

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MAXIMO SALVADOR, APPELLANT.

G.R. No. 142873. July 09, 2002

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PER CURIAM:

This is an automatic review of the Decision[1] of the Regional Trial Court (RTC) of Cagayan de Oro City, Branch 19, penned by Judge Anthony E. Santos in Criminal Case No. 99-336 finding Maximo Salvador guilty beyond reasonable doubt of qualified rape and imposing on him the supreme penalty of death.

The Solicitor General (OSG) narrates how appellant raped his own daughter:

“The victim, Merlyn Salvador, is 14 years old and the legitimate child of appellant Maximo Salvador.

“Around 2 o’clock in the afternoon of December 3, 1998, the victim heeded her father’s instruction to take a nap inside their bedroom. But as she woke up later, she found herself already naked. She was shocked when she saw her father embracing her. He pinned down her hands while inserting his hard and erect penis into her vagina. He then made pumping motions (TSN, September 15, 1999, pp. 33-35). At that very moment, he looked like a ‘devil’ to her. She tried to free herself from his embrace, but he was so strong. She felt extreme pain when his penis penetrated her vagina. After a while, she felt something wet that came out of his organ. The incident happened inside the room where her other siblings were also sleeping (TSN, September 15, 1999, pp. 36-37). After he had satisfied his lustful desire, he warned her not to tell any one or he would cut her neck and those of her mother and siblings (TSN, September 15, 1999, p. 37). He later burned her panty which was stained with blood. Her mother, a market vendor, was not home when the incident took place (TSN, September 15, 1999, p. 39).

“In January 1999, he again tried to abuse her. He was already on top of her, but later desisted when she shouted for help. Thereafter, she left their house for she could no longer take the abuses of her own father. She worked as a househelp but did not Inform her family of her whereabouts. After sometime, she finally managed to reveal to her Uncle Lando, her mother’s cousin, the sexual abuse she experienced in the hands of her own father. She chose to tell her Uncle Lando, and not her mother because she knew that her mother loved her father so much (TSN, September 15, 1999, pp. 26-41). Even then, her Uncle Lando also told her mother about It. Together, she, her mother and her Uncle Lando reported the incident to the authorities. The medical examination made on her reveals that she sustained old healed lacerations at 4 o’clock and 8 o’clock positions (TSN, September 15, 1999, pp. 16-25).”[2]

As a consequence, on March 10, 1999, an Information docketed as Criminal Case No. 99-336 was filed, charging him as follows:

“That sometime in December 3, 1998, at 21st-20th Streets, Nazareth, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with the use of force, threat and Intimidation, forced the offended party, Merlyn Salvador y Candones, who is his 14 year old daughter to have carnal knowledge with him knowing fully well that he is the father of the victim and the consummated [sic] sexual assault was without the consent of his said daughter.”[3]

During his arraignment on May 6, 1999, appellant, assisted by his counsel de oficio Atty. Cesar Merlas, pleaded not guilty to the above-quoted charge.[4] Pre-trial was held after which trial on the merits ensued. Appellant was subsequently found guilty of rape in the Court's appealed Decision disposing thus:

"Wherefore, accused Maximo Salvador Is hereby sentenced to suffer the penalty of death, to indemnify Merlyn Salvador the sum of P75,000, to pay her moral damages of P50,000 and to pay the costs."[5]

Appellant avers that the prosecution failed to rebut the constitutional presumption of innocence. He claims that the victim's testimony on the rape incident was incredulous because it defied the ordinary experience of man.[6] As such, the defects in the testimony should work towards his acquittal.[7] He also adds that the medical examination did not help the victim's cause in any way, not having conclusively shown that the old healed laceration in the vagina was caused by penile penetration.[8]

Thus, he assigns the following errors allegedly committed by the trial court:

"I

THE COURT A QUO ERRED IN CONVICTING THE ACCUSED NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

"II

GRANTING THAT ACCUSED IS GUILTY OF THE CRIME CHARGED, THE COURT A QUO ERRED IN IMPOSING THE SUPREME PENALTY OF DEATH INASMUCH AS THE RAPE IN THIS CASE IS NOT QUALIFIED BY ANY CIRCUMSTANCES UNDER WHICH THE SAID PENALTY IS TO BE IMPOSED."[9]

The contentions of appellant are not meritorious.

Appellant cannot hide behind the constitutional presumption of innocence when, as in this case, his guilt has been proven beyond reasonable doubt. Settled principles enunciated in a long history of jurisprudence work against him. These, together with the evidence adduced by the prosecution during the trial, affirm his conviction.

