

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDILBERTO VILLALOBOS, ACCUSED-APPELLANT.

G.R. No. 134294. May 21, 2001

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision,[1] dated April 20, 1998, of the Regional Trial Court, Branch 9, of Balayan, Batangas, finding accused-appellant Edilberto Villalobos y Tinaypan guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of reclusion perpetua, to indemnify complainant Esperanza Villalobos y Tanallon in the amount of P50,000.00, and to pay the costs.

The information against accused-appellant alleged ^¾

That on or about the 19th day of September, 1995, at about 8:00 o'clock in the evening, at Brgy. 8, Municipality of Balayan, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there wilfully, unlawfully, and feloniously lie with, and have carnal knowledge with the said Esperanza Villalobos y Tanallon, accused's own daughter, against her will and consent.

CONTRARY TO LAW.[2]

When arraigned, accused-appellant pleaded not guilty to the charge, whereupon trial commenced.

The prosecution presented complainant as its lone witness.

Complainant, who was 31 years old at the time she testified, is the eldest daughter of accused-appellant Edilberto Villalobos and Anita Tanallon. She only finished Grade IV of the elementary school. She had two other sisters, Dorotea and Imelda. Except for her two sisters, complainant and her parents lived together in a house in Barangay 8, Balayan, Batangas. Complainant worked as a housemaid at the residence of Lilibeth de los Reyes. As their house had to be repaired, complainant and her two children and mother stayed in the house of her uncle, Anatalio Villalobos.

Complainant claimed that she had been raped by accused-appellant several times, the first of which was when she was only 13 years old, as a result of which she begot four children by accused-appellant, namely, Regante, 12 years old, Remuel, 7 years old, and two others who died upon delivery. Had the latter two lived, they would have been four years old and one year old, respectively, at the time complainant testified.[3]

At about 7:00 p.m., on September 19, 1995, complainant said that she and her mother, and sister Dorotea were having dinner when she heard accused-appellant making a secret call "Pssst." She knew that it was accused-appellant calling her, being the way accused-appellant called her whenever he wanted to have sexual intercourse with her. According to complainant, when she heard the call, she asked permission from her mother to leave on the pretext that she needed to buy something from a nearby store. She said she would have heeded the call of accused-appellant, who was in their house which was being repaired, even if she was not allowed to leave.

Complainant said she went to accused-appellant and found him standing by the door of their house. When she asked him what it was he wanted, accused-appellant answered that he needed her. ("Kailangan kita.") What accused-appellant meant was that he wanted to have sex with her ("Gusto niyang gumamit"), complainant said. Accused-appellant told her to get inside the house, and once she was in, she was asked to undress and lie down. At first, complainant claimed, she refused, but accused-appellant assured her the act would not take too long. ("Sandali lang.") Although she objected, she followed accused-appellant's order because the latter threatened her with a dagger as he again asked her to undress. ("Maghubad ka.") She was made to lie down on the folding bed and was then raped. Complainant said accused-appellant placed his dagger beside her pillow. Complainant said she tried to extricate herself from accused-appellant's hold, but he was too strong for her.

After consummating the act, accused-appellant allowed her to leave the house. According to complainant, upon arriving home, she pretended she had been to a store and did not tell anybody what had happened to her, afraid as she was that accused-appellant might kill her mother. ("Baka po tuluyang patayin ang Nanay ko.")

Complainant said she decided not to report the matter to the authorities until after her mother died. But after her mother died on November 4, 1995, she immediately reported the rape incident to the police authorities. With the help of Barangay Chairman Renato Atienza of Barangay 8, Balayan, Batangas, complainant gave a sworn statement (Exh. A)[4] to the police on November 5, 1995 and filed a criminal complaint (Exh. B)[5] against accused-appellant.[6]

Testifying in his behalf, accused-appellant, then 56 years old, denied the allegations against him and claimed that he and complainant were lovers. He said that although complainant bears the surname Villalobos, complainant was not really his daughter as she is really the daughter of his common-law wife Anita Tanallon by another man. Complainant recognized and respected him as her father because complainant was just one year old when he and Anita started living together.

