PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ERNESTO SEVILLA, ACCUSED-APPELLANT.

G.R. No. 126199. December 08, 1999

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PER CURIAM:

For automatic review here is the judgment rendered by Branch 90[1] of the Regional Trial Court in Dasmarinas, Cavite, finding accused-appellant Ernesto Sevilla guilty of incestuous rape and sentencing him to suffer the ultimate penalty of DEATH.

Filed and docketed on March 21, 1994 as Criminal Case NO. 3143-94, the Information indicting accused-appellant, alleges:

> "That on or about the 15th day of January 1994, in the Municipality of Dasmarinas, Province of Cavite, and within the jurisdiction of this Honorable Court, above-named accused, using force and intimidation, wilfully, unlawfully and feloniously, did then and there, lie and succeeded in having carnal knowledge of her (sic) fourteen (14) years (sic) old daughter Myra Sevilla y Deslate, against her will and to her damage and prejudice.
>
> CONTRARY TO LAW."[2]

With accused-appellant, assisted by his counsel, Atty. Noel R. Marquez, entering a plea of "Not Guilty" upon arraignment on April 27, 1995, trial ensued.

On August 28, 1996, after trial, the lower court a quo came out with the Decision finding accused-appellant guilty of the crime charged and sentencing him, thus:

> "WHEREFORE, the guilt of the accused ERNESTO SEVILLA having been established beyond a scintilla of doubt, the Court hereby pronounces him GUILTY of the indictment for Rape. Under the above-quoted law, the Court sentences him with the penalty of DEATH. The aforenamed accused is also mandated to pay to the private complainant the sum of Fifty Thousand Pesos (P50,000) by way of moral damages in accordance with prevailing jurisprudence.
>
> SO ORDERED.[3]

In arriving at its aforesaid conclusion, the trial court gave credence to and placed reliance on the version of the complainant of what the accused-appellant did to her, to wit:

> "On January 15, 1994, at about three o'clock dawn, she was sleeping soundly beside her younger brother in their one-roon (sic) residence at Area G, Dasmarinas, Cavite. She and her brother were left in the sole care of their father, the accused herein, since their mother was confined in a hospital due to an operation. On the said date and time, Myra reluctantly roused from her slumber when she felt that somebody was touching her body. As her eyes got accustomed to the dimness, she was startled to behold her father on top of her. She was then unceremoniously stripped of her clothing and while she cowered in her nudity, her father proceeded to bare himself. Thereafter, the accused mounted her, spread her legs apart and thrust his manhood into her genitals. Myra agonized in silence. Sheer terror effectively stifled her voice and waned her resolve to withstand the assault. In a few moments, accused's libidinous desire was totally satiated. Nonchalantly, he dressed up,

> directed Myra to do the same and then capped his lecherous act with a stern warning that she should not disclose the matter to anyone, or else, she, her mother and her brother will be slain.
>
> Soon it was daylight and the accused, a carpenter, casually left for work. Myra and her brother remained at home and whiled away their time watching the television. At about seven o'clock in the evening of the same date (sic), their two aunts arrived and informed them that their mother was already discharged from the hospital. Myra asked to be taken to her mother, and upon seeing her, Myra refused to part with her. Unable to bear the dread and the disgrace brought about by her revolting ordeal, Myra broke down and divulged how she was violated by her own father. She further revealed that he started making sexual adavances on her since she was six years old.
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> xxx xxx xxx
>
> xxx xxx Myra, her mother and her aunt Elva trooped to the National Bureau of Investigation on January 19, 1994, to lodge a formal complaint. Thereat, Myra executed a sworn statement (Exhibit 'D') and signed a Complaint Sheet (Exhibit 'E') stating therein the circumstances that led to her physical defilement. She aslo (sic) willingly submitted to a medico-genital examination pursuant to the request form which her mother was asked to sign (Exhibit 'A'). xxx"[4]

Aside from complaint Myra Sevilla herself, Dr. Juan B. Zaldarriaga, Jr. of the Medico-Legal Division of the NBI testified for the prosecution. Embodied in Living Case No. MG-94-72,[5] the findings of Dr. Zaldarriaga, Jr. indicated:

> "1. No evident sign of extragenital physical injuries noted on the body of the subject at the time of examination.
>
> 2. Hymen, intact but distensible and its orifice wide (2.5 cms. in diameter) as to allow complete penetration by an average-sized adult, Filipino male organ in full erection without producing any hymenal laceration."