In reviewing rape cases, this Court has three guiding principles: (1) an accusation for rape can be made with facility; it is difficult to prove but even more difficult for the person accused, though innocent, to disprove it; (2) in view of the intrinsic 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 must stand or fall on its own merit; the prosecution cannot be allowed to draw strength from the weakness of the evidence for the defense.[10]

Corollary to these is the principle that when a victim of rape says that she was defiled, she says in effect all that is necessary to show that rape has been inflicted on her, and so long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof.[11] This is a basic rule, founded on reason and experience[12] and becomes even more apparent when the victim is a minor.[13] In fact, more compelling is the application of this doctrine when the culprit is her close relative.[14]

After meticulously perusing the records and evaluating the evidence, the Court is convinced beyond doubt of the credibility and the sufficiency of the prosecution evidence establishing that appellant raped his own daughter. The testimony of the victim is replete with details. She was positive, clear and convincing during the direct examination and unwavering during the cross-examination. Her straightforward testimony on her traumatic experience proceeded as follows:

“ASST. FISCAL ADILAN: (To the witness cont’ng.)

Q. You said, you filed a case against your father for rape on December 3, 1998. Did your father actually rape you at that time?

A. Yes.

Q. Will you describe to this Court how your father raped you?

A. On that day, December 3, 1998 my father told me to sleep. And I was just surprised when I woke up that my pantie and skirts were no longer there.

COURT: (To the witness)

Q. And then what happened?

A. He embraced me and pinned down both my hands.

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ASST. FISCAL ADILAN: (To the witness cont’ng.)

Q. Now, you said that, you were only surprised when you woke up because you have no more pantie and skirt. What did you observe of your father at that time?

A. He looked like a devil or demon.

Q. Why do you say that he looked like a devil?

A. Because he can dare to rape his own daughter.

Q. As far as his face is concerned, did you observe him?

A. No.

Q. While he was on top of you, what did he do?

A. He do [sic] the pumping motion.

Q. And what about you, what were you doing?

A. I was trying to wrestle out but I can’t do anything because he was strong.

Q. Did you observe if his penis actually penetrate [sic] your vagina?

A. Yes.

Q. Why were you able to observe that his penis was able to penetrate your vagina?

A. Because it was very painful.

Q. What part of the house did your father do that?

A. In our room.

Q. And aside from you and your father, were there other persons at the time when your father raped you?

A. My younger brothers and sisters.

Q. Who were they?

A. Mario and Maria Fe.

Q. And what were they doing at that time?

A. They were sleeping.

Q. Now, you said that, you were able to observe that the penis of your father penetrated your vagina because you felt pain. Right?

A. Yes, Sir.

Q. Now, while your father was doing the sexual act, did your father say anything to you?

A. None, but after the rape he said something.

Q. What is that which he said after the rape?

A. He said that, If I will reveal the incident to anybody, he will cut my neck Including my mother, brothers and sisters.

Q. While your father was having sexual intercourse with you, what did you do?

A. I tried to wrestle.

Q. Now, you said that, when your father was making a pull and push movement did you observe his face?

A. No, Sir, because I closed my eyes.

Q. What made you closed your eyes?

A. Because I don't want to see him.

Q. Did you notice if your father had ejaculated?

A. Yes.

Q. What made you say that?

A. Because there was a wet.

Q. What was that which was wet?

A. My vagina was wet.

COURT: (To the witness)

Q. What was the color of that wet in your vagina?

A. White.

ASST. FISCAL ADILAN: (To the witness cont'ng.)

Q. Did you vagina bleed?

A. I did not know because after he raped me I looked for my pantie and my father told me that he threw my pantie and he said that he burned because there is blood.

Q. For how long was your father on top of you making a push and pull movement?

A. I did not know because I was not able to glance the clock but it was just a brief.

COURT: (To the witness)

Q. What time was this according to your calculation?

A. 2:00 o'clock in the afternoon.

ASST. FISCAL ADILAN: (To the witness cont'ng.)

Q. Now, after your father finished sexually molesting you in that particular time, what did he do if any?

A. No more, Sir, because he went out.

Q. Before he went out, did he say anything?

A. He asked me, is it nice?

Q And did you make an answer?

A. No. 'Note: when the witness answered that question she [shook] her head.'"[15]

In evaluating the credibility of witnesses, much weight and great respect are given to the findings made by the trial court[16] since it had the unique opportunity to observe their demeanor on the stand and was, as such, in a position to discern whether or not they were telling the truth.[17] Needless to say, its evaluation of their testimonies is binding upon the appellate court in the absence of a clear showing that the trial judge reached such evaluation arbitrarily or plainly overlooked certain facts of substance or value which, if considered, might affect the result of the case.[18] Appellant has not given the Court sufficient reason to deviate from this doctrine.