Accused-appellant testified that he and complainant voluntarily entered into a relationship, a fact known even in their neighborhood. Accused-appellant said that his wife did not object to his relationship with complainant because his wife could no longer meet his sexual needs due to her kidney ailment. He admitted that at about 9:00 p.m. of September 19, 1995, he had sexual intercourse with complainant but he denied calling complainant to go to their house. He said he found complainant already lying in his bed when he arrived home that evening. He said that complainant would often lie in his bed while waiting for him to have sex with her. On the night in question, he claimed he asked complainant why she was there, and she answered, "I am waiting for you." She then held his hand as she asked him to turn off the lights. Accused-appellant said he obliged her and they had sexual intercourse. Accused-appellant said complainant in fact stayed with him that night and only left at about 5:00 a.m. the following day. Accused-appellant also admitted that prior to September 19, 1995, he and Esperanza had sex about 10 times. Their trysts took place either in the house of Anatalio (Esperanza's uncle), whenever nobody was around, or in their own house, whenever there was an opportunity. As to his four children by complainant, he said that the eldest, Regante, was 14 years old, while the next Remuel, was 10 years old. The other two were given away to be adopted ("pinaampon").[7]

On April 20, 1998, the trial court rendered its decision finding accused-appellant guilty of rape. The dispositive portion of its decision reads:

WHEREFORE, premises considered, the Court finds accused EDILBERTO VILLALOBOS GUILTY beyond reasonable doubt of the crime of rape committed against the person of Esperanza Villalobos and is hereby sentenced to suffer the penalty of reclusion perpetua and to indemnify the victim in the sum of P50,000.00 and to pay the cost.

SO ORDERED.[8]

Accused-appellant seeks the reversal of his conviction, alleging errors in the trial court's decision. Accused-appellant maintains that he and complainant were lovers as shown by the fact that (1) they had four children; (2) he would just make his secret call whenever he wanted to have sex with her and complainant would come; (3) complainant's mother, uncle, and sisters all knew about their relationship.

In considering this appeal, it is well to recall certain principles which have guided this Court in the review of trial court decisions, to wit: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution stands or falls on its own merits and cannot be allowed to draw strength from the weakness of the defense.[9] Mere accusation is not enough to convict. By the very nature of the crime, the issue in rape cases turns on the credibility of the complainant as only the participants can testify as to its occurrence.[10] In this case, the choice is between the claim of complainant that she was raped on September 19, 1995 by accused-appellant and that of accused-appellant that he and complainant actually engaged in consensual sexual intercourse on the date in question.

We have held that the accused may be convicted solely on the basis of the lone uncorroborated testimony of the complainant, but her testimony must be credible, natural, convincing, and consistent with human nature and the normal course of things.[11] On the other hand, we have likewise ruled that the testimony of the complainant should not be received with precipitate credulity, but with the utmost caution.[12]

The test for determining the credibility of complainant's testimony is whether it is in conformity with common knowledge and consistent with the experience of mankind. Whatever is contrary to common knowledge and general experience is incredible and lies outside of judicial cognizance.[13] In the case at bar, the application of these principles leads us to the conclusion that accused-appellant's conviction cannot stand.

First. It is noteworthy that complainant has four children by accused-appellant and that this fact is known to her mother and sister and even to their neighbors. As a matter of fact, complainant and accused-appellant invited their neighbors to the baptism of their children. At the time complainant testified on September 19, 1995, her oldest child was 12 and the second was seven years old, while the last two could have been four years old and one year old had they not died. On the night of September 19, 1995, complainant claimed she was in the house of her uncle, Anatalio, having dinner with her mother and her sister Dorotea when she heard accused-appellant call her "psst." Without losing time, she went to their house on the pretext that she needed to buy something from the store. Then she went inside the house and she and accused-appellant had sexual intercourse. The following is complainant's testimony to this effect:

ATTY. LAGUARDIA:

Q In other words, when you said you were inside your house and you testified that your father stayed and sleep in the house under repair?

A Yes, sir.

Q And you were staying at the house of Anatalio together with your mother and sister and children?

A Yes, sir.

Q You said that you are a housemaid and you were at the house of Anatalio on September 19, 1995 at around 8:00 o'clock in the evening, was your purpose there to visit or to stay there with your mother and sister?