Accused-appellant put up the defense of denial. He theorized thus: On January 15, 1994, he reached home from work, at around six o'clock in the evening, and slept at nine o'clock.[6] That night, his wife was not in their house as she was confined in the hospital.[7] He, Myra and his two other children slept together, and as their house did not have any partition, the children slept near the window while he slept near the door of the house.[8]

Insisting that he could not possibly do such a dastardly act against his own daughter, accused-appellant contended that Myra must have been coaxed by his sister-in-law, Elva Deslate, into lodging the present charge of rape against him.[9] As to the motive of his sister-in-law in instigating the institution of the case, accused-appellant opined that he had a long-standing conflict with his sister-in-law,[10] and he further incurred Elva's ire when he failed to attend to his wife's hospitalization.[11]

Accused-appellant did not present any witness to reinforce his testimony.

The court a quo found the sum and substance of the testimony of the prosecution witnesses deserving of faith and reliance. Convinced that accused-appellant is guilty beyond reasonable doubt of the offense charged and heeding the mandate of the law under Article 335 of the Revised Penal Code, in relation to Republic Act No. 7659, the trial court unhesitatingly meted out the prescribed penalty of death.

Represented by Atty. Ramon Gatchalian of the Public Attorney's Office, accused-appellant urges this Court to acquit him, on the basis of lone assignment of error, that:

> THE COURT A QUO ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME OF RAPE AND SENTENCING HIM TO SUFFER THE PENALTY OF DEATH.

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In the Appellant's Brief, Public Attorney Gatchalian exhorts this Court to weigh and take into account "every minute inconsistency and flaw in the evidence of the prosecution" since "a human life is at stake."[12] "Any iota of doubt that could be squeezed from the same should be resolved in favor of the accused."[13]

Rest assured, this Court has meticulously examined the records and the evidence on hand. Aware of the gravity and irreversibility of the penalty attached to the offense of which accused-appellant was pronounced guilty by the court of origin, this Court studied and viewed the arguments and evidence in proper perspective and exerted its utmost effort to ensure that no stone is left unturned.

To destroy the credibility of Myra's testimony which accused-appellant brands uncorroborated, the latter maintains that it is "puzzling that in all those years of languishing in the shadow of the accused's licentious bestiality, the complaint never once complained about the same to her mother nor to her aunties. Moreover, it is likewise perplexing that she would only complain about one rape in the light of all those years of sexual abuse."[14] Accused-appellant further makes capital of the fact that Myra "failed to scream or to shout during the alleged rape on January 15, 1994 to alarm her older sister and younger brother,"[15] thereby shedding doubt on her credibility.

The Court is not persuaded by accused-appellant's submission.

As held by this Court in People vs. Miranda,[16] there is no standard form of human behavioral response when one has just been confronted with a strange, startling or frightful experience as heinous as the crime of rape and not every victim to a crime can be expected to act reasonably and conformably with the expectation of mankind.

The fact that Myra did not complain to her mother or her aunts about the sexual abuses committed by her father against her for eight long years, is of no moment. Myra, who was of a very tender age when the horrible events in her life began to unfold, could have, in all probability, been confused and bewildered by her experience that for more than half of her young life, she was shocked into utter insensibility.

It is not unlikely that it is for the same reason that she failed to scream or shout while she was being ravished by her own father on the night of January 15, 1994. Shock must have totally overtaken the young Myra, so much so, that she was not able to signify even a whimper of protest or call the attention of her other siblings who were sleeping in the same room. This is aside from the fact that, as correctly rationalized by the trial court, fear and shame must have prevented the young girl from taking up the courage to report the molestation at the soonest possible time. On direct examination by counsel, Myra testified thus:

> "xxx xxx xxx
>
> Q And what did your father do when you tried to wiggle?
>
> A He still inserted his organ inside my organ, ma'am.
>
> Q Did you not shout for help when your father was doing that to you?
>
> A No, ma'am.

Q Why?

A I was afraid of his strength and he said that he will kill all of us, ma'am.[17]

During cross-examination, Myra also testified in this wise:

"Q At the time you were being abused by your father, were you attending school?

A Yes, sir.

Q Did you not reveal this to your guidance counsellor or to your teacher-in-charge?

A

No, sir. I was embarassed about the situation.

xxx xxx xxx

Q

You said you were boxed by your father. Where were you boxed?

A He boxed me on my thigh, sir, everytime he used me.

Q

On January 15, 1994, how many times did he box you?

A

Just once, sir.

Q On the following day, did you notice a contusion?

A It was slightly bruised, sir.

Q You also mentioned that you were threatened by your father. When were you threatened by your father?

A Since I was six years old up to now, sir.

Q How did your father threaten you?

A He threaten (sic) me by saying that I should not report this incident to my mother or to anyone or else, he would kill us all.

