

EN BANC

[G.R. No. 127574, July 20, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
WILFREDO SUGANO Y ALARCON, ACCUSED-APPELLANT.**

D E C I S I O N

PER CURIAM:

Lani M. Sugano, then fifteen years of age, charged her father Wilfredo Sugano with rape committed on three (3) different occasions in 1994. The sworn complaints read respectively as follows:

Criminal Case No. 94-1061

"The undersigned complainant after having been duly sworn to in accordance with law, accuses WILFREDO SUGANO y ALARCON, of the crime of Rape, committed as follows:

That on or about June 30, 1994, at 4:00 o'clock in the early morning, more or less, at Agora, Lapasan, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with the use of force and with lewd design, did then and there wilfully, unlawfully and feloniously have sexual intercourse with complainant Lani M. Sugano, 15 years old, a virgin, against the will of the latter.

That the offense is committed with the aggravating circumstance of insult or in disregard of the respect (due the offended party) on account of the fact that the accused is the father of the complainant.

Contrary to and in Violation of Article 335 of the Revised Penal Code, in relation to Article 14, par. 3 of the same code as amended by R.A. No. 7659."^[1]

Criminal Case No. 94-1062

"The undersigned Complainant after having been duly sworn to in accordance with law, accuses WILFREDO SUGANO y ALARCON, of the crime of Rape, committed as follows:

"That on July 25, 1994, at 2:00 o'clock in the early morning, more or less, inside Agora Market, Agora, Lapasan, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with the use of force and lewd design, did then and there wilfully, unlawfully

and feloniously have sexual intercourse with complainant Lani M. Sugano, 15 years old, a virgin, against the will of the latter.

That the offense is committed with the aggravating circumstance of insult or in disregard of the respect (due the offended party) on account of the fact that the accused is the father of the complainant.

Contrary to and in violation of Article 335, in relation to Article 14, par. 3 of the Revised Penal Code as amended by R. A. No. 7659."^[2]

Criminal Case No. 94-1063

"The undersigned Complainant after having been duly sworn to in accordance with law, accuses WILFREDO SUGANO y ALARCON, of the crime of Rape, committed as follows:

That on August 28, 1994, at about 3:00 o'clock in the early morning, more or less, inside Agora Market, Agora, Lapasan, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with the use of force and lewd design, did then and there wilfully, unlawfully and feloniously have sexual intercourse with complainant Lani M. Sugano, a 15-year-old virgin, against the latter's will.

That the offense is committed with the aggravating circumstance of insult or in disregard of the respect (due the offended party) on account of the fact that the accused is the father of the complainant.

Contrary to and in violation of Article 335, in relation to Article 14, par. 3 of the Revised Penal Code as amended by R. A. No. 7659."^[3]

The accused pleaded "not guilty" upon arraignment.

At the trial, the prosecution presented six (6) witnesses, namely: Lani Sugano, the private complainant; Liezel Sugano, the complainant's nine-year old sister; Dr. Aziel Diel, a doctor at the Northern Mindanao Regional Hospital, who issued the Medical Certificate marked as Exhibit "A"; Ernie Palanan, a reporter in Bombo Radyo, Cagayan de Oro City; Emarie Lumbre, a social worker of the DSWD; and SPO4 Loreto Veloz of the PNP Cagayan de Oro City.

The prosecution's version of the incidents stated in the appellee's brief is as follows:

"Complainant Lanie Sugano was 15 years old at the time the three (3) incidents of rape complained of were committed (p. 5, TSN, March 1, 1995; p. 46, TSN, March 13, 1995). She was the eldest among five (5) siblings. (p. 13, TSN, *ibid.*; p. 8, TSN, December 7, 1995) Appellant, a carpenter by occupation, lived with his family in their market stall inside the Agora Market at Lapasan, Cagayan de Oro City, (pp. 5-10, TSN, December 7, 1995). Every day, appellant's wife, Salvacion Sugano, would leave their stall early in the morning to sell snacks and drinks at a bus terminal located about sixty (60) meters away (p. 12, TSN, March 1, 1995; pp. 36-37, TSN, March 13, 1995; pp. 12-15, 21, TSN, December

7, 1995).