A To visit.

Q And you said to visit but you sleep there in the house of Anatalio?

A Yes, sir. I will sleep in the house of Anatalio.

Q In the following morning were you going to report with your employer or you stayed there in the house of your mother?

A I was still there.

Q But at that time you were employed with Lilibeth de los Reyes?

A Yes, sir.

Q When you said your employer and you said that [you] were inside the house of Anatalio on September 19, 1995, what time did you arrive there?

A 7:00 p.m., sir.

Q You said that your father is in the house under repair, how do you know that your father is in the house under repair?

A He was calling me up.

Q What did the accused say when you said he was calling you?

A He asked me to come there.

Q What did the accused actually said to you?

A He needs me there, sir.

Q Do you know the reason why he needs you there?

A No, sir.

Q But your mother and sister know that your father is calling you?

A No, sir.

Q And was your father shouting at you when he was calling you?

FISCAL:

I would like to make it of record that the witness is crying.

COURT:

Okey.

A Pasitsit.

ATTY. LAGUARDIA:

Q When you said "pasitsit", can you please demonstrate it?

A Pst.

Q When your father is making a call by means of psst, that he was never uttering any name or any words, but only psst?

A Yes, sir.

Q And when he was making a noise, did you see him making a noise?

A He was in the house, sir.

Q When you said he is in the house, he is in the house under repair?

A Yes, sir.

Q And at that time he was making pssst, you never actually saw the accused, but you only hear the sound pssst?

A Yes, sir.

Q And do you know where was that pssst directed?

A I [do], sir.

Q Why do you say that psst is directed to you?

A That is the way of calling me.

Q That psst is a sign that your father is calling you?

A Yes, sir.

Q And that was your pre-arranged signal?

A Yes, sir.

Q When you heard your father you know that your father is calling you?

A Yes, sir.

Q And you immediately proceeded to your father?

A No, sir.

Q And why did you not immediately proceed to your father when you heard that psst?

A Because I was afraid.

Q And you were frightened because your mother and sister will see you?

A No, sir.

Q [Was] there an occasion that you called your father by pssst?

A No, sir.[14]

Further, on cross-examination, she said:

ATTY. LAGUARDIA:

Q And you likewise testified that on September 19, at around 8:00 o'clock in the evening while you were at the house of Anatalio, your mother and sister were eating at that time?

A Yes, sir.

Q They were taking their dinner?

A Yes, sir.

Q And at that time you were not joining them eating their dinner?

A Yes, sir.

Q But you were there beside there?

A Yes, sir.

Q And at that time when they were eating that was the time you heard the pst, pst?

A Yes, sir.

Q And when you said you heard that pst you did not immediately proceed to the place, is that correct?

A No, sir.

Q And when you left the house, did you ask permission from your mother or sister that you are leaving the house?

A Yes, sir.

Q And what did you tell to your mother and sister?

A That I will buy something.

Q What was the response of your mother and sister that you will be going to buy something

A They did not allow me.

Q And when you left that house it is without permission?

A Yes, sir.

Q And in fact when you left that house your mother and sister never saw you left the house?

A No, sir.

Q And in fact when you left the house your mother and sister finished their dinner?

A No, sir.

Q They were still eating when you left the house?

A Yes, sir.

Q And when you left the house, what did you use, the front or the back door of the house?

A There is no door, it is only covered by curtain.

Q You used only the way going out with a curtain?

A Yes, sir, because it is open.

Q When you heard that pst and you were beside your mother and sister, how many pst did you hear?

A Three, sir.

Q Did you notice whether that pst was heard by your mother or sister?

A No, sir. They did not hear it.

Q After hearing the three pst, that was the time that you asked permission from your mother and sister?

A Yes, sir.

Q But you will agree with me that when you asked permission from your mother your purpose then was to go to the other house, is that correct?

A Yes, sir.

Q And when you said that you will go to the other house that was under repair?

A Yes, sir.

Q But you have no intention of buying something at the store?

A None, sir.

Q You likewise testified that you are very familiar with that pst even though you do not see the person because that is the pst of your father?

A Yes, sir.

