

EN BANC

[G.R. Nos. 131149-50, July 28, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
HIPOLITO DIAZ Y DE GUZMAN, ACCUSED-APPELLANT.**

R E S O L U T I O N

ROMERO, J.:

Before us on automatic review is the decision^[1] dated September 22, 1997, rendered by the Regional Trial Court of Caloocan City, Branch 180, in Criminal Case Nos. C-48872 and C-48873 finding accused-appellant HIPOLITO DIAZ guilty of two counts of rape committed against his very own daughter, Marissa Diaz.

In two informations simultaneously filed on June 5, 1995 in the aforesaid trial court, accused-appellant was charged for raping his daughter Marissa Diaz in two separate incidents. The information in Criminal Case No. C-48872 charges him as follows:

"That on or about the 27th day of May, 1995 in Kalookan City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then the father of the victim MARISSA DIAZ Y GOROSPE, a minor, 16 years of age, with lewd design and by means of force and intimidation employed upon the latter, did then and there wilfully, unlawfully and feloniously lie and have carnal knowledge with said MARISSA DIAZ Y GOROSPE, against the latter's will and without her consent.

CONTRARY TO LAW."^[2]

The information in Criminal Case No. C-48873, on the other hand, alleges:

"That sometime during the month of February, 1995, in Kalookan City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused being then the father (sic) one MARISSA DIAZ Y GOROSPE, a minor, 16 years of age, with lewd design and by means of force and intimidation employed upon said Marissa Diaz y Gorospe, did then and there wilfully, unlawfully and feloniously lie and have carnal knowledge with said complainant, against the latter's will and without her consent.

CONTRARY TO LAW."^[3]

Upon arraignment, accused-appellant entered a plea of "not guilty" to the offenses charged. The cases having been consolidated, joint trial ensued. On September 22, 1997, the court *a quo* rendered judgment finding accused-appellant guilty of two counts of rape and sentencing him as follows: