

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO SANTOS Y LABAY, ACCUSED-APPELLANT.

G.R. No. 137993. April 11, 2002

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PER CURIAM:

Romeo Santos y Labay appeals from the decision[1] of the Regional Trial Court (RTC), Branch 265, Pasig City, in Criminal Case No. 113642-H, convicting him of rape and sentencing him to the supreme penalty of death, and to pay to the victim, Julie Ann Gutierrez, the amounts of P50,000.00 as civil indemnity and P30,000.00 as moral damages and costs.

On January 6, 1998, an information was filed with the said RTC charging Romeo Santos y Labay with rape, committed as follows:

“On or about the third week of December, 1997 in Pasig City, and within the jurisdiction of this Honorable Court, the accused being a grandfather, a relative by consanguinity within the third civil degree, did then and there willfully, unlawfully and feloniously have sexual intercourse with Julie Ann Gutierrez, a minor, six years old, against her will and consent.

“Contrary to law.”[2]

When arraigned, accused pleaded not guilty. Trial ensued.

The facts, as culled from the records, are as follows:

Julie Ann Gutierrez, born on September 13, 1991, is the third child of Julio and Josephine Gutierrez. Accused Romeo Labay Santos, tricycle driver, is Julie Ann’s maternal grandfather.

One early evening in December 1997, Julie Ann, then six years old, was brought by the accused to his house located behind the house of the girl’s family in Villa Raymundo, Barangay Palatiw, Pasig City.[3]

The accused laid down Julie Ann on the bed and undressed her. He also undressed himself. He then inserted his penis into her vagina. She shouted because of the pain, but he refused to stop. At that time, Julie Ann’s mother went to fetch water outside, while her father was driving his jeep.[4] Accused’s wife was not also in the house.

Julie Ann described a rapist as someone who would take off her dress and her shorts, including her panty, kiss her vagina and insert his penis.[5]

Julie Ann’s mother, Josephine Gutierrez, 28 years old, recalled that the accused would usually take the girl to his house overnight. One time, Josephine fetched her from his house as she complained of pain in her vagina. Then, while giving a bath to Julie Ann, Josephine saw blood and white secretion near her daughter’s genital area. For one week after that, she experienced nightmares, screaming, “Ayoko na!”[6] Worried, Josephine brought her to a psychiatrist in the Philippine General Hospital (PGH). The psychiatrist told Josephine that the nightmares were caused by a traumatic experience of her daughter. The psychiatrist then conducted a medical examination of Julie Ann and certified that she has three lacerations in her genital area.[7]

On January 4, 1998, Rolando Macasinag told Josephine that the accused previously molested Julie Ann. At first, Josephine found it hard to believe. Later on, upon her inquiry, Julie Ann revealed that the accused had raped her four times.[8] Thereupon, Josephine confronted the accused, but he denied.[9]

The next day, or on January 5, 1998, Josephine took Julie Ann to the Eastern Police District, Philippine National Police Office in Caruncho Avenue, Pasig City. The officer of the Task Group Zebra-Women and Children's Desk referred and accompanied them to the PGH for physical examination. Dr. Bernadette Madrid, Director of the PGH Child Protection Unit, examined Julie Ann and indicated in her Medical Certificate that her vagina had in fact been penetrated.[10] Then, Josephine and Julie Ann returned to the police headquarters where the latter was investigated.[11]

On January 5, 1998, at around 9:30 in the evening, the accused was apprehended while driving his tricycle.[12]

The accused denied the charge and alleged that his daughter, Josephine, was angry with him so she concocted false charges against him.

He also claimed that he reprimanded Roland Macasinag twice because of his drinking. Roland is married to the daughter of the second husband of the accused's wife.[13]

Josephine presented before the trial court Julie Ann's birth certificate showing that she was born on September 13, 1991.[14]

On January 11, 1999, the trial court rendered its decision,[15] the dispositive portion of which states:

"WHEREFORE, in view of the foregoing, judgment is hereby rendered finding the Accused, ROMEO SANTOS Y LABAY, GUILTY beyond reasonable of the crime of RAPE, aggravated by the fact that the victim was the accused's minor granddaughter who was only six (6) years old, and hereby sentences him to suffer the penalty of DEATH, as provided for under R.A. No. 7659 and R.A. No. 8353; to pay the Private Complainant, Julie Ann Gutierrez, the sum of FIFTY THOUSAND PESOS (P50,000.00) by way of indemnity; THIRTY THOUSAND PESOS (P30,000.00) as moral damages, plus all the accessory penalties provided by law, without subsidiary imprisonment in case of insolvency; and to pay the costs.