Q Prior to that September 19, 1995 you already heard your father making a pst at your house?

A Yes, sir.

Q And when your father is making a pst signalling that your father is calling you you are just leaving the house without any permission from your mother or sister?

A Yes, sir.

Q Prior to that incident there were instances when your father is secretly calling you to go outside of the house?

A Yes, sir.

Q And just what likewise happened in September 19, 1995 you just make excuses from your mother and sister just to go to your father?

A Yes, sir.[15]

It thus appear that complainant engaged in consensual adult sexual intercourse with accused-appellant. It is true complainant said she submitted to the will of accused-appellant because she was threatened with harm. However, she could have avoided being raped by simply ignoring the "psst" of accused-appellant. What was she afraid of? She was with her mother and sister. They were in another house because their house, from where accused-appellant was calling her, was under repair. But complainant answered the call of accused-appellant and even lied, if she is to be believed, to her mother by telling her that she needed to buy something from the store. When she came back, she pretended as if nothing had happened. Accused-appellant denied that he called complainant. He said it was complainant whom he found lying in bed in their house when he arrived home and it was she, according to accused-appellant, who initiated the sexual act that night.

Whatever might be the truth, if, as complainant claimed, accused-appellant told her "Kailangan kita," which meant he wanted to have sex with her, complainant could just have ran away. But she did not. Instead, she went inside the house. It is difficult to believe that complainant was forced to have sexual intercourse by accused-appellant.

Second. How accused-appellant allegedly raped her belies complainant's claim of force, threat, and intimidation employed against her person. Complainant described how she was allegedly raped, thus:

FISCAL: (to the witness)

Q On September 19, 1995 at about 8:00 o'clock in the evening, can you recall any unusual incident that happened, if any?

A I was raped, Sir.

Q Who raped you, Miss Witness?

(Witness is pointing to a man she pointed a while ago as the accused)

Q How were you raped, Miss Witness?

A He ordered me to [lie] down, Sir.

Q After he ordered you to [lie] down, what did you do, if you did anything?

A He ordered me to undress, Sir.

Q Did you follow his order to you to [lie] down?

A Yes, sir.

Q Why did you [lie] down?

A In order to be raped, Sir.

Q You said your father, herein accused, ordered you to [lie] down, did he shout when he ordered you to [lie] down?

A No, Sir, in a low voice.

COURT:

Were there other persons present when your father called you to [lie] down?

A None, Sir.

COURT:

You said a while ago that there were other persons inside your house?

A In another house, Sir.

Q Where were you when he ordered you to [lie] down? Was the house owned by you or by your father?

A It was our house, Sir, and at that time our house is being constructed.

Q And you said that the other persons were in the other house?

A Yes, Sir.

Q That house, whom were you referring to?

A House of my uncle, Sir.

FISCAL:

When you were asked to [lie] down, was Edilberto Villalobos armed with a weapon?

ATTY. LAGUARDIA:

Objection, your Honor.

COURT:

Reform.

COURT:

When you were laid down, what was your feeling at that time, if any?

A None, Sir, I feel nothing.

Q When you said feel nothing, you were not afraid?

A I was afraid, Sir.

Q To whom were you afraid?

A To him, Sir.

Q When you said to him, who is the person you were referring to?

A My father, Sir.

Q Why were you afraid at that time with your father, when he ordered you to [lie] down?

A Because he will kill us, sir.

Q What [made] you [say] that your father will kill you?

A According to him, he will kill us, Sir.

Q When did your father tell you that he will kill all of you?

A That was a long time ago, Sir.

Q You mean to say, when the time that he called you to [lie] down, your father did not threaten to kill all of you?

A "Tinatakot po," Sir.

FISCAL:

When you [lay] down, what happened?

A He raped me, Sir.

Q According to you, you were raped, while you were raped what did you feel, Ms. Witness?

A None, Sir.

Q Will you please tell the Court how were you raped by your father?

A He told me to remove my underwear, Sir.

Q After you removed your underwear, what did your father do, immediately after that?

A He also undressed himself, Sir.

COURT:

What was the dress worn by your father at that time?

A "Putol na pantalon," Sir.

FISCAL:

Upon undressing yourself, what did your father do, if he did anything?

