

SECOND DIVISION

[G.R. Nos. 119418, 119436-37, October 05, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JOAQUIN CARATAY ALIAS "JACK", ACCUSED-APPELLANT.**

D E C I S I O N

QUISUMBING, J.:

On appeal is the Decision dated December 29, 1994, promulgated by the Regional Trial Court of Tanauan, Batangas, Branch 6, in Criminal Cases Nos. 2374, 2375 and 2376, convicting appellant of three counts of rape. The decretal portion of the Decision reads:

"WHEREFORE, Joaquin Caratay is hereby found guilty of having raped Lea Tayag on June 13, 1991 (Criminal Case No. 2374); on August 27, 1991 (Criminal Case No. 2375) and on December 23, 1991 (Criminal Case No. 2376) and sentenced to suffer three penalties of *reclusion perpetua*; and to indemnify Lea Tayag in the amount of P50,000.00, by way of moral damages.

"SO ORDERED."^[1]

The factual background of the present case, as culled from the records, is as follows:

Joaquin Caratay has a legitimate wife in Putuhan, Tanauan, Batangas. However, this did not prevent him from entering into a common-law relationship with Felicisima Medel, a younger sister of the mother of private complainant Lea Tayag. Joaquin and Felicisima lived together in the house of Lea's maternal grandmother in San Rafael, Sto. Tomas, Batangas. This house was just next door to the house where Lea lived. Notwithstanding the fact that Joaquin was not legally married to Felicisima, Lea called him "*Tiyo*" or uncle.^[2]

Joaquin is a former military man. He was 36 years of age at the time of the alleged offense. The trial court described him as being about five feet nine inches, husky, and weighed between 180-190 pounds.^[3]

Lea was only 13 years old when she was allegedly raped. A wisp of a girl, she stood around five feet four inches. The court below found her "very feminine looking."^[4] She became pregnant and gave birth to a baby girl on April 30, 1992.

On August 6, 1992, the Provincial Prosecutor of Batangas filed three informations with the Regional Trial Court of Tanauan, Batangas, charging appellant with three separate incidents of rape committed against complainant. The informations were respectively docketed as Criminal Cases Nos. 2374, 2375, and 2376.

The information in Criminal Case No. 2374 alleges:

"That on or about the 13th day of June 1991, at about 1:00 o'clock in the afternoon, at Barangay San Rafael, Municipality of Sto. Tomas, Province of Batangas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a firearm, by means of force and intimidation, did then and there wilfully (sic), unlawfully and feloniously lie with and have carnal knowledge of the said Lea Tayag y Medel against her will and consent.

"CONTRARY TO LAW."^[5]

In Criminal Case No. 2375, the accusatory portion of the information reads:

"That on or about the 27th day of August 1991, at about 11:00 o'clock in the morning, at Barangay San Rafael, Municipality of Sto. Tomas, Province of Batangas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a firearm, by means of force and intimidation, did then and there wilfully (sic), unlawfully and feloniously lie with and have carnal knowledge of the said Lea Tayag y Medel against her will and consent.

"CONTRARY TO LAW."^[6]

For Criminal Case No. 2376, the information states:

"That on or about the 23rd day of December 1991, at about 11:00 o'clock in the morning, at Barangay San Rafael, Municipality of Sto. Tomas, Province of Batangas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a firearm, by means of force and intimidation, did then and there wilfully (sic), unlawfully and feloniously lie with and have carnal knowledge of the said Lea Tayag y Medel against her will and consent.

"CONTRARY TO LAW."^[7]

Appellant pleaded not guilty when arraigned. Thereafter, the cases were consolidated. Trial on the merits ensued.

The trial court synthesized the complainant's and prosecution's version of the incidents as follows:

Criminal Case No. 2374:

"[O]n June 13, 1991 at about one o'clock in the afternoon, the accused called her and she went to the house of Felicisima. The accused gave her 'lugaw' and 'he must have placed something in the porridge' because she felt dizzy after eating it. Caratay then told her to go the bedroom. There, he removed her clothes and had a (sic) carnal knowledge of her ("Isinuot po iyong kanyang tete sa aking puke"). She tried to extricate herself from him but failed because he was stronger and at that time, she "was still small,' fourteen years old and dizzy from that something in the porridge. When she woke up, Caratay was beside her and she was naked. She felt pain in her private part, which was bleeding. She did not report the incident because, according to her, "we will be put to shame in our

barrio and if my mother knows what happened the barrio people will know also.”^[8]

Criminal Case No. 2375:

“On August 27, 1991, she went next door in (sic) the house of her grandmother because she wanted to talk to her and thinking that Caratay went home to his legal wife at barrio Putuhan and that only her grandmother was there. But when she entered the house, nobody was there except the accused who poked a gun at her side and told her to remove her clothes, threatening her that he would kill her parents if she refused to do so but it was Caratay himself who removed her clothes and ordered her to lie down. She cried and wanted to shout and open the door but nobody would hear her because their house was separated by a high side wall. Again, he inserted his penis in her vagina and “after he finished” she told him to leave but when he did not leave, she put on her clothes and went home. The accused threatened to kill her if she told anyone about what happened. She could not tell her mother because the latter had a ‘heart ailment’. After that incident, the accused went home to his house at Putuhan where his wife lives.”^[9]

Criminal Case No. 2376:

“On December 23, 1991 at about eleven o’clock in the morning, her aunt, Felicisima and the accused were quarrelling. Caratay ordered Felicisima to call her. Once inside the house, Caratay took hold of her, told her not to shout, and pulled her to the room. He undressed her and again succeeded in having carnal knowledge of her, despite her efforts to push him off but she could not do anything ‘because he was heavy.’ All the while her aunt Felicisima was in the sala crying ‘because she does not like what Caratay was doing to her but what she wanted is that Caratay will not leave her or be separated from her.”^[10]