SO ORDERED."[16]

The above decision was elevated to this Court for automatic review.

In his brief, accused-appellant contends that the court a quo erred:

"I.... IN IGNORING THE FACT THAT THE ALLEGED VICTIM AND THE COMPLAINANT'S MOTHER WERE ONLY TOLD TO POINT TO THE ACCUSED AS THE PERPETRATOR BY ROLAND MACASINAG.

"II.... IN GIVING CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES ALTHOUGH REplete WITH INCONSISTENCIES.

"III.... IN FINDING ACCUSED-APPELLANT GUILTY OF THE CRIME-CHARGED BEYOND REASONABLE DOUBT."[17]

The nature of the crime of rape is such that oftentimes it is only the accused and the complainant who can testify as to the commission of the crime. Thus, it is imperative to scrutinize the testimonies and the evidence altogether to see if the conviction of appellant can be sustained.[18]

In this case, appellant denies committing rape and essentially raises the issue of credibility of witnesses. Well-entrenched is the rule that the findings of the trial court on credibility of witnesses are entitled to great

weight on appeal unless cogent reasons are presented necessitating a reexamination if not the disturbance of the same; the reason being the former is in a better and unique position of hearing first hand the witnesses and observing their deportment, conduct and attitude.[19] Absent any showing that the trial judge overlooked, misunderstood, or misapplied some facts or circumstances of weight which would affect the result of the case, the trial judge's assessment of credibility deserves the appellate court's highest respect.[20]

After a careful scrutiny of the evidence on record, we find no cogent reason to depart from the findings and conclusions of the trial court. We agree with its grant of full weight and credence to the testimony of Julie Ann that her grandfather sexually assaulted her without her consent. She testified in a very clear, spontaneous and straightforward manner. She unflinchingly identified her grandfather, the appellant, as the person who raped her. She declared that she felt pain and screamed when he inserted his penis into her vagina. She even experienced nightmares because of her trauma.

Furthermore, no woman, especially one of tender age like Julie Ann, would concoct a rape complaint, allow a gynecologic examination and permit herself to be subjected to a public trial if she is not motivated solely by the desire to have the culprit apprehended and punished.[21] Considering that she was not shown to have been ill-motivated in charging her grandfather, we find no reason to disbelieve her. This Court has held that where there is no evidence to indicate that the prosecution witness was actuated by improper motive, the presumption is that he was not so actuated and his testimony is given full faith and credit.[22]

Appellant contends that Julie Ann was merely coached by her mother and Roland Macasinag to accuse him with rape; and that his arguments and quarrels with Josephine and his having reprimanded Roland Macasinag because of his drinking are the reasons why they falsely testified against him. Appellant's contention is highly implausible. This Court has ruled that such motives have never swayed this Court in lending credence to the testimony of the victim, like Julie Ann, who remain firm and steadfast in her account of how she was ravished by a sex offender.[23] Also, no member of a rape victim's family would dare encourage the victim to publicly expose the dishonor of the family unless the crime was in fact committed,[24] more so in this case where the victim and the offender are both from the same family.

Appellant further cites inconsistencies in Julie Ann's statements before the trial court. Specifically, appellant avers that Julie Ann contradicted herself when she gave conflicting answers, as to the whereabouts of the other members of her family at the time she was raped. First, she stated that her family was in her house. Later, she declared that her mother went to fetch water and her father drove his jeep. Likewise, she was confused when asked where she lived during the incident. We find such contradictions more apparent than real. It must be remembered that Julie Ann was only 6 years old when she was raped and only 7 years old when she testified in court. As a child, her answers depended on her perception of the questions propounded to her. Nonetheless, the alleged inconsistencies in her testimony refer to minor matters. What is significant is that she declared categorically that appellant raped her. When the inconsistencies pertain to trivial details, they are inconsequential as they have nothing to do with the essential fact in the crime of rape which is carnal knowledge.[25]

