

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

Ponente: BARRIOS, J.

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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 15[th] 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 15[th] of May, 1996 and the 12[th] day of June, 1999, the court finds it convincing and credible that, indeed, she was raped by the accused Eduardo Verzosa (p. 65, record)

the trial court rendered the appealed Joint Decision disposing that:

WHEREFORE, the prosecution's evidence having established the guilt of the accused, EDUARDO VERZOSA Y GASELO, beyond reasonable doubt of two (2) counts of RAPE as charged in the aforesaid two (2) separate information (Criminal Cases Nos. P-6014 and P-6015), and the relationship of the offender (father) and the victim (daughter) having been established and alleged, pursuant to Section 11 of the Republic Act No. 7659, he is hereby sentenced to suffer the extreme penalty of DEATH for each of the said two (2) crime and to indemnify the offended party the sum of fifty thousand (P50,000.00) pesos without subsidiary imprisonment in case of insolvency and to pay the costs.

Pursuant to existing law, the Branch Clerk of Court is hereby directed to elevate the records of all these cases to the Honorable Supreme Court after the lapse of the reglementary period of fifteen (15) days.

SO ORDERED. (p. 67, record)

The judgment has since been overtaken by Republic Act No. 9346 which has supervened and forbids the imposition of the death penalty. But the automatic appeal entered at the time of course stays. The reversible error assigned is that:

THE COURT A-QUO GRAVELY ERRED IN FINDING THAT THE GUILT OF THE

ACCUSED-APPELLANT FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT. (p. 40, rollo)

To sustain a conviction for rape, the important consideration is carnal knowledge or penetration of the victim's vagina by the perpetrator's penis under any of the circumstances enumerated in the Code (People vs. Estado, G. R. No. 150867, Feb. 5, 2004). Perforce the prosecution must prove beyond reasonable doubt that: (1) there had been carnal knowledge of the victim by the accused; (2) the accused achieves the act through force or intimidation upon the victim (People vs. Sumarago, G. R. Nos 140873-77, Feb. 6, 2004). In this the prosecution succeeded.

By her clear and convincing testimony, Mary Grace told that in both instances they were alone in their house when her father by force and threats inserted his penis into her vagina, making it bleed and causing her pain. The claim that she was fornicated is well corroborated by the medical examination and its results that her hymen has healed lacerations and that physically she is no longer a virgin.

It was as persuasively proven that the sexual intercourses were done against her will, but Verzosa succeeded because of force and threats that he used against her. The force or threat necessary in rape is a relative term that depends not only on the age, size, and strength of the persons involved but also on their relationship to each other (People vs. Glodo, G. R. No. 136085, July 7, 2004). The tender years, sex, muscle and other physical attributes of Mary Grace made it a mismatch, and on top of it was the moral and economic ascendancy of Verzosa.

Mary Grace is the sole witness to the actual rapes, but this is because corroborating testimony is frequently unavailable in rape cases. But a corroboration is not indispensable to warrant a conviction of the accused for the crime. Time and again it has been stressed that in rape, the lone testimony of the complainant is enough to sustain conviction, provided that such testimony meets the test of credibility. Thus, the testimony should not only come from the mouth of a credible witness, it should likewise be credible and reasonable in itself, candid, straightforward, and in accord with human experience. (People vs. Suarez, G. R. Nos. 153573-76, April 5, 2005).

The trial court in convicting Verzosa, expressed that it found convincing and credible the declaration and narration of her ordeal from the hands of her own father. The oft-repeated principle is that where the credibility of a witness is an issue, the established rule is that great respect is accorded to the evaluation of the credibility of witnesses by the trial court (YHT Realty Corp. vs. Court of Appeals, G. R. No. 126780, Feb. 17, 2005). Not only that. It is rather inconceivable that a daughter should concoct a story that she was repeatedly raped by her father when family honor is at stake, not to mention that this would mean sending her father to jail. The testimony of rape victims who are of tender age are credible. The revelation of an innocent child whose chastity was abused deserves full credit, as the willingness of the complainant to face police investigation and to undergo the trouble and humiliation of a public trial is eloquent testimony of the truth of her complaint (People vs. Bali-balita, G. R. No. 134266, Sept. 15, 2000).

Verzosa put up the pitiable defense of denial. It is well-settled that denial is essentially the weakest form of defense and it can never overcome an affirmative testimony particularly when it comes from the mouth of a credible witness (People vs. Mendoza, G. R. Nos. 152589 & 152758, Jan. 31, 2005). Asked why his own daughter would concoct such an abominable falsehood against him, Verzosa said he does not know of any reason. But he bounced back to suggest that it was because he spanked her on June 13, 1999 for selling rice that he was to deliver. In so doing he tripped over himself and his earlier statement that Mary Grace left the house early in the evening of June 12, 1999 and he did not see her again until three (3) days later when he was brought to the police station.

The appeal of Verzosa is without merit, but he is saved from the jaws of death by the supervening Republic Act No. 9346.

WHEREFORE, the appeal is DENIED and DISMISSED. The appealed Joint Decision is AFFIRMED, however by reason of Republic Act No. 9346, in lieu of the death penalty the accused Verzosa is hereby sentenced to suffer Reclusion Perpetua for each of the said counts.

SO ORDERED.

Guariña, III, and Tagle, JJ., concur.

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