

## SECOND DIVISION

[ G.R. No. 116513, June 26, 1996 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO VARGAS, ALIAS "ROMY," ACCUSED-APPELLANT.**

### D E C I S I O N

**PUNO, J.:**

Appellant ROMEO VARGAS was charged with raping CORNELIA QUILANG SOLLIER, [1] then allegedly ten (10) years of age. The Information for statutory rape reads:

"That on or about the 9th day of September, 1992, in the municipality of Tumauni, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the accused by means of force and intimidation, have (sic) carnal knowledge with one CORNELIA Q. SOLLER, a girl of 10 years old, against her will and consent."

"CONTRARY TO LAW." [2]

The records show that Cornelia Quilang Sollier was orphaned while five (5) months of age. She and her two (2) brothers used to reside in Quezon City where they were born. Their aunt, Margarita Quilang, took them into her custody and brought them to her hometown in Barangay Lingaling, Tumauni, Isabela upon their parents' demise. [3]

The defloration of Cornelia happened on September 9, 1992. That afternoon, she was assisting her friend Rowena Yabut at the latter's market stall. Rowena's boyfriend Arnel Cubangbang, together with his 18-year old cousin, herein appellant Romeo Vargas, passed by the stall. [4] Cornelia knew Arnel but met appellant for the first time. Arnel and Rowena made plans to go to the South Central School that night to watch the boys and girls scout program. The four agreed they would go together to the South Central School as Cornelia was spending the night at Rowena's boarding house. [5]

Upon reaching the school, Arnel suggested that they pass by the park first since the program has not started. When they reached the park, appellant asked Rowena's permission to take Cornelia for a joy ride in his bicycle. Rowena acceded and Cornelia rode on the sidecar of appellant's bicycle. The lovers, Rowena and Arnel, strolled at the park. [6]

Appellant pedaled his bicycle to the town's cultural center. On the way, he gave Cornelia a bubble gum. Cornelia chewed the gum, tasted its bitterness and spit it out. She felt dizzy and while in a daze, she was warned by appellant not to tell

anyone what he was about to do. Appellant parked the bicycle in a dark place in front of the Tumauni Cultural Center. He alighted from the bicycle and stepped into the sidecar. He covered Cornelia's mouth with his palm to forestall her cry for help. He warned Cornelia that he would kill her should she reveal the incident. Appellant then removed her undies, mounted her and penetrated her. Cornelia was unable to move and felt intense pain in her organ. After satisfying his lust, appellant detached the sidecar from the bicycle and drove away.<sup>[7]</sup>

Cornelia noticed blood and a white substance on her organ. She alighted from the sidecar to look for Rowena and Arnel. She looked for them at the park and then at the P & P moviehouse. They were nowhere in sight. While walking down the street, she saw Rowena and Arnel. She shed tears but Rowena and Arnel thought she cried because she got lost. The three (3) proceeded to Rowena's boarding house where Cornelia spent the night. Cornelia did not confide to Rowena her unfortunate fate. She remembered the death threat made by appellant.<sup>[8]</sup>

The next day, September 10, 1992, Rowena and Cornelia woke up early. Rowena left for the market while Cornelia went to school. At noon, Cornelia returned to their house for lunch. Upon seeing her aunt Margarita Quilang, she tearfully narrated how appellant violated her innocence.<sup>[9]</sup> Margarita accompanied Cornelia to the police station of Tumauni, Isabela. Upon advise of patrolman Boy Maddawin, Cornelia and her aunt went to the Tumauni District Hospital for medical examination.<sup>[10]</sup>

Dr. Ruben M. Angobung, NBI medico-legal officer for Region II who examined Cornelia, found a 7:00 o'clock laceration on her hymen, with the edges slightly edematous and with punctiform hemorrhage at its lacerated surface. Dr. Angobung concluded that his genital findings were compatible with the victim's sexual intercourse with a man on or about the alleged date of the rape.<sup>[11]</sup>

In defense, appellant denied sexually molesting Cornelia. He admitted he was with Cornelia, Rowena and Arnel that fateful night but claimed that he and Cornelia only went for an innocent joy ride. They returned to the park but did not find Rowena and Arnel. They looked for them and found them near the Caltex gasoline station. Rowena scolded them for straying away for a long time. Appellant explained that he and Cornelia had also been looking for them. Then, appellant and Arnel accompanied Cornelia and Rowena to the latter's boarding house. Thereafter, appellant and Arnel returned to their respective houses.<sup>[12]</sup>

Appellant likewise presented Rowena Yabut to corroborate his defense. At the time of her testimony, Rowena was already married to Arnel Cubangbang, a cousin of Appellant. Rowena affirmed the fact that the four of them went to the South Central School that night and that Cornelia and appellant went for a joy ride. After a couple of minutes, she and Arnel started looking for the two. They saw appellant and Cornelia when they were nearing the house of the Angobungs. Rowena scolded them. Rowena further testified that Cornelia never intimated she was sexually assaulted by appellant that fateful night.<sup>[13]</sup>

After trial, the court *a quo* rendered a Decision,<sup>[14]</sup> convicting appellant of the crime charged. The dispositive portion reads:

"**WHEREFORE**, the Court finds the accused ROMEO VARGAS GUILTY beyond reasonable doubt of the crime of Statutory Rape, defined and penalized in paragraph 3 of Article 335 of the Revised Penal Code, and hereby sentences him with the penalty of RECLUSION PERPETUA, to pay the complainant as indemnity the sum of P40,000.00 and to pay the costs."

"SO ORDERED."<sup>[15]</sup>

Hence this appeal where appellant contends:

#### I

THE TRIAL COURT ERRED IN DISREGARDING THE TESTIMONY OF EXPERT PROSECUTION WITNESS DR. RUBEN M. ANGOBUNG THAT THE ALLEGED RAPE WAS COMMITTED WITHIN A PERIOD OF 24 HOURS FROM THE TIME HE CONDUCTED THE EXAMINATION AND THEREFORE OUTSIDE THE TIME THAT THE VICTIM WAS WITH ACCUSED.

#### II

THE TRIAL COURT ERRED IN GIVING WEIGHT TO THE INCOHERENT, INCONSISTENT AND DOUBTFUL TESTIMONY OF THE ACCUSED AND IN NOT GIVING CREDENCE TO THE TESTIMONIES OF THE ACCUSED AND HIS WITNESSES.

#### III

THE TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE DESPITE THE FACT THAT THE ELEMENTS OF RAPE WERE ONLY ELICITED BY THE COURT FROM THE WITNESS.

#### IV

THE TRIAL COURT ERRED IN ASSUMING THE AGE OF THE VICTIM WITHOUT THE PROSECUTION PRESENTING THE CERTIFICATE OF BIRTH NOR THE BAPTISMAL CERTIFICATE.

We affirm the conviction of appellant.

**First.** Appellant cites the testimony of medico-legal expert Dr. Ruben Angobung that the laceration on the victim's hymen was inflicted within a span of twenty-four (24) hours from the time he conducted his examination of the victim at 11:15 p.m. of September 10, 1992. It is also pointed out that the medico-legal expert further testified that the alleged crime must have been committed **sometime between 11:15 p.m. of September 9, 1992 to about 11:15 p.m. the next day of**