Corroborating the testimony of Julie Ann is the medical certificate of the doctor who examined her. According to the medical findings, Julie Ann's hymen was reduced or almost absent, concluding that there was a penetration. This Court has held that when the victim's testimony of her violation is corroborated by the physician's findings of penetration, then there is sufficient foundation to conclude the existence of the essential requisite of carnal knowledge.[26]

Appellant's defense of denial is inherently weak and cannot prevail over the positive and candid testimony of the victim, whose credibility was upheld by the trial court.[27]

Thus, we find the appellant guilty beyond reasonable doubt of rape. Under Article 335 of the Revised Penal Code, as amended, rape is committed by having carnal knowledge of a woman and the death penalty shall be imposed if the crime of rape is committed when the victim is under eighteen years of age and the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

The prosecution adequately established the fact that the victim, Julie Ann Gutierrez, was only six years old at the time of the rape. That she was only six then and that appellant is her grandfather are properly alleged in the information.

Hence, the concurrence of both the minority of the victim and her relationship to the offender constrains this Court to affirm the death penalty imposed by the trial court.[28]

Three (3) members of the Court, although maintaining their adherence to the separate opinions expressed in *People vs. Echegaray* that R.A. No. 7659, insofar as it prescribes the penalty of death, is unconstitutional, nevertheless submit to the ruling of the majority that the law is constitutional and that the death penalty should accordingly be imposed.

Regarding damages, recent jurisprudence has prescribed that the indemnification of the victim shall be in the amount of P75,000.00 if rape is committed or effectively qualified by any of the circumstances under which the death penalty is authorized by the applicable amendatory laws.[29] Applying the foregoing policy, the civil indemnity to be awarded to the offended party in the case at bar is increased to P75,000.00.

Additionally, it is obvious from the facts of this case that the victim suffered mental, physical and psychological trauma which justifies the award of moral damages. She is thus entitled to moral damages in the increased amount of P50,000.00.

WHEREFORE, the decision of the RTC, Branch 265, Pasig City, in Criminal Case No. 113642-H, convicting appellant Romeo Labay Santos of rape and sentencing him to death is **AFFIRMED** with **MODIFICATION** in the sense that he is ordered to pay the offended party, Julie Ann Gutierrez, P75, 000.00 as civil indemnity and P50,000.00 as moral damages.

In accordance with Article 83 of the Revised Penal Code, as amended by Section 25 of Republic Act No. 7659, upon the 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, De Leon, Jr., Ynares-Santiago, Sandoval-Gutierrez, and Carpio, JJ., concur.

[1] Penned by Judge Edwin A. Villazor.

[2] Rollo, pp. 4-6.

[3] Transcript of Stenographic Notes (TSN), October 15, 1998, p. 7.

[4] TSN, October 15, 1998, pp. 5-6.

[5] TSN, November 5, 1998, p. 5.

[6] *Ibid.*, November 13, 1998, p. 7.

- [7] Ibid., p. 10.
- [8] TSN, November 13, 1998, p. 10; TSN, October 15, 1998, p. 9.
- [9] Ibid., October 15, 1998, p. 10.
- [10] TSN, November 26, 1998, p. 5.
- [11] Ibid., November. 13, 1998, pp. 11- 13.
- [12] Ibid., December 14, 1998, p. 4.
- [13] TSN, pp. 3-10.
- [14] Ibid., November 20, 1998, p. 5.
- [15] Rollo, pp. 14-34.
- [16] Rollo, p. 34.
- [17] Rollo, pp. 44-45.
- [18] People vs. Bation, 305 SCRA 253, 260 (1999).
- [19] People vs. Sacapaño, 313 SCRA 650, 660 (1999).
- [20] People vs. Abangin, 297 SCRA 655, 664 (1998).
- [21] People vs. Abad, 268 SCRA 246, 256 (1997).
- [22] People vs. Excija, 258 SCRA 424, 440 (1996).
- [23] People vs. Mosqueda, 313 SCRA 694, 711(1999).
- [24] People vs. Abangin, 297 SCRA 655, 665 (1998).
- [25] People vs. Veloso, 330 SCRA 602, 609 (2000).
- [26] People vs. Bation, 305 SCRA 253, 269 (1999).
- [27] People vs. Padil, 318 SCRA 795, 808 (1999).
- [28] People vs. Sancha, 324 SCRA 646, 668 (2000).
- [29] People vs. Prades, 293 SCRA 411, 430 (1998).

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