

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SEVERO DAYUHA Y DASO, ACCUSED-APPELLANT.

*G.R. No. 120897. October 11, 2000*

Ponente: PARDO, J.

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### PARDO, J.:

The case is an appeal from the decision[1] of the Regional Trial Court of Lanao del Norte, Branch 5, Iligan City convicting accused Severo Dayuha y Daso of rape and sentencing him to reclusion perpetua and to pay P50,000.00 as moral damages.

On January 13, 1994, Prosecutor II Roberto Z. Albulario, Jr. of Iligan City filed with the Regional Trial Court, Lanao del Norte, Iligan City a complaint[2] charging accused Severo Dayuha y Daso with rape, committed as follows:

"That on or about September 26, 1993, in the City of Iligan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force and/or intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one IN-IN NOBELITA Q. REY, 15 years of age against her will.

"Contrary to and in violation of Article 335 of the Revised Penal Code."

At the arraignment on June 20, 1994, accused pleaded not guilty to the crime charged.[3] Trial ensued.

The facts are as follows:

At around 4:00 p.m. of September 26, 1993, In-In Nobelita Q. Rey, then 15 years old and a resident of Agora, Lapasan, Cagayan de Oro City, took a Jiverte bus (No. 990) driven by accused at Agora enroute to Zamboanga, accompanied by one Arlene Ampo. They arrived at the Jiverte bus terminal in Iligan City at around 7:00 p.m. After some of the passengers disembarked therefrom, In-In and Arlene were prevented by accused and the conductor from leaving the bus because the two (2) girls might get lost. Accused and the conductor asked them if they were sisters, to which Arlene said yes. The accused did not believe them, and called them stowaways. Thereafter, accused and the conductor closed the windows of the bus. They asked the two (2) frightened girls if they had taken supper. When they answered in the negative, the conductor alighted from the bus and bought bread. After the group had taken dinner, accused spread a tent over the bus floor, forcibly removed In-In's pants and underwear, and then pulled his pants down. In-In was not able to shout or put up any resistance because the accused, armed with a piece of wood, covered her mouth and threatened her if she would shout. The accused was able to force In-In to have sex three (3) times that night, while the conductor raped Arlene.

At around 4:00 a.m. of the next day, September 27, 1993, the Jiverte bus left Iligan City, with In-In on board occupying the front seat. Her companion Arlene did not take that ride and left with In-In's bag and other belongings. The bus arrived at Aurora, Zamboanga del Sur at around 12:00 p.m. In-In immediately told her mother of her sexual ordeal. They then went to the Zamboanga police station where they were advised to file their

complaint in Cagayan de Oro. In-In and her mother went to Cagayan de Oro City in November, 1993, where In-In was examined by Dr. Tammy L. Uy of the NBI.[4]

Dr. Tammy L. Uy's medical report[5] revealed that In-In's hymen suffered deep, incomplete lacerations at 5:00 and 9:00 positions, which are compatible with sexual intercourse on the date of the commission of the rape. Dr. Uy testified that a hardened adult penis inflicted these lacerations and that it is possible to have three (3) sexual encounters performed inside a cramped place like a bus, within a two-hour period.[6]

The accused denied raping In-In. He claimed[7] that when the bus arrived at the Iligan City bus terminal, he waited for about ten (10) minutes for the passengers to alight from the bus. Since some passengers were blocking the door of the bus, accused went down the bus by passing through the window near the steering wheel. He then sat on a bench just three (3) meters away from the bus and conversed with his co-drivers for thirty (30) minutes. Afterwards, he took dinner at the terminal restaurant. After eating, In-In and Arlene approached him. The accused offered to pay for their supper upon learning that the girls had not eaten. He proceeded to the bench and talked to his co-drivers again until 8:30 p. m. Then he noticed that In-In was crying, and asked her why. In-In said that Arlene left and took her bag.

Not for long, accused decided to sleep. He went up the bus and spread his folding bed near the engine. As the engine was still hot, he alighted from the bus and decided to sleep on the bench where he was talking to his co-drivers earlier in the night.

The accused woke up at around 4:00 a.m. the next day, September 27, 1993. He took a bath, drank coffee then prepared to leave for Aurora. He noticed that In-In was inside the bus. The bus left Iligan City at around 5:00 a.m. and arrived in Aurora two (2) hours later. The accused then took his breakfast at the Aurora terminal, and failed to notice In-In.

The trial court discredited the denial put up by accused and gave credence to the testimony of In-In. Thus, on April 27, 1995, the trial court rendered a decision convicting accused of rape, the decretal portion of which reads:

"WHEREFORE, finding accused Severo Dayuha to be guilty beyond reasonable doubt of the crime of rape, the Court hereby sentences him to suffer an imprisonment of Reclusion Perpetua.

