

**FELICISIMA SANCHEZ, COMPLAINANT, VS. AGUSTIN FABILLARAN,
DEPUTY SHERIFF, COURT OF FIRST INSTANCE OF ILOCOS SUR,
VIGAN, RESPONDENT.**

Adm. Matter No. P-1175. October 30, 1979

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

In a verified letter-complaint filed on January 30, 1976, Felicisima P. Sanchez charged Agustin F. Fabillaran, Deputy Sheriff, Court of First Instance of Ilocos Sur at Vigan, with immorality.

The complaint alleged that sometime in April 1975, Agustin P. Fabillaran, first cousin of the complainant, had sexual intercourse with her through force, threat and intimidation; that the complainant was forced to give up everything due to fear and she could not resist because she was physically disabled as she was suffering from polio; that after the sexual act had been consummated, the respondent warned the complainant not to reveal to anybody what had happened to her, otherwise he would kill her; that for a while, she kept silent to avoid discredit and dis-honor to her family; and that, however, because as a consequence of the act committed by the respondent, the complainant gave birth to a baby girl on December 30, 1975, she decided to file a complaint against the respondent.[1]

In a third indorsement dated February 24, 1976,[2] the respondent denied "vehemently the acts imputed to him" and alleged that the "complainant framed up a charge" to compel his father "to relax in his claim over the properties also claimed by the mother of the complainant"; that said dispute "was already settled"; and that the "complainant has retracted her statement and is withdrawing her charges". The respondent attached as Annex "A" to his comment a sworn letter dated February 20, 1976 addressed to the Chief Justice allegedly written by the complainant withdrawing the complaint she had filed.[3]

In her letter dated July 19, 1976, the complainant denied having executed a letter of desistance. She said: "I was surprised of this development as I have not executed any letter of desistance and the only document shown to me by Mr. and Mrs. Agustin Fabillaran was the affidavit of support they executed in favor of my child." [4]

This Court, in a resolution of October 3, 1977, granted the request of the complainant that the investigation of this case be conducted in Manila. The motion for reconsideration of the respondent was denied and Atty. Vicente M. Requilme, an assistant supervising attorney of this Court, was directed to expedite and terminate the investigation within the shortest possible number of days in order to minimize the expenses of the parties.[5]

The evidence adduced in the investigation established that the complainant and the respondent are first cousins because the mother of the complainant is the sister of the father of the respondent; that the complainant charged the respondent with rape in the Court of First Instance of Vigan; that the respondent was acquitted of the crime of rape[6]; that the complainant gave birth to a baby girl on December 30, 1975; and that in the certificate of live birth, the child was given the name Jaquelin Sanchez Fabillaran and the informant was the respondent Agustin Fabillaran who signed said certificate of live birth.[7]

The respondent adduced evidence that he did not have any sexual intercourse with the complainant; that the father of the baby of the complainant is a certain Luis de la Cruz who testified that the complainant was his sweet-heart from February 1975 to June 1975; that Luis de la Cruz and the complainant had sexual intercourse on many occasions; and that the respondent was only convinced by his wife to sign as the father in the certificate of live birth of Jaquelin Fabillaran because said wife pitied the complainant.

The most decisive evidence of the complainant that the respondent is the father of her child is the certificate of live birth, Exhibit "A", wherein the respondent signed as the father of the child Jaquelin Sanchez Fabillaran.[8] Normally no person will sign a certificate of live birth as the father of the child if he is not so. Despite the denials of the respondent, the weight of the evidence of record is that he is the father of the child. The act of sexual inter-course with the complainant may not be classified as rape but certainly the manner in which the respondent committed the act is highly immoral and is sufficient to warrant his dismissal from the service. The complainant could not move freely because she had polio. Moreover, the complainant and the respondent are cousins within the fourth degree of consanguinity.

To add insult to injury, the respondent presented Luis de la Cruz to testify that he is the father of the child. A cursory examination of the testimony of Luis de la Cruz shows that he was not a credible witness. Although he claimed to have had intimate relations with the complainant from February 1975 to June 1975, he never learned where the complainant was working. His excuse was that when he asked the complainant where she worked, she refused to tell him. There is no reason at all, if the complainant was having intimate relations with Luis de la Cruz, why she should not tell him where she was working. The act of the respondent in pre-senting Luis de la Cruz to assume the paternity of the child, Jaquelin Sanchez Fabillaran, is reprehensible, to say the least. It only aggravates the guilt of the respondent.

Under the circumstances, the respondent has become un-fit to continue as an employee of the government. He should be dismissed from the service.

WHEREFORE, the respondent, Agustin Fabillaran, is hereby DISMISSED as Deputy Sheriff of the Court of First Instance of Ilocos Sur, at Vigan, and with forfeiture of all retirement privileges and with prejudice to reinstatement in the national and local governments, as well as, in any government instrumentality or agency including government owned or controlled corporations.

Let a copy of this decision be attached to his personal record.

SO ORDERED.

Fernando, C.J., Teehankee, Barredo, Makasiar, Antonio, Aquino, Concepcion, Jr., Santos, Guerrero, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.

[1] Rollo, p. 1.

[2] Rollo, p. 4.

[3] Rollo, p. 6.

[4] Rollo, p. 17.

[5] Rollo, p. 27.

[6] Exhibit "3", Rollo, pp. 55-70.

[7] Exhibit "A", Rollo, p. 33.

[8] Ibid., p. 33.

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