

FOURH DIVISION

[CA G.R. CR-H.C. NO. 02410, September 13, 2006
]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDUARDO VERZOSA Y GASELO, ACCUSED-APPELLANT.**

D E C I S I O N

BARRIOS, J.:

Mary Grace Madrona Verzosa (or hereafter Mary Grace) was fourteen (14) years old, a child of unwed parents, lived on a hand-to-mouth basis in a far-flung barangay, and whose mother died early. And as if these were not enough, she was repeatedly raped.

At the end of her rope of miseries, Mary Grace complained against her rapist, her own father Eduardo Verzosa (or Verzosa). This resulted in the filing against him on September 3, 1999 before the Regional Trial Court of Pinamalayan, Oriental Mindoro of two (2) counts of *Rape*. The complaint against him in one reads:

That on or about the 15th day of May, 1996, at 7:00 o'clock in the evening, more or less, in Sitio Aklejo, barangay Villapag-asa, municipality of Bansud, province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, by means of force and intimidation, willfully, unlawfully and feloniously did lie, and succeeded in having carnal knowledge of one MARY GRACE VERZOSA y Madrona, a 14-year-old girl and daughter of said accused who is living with him in the same house, to the damage and prejudice of the said Offended Party.

CONTRARY TO ART. 335 OF THE RPC,
AS AMENDED BY RA 7659 AND RA 8353.

The other is similarly worded, except for the date which is June 12, 1999.

Versoza pleaded *Not Guilty* to both counts. The pre-trial conference held was not productive, and the cases went on joint trial. The prosecution's witnesses were Mary Grace who testified on her complaints and was corroborated on peripheral facts by her maternal aunt Nenita Calingasan, and Municipal Health Officer Dra. Preciosa Soller of Bansud, Oriental Mindoro. Also submitted were the Birth Certificate of Mary Grace as Exhibit "C" (p. 32, record) and the Medico-Legal Report of Dra. Soller dated June 19, 1999 as Exhibit "B" (p. 5, record). Only Verzosa testified for the defense, although he had tried but failed to present one Eustaquio Lavarez.

It was established and even admitted that Verzosa and Anecitas Madrona, without the benefit of marriage, lived as spouses and raised a family in their house in Sitio

Aklejo, Brgy. Villapag-asa, Municipality of Bansud, Province of Oriental Mindoro. They eked a meager living as farmers and laborers, and supported themselves and their children who in the order of their births are Mary Jane, Richard, the complainant Mary Grace and Rosemarie. Mary Grace was born on February 4, 1984. In 1994 Anecitas Madrona died, and it was only Verzosa, Richard and Mary Grace who continued to reside in their house.

According to Mary Grace, at about 7:00 in the evening of May 15, 1996 in their said residence, her father Verzosa crept on her and removed her T-shirt and shorts and by force inserted his penis into her vagina causing her pain and bleeding. This happened again in the same place and at about the same time on June 12, 1999 when Verzosa threatened to kill Mary Grace and forcibly had sexual intercourse with her, making her vagina bleed and causing her pain. The following day she reported the rapes she suffered to Nenita Calingasan and Candida Madrona who are respectively the sister and sister-in-law of her deceased mother. They advised her to appeal to the authorities, and Mary Grace did. With the help of the DSWD she was investigated by the local police and examined by the Municipal Health Officer Dra. Preciosa Soller who in her Medico-Legal Report (Exh. "B") stated among her findings that:

x x x

3. Hymen – complete old healed lacerations at 7 o'clock & 12 o'clock; shape of Hymen is diamond-shaped.

4. Vagina admits loosely examiner's gloved right index finger but rugae still present & intact; no discharge recovered.

REMARKS:

Physical virginity lost. (p. 5, record)

Verzosa denied ever raping Mary Grace. In 1996 he was living with Mary Grace in Fort Bonifacio because of his work of delivering rice, while the other children stayed in their place. Asked if he knew why Mary Grace testified against him, Verzosa answered "*I do not know of any reason why she testified in that manner, sir*" (tsn Feb. 16, 2001, p. 5). Pressed further he said that he had spanked Mary Jane on June 13, 1999 for selling the half cavan of rice from a Mr. Lavarez which he thus failed to deliver. On the other hand he claimed that Mary Grace left at 6:00 in the evening of June 12, 1999 saying she was going to watch a Betamax movie. She did not return, so he told his other child to look for her but she could not be found. It was three (3) days later that policemen and barangay officials came to his house and brought him to the police station and jailed him. Mary Grace was there in the municipal building. During the trial he wanted to talk to Mary Grace but she had a companion who would not allow him.

With the observation that:

From the foregoing declaration and narration of her ordeal from the hands of her own father on the 15th of May, 1996 and the 12th day of