To be sure, we have on many occasions ruled that testimonies of child-victims of rape are to be given full weight and credence.[19] This is because it is highly Improbable that a girl of tender years, one not yet exposed to the ways of the world, would impute to any man, more so her own father, a crime so serious as rape, if what she claims is not true.[20]

The Court has this to say of incestuous rape:

"Incestuous rape is not an ordinary crime that can be easily Invented because of its heavy psychological and social toll. On top of the humiliation of a trial and life-long stigmatization resulting from the experience, the victims and their families must deal with a crisis that goes to the very core of familial Integrity. We do not think a daughter x x x would have sought the prosecution of her father and the imposition on him of the supreme penalty of death had It not been for her desire to seek justice."[21]

Courts usually give greater weight to the testimony of the victim of a sexual assault, especially a minor.[22] No woman, especially one so young, would concoct a story of defloration, allow an examination of her private parts and thereafter pervert herself by being subjected to the expense, the trouble and the inconvenience, not to mention the trauma of a public trial, if she is not motivated solely by the desire to have the culprit apprehended and punished.[23] The embarrassment or stigma she suffers in allowing an examination of her private parts and testifying in open court on the painfully intimate details of her ravishment effectively rules out the possibility of a false accusation of rape.[24] When a woman, especially a minor, says she has been raped, she says in effect all that is necessary to prove that rape was committed.[25]

Appellant harps on the supposed untruthful testimony of the victim as it allegedly defied the ordinary experience of man. According to him, it was unbelievable that during the rape, he was embracing her, pinning down both her hands and Inserting his penis into her vagina all at the same time. That to him was incredible. But as correctly argued by the OSG:

“Truth to tell, however, the acts of pinning down the hands of a rape victim, embracing and sexually assaulting her are acts that are usually done simultaneously, If the offender had to succeed in his criminal plot. The improbability of performing these acts all at the same time is more Imagined than real.”[26]

Also important, minor discrepancies, if any, will not detract from the fact that complainant categorically identified appellant as her assailant and vividly narrated the sexual assault committed against her.[27] Besides, an error-free testimony cannot be expected from children, most especially when they are recounting details of harrowing experiences, those that even adults would rather bury in oblivion.[28] Complainant’s testimony may not be described as flawless, but its substance, veracity and weight were hardly affected by the triviality of her alleged inconsistencies. On the contrary, the supposed inconsistencies may have even reinforced her credibility, as they had probably arisen from the innocence of a child, confused and traumatized by the bestial act done upon her person.[29]

Appellant’s contention that the testimony of the medico-legal officer weakens the case against him deserves scant consideration. He argues that Dr. Anabelle Murillo found in the victim’s vagina an old healed laceration only, one that could have been caused by the insertion of any hard object, possibly even by the girl’s own finger or an activity like biking.[30]

The findings of Dr. Murillo that the victim’s private organ showed no recent lacerations but only old and healed vaginal tearing cannot by itself be taken to mean necessarily that the girl was not subjected to the crime, charged. Neither virginity nor a finding of fresh vaginal lacerations would be essential in proving rape.[31] True, lacerations, whether healed or fresh, are physical evidence of a forcible defloration.[32] However, there can be a finding of rape even if the medical examination shows no vaginal laceration.[33]

Further, in a long line of cases, this Court has continued to hold that a medical examination of the victim is not indispensable to a prosecution for rape.[34] Just the contrary, the Court has consistently ruled that the accused may be convicted even solely on the basis of the complainant’s testimony if credible, natural, convincing and consistent with human nature and the course of things.[35]

Because the victim’s testimony was shown to be credible, natural, convincing and consistent with human nature and the normal course of things, appellant’s conviction must be affirmed. Also, this Court finds no sufficient motive that might have impelled the girl to testify falsely against her father or to implicate him falsely in the commission of such a dastardly act.[36]

As to appellant’s alibi, we need not belabor this point. Settled is the rule that such line of defense in a criminal trial cannot take precedence over the positive testimony of the offended party.[37] Unless substantiated by clear and convincing proof, alibi is negative, self-serving, and undeserving of any weight in law.[38] In the present case, appellant offered no evidence to prove or even corroborate his alibi; as such, it cannot exculpate him from the crime charged.

Article 335 of the Revised Penal Code, as amended by RA 7659, clearly provides that the death penalty shall be imposed if the crime of rape is attended by, among others, the following circumstances:

“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;”

The minority of the victim and her relationship with appellant were sufficiently alleged in the information and later on proved during trial upon the presentation of evidence by the prosecution.