At about 4:00 o'clock in the morning of June 30, 1994, Lanie Sugano was left alone asleep inside their stall (p. 6 TSN, March 1, 1995). Momentarily, she was awakened when she felt someone heavy on top of her. She noticed too that her shorts and panty had been removed. When fully awakened, she found out that it was her father on top of her. Immediately, Lanie kicked and pushed him aside. She shouted for help but no one heard her. To overcome Lanies' resistance, appellant slapped her hard. She lost consciousness. When Lanie regained consciousness she found that she had been sexually abused. When her mother arrived later that morning, Lanie reported what appellant did to her. Her mother, however, did not believe her. (pp. TSN, 7-10 *ibid.*)

Appellant's evil desires persisted. At about 2:00 o'clock in the early morning of July 25, 1994, while Lanie was asleep, appellant once more molested her. Her father removed her shorts and panty. And when Lanie woke up she found her father on top of her. Again, appellant raped her. Lanie resisted but her puny attempts to thwart off her father were futile. When the incident occurred Lanie's mother was away attending to their business. Lanie again reported the sexual assault perpetrated by appellant. As before, her mother refused to believe her. Lanie asked her mother to examine her vagina in an effort to convince her. But, her mother brushed aside her story as totally incredible and what's more branded her a liar. All Lanie could do was cry (pp. 10-13, TSN, March 1, 1995).

Lanie thought that the dastardly act would not be repeated for a third time. She was wrong. At about 3:00 o'clock in the early morning of August 28, 1994, Lanie was again raped by her father. As the two previous incidents of rape, her father attacked while she was asleep. When she woke up and tried to resist, her father repeatedly beat her to submission with a wooden stick locally known as "kulise". As she had done in the previous incidents, Lanie again reported the matter to her mother and showed to her the contusions resulting from the beating she received. As usual, her mother was unmoved and unbelieving (pp. 13-15, TSN, March 1, 1995).

On September 2, 1994, a desperate Lanie escaped from their abode and sought the help of her Aunt Loling, her mother's sister, in Barangay Agusan, Cagayan de Oro City. Lanie narrated to her aunt what she had suffered in the hands of her father. Lanie's aunt advised her not to return to their stall. Firstly, she suggested that the matter be kept within the family and settled amicably. Lanie did not like her aunt's suggestion and vowed to pursue the case on her own. Her aunt then advised her to go home but Lanie refused (pp. 15-16, TSN, March 1, 1995).

Undaunted, Lani proceeded to the house of her friend, Lina Montellano, and sought her help. Lina gladly offered assistance. Accompanied by Lina and Lanie's sister, Liezel, Lanie went to "Radio Bombo", a local radio station in Cagayan de Oro City where she was interviewed. Lanie revealed her ordeal on the air (pp. 16-17, TSN, March 1, 1995; pp. 21-

23, TSN, May 2, 1995).

On September 5, 1994, Lanie was accompanied to the hospital for physical examination (pp. 18-19, TSN, March 1, 1995). Dr. Azil Diel, resident physician of Northern Mindanao Regional Training Hospital, Cagayan de Oro City, examined her (pp. 17-24, TSN, March 14, 1995). On the basis of her examination Dr. Diel issued a Living Case Report (p. 3, Exhibit "A", Record) with the following findings, to wit:

xxx Genital Examination:

Mons-pubis- sparse fully grown pubic hair.
Introitus- nulliparous
Labia majora & minora- coaptated
Hymen- healed incomplete superficial laceration at 3 o'clock & incomplete superficial lacerations at 6, 9 & 11 o'clock positions at the face of the watch, the edges of which are sharp & coaptable.