The accused is further ordered to pay the private complainant the amount of Fifty Thousand (50,000.00) pesos as moral damages.

SO ORDERED."[8]

In this appeal, the accused-appellant faults the trial court for believing the testimony of In-In and in disregarding his denial.

The appeal has no merit.

Accused-appellant's arguments boil down to the issue of credibility of witnesses. The trial court has pointed out in its decision that In-In was "categorical, straightforward, credible, convincing, natural and spontaneous"[9] in narrating her defloration in the hands of accused-appellant. The settled rule is that the trial court's assessment of the credibility of the witnesses is entitled to respect, since it had the opportunity to observe the witnesses' demeanor and deportment on the witness stand.[10] A witness who testified in a categorical, straightforward, spontaneous and frank manner and remained consistent on cross-examination is a credible witness.[11]

Furthermore, the record does not reveal any ill-motive on the part of In-In to falsely accuse accused-appellant of raping her. It is highly improbable for a woman, especially one of tender age like In-In, to concoct a brutal tale of ravishment, allow a gynecologic examination, and undergo the humiliation of a public trial if she is not motivated

solely by a desire to have the culprit apprehended and punished.[12]

Accused-appellant's attempt to destroy In-In's credibility by pointing out her failure to report the rape while she had the opportunity to do so at the Jiverte bus terminal in Iligan City, is futile. In-In was threatened by accused-appellant with death if she would shout for help while he forced himself on her inside the bus. The fear for her life obviously stayed with In-In while she was in the bus terminal. It is not uncommon for a girl of tender age to be intimidated into silence by the mildest threat on her life.[13] Thus, our consistent doctrine is that delay in reporting a rape, if sufficiently explained, does not affect the credibility of a witness.[14]

Neither can the commission of the rape be negated by the fact that it was perpetrated within the well-lighted bus terminal premises where people usually gather. The presence of people in a certain place is no guarantee that rape will not and cannot be committed.[15] For rape to be committed, it is not necessary for the place to be ideal, or the weather to be fine, for rapists bear no respect for locale and time when they carry out their evil deed.[16]

Consequently, in light of the positive identification of accused-appellant by the victim herself who harbored no ill motive against him, the denial of accused-appellant must fail.[17]

The trial court is correct in the imposition of the penalty of reclusion perpetua and the award of P50,000.00 as moral damages. We award an additional P50,000.00 as civil indemnity, consistent with the ruling that rape victims are entitled to such an award without need of proof except the fact of the commission of the rape.[18]

WHEREFORE, the decision of the Regional Trial Court, Lanao del Norte, Branch 5, Iligan City convicting accused-appellant Severo Dayuha y Daso of rape and sentencing him to reclusion perpetua is **AFFIRMED**, with modification that he is sentenced to pay civil indemnity to the victim in the amount of P50,000.00, in addition to moral damages in the same amount.

### **SO ORDERED.**

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

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[1] In Crim. Case No. 5285, Decision, dated April 27, 1995, Judge Moslemen T. Macarambon, presiding, RTC Records, pp. 88-102.

[2] RTC Records, p. 1.

[3] RTC Records, p. 26.

[4] TSN, September 15, 1994, pp. 4-17.

[5] RTC Records, p. 12.

[6] TSN, July 21, 1994, pp. 8 and 16.

[7] TSN, December 22, 1994, pp. 4-22.

[8] RTC Records, p. 102.

[9] RTC Records, p. 97.

[10] *People v. Antonio*, G. R. No. 128149, July 24, 2000; *People v. Lomerio*, G. R. No. 129074, February 28, 2000.

[11] *People v. Ulgasan*, G. R. Nos. 131824-26, July 11, 2000.

[12] People v. Antonio, G. R. No. 122473, June 8, 2000; People v. Sapinoso, G. R. No. 122540, March 22, 2000; People v. Cabebe, 290 SCRA 543 (1998).

[13] People v. Antonio, *supra*; People v. Abalde, G. R. No. 123113, March 31, 2000.

[14] People v. Dequito, G. R. No. 132544, May 12, 2000; People v. Aliviano, G. R. No. 133985, July 10, 2000.

[15] People v. Mendez, G. R. No. 132546, July 5, 2000.

[16] People v. Yparraguire, G. R. No. 124391, July 5, 2000; People v. Bayona, G. R. No. 133343-44, March 2, 2000.

[17] People v. Aliviano, *supra*; People v. Cambi, G. R. No. 127131, June 8, 2000.

[18] People v. Baid, G. R. No. 129667, July 31, 2000; People v. San Juan, G. R. Nos. 112449-50, July 31, 2000.

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