In all three cases, appellant admitted having had sex with private complainant. However, he vigorously denied having raped her. As found by the trial court, he contended that:

“[S]he voluntarily consented to their sexual contacts (*kusang loob*). In fact...she initiated the illicit (sic) affair by sitting on his lap, embracing him watching him while he took a bath and pressed his private part. He often told her to stop because he might be tempted. They finally had sexual contact in the later part of the year 1990. Felicisima, his common-law wife and the aunt of Lea, knew of their relationship but without sexual contact. When he told her (Felicisima) that he would leave her because of Lea’s continuing relationship with him, Fely cried. Fely herself gave him Lea’s letters...”^[11]

For his defense, he submitted an undated love letter (Exhibit “1”),^[12] allegedly written by complainant to him. He claimed that there were other letters but he had destroyed them since his lawful spouse might see them.

During her rebuttal testimony, complainant denied writing Exhibit “1”. She declared that the handwriting in the letter was Felicisima’s. For comparison purposes, she

wrote her name and copied a portion of Exhibit "1" in a separate sheet of paper, Exhibit "D."^[13]

The trial court did not lend credence to appellant's "sweetheart theory". He was convicted on all three counts.

On February 16, 1995, appellant filed his notice of appeal.^[14] Because of the penalty, *reclusion perpetua*, the case is now before us.

Appellant raises the following errors:

I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL CREDENCE TO THE TESTIMONY OF THE COMPLAINANT WHICH IS INCREDIBLE, UNRELIABLE, THEREFORE NOT SUFFICIENT TO SUSTAIN A CONVICTION BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT GRAVELY ERRED IN NOT ACQUITTING ACCUSED-APPELLANT WHEN THE EVIDENCE ADDUCED BY THE PROSECUTION FAILED TO OVERCOME THE PRESUMPTION OF INNOCENCE IN THEIR (sic) FAVOR BY CLEAR AND CONVINCING EVIDENCE OF GUILT BEYOND REASONABLE DOUBT.^[15]

Simply stated, the issues on appeal are: (1) Whether the offended party's testimony was credible and convincing; and (2) Whether or not the prosecution had overcome the presumption of innocence of the accused and proved his guilt beyond reasonable doubt.

Appellant contends that the complainant's testimony is not credible on crucial points because:

(1) In Criminal Case No. 2374, she testified that she felt dizzy and unconscious because appellant must have "placed something in the porridge."^[16] Nonetheless, she was still able to recall and narrate the details of their sexual intercourse in court. There is also no showing that she resisted or protested the sexual advances of appellant or sought her aunt's assistance in preventing the alleged rape. To support his contention, appellant relies on complainant's testimony under cross-examination, to wit:

"Q: Is it right that you (sic) auntie was at the back of your house and washing clothes?

A: Yes, sir.

Q: In your statement you said that and I quote: '*At wala itong si tiya at si Joaquin doon sa cuarto at ng ako ay lumabas ay nakita kong nakaupo silang dalawa sa salas at nagtatawanan, at sinabi nitong si Joaquin at ni tiya na huwag na huwag akong magsusumbong sa aking ina o kanino man...*' which is correct now?

A: They were laughing at a different matter and my uncle told me not to report the matter.

Court: Was this the first time or another time because the first time you said when you went out of the room your auntie was washing clothes?

A: During the first time she was washing for a short time.

ATTY MERCADO:

Q: But you said that when you went out of the room your auntie was washing clothes, which is correct?

A: Both are correct because my auntie washed for a short time and she was called by my uncle Jack and when I went out of the room they were in (the) sala. They were talking and laughing and that was the time when Caratay told me not to report.”^[17]

(2) In Criminal Case No. 2375, the conduct of complainant in going back to the appellant’s residence after she had allegedly been raped there on June 13, 1991 is not in accord with human behavior, logic, and common sense. She did not act like a woman robbed of her honor by returning to her place of ravishment. Appellant argues that if complainant was really raped on June 13, 1991, she would have taken the necessary precautions in order to prevent him from repeating the same. Common sense would also dictate that she would avoid her grandmother’s house, knowing fully well that appellant was living there. Complainant’s explanation that she thought her aunt would help her report the rapes to the authorities is devoid of merit, as she had testified that her aunt had something to do with what had happened to her.^[18]

(3) In Criminal Case No. 2376, complainant’s testimony shows that she was on her way to Alabang, Muntinlupa City when she was called by her aunt and prevented from going to Alabang. She was then brought inside her grandmother’s house where she was raped for the third time. However, her testimony also showed her mother was inside their house cooking but she did not tell her mother that she was being prevented from going to Alabang. Although she knew that appellant was in her grandmother’s house at that time, she still went inside. Such behavior is inconsistent with her allegedly having been raped twice in that same house.

(4) In all three cases, complainant’s failure to immediately notify the authorities or, at the very least, her mother about her harrowing experience seriously affects the veracity of her narration. There is no reason why it took her all of 14 months to file the cases for rape when appellant never threatened her or the lives of her family. She had many opportunities to tell her mother about her ordeal. While she testified that she was raped at gunpoint in Criminal Case No. 2375, her life was in no danger after appellant went home to his legal wife in Putuhan, Tanauan, Batangas and thus had all the opportunity to confide in her mother.

Appellant contends that all of the above clearly shows that the rape charges against him were fabricated.

Appellant’s arguments fail to persuade this Court.