A He placed himself on top of me, Sir.

Q Upon placing himself on top of you, what did he do, if he did anything?

A "Yumugyog po siya."

COURT:

Q When you said, "yumugyog," can you tell to the Court what do you mean by that?

A "Hinihindot po ako."

FISCAL:

Q Miss Witness, why did you allow yourself to be raped by your father?

A Because he will kill me, Sir.

Q When did he threaten you?

A When he started to rape me, Sir.

Q When was that?

A He threatened me since 1980, Sir.

COURT:

You said, you were "hinindot" by your father, [was] your father able to penetrate your organ?

A Yes, Sir.

Q While your father was doing the said act, what did you do if you did anything?

A None, Sir, I was just lying down.

FISCAL:

Miss Witness, can you tell to the Honorable Court, what is your educational attainment?

A Grade IV, Sir.

Q Are you able to read?

A Yes, Sir.

Q Immediately after you were raped by your father, what did your father do, if he did anything?

A He ordered me to go outside from our house, Sir.

Q What did you do upon his order?

A I followed his order, Sir.

Q Did you report that matter to the police?

A No, Sir.

Q Why did you not report that matter to the police?

A Because he threatened us to be killed, Sir.

Q When you said, us, to whom were you referring?

A My mother, my two children and my sister, Sir.

COURT:

When he threatened you, was he armed with a deadly weapon?

A Yes, Sir.

Q What kind of weapon was that?

A Dagger, Sir.

Q That dagger was in possession of your father on September 19, 1995?

A Yes, Sir.

FISCAL:

Where was that dagger when you were raped by your father?

A In his body, Sir.

COURT:

When you said, in his body, was he holding it with his arm?

A No, Sir, he laid it on the floor.[16]

It is true that, for rape to exist, it is not necessary that the force or intimidation employed by the accused be so great or that it be of such a character as could not be resisted and that it is enough that the intimidation produces such fear in the victim that if she does not yield to the demands of the accused, something grave would happen to her.[17] But, in the case at bar, while complainant says she was forced to lie down as she was afraid of accused-appellant, the facts belie her claim. She could have avoided going to the other house in response to accused-appellant's call. She could have refused to get inside the house after she was told by accused-appellant he wanted to have sex with her. She could have grabbed the dagger which was placed, according to her, beside the pillow as accused-appellant was performing the sexual act. However, complainant did none of these. On cross-examination, she stated:

ATTY. LAGUARDIA:

Q And in fact, you will agree with me that when you said your father placed himself on top of you, you did not make any resistance?

A When he placed himself on top of me, I pushed him, sir.

ATTY. LAGUARDIA:

Witness is merely demonstrating his left arm from right to left, your Honor.

PROSECUTOR:

From right to left many times, your Honor.

ATTY. LAGUARDIA:

Q And that was the only resistance you make?

A Yes, sir.

COURT:

Q When your father was on top of you, was your father holding the dagger?

A It was on the "ulunan," sir. (Witness pointing above her head)

Q Will you tell us how your father threatened to kill your mother?

A He will kill my mother by means of stabbing, sir.

COURT:

Proceed.

ATTY. LAGUARDIA:

Q When you said your father was removing his short pants by unbuttoning it and unzipping it, was he using his two (2) hands?

A Yes, sir.

Q And when he was removing his short pants by using his two (2) hands, he was not holding anything at that time?

A None, sir. He was just removing his short pants.

Q And when you said that a dagger was placed on top of the head, that dagger was regularly placed there when you said that dagger was on your head because your father was placing that dagger on that place?

A He was keeping it inside the cabinet, sir.

Q When you said that the dagger was placed when you were lying down in the folding bed, where was that dagger actually placed?

PROSECUTOR:

I think, the question has already been answered. It was placed in the "ulunan," near the head, your Honor.

ATTY. LAGUARDIA:

What is the actual position. It was near the head that is why I am asking the witness what was the actual position, your Honor.

COURT:

Witness may answer.

A (Witness pointing at the back of her neck)

COURT:

Q You mean to say that the dagger was placed at the back of your head because you are pointing under your head.

