

THIRD DIVISION

[G.R. No. 111165, July 17, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROGELIO MERCADO Y PEDRO, REYNALDO MERCADO, RODELIO
GUERRERO AND GERARDO MATIENZO, ACCUSED. ROGELIO
MERCADO Y PEDRO, REYNALDO MERCADO AND RODELIO
GUERERO, APPELLANTS.**

D E C I S I O N

MELO, J.:

The proclivity of some men to satisfy their bestial urges upon innocent and unwilling young girls is inhumanly atrocious and calls for unmitigated condemnation in the form of severe penalty.

Accused were charged with rape in an Information reading as follows:

That on or about October 24, 1986, at Barangay Banlic, Municipality of Calamba, Province of Laguna, and within the jurisdiction of this Honorable Court, the above-named accused while armed with long firearm with lewd design by means of force, violence and intimidation, conspiring, confederating and mutually helping one another did, then and there, wilfully, unlawfully and feloniously have carnal knowledge of ELIZABETH ILAGAN, a minor against her will and consent, to her damage and prejudice.

(p. 11, Rollo.)

After trial, the court a quo rendered a decision, disposing as follows:

IN VIEW OF THE FOREGOING, the Court finds the accused Rodelio Guerrero y Matienzo, Rogelio Mercado y Pedro, Reynaldo Mercado y Pedro, Jr., guilty beyond reasonable doubt of the crime of Rape, punishable under Article 335 of the Revised Penal Code, and are sentenced each to suffer the penalty of reclusion perpetua, and to indemnify, jointly and severally, Elizabeth Ilagan the amount of P50,000.00. With proportionate cost against the accused.

In the service of sentence, the preventive imprisonment undergone by the accused shall be credited in their favor.

The surety bonds posted for the accused are cancelled.

As to the accused Gerardo Matienzo, there being no evidence presented against him, the case is DISMISSED.

(p. 27, Rollo.)

The convicted accused appealed and impute to the trial court the following errors:

I

THE LOWER COURT ERRED IN GIVING CREDENCE TO THE INCONSISTENT TESTIMONIES OF PRIVATE COMPLAINANT/VICTIM ELIZABETH ILAGAN.

II

THE COURT ERRED IN GIVING CREDENCE TO THE TESTIMONY OF THE VICTIM THAT THE ACCUSED CONSPIRED AND MUTUALLY AIDED EACH OTHER IN COMMITTING THE ALLEGED CRIME.

III

THE COURT ERRED IN FINDING THAT ALL THE ACCUSED HEREIN COMMITTED THE CRIME OF RAPE AND SENTENCING THEM TO RECLUSION PERPETUA.

(p. 8, Appellants' Brief.)

The facts of the case, as established by the evidence and summarized by appellee, are as follows:

In the evening of October 24, 1986, 15-year-old complainant, Elizabeth Ilagan and her aunt Aurora Matienzo attended a birthday party at the house of Rodelio Gumapang at Gitnang Looc, Brgy. Banadero, Calamba, Laguna (TSN, October 22, 1987, pp. 9 to 10). Around 8:40 o'clock of the same night, Elizabeth left the house of Rodelio Gumapang and walked alone going to her house located in the same barangay (Ibid). Along the way, Elizabeth saw Rodelio Guerrero walking towards the same direction (Ibid, p. 15). Elizabeth walked on with Rodelio Guerrero near her (Ibid). A little later, Elizabeth and Rodelio met Rogelio Mercado and Reynaldo Mercado (Ibid, pp. 16 to 17). Whereupon, Rodelio said, "Pare, ikaw na ang bahala diyan." At that, Reynaldo, Rodelio and Rogelio laughed. Thereafter, Rodelio boxed Elizabeth three (3) times, hitting her on the breast and on the stomach (TSN, October 22, 1987 p. 20 & TSN, March 10, 1988, p. 31). Elizabeth felt half conscious only and fell on the ground (Ibid, p. 21). Rogelio and Reynaldo held Elizabeth on her arms and legs while Rodelio started to remove her T-shirt and jogging pants (TSN, October 22, 1987). She struggled to free herself from the three of them, but was not able to do so (Ibid, p. 22).

After Rodelio had removed Elizabeth's clothing, he placed himself on top of her while Rogelio and Reynaldo continued to hold Elizabeth's arms and legs (Ibid, p. 23). In that situation, Rodelio parted Elizabeth's thighs and forcibly inserted his private organ into hers (Ibid, pp. 23 to 25). Elizabeth felt pain and as she tried to shout for help, she lost her consciousness (Ibid, pp. 25 to 29).

After about ten (10) minutes, Elizabeth regained her consciousness and noticed that Rodelio, Rogelio and Reynaldo were no longer there (Ibid, pp. 30 to 34). She then stood up and felt pain on her private part and right thigh (Ibid).

Elizabeth left the place and proceeded to the house of her uncle, Virgilio Ilagan, at Gitnang Looc, Calamba, Laguna, in order to look for a companion going home. Unfortunately, her uncle was not around and Elizabeth reached home by herself (Ibid, pp. 34 to 35).

Elizabeth cried upon reaching home. This prompted her parents to ask what had happened to her. At that time, Elizabeth did not tell them that she had been raped because she did not want to give a problem to her parents (Ibid, pp. 364-37).

The following day, sensing that Elizabeth was acting strangely, her father Guillermo asked her again what was wrong. This time, Elizabeth revealed to her father that she had been raped by Rodelio Guerrero the previous night (TSN, September 12, 1988, pp. 5 to 7).

Upon request of Elizabeth's father, Dr. Solita Plastina, Municipal Health Officer of Calamba, Laguna, examined Elizabeth (TSN, November 21, 1988, p. 18, Exhibit "D"). Dr. Plastina testified that at the time she examined Elizabeth, she (Dr. Plastina) found her in a state of shock possibly because of the pain on the hymen which was found to have 3:00 o'clock and 9:00 o'clock lacerations (Ibid, pp. 8 to 9). Dr. Plastina further testified that the 3:00 o'clock and 9:00 o'clock lacerations could have been caused by penetration of the penis of a man to a woman" (Ibid, p. 14).

Pat. Theodore Gecale, the investigator assigned in the case filed by Elizabeth before the Calamba Police Station in Calamba, Laguna testified that at the time Elizabeth was investigated at the Calamba Police Station on October 28, 1986, she was "chilling", hence, he gave her a piece of paper on which she could narrate her story (TSN, January 16, 1989, pp. 7 to 8). In the written statement executed by Elizabeth, she wrote the following: "inano ako sa daan noong gabi xxx pinagsamantalahan ako ni Rodelio Matienzo, Gerardo Matienzo, Rogelio Mercado and Rogelio Guerrero." (Exhibit "E", TSN, Ibid).

Elizabeth's father caused a complaint to be filed before the Municipal Court of Calamba, Laguna (Ibid, pp. 11 to 13). Two weeks after the complaint was filed, Melencio Matienzo, Pablo Gumapa and Ruben Banaticla, who all represented appellants, went to the Ilagan house and made an offer to settle the case. The offer was rejected by Guillermo (TSN, September 12, 1988, p. 9).

(pp. 4-8, Appellee's Brief.)

Accused-appellants contend that there are glaring inconsistencies in the testimony of the victim.