It has been established that at the time of the rape, the victim was a minor, only fourteen (14) years of age. This

fact is amply supported by her baptismal certificate,[39] which shows that she was born on March 8, 1984. It is also confirmed by the testimony[40] of her mother; and by the girl's school records, particularly the Report on Promotions.[41] This same document dated March 24, 1995, shows that she was only eleven and one-half (11½) years old at that time. The document also bolsters the fact that at the time of the rape on December 3, 1998, she was only fourteen (14) years old.

Relative to the acceptability of a baptismal certificate and school records as proofs of age, the Court has already ruled:

"The birth certificate of the victim or, in lieu thereof, any other documentary evidence, like a baptismal certificate, school records and documents of similar nature, or credible testimonial evidence, that can help establish the age of the victim should be presented." [42] (Italics supplied)

This ruling has been applied by the Court in subsequent cases.[43]

At the same time, the relationship between appellant and complainant was established by the same baptismal certificate and the testimonies of the victim[44] and her mother.[45]

On the other hand, appellant did not present any evidence to refute these qualifying allegations. In fact, he even admitted the minority[46] of the victim and his relationship to her.[47] Hence, the trial court correctly appreciated these circumstances.

In sum, we affirm the Decision of the RTC finding appellant guilty beyond reasonable doubt of qualified rape and imposing the death penalty on him.[48] Indubitably, when the victim is under 18 years of age and the offender is a parent, the court has no option but to apply the penalty of death.[49]

Likewise, we affirm the civil indemnity of P75,000, since the crime of rape is effectively qualified by circumstances under which the death penalty is imposed. This indemnity is in addition to the award of moral damages in the amount of P50,000.[50] As for exemplary damages, an aggravating circumstance, whether ordinary or qualifying, should entitle the offended party to an award of exemplary damages within the unbridled meaning of Article 2230 of the Civil Code.[51] There being the aggravating circumstance of relationship in this case, the offended party should receive exemplary damages in the amount of P25,000.[52]

WHEREFORE, the decision of the RTC of Cagayan de Oro City (Branch 19) is AFFIRMED with the MODIFICATION that appellant shall pay the victim Merlyn Salvador the additional amount of P25,000 as exemplary damages in addition to the civil indemnity and the moral damages already awarded by the trial court.

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

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, and Corona, JJ., concur.

[1] Rollo, pp. 18-27; records, pp. 187-196.

[2] Appellee's Brief, pp. 2-4; rollo, pp. 71-73.

[3] Rollo, p. 8; records, p. 3.

[4] RTC Order dated May 6, 1999; records, p. 36.

[5] RTC Judgment, p. 10; *ibid.*, p. 27; *ibid.*, p. 196.

[6] Appellant's Brief, p. 7; *ibid.*, p. 49.

[7] *Ibid.*

[8] *Id.*

[9] *Id.*, pp. 1 & 43.

[10] *People vs. Navarette*, GR Nos. 136840-42, September 13, 2001; *People vs. Calimlim*, GR No. 123980, August 30, 2001; *People vs. Serrano*, GR No. 137480, February 28, 2001; *People vs. Surilla*, 336 SCRA 376 [2000]; *People vs. Tipay*, 329 SCRA 52 [2000]; *People vs. Quijada*, 321 SCRA 426 [1999]; *People vs. Tabion*, 317 SCRA 126 [1999].

[11] *People vs. Taño*, 331 SCRA 449 [2000]; *People vs. Ambray*, 303 SCRA 697 [1999]; *People vs. Garcia*, 281 SCRA 463 [1997]; *People vs. Abad*, 268 SCRA 246 [1997]; *People vs. Rosare*, 264 SCRA 398 [1996].

[12] *People vs. Taño*, *supra*.

[13] *People vs. Lachica*, GR No. 143677, May 9, 2002.

[14] *People vs. Tabion*, *supra*; *People vs. Burce*, 269 SCRA 293 [1997].

[15] September 15, 1999, TSN, pp. 33-38.

[16] *People vs. Manggasin*, 306 SCRA 228 [1999]; *People vs. Mengote*, 305 SCRA 380 [1999]; *People vs. Raptus*, 198 SCRA 425 [1991].

[17] *People vs. Baltazar*, GR No. 129933, February 26, 2001; *People vs. Barrameda*, 342 SCRA 568 [2000].