Conclusion:

Medical evidence suggestive of sexual intercourse is present
xxx

xxx (p. 15, Exhibit "A", Record)

Lanie and Liezel were referred to the DSWD for custody (pp. 6-8, TSN, May 5, 1995; pp. 25-27, TSN, May 2, 1995). Thereafter, Lanie was accompanied to the PNP station, and thereafter to the City Prosecutor's Office where she formally filed her complaint (pp. 17-18, TSN, March 1, 1995; pp. 8-10, TSN, May 5, 1995; pp. 15-26, TSN, May 23, 1995.)"^[4]

The evidence of the defense consisted of the sole testimony of the accused:

"Wilfredo Sugano testified that the accusations against him were merely concocted and fabricated by his daughter to spite him as he had in the past been beating her. He did it for no other reason but to discipline his daughter as she always go out of their house and would not return home. He testified that during the alleged incidents, he was always in the company of his wife in the early morning hours of those dates assisting her in selling snacks at the Agora market for which reason could not have raped his daughter. (TSN, Dec. 7, 1995, pp. 14-22)"^[5]

The trial court rendered judgment on August 27, 1996 as follows:

"WHEREFORE, in view of all the foregoing considerations, accused Wilfredo Sugano y Alarcon, is hereby found guilty beyond a reasonable doubt of the crime of Rape as defined and penalized under Article 335 of the Revised Penal Code, as amended and hereby sentences him in Criminal Cases Nos. 94-1061, 94-1062 and 94-1063 to death by electrocution in each case; accused is likewise, ordered to pay Lani Sugano in each case, the amount of Fifty Thousand Pesos (P50,000.00)

by way of moral damages conformably to current jurisprudence. Costs against the accused."^[6]

The case is before us on automatic review, accused raising a lone assignment of error:

"The trial court gravely erred in giving full weight and credence to the testimony of the private complainant despite its manifest inconsistencies."

Accused-appellant argues in his brief that Lani testified that she lost consciousness when her father slapped her during the first alleged rape that took place on June 30, 1994; yet she stated that she suffered extreme pain because of the insertion of her father's penis into her vagina. Lani testified that she was sexually assaulted by her father without being kissed in the neck or in the lips or touching her breast, an "unusual fashion in carrying out the lust of the accused." It is also contended that the alleged rape could not possibly have been consummated without being noticed by the other occupants of the house. Accused-appellant suggests that because Lani had a boyfriend, and ran away from home for a few days before she submitted herself to a medical examination, the positive result of the medical examination might have been borne out of the relationship with her boyfriend. Moreover, it was an unnatural reaction for Lani not to leave her home after the first alleged rape considering that her mother was nonchalant about her fate. Finally, accused-appellant claims that Liezel's testimony was rehearsed as shown by her "eloquent" replies to routine questions but she "mumble(d)" when asked "unprecedented but simple" questions.

We are not persuaded by the appellant's arguments.

The evidence for the prosecution consisted principally of the testimony of the complainant Lani Sugano. As regards the incident that happened on August 28, 1994, her testimony is corroborated by her nine-year old sister Liezel.

This Court has time and again ruled that the sole testimony of the victim in a rape case is sufficient to sustain a conviction if such testimony is credible.^[7] By the very nature of rape cases, conviction or acquittal depends almost entirely on the credibility of the complainants because of the fact that usually only two people - the accused and the complainant- can testify as to its commission.^[8]

We have scrutinized the testimony of the witnesses together with the evidence and find that the trial court's finding of conviction should be sustained.

The testimony of the victim is clear and positive:

That on June 30, 1994 at 4:00 o'clock in the morning she was sleeping in a "room" (which is only separated from the "sala" by a piece of wood) in the market stall at Agora Lapasan market where the family was staying; her mother was in the market selling snacks at the "painitan" located at the crossing about 60-65 meters away from the said stall; her father, the accused, entered the room, removed her short pants and panties, and mounter her. She was awakened when her father was on top of her, and she kicked him and pushed ("wakli") him away and shouted for help twice, but nobody came. Her sister, who was sleeping to her left was not awakened