

FIRST DIVISION

[G.R. Nos. 115657-59, June 26, 1998]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DOMINGO STA. ANA Y TUPIG, ACCUSED-APPELLANT.**

DECISION

PANGANIBAN, J.:

A rape case presents a "he said, she said" scenario. In this appeal, the Court is tasked to decide whom to believe -- the appellant or the private complainant? This is not an easy undertaking. On the one hand, the Court has to keep in mind that a rape victim is a victim many times over. She is physically, psychologically, emotionally and socially scarred. Oftentimes she suffers in silence, and this may last a lifetime. Justice must be rendered to her. On the other hand, the Court must also remember that an accusation of rape can be made with facility, and while the accusation is difficult to prove, it is even harder for the accused, though innocent, to disprove.^[1] The charge of rape must be proven with moral certainty, lest there be a miscarriage of justice.

The Case

Domingo Sta. Ana was charged with rape committed on three different occasions against Judilyn Obera. Before the Regional Trial Court of Kalookan City, Branch 120, three Criminal Complaints, treated as Informations,^[2] were filed against him on August 10, 1992, setting forth identical allegations save for the dates of the commission of the offenses:

"That on or about the 22nd day of April 1992 (in Criminal Case No. 40645)^[3], in Kalookan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of threats and intimidation, did then and there wilfully, unlawfully and feloniously lie and have sexual intercourse with JUDILYN OBERA Y PROVIDO a minor of 12 years of age (11 years of age in Criminal Case No. 40647) against her will and without her consent.

CONTRARY TO LAW."^[4]

On arraignment, the appellant, with the assistance of Counsel *de Oficio* Ernesto Gaboy,^[5] pleaded not guilty to all the charges against him. The three criminal cases were jointly tried and, thereafter, the trial court rendered a Decision dated April 22, 1994, finding him guilty beyond reasonable doubt of three counts of rape. The dispositive portion of the assailed Decision^[6] reads:

"WHEREFORE, finding that the prosecution evidence established the guilt of the accused beyond reasonable doubt in the three (3) crimes of rape, the Court hereby imposes [the] penalty of [r]eclusion [p]erpetua for each

rape committed by the accused as provided under Article 335 of the Revised Penal Code and to indemnify the offended party the sum of P50,000.00.

SO ORDERED.”^[7]

Hence, this appeal.^[8]

The Facts **The Version of the Prosecution**

The prosecution presented five witnesses: Judilyn Obera,^[9] the complainant; Margarita Obera,^[10] mother of the complainant who testified to the victim’s age; SPO1 Leonardo Balinang,^[11] one of the four policemen who apprehended the appellant and brought him to the police station; SPO3 Bienvenido Santianes,^[12] the investigating officer who received the complaint, took down complainant’s sworn statement and sent the team which arrested the appellant; and Dr. Juan B. Zaldariaga, Jr.,^[13] the NBI medico-legal officer who examined the victim.

The solicitor general summarized the People’s version of the facts as follows:

“On November 28, 1991, at around 6:30 in the evening, private complainant Judilyn Obera, who was born on February 11, 1980, was walking along Lawaan Alley, Macaneneng Street, Bagong Barrio, Kalookan City towards her house at 69 Miralle Street, Bagong Barrio, Kalookan City when appellant Domingo Sta. Ana saw her and pulled her towards appellant’s house which is located at 233 Lawaan Alley, Bagong Barrio of the same city. Appellant then poked a knife at Judilyn’s neck, covered her mouth with a handkerchief and, thereafter, raped her. Judilyn cried because of the severe pain she felt. After raping Judilyn, appellant threatened her not to tell anybody about the incident, or else, he would kill her as well as her parents, brothers and sisters (Exh. “B”, p. 159, Records; tsn., Nov. 9, 1992, pp. 3-5 and 13).

On February 17, 1992, at around 7:00 in the evening, Judilyn was at her house when Didel Sta. Ana, appellant’s daughter and friend of Judilyn, called and told Judilyn to help her in preparing barbecue. However, when Judilyn went to Didel’s house (she lives with appellant), the latter was not in the house as she had left already. Appellant, who was in the house, called Judilyn and suddenly poked a knife at her neck. Appellant then embraced Judilyn, kissed her lips and ears and pulled down her panties. He then took off his pants and had sexual intercourse with her for about five minutes. Thereafter, appellant told Judilyn to wait on one of the chairs inside the house for another five minutes and then told her to go home. Appellant also threatened to kill Judilyn (tsn., Nov. 9, 1992, pp. 4-7).