Q But when your father made this threat, he was not holding any knife or bladed instrument?

A Yes, sir.[18]

It bears stressing that in cases of incestuous rape, the father's moral ascendancy over the victim substitutes for violence or intimidation and reinforces the fear which compels the victim to conceal her dishonor. Myra was sufficiently cowed into silence by the physical and moral influence which accused-appellant exercised over her even though he may have been unarmed.

Accused-appellant argues "that there is a possibility that the current state of complainant's genitals was induced by the insertion of a foreign object into the same."[19] More so, accused-appellant points out, that "complainant's non-virginity could have been caused by anyone (sic) act of the alleged acts of lasciviousness committed against her by the accused."[20] Assuming for the sake of argument that Myra's non-virgin state could have been a result of acts than the rape committed on the night of January 15, 1994, the same does not altogether negate the fact of rape. It could very well be that Myra was deflowered at some other time and circumstance, but his does not necessarily prove that the events leading to accused-appellant's indictment did not happen. Clearly, the cause of Myra's non-virginity is immaterial in the present case. If at all, the "condition of complainant's genitals" as contained in a medical report is merely corroborative and is not indispensable.

Besides, such an assumption cannot prevail over the positive and unequivocal declaration of complainant that she was in fact raped by her own father. On this point, Myra declared, thus:

"xxx xxx xxx

Q When did this touching and kissing happen?

A It started when I was six years old.

Q How many times did your father touch you and kiss you?

A Several times, ma'am.

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Q Where did he touch you?

A He touched my breasts, ma’am.

Q Where did he kiss you?

A He kissed me on my lips, ma’am.

Fiscal de Castro

Aside from kissing you and touching you, what else did your father do to you?

Witness He did a lot of things to me, ma’am.

Q Can you tell the Honorable Court what those things are?

A He often looked at my organ, ma’am.

xxx xxx xxx

Q Now, madam witness, on January 15, 1994, at about 3:00 a.m/ (sic), do you remember where you were?

A I was in our house, ma’am.

Q What were you doing then?

A I was sleeping then , ma’am.

Q

While you were sleeping on that date and time, do you remember any unusual incident that happened?

A I felt that somebody was touching me and when I woke up, I saw him on top of me, ma'am.

Q You said "him", who was that "him"?

A My father, ma'am.

Q After you woke up, what happened?

A When I woke up, I saw him on top of me and then he undressed me. He likewise undressed himself and then he placed his sex organ on top of my organ. He thereafter made an up-and–down motion.

Q On that particular date, what did your father do to you?

Witness He undressed me and he likewise undressed himself. He then placed his organ in my organ and made an up-and-down motion.

Q Did he insert his organ inside your organ?

A Yes, ma'am.

Q

Was that the first time that your father placed his sex organ inside your sex organ?

A Yes, ma'am.

xxx xxx xxx"[21]

The Court finds no basis for reversing the finding below that the above-quoted testimony is truthful and credible. In the decision under review, the trial court stated that "Myra Sevilla had indeed vividly displayed bitterness, anguish, and hatred when she took the witness stand on October 26, 1994."[22] It also observed that Myra "likewise unmasked her sentiments through eloquent body movements"[23] and so found that the straightforward and candid statements of the victim must perforce prevail over the bare denials of accused-appellant.

As a general rule, this Court will not unduly disturb the findings of the trial court on matters relating to the issue of credibility of witnesses. The determination by the trial court regarding the credibility of witnesses is usually accorded great weight and respect since the trial court had the distinct advantage and singular opportunity to

observe the witnesses during examination through the different indicators of truthfulness or falsehood.[24] Absent any showing that certain facts of substance and significance have been plainly overlooked or that the trial court's findings are clearly arbitary,[25] the conclusions reached by the court of origin must be respected and the judgment rendered affirmed.

Accused-appellant flatly denies that the incident complained of ever took place. However, other than his own assertions, accused-appellant did not come forward with any evidence which would convince the Court that he is innocent of the charge proffered against him. This Court has consistently held in a long line of cases,[26] that with respect to denial, it is inherently a weak defense which cannot prevail over positive identifications. It must be buttressed by strong evidence of non-culpability to merit credibility. Otherwise, the same is self-serving and deserves no greater evidentiary value. Affirmative testimony like that of the victim is stronger than a negative one.

