

SECOND DIVISION

[G.R. No. 119956, August 05, 1999]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CRESENTE NAPIOT, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision^[1] of the Regional Trial Court of Pagadian City, Branch 18, finding accused-appellant Cresente Napiot guilty of rape and sentencing him to suffer the penalty of *reclusion perpetua* and to indemnify the victim in the amount of P40,000.00.

The information in this case alleged

That on or about the 15th day of August 1976 at about 6:30 o'clock in the evening at Barangay Dongos, Municipality of Dinas, Province of Zamboanga del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by means of violence, force and intimidation, did then and there wilfully, unlawfully and feloniously succeed in having carnal knowledge with one Rosario B. Naves against the latter's will.

Act contrary to Article 335 of the Revised Penal Code.^[2]

Accused-appellant pleaded not guilty, whereupon, trial on the merits ensued.

The prosecution presented as its sole witness complainant Rosario B. Naves, who testified as follows:^[3]

Rosario (then 17 years old) and her sister Teodora (then 20 years old) both single, were living with their mother in Barangay Dongos, Dinas, Zamboanga del Sur in a house which was about 600 meters from that house of accused-appellant. Between the two houses were a two-hectare farmlot planted to corn owned by Flordeliza, accused-appellant's wife, and a one-hectare lot planted to corn and rice owned by accused-appellant's father. Flordeliza is Rosario's sister.

After being delivered of her second child, Flordeliza decided to stay in her mother's house. On August 15, 1976, Flordeliza's younger sisters, Rosario and Teodora, were requested by accused-appellant to help in the harvest of corn.

At about 6:00 p.m., Rosario, Teodora, and accused-appellant decided to go home. Teodora went ahead as she still had to feed the pigs. After bringing her harvested corn ears to the house of accused-appellant, Rosario bade goodbye, but accused-appellant wanted to take her home. Rosario walked ahead carrying a torch, while

accused-appellant followed with a scythe in his hand. On their way, accused-appellant asked Rosario to accompany him to some coconut trees from which could he gather "*tuba*." Rosario obliged. As they went along, accused-appellant ordered her not to make any noise otherwise he would kill her. Upon reaching the farmland of Julio Sumalpong, about 200 meters away from the main road, accused-appellant embraced Rosario and started fondling her breast. As Rosario was screaming, accused-appellant covered her mouth and threatened to kill her. He dragged her to a grassy spot. He boxed her twice in the abdomen, forcing her to a sitting position on the ground. Accused-appellant pushed and pinned her down and then sat on her. He took off his pants and ordered her to do likewise, but she refused. Accused-appellant therefore ripped the front part of her pants and removed her underwear. He then lay on top of her, pressed both her hands against his elbows, inserted his penis into her vagina and performed the sexual act. Rosario said she could not remember how many times accused-appellant had sexual intercourse with her because she was dazed and lost consciousness, but she remembered the intense pain she felt. Crying and with only a blouse to cover her body, she and accused-appellant proceeded to the house of Rosario's mother. She was warned not to tell anybody about the incident or act in an unusual manner that would make her mother or sisters suspect anything wrong.

When accused-appellant and Rosario reached the house, only accused-appellant went inside to look for clothes she could wear. She stayed at the yard. Accused-appellant then took Rosario to the house of Claudia Vda. de Naves, who is the latter's sister-in-law, about 500 meters away. Accused-appellant ordered Rosario to tell her sister-in-law that she was accompanied by her brother after letting his carabao graze. Accused-appellant remained outside the house to make sure that Rosario did not tell her sister-in-law what had happened to her.

The following morning, August 16, 1976, finding that accused-appellant had gone home, Rosario went to the house of her elder brother, Eulalio Naves. Eulalio was sick, so she told her story to Eulalio's wife who, after learning what had befallen Rosario, lost no time in telling Rosario's mother and sister. Rosario was taken home by the husband of her eldest sister. When she reached her house, she washed herself. She later went to see Dr. Francisca Pineda-Jose, municipal health officer of Dinas, Zamboanga del Sur, who, after examining her, issued a medical certificate (Exh. A) containing the following physical findings:

1. Contusion - chin
2. Wound - lower lip
3. No sign of external violence on other parts of the body
4. Internal examination:
 - a. One finger is easily admitted into the vaginal cavity
 - b. Hymen is no longer intact
 - c. Fresh lacerations are found on the 9:00 o'clock, 2:00 o'clock, and 5:00 o'clock positions

d. No semen can be obtained inside

Rosario also reported the incident to the barangay captain of Dongos, Dinas, Zamboanga del Sur, who advised her to report the matter to the police. Complainant Rosario B. Naves^[4] was 17 years old when she was raped on August 15, 1976. Her assailant was her brother-in-law. Accused-appellant was never apprehended until September 27, 1993. He was eventually arrested by the police authorities of Initao, Misamis Oriental, who sent a radio message to the Integrated National Police (INP) of Dinas, Zamboanga del Sur. As Rosario, with the consent of her husband, showed interest in pursuing the rape case against the accused-appellant, the Dinas police fetched accused-appellant from Initao, Misamis Oriental. He was later detained at the Municipal Jail of Dinas, Zamboanga del Sur on April 14, 1993 and thereafter committed to the Provincial Jail of Pagadian City on July 26, 1993 during the pendency of the case.