PROSECUTOR:

Witness demonstrating that it was placed on her left shoulder and her head.

May I manifest because he lay on the folding bed, it might be under the folding bed, your Honor.

COURT:

Q Was it under the folding bed?

A No, your Honor.

Q You mean to say that it was under the folding bed or the pillow that you were using?

ATTY. LAGUARDIA:

There is no showing that it was placed under the pillow, your Honor.

COURT:

That is why I am asking her.

ATTY. LAGUARDIA:

Yes, your Honor.

A Outside, your Honor.

COURT:

Q So you are saying that the dagger was placed few inch[es on the] left side of your face?

A Yes, your Honor.

ATTY. LAGUARDIA:

Q And when you said that the dagger was placed at the left side of your face, the dagger was under the pillow?

A No, sir.

Q And the dagger was placed on that place near your left face at that time that your father was removing his short pants?

A Yes, sir.

Q In other words, you already noticed when you lay on that bed that there was a dagger on that pillow?

A Yes, sir.[18]

In rape alleged to have been committed by force, it is imperative for the prosecution to establish that the element of voluntariness on the part of the victim be absolutely lacking. The prosecution must prove that force or intimidation was actually employed by the accused-appellant upon his victim to achieve his end. Failure to do so is fatal to its cause.[19] In this case, complainant's actuations before, during, and after the alleged rape on September 19, 1959 fail to convince us that she was merely forced to have sexual intercourse with

accused-appellant. The way she behaved toward accused-appellant was more like that of a wife to her husband or paramour to her lover than like the victim of rape toward the rapist.

Third. Complainant claimed that she was first raped when she was 13 years old. At the time she testified in 1995, she was 30 years old. This means that for 17 years, from 1978 to 1995, she kept quiet about her misfortune. She said it was because accused-appellant threatened to harm her and her family. But, as already shown, this claim is belied by the facts of this case. Instead, that accused-appellant had been having relations with complainant was known in their family and by their neighbors. Why she failed to denounce accused-appellant and only did so after 17 years and four children if she was merely being forced to live with him is difficult for the Court to understand.

Indeed, complainant was 30 years old at the time of the alleged rape on September 19, 1995. She was not a young girl forced to have sexual intercourse with her father. As admitted by both complainant and accused-appellant, they had sexual intercourse several times in the past as a result of which they begot four children. Complainant testified on cross-examination:

COURT:

Q By the way, Miss Witness, you said that it was your plan to file a complaint against your father when your mother died?

A Yes, your Honor.

Q And that plan of yours was conceived by you at that time that your mother was still living?

A Yes, your Honor.

ATTY. LAGUARDIA:

In other words, you will not file any complaint against your father while your mother is living?

A Yes, sir.

Q And you also testified, Miss Witness, that likewise your father threatened that he will also kill your sister?

A Yes, sir.

Q And did you not consider the life of your sister in filing that complaint?

COURT:

Make it of record that the witness is crying while answering the question.

A Because my mother did not permit me to file a complaint while she is still living, sir.

ATTY. LAGUARDIA:

Q Are you trying to tell this Honorable Court that your mother told you to file your complaint against your father when she died?

A Yes, sir.

COURT:

Q Why? Was your mother very sickly at that time?

A Yes, your Honor.[20]

Nor did complainant even evince hatred toward accused-appellant for what he had allegedly done to her. To the

contrary, her answer on cross-examination shows two adults in conjugal relations, thus:

ATTY. LAGUARDIA:

Q You testified before that you have children 12 and 7 years old, was that children of yours duly baptized?

A Yes, sir.

Q And in fact you will agree that you and the accused who got the sponsor of that children of yours?

A Yes, sir.

Q You are the one who got the godfather or is it the accused?

A The accused.

Q And in fact during the baptismal of your two children, there was celebration in your house?

A Yes, sir.

Q And in fact your relatives were invited?

A Yes, sir.

Q And in fact all your relatives together with the godfather were sons of the accused?

A Yes, sir.

Q And in fact you also introduced to them that it is the accused who is the father of your two children who are baptized?