[18] *People vs. Jose*, 307 SCRA 571 [1999]; *People vs. Manggasin*, *supra*; *People vs. Mengote*, *supra*; *People vs. Laceste*, 293 SCRA 397 [1998]; *People vs. Raptus*, *supra*.

[19] *People vs. Deacosta*, GR No. 110131, May 28, 2001; *People vs. Apostol*, 320 SCRA 327 [1999]; *People vs. Saban*, 319 SCRA 36 [1999].

[20] *People vs. Manayan*, GR Nos. 142741-43, October 25, 2001; *People vs. Gomez*, GR Nos. 132673-75, October 17, 2001; *People vs. Alicante*, 332 SCRA 440 [2000].

[21] *People vs. Santos*, GR Nos. 138308-10, September 26, 2001, pp. 9-10, *per curiam*.

[22] *People vs. Galvez*, GR Nos. 136867-68, September 25, 2001; *People vs. Makilang*, GR No. 139329, October 23, 2001.

[23] *People vs. Galvez*, *supra*; *People vs. Serrano*, *supra*; *People vs. Segui*, 346 SCRA 178 [2000]; *People vs. Adora*, 275 SCRA 441 [1997]; *People vs. Junio*, 237 SCRA 826 [1994]; *People vs. Lagrosa Jr.*, 230 SCRA 298 [1994].

[24] *People vs. Pontilar Jr.*, 275 SCRA 338 [1997]; *People vs. Ramirez*, 266 SCRA 335 [1997].

[25] *People vs. Marino*, GR No. 132550, February 19, 2001; *People vs. Balmoria*, 287 SCRA 687 [1998].

[26] Appellee's Brief, p. 6; rollo, p. 75.

- [27] People vs. Basquez, GR No. 144035, September 27, 2001.
- [28] People vs. Tumala Jr., 284 SCRA 436 [1998].
- [29] People vs. Basquez, supra.
- [30] Appellant's Brief, p. 7; rollo, p. 49.
- [31] People vs. Diola, GR No. 136137, December 11, 2001.
- [32] People vs. Gabon, GR No. 127003, November 16, 2001; People vs. Alcala, 307 SCRA 330 [1999].
- [33] People vs. Agustin, GR Nos. 135524-25, September 24, 2001; People vs. Sapurco, 245 SCRA 519 [1995].
- [34] People vs. Dawisan, GR No. 122095, September 13, 2001; People vs. Ferrer, GR No. 142662, August 14, 2001; People vs. Logmao, GR Nos. 134831-32, July 31, 2001; People vs. Patriarca, 319 SCRA 87 [1999]; People vs. Quiñanola, 306 SCRA 710 [1999]; People vs. Salazar, 258 SCRA 55 [1996].
- [35] People vs. Diola, supra; People vs. Garigadi, 317 SCRA 399 [1999]; People vs. Rabosa, 273 SCRA 142 [1997].
- [36] People vs. Bation, 305 SCRA 253 [1999].
- [37] People vs. Lachica, supra; People vs. Dacara, GR No. 135822, October 25, 2001; People vs. Segui, supra.
- [38] People vs. Jose, 324 SCRA 196 [2000], citing People vs. Villablanca, 316 SCRA 13 [1999].
- [39] Exhibit "D," contained In an envelope on p. 77 of records.
- [40] October 3, 1999, TSN, p. 72.
- [41] Exhibit "F," contained in an envelope on p. 77 of records.
- [42] People vs. Liban, 345 SCRA 453, 466 [2000].
- [43] People vs. Jalosjos, GR Nos. 132875-76, November 16, 2001; People vs. Jacob, GR No. 138576-77, July 13, 2001; People vs. Padilla, GR No. 137648, March 30, 2001.
- [44] September 15, 1999, TSN, p. 29.
- [45] October 5, 1999, TSN, p. 71.
- [46] November 19, 1999, TSN, p. 88.
- [47] Ibid., p. 87.
- [48] Three members of the Court maintain their position that RA 7659, insofar as it prescribes the death penalty, is unconstitutional; however, they submit to the ruling of the Court, by majority vote, that the law is constitutional and that the death penalty should be imposed accordingly.
- [49] People vs. Silvano, 309 SCRA 362 [1999].
- [50] People vs. Dogaojo, GR Nos. 137834-40, December 3, 2001; People vs. Alpe, GR No. 132133, November 29, 2001; People vs. Hernandez, GR Nos. 134449-50, October 25, 2001; People vs. Alicante, 332 SCRA 440 [2000].
- [51] People vs. Catubig, GR No. 137842, August 23, 2001.

[52] People vs. Dogaojo, supra; People vs. Traya, 332 SCRA 499 [2000].

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