On August 17, 1976, Rosario executed a sworn criminal complaint (Exh. C) before the Municipal Trial Court of Dinas, Zamboanga del Sur, accusing accused-appellant of raping her on August 15, 1976. On June 14, 1993, the Assistant Provincial Prosecutor of Zamboanga del Sur filed an information for rape against accused-appellant.

Cresente Napiot denied the charge and interposed the defense of alibi, claiming that he was in his father's house in Pamantakan, Bukidnon when the rape allegedly occurred on August 15, 1976. He said that the rape charge against him was fabricated by the Naves family as they resented the marriage of Flordeliza to him by reason of his poverty. They also believed that the death of Rosario's elder brother Fernando Naves (husband of Claudia Vda. de Naves) in 1975 due to typhoid fever was caused by sorcery practiced by accused-appellant's mother. Fernando and accused-appellant had a misunderstanding concerning the boundaries of their respective farmlots. For this reason, on August 13, 1976, Rosario and her brother Yolando went to accused-appellant's house and confronted him. When he realized that his wife Flordeliza sided with Rosario and Yolando, he hurled invectives at her, calling her and Rosario prostitutes.

Accused-appellant explained that he suddenly left Zamboanga del Sur because his wife and the latter's paramour, Baloloy Matapa (Rolando Matapa), in the act of kissing in their house at about 6:00 p.m. in August 1976. Accused-appellant had arrived from work and he saw his wife and the latter's lover kissing when he peeped through a hole. Even though he was hurt by what he saw, he was unable to do anything because his wife's paramour was much bigger and was armed with a bolo. According to accused-appellant, he decided to leave their house on August 14, 1976 and went to Pamantakan, Bukidnon. Years later, Flordeliza and her paramour lived together as husband and wife in his house and begot a child. In 1981, accused-appellant went to the house of his parents in San Jose, Dinagat, Surigao and engaged in farming. He did not return to his wife Flordeliza because of the threats to kill him in retaliation for the death of Fernando. He wrote his wife a letter asking her to stay with him in Bukidnon, but she refused. In 1991, he went to Initao, Misamis Oriental and stayed in his sister's house. Since then, he had never written his wife Flordeliza because he was informed that she got married to Rolando Matapa. On April 14, 1993, accused-appellant was arrested by the police authorities of Dinas, Zamboanga del Sur.^[5]

Casiana Napiot, 70 year old mother of accused-appellant, was also presented. She corroborated accused-appellant's claim that their family was being held responsible for the death of Fernando Naves. The Naves family believed that she was practicing black medicine which caused the death of Fernando. She also stated that she learned of the illicit relationship of Flordeliza and her paramour Rolando Matapa sometime in August 1976. She was informed that Flordeliza wanted to separate from accused-appellant so that Flordeliza could live with Matapa. Moreover, Eulalio and Yolando Naves were looking for him. Thus, on August 14, 1976, accused-appellant left for Bukidnon and lived there. She presented a letter of transmittal of the complaint of accused-appellant, dated August 9, 1994 (Exh. 1), addressed to the Provincial Prosecutor of Pagadian City with an attached complaint-affidavit (Exh. 2) for adultery against Flordeliza and Matapa. Other supporting documents were also presented, to wit, the marriage contract between accused-appellant and Flordeliza dated October 11, 1969 (Exh. 3), a certification, dated March 9, 1994 (Exh. 4), issued by the Office of the Local Civil Registrar of Dinas, Zamboanga del Sur, to the effect that Rosalie N. Matapa was born on February 3, 1991 at Dongos, Dinas, Zamboanga del Sur to Flordeliza B. Naves and Rolando G. Matapa who were married on September 18, 1989.^[6]

On February 27, 1995, the trial court rendered a decision finding accused-appellant guilty of rape. The dispositive portion of its decision reads:

WHEREFORE, finding the guilt of the accused to have been proven beyond reasonable doubt by the prosecution, the Court finds the accused CRESENTE NAPIOT GUILTY of the crime of Rape and hereby sentences the said accused CRESENTE NAPIOT to suffer an imprisonment of RECLUSION PERPETUA, Article 335, par. 2 of the Revised Penal Code, considering the crime was committed before lifting the effectivity of the death penalty which have been suspended for sometime; and to indemnify the victim in the sum of P40,000.00.

SO ORDERED.^[7]

Hence, this appeal. Accused-appellant contends that the trial court erred in giving weight to the testimony of complainant Rosario B. Naves that she was raped and insinuates that Rosario consented to have sexual intercourse with him.

First. We find accused-appellant's contention to be without merit. To begin with, the rule is that the trial court's findings will be respected and sustained on appeal unless it is shown the trial court had overlooked facts or circumstances of weight and substance which will alter its findings. For indeed, the evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court, considering its opportunity to observe the witnesses and their demeanor, conduct, and attitude, especially under cross-examination.^[8] With reference to prosecutions for rape, this Court is guided by the following considerations in the evaluation of the evidence: (a) an accusation for rape can be made with facility, it is difficult to prove it but more difficult for the person accused, though innocent, to disprove it; (b) in view of the nature of the crime in which only two persons are involved, the testimony of complainant must be scrutinized with extreme caution; (c) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.^[9]