On April 22, 1992, Didel Sta. Ana invited Judilyn to see a movie. Didel told private complainant that the former’s father, appellant, was not going with them. However, when Judilyn met with Didel, the latter was with appellant. When told by Didel that appellant would not sit beside her, Judilyn finally agreed to see a movie with Didel and appellant. Thereafter, at around 7:00 in the evening and after watching a movie,

Judilyn went with Didel and appellant to the latter's house. Appellant then sent her [sic] daughter Didel to the market for an errand. After Didel left, appellant poked a knife at Judilyn's neck and threatened to kill her if she would tell anybody about the incident. He then pulled down her panties and took off his pants and his briefs. Appellant had Judilyn sit on a chair and then had sexual intercourse with her. Appellant then told Judilyn to go home (tsn., Nov. 9, 1992, p.4, 7-9; tsn., Jan. 14, 1993, pp. 9 and 15).

Judilyn kept the three rape incidents to herself because she was afraid of the threats made by the appellant (tsn., Jan. 14, 1993, pp. 10-11).

However, on July 23, 1992, something happened which forced Judilyn to tell her parents about the rape incidents. Judilyn's parents were wondering why the former's stomach was getting large, thus prompting the latter to bring their daughter to an "albularyo" to determine whether private complainant was pregnant or not. When informed by the "albularyo" that she was pregnant, Judilyn thereupon told her parents that she was raped by the appellant (tsn., Nov. 9, 1992, p. 9; tsn., Jan. 14, 1993, p. 12).

Thereafter, three (3) separate complaints for rape were filed against appellant (Exhs. "I", "J" and "K"; tsn., Nov. 9, 1992, pp. 10-11). On December 14, 1992, Judilyn gave birth (tsn., Nov. 9, 1992, p. 9)."

The Version of the Defense

Appellant Sta. Ana contends that he could not have committed the purported rapes against Private Complainant Obara because she was the friend of his daughter^[14] and, on the dates of the alleged rapes, he was at his barbecue stall.^[15] He adds that he was forced by the police to admit the accusation against him and that, while he was in the custody of the lawmen, he was not allowed to secure his own counsel.

During the trial, the defense presented three witnesses: the appellant himself, who denied the charges; Beatriz Doktor, a balut vendor who testified that, on the dates of the alleged rapes, appellant was vending beside her in Macaneneng Street, Bagong Barrio, Kalookan City; and Didel Sta. Ana, appellant's daughter who was also the complainant's best friend.

In his Brief,^[16] appellant submitted the following Statement of Facts:

"1. Accused-Appellant is a widower, 47 years old, with three grown children, whose main source of livelihood was vending meat barbecue in the neighborhood of Bagong Barrio, Kalookan City (TSN of the direct examination of Accused-Appellant dated 01 February 1994, at p. 2).

2. On 06 August 1996, while walking along Makeneneng Street, Bagong Barrio, Kalookan City, Accused-Appellant was accosted by four policemen from Bagong Barrio Police Station. The policemen, after having ascertained his identity, informed him that someone filed a complaint of rape against him (TSN of testimony of SPO1 Leonardo Balinang, 06 October 1992, at p. 4).

3. Immediately, Accused-Appellant was handcuffed, forced to board the police service vehicle and brought by the apprehending policemen to the police station (TSN, 01 February 1994, at p. 4).

4. Upon arrival at the police station, the Accused-Appellant was interrogated by said policemen, who forced him to admit to the accusations of Ms. Judilyn Obera. Accused-Appellant insisted on his innocence. He was punched on the stomach and at the back (TSN, supra, p. 4); thereafter, he was brought inside a cell and was not allowed to leave, except only to appear before the inquest prosecutor the following day, 07 August 1993, for inquest proceedings (TSN of cross-examination of SPO3 Bienvenido Santianes, Jr, 07 October 1992, at p. 9).

5. All the while that he was under the custody of the police, Accused-Appellant was not allowed to secure his own counsel; neither was he given the assistance of one. (TSN, 06 October 1992, at p. 7).