In the case under scrutiny, although the narration of events was uncorroborated, the Court nonetheless upholds the same for the reason that in crimes of the nature now on appeal, the sole testimony of the victim is sufficeint to sustain a conviction if such testimony is credible. Thus, accused-appellant's stance that the prosecution should have presented Myra's siblings as well as her aunt, Elva Deslate, as corroborating witnesses in the case, does not hold water. By the very nature of rape cases, conviction or acquittal depends almost entirely on the credibility of the complainant's testimony, the fact being that usually, only the participants therein can testify as to its occurrence.[27] To repeat, the prosecution is not bound to present witnesses other than the offended party and accused-appellant can be convicted on the sole basis of the victim's oral evidence.

Furthermore, a rape victim's testimony is entitled to greater weight when she accuses a close relative of having raped her, as in the case of a daughter against her father.[28] Earlier and long standing decisions of this Court have likewise held that when a woman testifies that she has been raped, she says all that is needed to signify that the crime has been committed. This is true when made against any man committing the crime; it is more so when the accusing words are said against a close relative.[29]

Accused-appellant's theory that the charges brought against him were concocted by his sister-in law, Elva, because he infuriated the latter when he failed to take care of his wife in the hospital, is too preposterous to deserve any consideration. On this score, the Court finds tenability in the contention of the Office of the Solicitor General that it is "not in accord with human experience for an aunt of a girl to charge the girl's father with rape and expose her niece to public scrutiny and humiliation for the petty reason that the father did not visit his wife in the hospital."[30]

It cannot also be believed that accused-appellant's very own daughter would consent to the plan allegedly hatched by the latter's aunt and allow herself to be perverted if she was not truly motivated by a desire to seek retribution for the abominable violation committed against her by the father. It is extremely unlikely that the victim, presumably a virgin, an innocent and unsophisticated girl, unexposed to the ways of the world, would concoct a reprehensible story of defloration, no less than against her own father, allow an examination of her private parts and then subject herself to the rigors, trouble, inconvenience, ridicule and scandal of a public trial, where she has to bare her harrowing and traumatic experience and be subjected to harassment, embarrassment and humiliation during cross-examination, unless she was in fact raped and deeply motivated by her sincere desire to do so solely to seek justice and obtain redress for the unforgivable and wicked acts done on her.[31] Moreover, the complainant does not appear to have any strong reason or nefarious motive to fabricate the grave charges against her very own father and so expose not only herself but the entire family to shame and scandal.[32]

All things studiedly considered and viewed in proper perspective, the Court is fully convinced that:

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<blockquote“xxx xxx =”" xxx="" the="" accused="" had="" indeed="" assaulted="" not="" just="" flesh="" but="" also="" honor="" and="" integrity="" of="" his="" own="" offspring,="" a="" felony="" undeserving="" clemency="" forbearance.="" this="" court="" believes="" that="" guardians="" law="" should="" be="" doubly="" vigilant="" in="" safeguarding="" interests="" welfare="" children.="" if="" children="" cannot="" secured="" under="" wings="" their="" parents="" who="" are="" charged="" with="" natural="" right="" duty="" over="" person="" unemancipated="" children,="" then="" breakdown="" family="" as="" foundation="" nation,="" will="" lamentably="" happen.="" is="" state="" which="" duty-bound="" to="" guard="" against.="" for="" father="" perceived="" protector="" brood="" can="" perniciously="" molest="" helpless="" child,="" there="" no="" reason="" why="" any="" stranger="" subjected="" vicious="" torment.”vee

Article 335 of the Revised Penal Code, as amended by Republic Act 7659, which took effect on December 31, 1993[34] or barely fifteen (15) days before the perpetration by accused-appellant of his felonious acts, reads:

[35]<blockquote“xxx xxx =”" xxx="" the="" accused="" had="" indeed="" assaulted="" not="" just="" flesh="" but="" also="" honor="" and="" integrity="" of="" his="" own="" offspring,="" a="" felony="" undeserving="" clemency="" forbearance.="" this="" court="" believes="" that="" guardians="" law="" should="" be="" doubly="" vigilant="" in="" safeguarding="" interests="" welfare="" children.="" if="" children="" cannot="" secured="" under="" wings="" their="" parents="" who="" are="" charged="" with="" natural="" right="" duty="" over="" person="" unemancipated="" children,="" then="" breakdown="" family="" as="" foundation="" nation,="" will="" lamentably="" happen.="" is="" state="" which="" duty-bound="" to="" guard="" against.="" for="" father="" perceived="" protector="" brood="" can="" perniciously="" molest="" helpless="" child,="" there="" no="" reason="" why="" any="" stranger="" subjected="" vicious="" torment.”vee

> Art. 335. When and how rape is committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:
>
> 1. By using force or intimidation;
> 2. When the woman is deprived of reason or other wise unconscious; and
> 3. When the woman is under twelve years of age or is demented.
>
> xxx xxx xxx
> The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:
>
> 1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;
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> xxx xxx xxx

Following the aforecited provision of law in point and with the guilt of accused-appellant proved beyond reasonable doubt, the Court cannot help but uphold the decision under traumatic review, sentencing accused-appellant to suffer the supreme penalty of DEATH.