A Yes, sir.[21]

To conclude, proof beyond reasonable doubt is required to convict an accused. Although absolute certainty of guilt is not demanded by the law to convict one of a criminal charge, moral certainty is nonetheless required for conviction.[22] If there is reasonable doubt as to the guilt of the accused, he should be acquitted. In this case, we cannot rest easy in affirming the conviction of the trial court considering the doubts engendered in our minds. Complainant could have been raped the first time accused-appellant had carnal knowledge of her, when she was 13 years old. This, however, is not a prosecution for such rape. When she complained of having been raped in this case, she was already 30 or 31 years old, 17 or 18 years after she had been allegedly ravished for the first time by her father, the herein accused-appellant. During the said period of 17 or 18 years, neither complainant nor her parents denounced accused-appellant despite the fact that he continued to have sexual relation allegedly without the consent of complainant. During this period, four children were born to complainant and accused-appellant. Complainant and accused-appellant practically cohabited, choosing the baptismal sponsors for their children, and even inviting friends and relatives to the feasts. The relationship was known to neighbors. Thus, their relationship might be incestuous, but it was not by reason of force or intimidation. For their part, while in the beginning complainant's mother and sisters may have disapproved of the relationship, in the end, it would appear that subsequently they just turned a blind eye on the whole affair. Given these facts, we cannot say that on September 19, 1995 when accused-appellant had sexual intercourse with complainant, he committed rape.

WHEREFORE, the decision of the Regional Trial Court, Branch 9 of Balayan, Batangas, finding accused-appellant Edilberto Villalobos guilty of rape, is REVERSED and SET ASIDE and accused-appellant is ACQUITTED of the crime charged and is ordered immediately RELEASED from custody unless there are other legal grounds for his continued detention.

The Director of Prisons is directed to implement this Decision and to report to the Court immediately the action taken hereon within five (5) days from receipt hereof.

SO ORDERED.

Bellosillo, (Chairman), Buena, and De Leon, Jr., JJ., concur.
Quisumbing, J., on leave.

[1] Per Judge Elihu A. Ybañez.

[2] RTC Records, p. 1.

[3] TSN, pp. 3-7, Aug. 20, 1996; TSN, pp. 3-7, Aug. 27, 1996; TSN, pp. 2-4, Sept. 24, 1996.

[4] RTC Records, p. 5.

[5] Id., p. 4.

[6] TSN, pp. 7-15, Aug. 20, 1996; TSN, pp. 13-23, Aug. 27, 1996; TSN, pp. 4-15, Sept. 24, 1996; TSN, pp. 2-19, Nov. 6, 1996.

[7] TSN, pp. 2-9, March 18, 1997; TSN, pp. 3-9, June 17, 1997.

[8] Decision, p. 14; Rollo, p. 28.

[9] People v. Desamparado, G.R. No. 130651, November 22, 2000; People v. Gutierrez, G.R. No. 132772, August 31, 2000; People v. De la Cruz, G.R. No. 133921, June 1, 2000.

[10] People v. Abuan, 284 SCRA 46 (1998).

[11] E.g. People v. De la Cruz, G.R. No. 137967, April 19, 2001; People v. Docdoc, G.R. No. 134679, August 8, 2000; People v. Estrera, 285 SCRA 372 (1998).

[12] People v. Domogoy, 305 SCRA 75 (1999).

[13] People v. San Juan, 326 SCRA 786 (2000).

[14] TSN, pp. 15-18, Aug. 27, 1996.

[15] TSN, pp. 4-7, Sept. 24, 1996.

[16] TSN, pp. 5-12, Aug. 20, 1996 (emphasis added).

[17] E.g., People v. Montejo, G.R. No. 133475, March 26, 2001; People v. Sancha, 324 SCRA 646 (2000); People v. Manggasin, 306 SCRA 228 (1999).

[18] TSN, pp. 11-14, Nov. 6, 1996.

[19] People v. Moreno, 321 SCRA 334 (1999); People v. Subido, 253 SCRA 196 (1996).

[20] TSN, pp. 17-18, Nov. 6, 1996.

[21] TSN, pp. 2-3, Sept. 24, 1996 (emphasis added).

[22] People v. De la Cruz, G.R. No. 137967, April 19, 2001; People v. Masalihit, 300 SCRA 147 (1998).

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