6. Subsequently, three separate Informations for rape were filed against him in the court a quo docketed as Criminal Cases Nos. 40645, 40646 and 40647.

7. During the trial, the prosecution presented the following witnesses: Margarita Obera, the mother of the complainant, who testified as to the victim's age; SPO1 Leonardo Balinang, one of the four policemen who apprehended Accused-Appellant and brought him to the police station; SPO3 Bienvenido Santianes, the investigating officer who received the complaint, took down the sworn statement of the complainant and sent the team which arrested the Accused-Appellant; the complainant, Judilyn Obera; and Dr. Juan Zaldariaga, the NBI medico-legal officer who examined the complainant and who testified as to the physical condition of the victim as of 03 August 1992, the date of medical examination.

8. On the other hand, the defense presented Accused-Appellant himself who denied the charges; Beatriz Doktor, a balut vendor who testified that on the dates of the alleged rapes, Accused-Appellant was vending beside her in Macaneneng Street, Bagong Barrio, Kalookan City; and Didel Sta. Ana, Accused-Appellant's daughter who was also the complainant's best friend.

9. After trial, Accused-Appellant was convicted by the trial court and sentenced to suffer the penalty of *reclusion perpetua*."

The trial court, on the other hand, presented the following summary of the evidence of the defense:

"Evidence for the defense, as per testimony of the accused, Domingo Sta. Ana, shows that he is a vendor residing at 233 Lawaan Alley, Bagong Barrio, Kalookan City. As a vendor, he woke up everyday at 5:00 o'clock in the morning to go to the market at Balintawak to buy meat for barbecue. He went home at 6:30 in the morning to prepare the barbecue and finished at 3:00 in the afternoon. At 4:30 in the afternoon, he started selling in Bagong Barrio and went home at 11:00 o'clock in the evening.

On August 7, 1992, he was caught by the police and brought to the precinct. They were forcing him to admit the crime and when he refused, they maltreated him. There was no investigation that took place and there was no lawyer who assisted him.

He further testified that on November 28, 1991, February 17, 1992 and April 22, 1992, a balut vendor was beside him when he was vending.

Beatriz Doktor, a balut vendor, testified that on November 28, 1991, February 17, 1992 and April 22, 1992, she and the accused were vending from 6:30 in the evening to 12 midnight.

Didel Sta. Ana, daughter of the accused, testified that everyday, she helped her father in preparing barbecue and in selling them at Peta Street. Her father started vending from 5:00 o' clock in the afternoon and went home at 12:00 midnight. In 1991, every night, the victim and her brother bought barbecue in their store. Sometime in January, 1992, the victim told her that her (victim) birthday was lonely because her brother did something wrong to her. She told the victim to tell her parents what happened to her but she did not tell her parents.

She further testified that in 1992, the victim stop[ped] going [to] their store. She came to know that the victim was pregnant when she was informed by the victim's brother. One time, she saw the victim [pass by] their store and noticed that the latter like[d] to eat sour foods. She heard from the brother of the victim that their mother noticed that the victim's neck became darker and her stomach [was] getting bigger. She was brought by her mother to a quack doctor (nagtatawas).

She declared that the victim Judilyn Obera Y Provido was her childhood friend and that on April 22, 1992, she and her father were in their house "nagtutuhog ng barbecue" (t.s.n., p. 11, February 23, 1994)."[17]

The Ruling of the Trial Court

The lower court gave full credence and probative weight to the evidence of the prosecution, especially to that of the victim, Judilyn Obera. Pertinent portions of the Decision are reproduced below:

"On the first rape, the private complainant has described in a clear, straightforward manner the details how the accused forced her inside the house, then poked a knife at her neck, removed her panty and inserted his penis into her vagina. She said that she cried because of the pain which was the natural reaction for a virgin like the private complainant for she was only less than 12 years old at that time.

xxx xxx xxx

The second alleged rape was committed when she was called by Didel to go to the house but when the private complainant arrived in the house, Didel was not in the house Then and there, the accused embraced her on the lips and ears and then pulled her party and insert[ed] his penis into the vagina for about five (5) minutes. He threatened her that he would kill her and her family if she would tell her parents about the incident and