Pursuant to the ruling of this Court in People vs. Victor,[35] the amount of P75,000.00 has to be awarded to the victim as indemnity, the rape being qualified by any of the circumstances under which the death penalty is authorized by the applicable law. The said amount is in addition to the moral damages awarded by the trial court.

Four Justices of the Court maintain that R.A. No. 7659 is unconstitutional insofar as it prescribes the death penalty. Nevertheless, they submit to the majority opinion that the said law is constitutional and the death penalty can be properly imposed in this case.

WHEREFORE, the decision of the trial court finding accused-appellant ERNESTO SEVILLA guilty beyond reasonable doubt of the crime of incestuous rape and imposing upon him the penalty of DEATH is AFFIRMED with the modification that accused-appellant is ordered to pay civil indemnity in the amount of Seventy-five Thousand (P75,000.00) Pesos, in addition to the moral damages of Fifty Thousand (P50,000.00) Pesos awarded by the lower court.

In accordance with Section 25 of Republic Act No. 7659 amending Article 83 of the Revised Penal Code, upon finality of this decision, let the records of this case be forwarded to the Office of the President for possible exercise of the pardoning power.

SO ORDERED.

Davide, Jr., C.J. Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ., concur.

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[1] Presided by Judge Dolores Español.

[2] Rollo, p. 4.

[3] Rollo, p. 21.

[4] Original Records, pp. 91-98; Rollo, pp. 59-60 & 66.

[5] Exhibit ‘B’, Original Records, p. 12.

[6] TSN, July 12, 1995, p. 8.

[7] TSN, July 12, 1995, p. 9.

[8] TSN, July 12, 1995, p. 9.

[9] TSN, July 12, 1995, p. 3.

[10] TSN, July 12, 1995, p. 2.

[11] TSN, July 12, 1995, p. 3.

[12] Rollo, pp. 56-57.

[13] Rollo, p. 57.

[14] Appellant’s Brief, Rollo, pp. 54-55.

[15] Apellant’s Brief, Rollo, p. 55.

[16] 262 SCRA 351, 357, citing: People vs. Flores, 217 SCRA 613 and People vs. Dupali, 230. SCRA 62.

[17] TSN, Oct. 26, 1994, p. 5.

[18] TSN, Oct. 26, 1994, p. 11-12.

[19] Appellant’s Brief, Rollo, p. 54.

[20] Apellant’s Brief, Rollo, p. 55.

[21] TSN, Oct. 26, 1994, pp. 3-5.

[22] RTC Decision, Rollo, p. 8.

[23] RTC Decision, Rollo, p. 19.

[24] People vs. Alitagtag, G.R. Nos. 124449-51, June 29, 1999, citing : People vs Quijada, 259 SCRA 191.

[25] People vs, Renola, G.R. 12290912, June 10, 1999, citing: People vs. Quejada, 223 SCRA 77.

[26] People vs. David Silvano, G.R. No. 127356, June 29, 1999, citing: People vs. Taton, 282 SCRA 308; People vs. Remoto, 314 Phil. 432; People vs. Ramos, 315 Phil 435 [1995]; People vs. Amador, 226 SCRA 241; People vs. Ylarde, 224 SCRA 405; People vs. Burce, 269 SCRA 293; People vs. Paloma, 278 SCRA 114; People vs. Barazo, 272 SCRA 512; People vs. Estares, 282 SCRA 524; People vs. Apongan, 270 SCRA 713.

[27] People vs, Losano, G.R. No. 127122, July 20, 1999 citing: People vs. Bolatete, G.R. No. 127570, February 25, 1999 and People vs. Villaluna, G.R. No. 117666, February 23, 1999.

[28] People vs. Carullo, G.R. No. 129289, July 29, 1999 citing: People vs. Tabugoca, 285 SCRA 312 [1998].

[29] People vs. Catoltol, 265 SCRA 109.

[30] Appellee’s Brief, Rollo, p. 95.

[31] People vs. Silvano, supra.

[32] People vs. Renola, G.R. No. 122902-12, June 10, 1999, citing People vs. Bantisil, 249 SCRA 367.

[33] RTC Decision, Rollo, p. 20.

[34] People vs. Midtomod, 283 SCRA 395.

[35] 292 SCRA 186.

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