby sentenced to suffer the penalty of reclusion perpetua. He is likewise ordered to indemnify the victim Lorena Rizalte the sum of TWO HUNDRED THOUSAND PESOS (P200,000.00) by way of moral damages.

SO ORDERED."^[6]

Appellant proffered three assigned errors which, in the main, is founded on the failure of the prosecution to overcome the requisite quantum of evidence necessary for appellant's conviction.

Appellant's alibi that he was in Bontoc, Mountain Province at the time of the alleged rape is unconvincing in light of his positive identification by the victim, Lorena Rizalte. Lorena, a mere 12-year old lass, was candid and straightforward in her testimony. It is unthinkable that as a means of getting back at the appellant for the misunderstanding he had with her grandparents, she would concoct such a grave charge against appellant Rebose, considering all its attendant scandal and publicity just because of a supposed dispute over a measly sum of P3,000.00. It would be highly improbable for a girl of her age to fabricate a charge so humiliating to herself and her family, as well, had she not been truly subjected to the pain and harrowing experience of sexual abuse.^[7]

Upon cross-examination,^[8] the accused-appellant narrated that his purpose in visiting Bontoc, Mountain Province was to look for his former classmates, Edgar Garcia and Rose Koreano, who, by virtue of their familiarity with the place, could help him find a lodging house for his girlfriend, Francisca Ananayo. What is ironic, however, is that when asked where Francisca hails from, appellant averred that she is also from the same province. Thus, by such declaration, appellant's alibi is rendered unworthy of credence for how could he secure a lodging house for his girlfriend who herself lives in the same place? Furthermore, when pressed for details regarding her exact location in Bontoc, appellant failed to adduce any as he was, surprisingly, unaware of her address. To rebut the prosecution's line of questioning, appellant could only mutter in his defense that they only had a mutual understanding and that Francisca allegedly failed to disclose her address in Bontoc, Mountain Province, as the semester was about to end, thus, denying them the opportunity to know each other better.

Appellant likewise faults the trial court's findings as contrary to the medical report of Dr. Lebaquin. In his brief, appellant contended that when asked whether Lorena's laceration is compatible with the rape charge, Dr. Lebaquin allegedly "equivocated and vaguely stated that it all depends on the healing process of the laceration."^[9] Thus:

"Q: Now it says here deep healed laceration, from the time the offense was perpetrated in April 17 up to the examination April 19, 1995, would you say that the injury is compatible with the commission of the offense?