

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. HENRY JUSAYAN Y SUGUI, APPELLANT.

G.R. No. 149785. April 28, 2004

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-149785/>

QUISUMBING, J.:

Conviction for statutory rape does not always warrant the imposition of the capital punishment. Absent any qualifying circumstance, as in this case, the proper penalty is reclusion perpetua.

For automatic review is the decision[1] dated April 16, 2001, of the Regional Trial Court (RTC) of Dinalupihan, Bataan, Branch 5, in Criminal Case No. DH-963-99, convicting appellant Henry Jusayan of the crime of rape, sentencing him to death, and ordering him to indemnify the private complainant in the amount of P50,000.

The information against Henry Jusayan y Sugui alleged:

That on or about November 9, 1999, at Brgy. Kataasan, Dinalupihan, Bataan, Philippines and within the jurisdiction of this Honorable Court, the said accused, through force and intimidation, did then and there willfully, unlawfully and feloniously pull out and drag the offended party, RIESSA MYRE G. CARBUNGCO, a ten (10) year old minor girl into an isolated area of the cemetery compound and with lewd design and carnal knowledge sexually abuse[d] and had sexual intercourse with the victim and likewise choke[d] her throat and bang[ed] her head on a hard object causing physical injuries on the said victim, against the will and consent of the latter, to her damage and prejudice.

CONTRARY TO LAW.[2]

When arraigned, appellant entered a plea of not guilty, and thereafter trial ensued.[3]

Prosecution evidence consists of the testimonies of the victim Riessa Myre Carbungco and the examining physician, Dr. Ferdinand B. Bautista.

Ten-year old Riessa Myre G. Carbungco testified in court that on November 9, 1999 at about 7 a.m., she boarded a pedicab going to the Seventh Day Adventist School. Appellant Henry Jusayan was the pedicab driver. As the pedicab sped off, Riessa sensed that they were going on a different route so she complained to appellant, who told her they would just briefly drop by the cemetery to get a candle.[4]

Upon reaching the deserted cemetery located at Brgy. Kataasan, the appellant dragged Riessa from the pedicab. She tried to bolt from appellant's strong hold. Incensed by Riessa's resistance, appellant banged her head at a nearby crypt and choked her neck. Riessa begged repeatedly for appellant to stop. But her cries were useless, as she was forced to submit to appellant's lust.

Appellant hurriedly undressed Riessa. Riessa groaned in pain as he thrust his organ into hers. She feared that appellant might kill her. Her stomach began to tighten and she felt the urge to defecate. Upon telling him about it, appellant released her and ordered her to get dressed. He then strode off towards his pedicab. Riessa scampered

after him to retrieve her belongings. Running alongside the moving vehicle, Riessa begged appellant to bring her home because she dreaded being alone in the cemetery. He was apathetic. At that split second, a passerby, Reynaldo Rentoza who saw Riessa scurrying along, yelled at appellant: “Hoy, yung bata humahabol! Pasakayin mo!” (Hey, the child is running after you! Give her a ride!) Rentoza was then waiting for his companions. They were going to construct a perimeter fence around the graves of the Ortequera family.[5] Rattled, appellant let Riessa hop in, but he dropped her off later at the DJ restaurant. Before he left, he warned her not to squeal about what happened.[6]

On arriving home, Riessa related her ordeal to her mother. At the Jose Payumo Memorial Hospital, Riessa was medically examined. Policemen were also summoned to the hospital to investigate the incident. Later that day, Riessa’s mother formalized her complaint at the police station.[7]

Reynaldo Rentoza executed his affidavit attesting that he saw appellant with Riessa on board a pedicab.[8] He stated in his sworn statement that he saw appellant and Riessa twice that morning, first, when the two were entering the cemetery and next, when appellant was leaving the cemetery in his pedicab, while Riessa was running after the cab with nothing on except her “sando” or undershirt as she carried in her hand her skirt and shoes.[9]

Dr. Ferdinand Bautista, a physician who examined Riessa at the Jose Payumo Memorial Hospital, testified that he found swelling and blood clot formations on the right, left, and back portion of Riessa’s head. He said there was hematoma or blood clot formation on the anterior neck, concussion on her left and right eye, abrasion on the right knee and left thigh, and bleeding on both sides of her nose.[10] Based on his physical examination of the victim, Dr. Bautista said that he found her labia majora and minora area reddish, slightly swollen, and tender. The doctor further stated that her hymen had fresh minimal laceration at 4:00 o’clock position, and she was found positive for spermatozoa.[11]

Appellant Henry Jusayan y Sugui, through counsel Danilo M. Sampang from the Public Attorney’s Office of Dinalupihan, Bataan, objected to the formal offer of evidence of the prosecution for being hearsay and incompetent as evidence.[12] Before appellant could testify in his defense, Atty. Sampang filed before the trial court an urgent motion[13] for the mental and psychiatric examination of appellant. Atty. Sampang averred that appellant was not a competent witness because he was feeble-minded and had displayed difficulty in comprehending the questions propounded on him. The motion was denied by order[14] of the trial court on September 6, 2000, it appearing to the court that appellant was of sound mental state.

In a manifestation[15] dated September 7, 2000, Atty. Sampang submitted the case for resolution. The defense waived its right to present evidence on the ground that the prosecution had not proved appellant’s guilt beyond reasonable doubt.[16] In view of appellant’s manifestation, the trial court issued an order submitting the case for resolution on November 6, 2000.[17]

On April 16, 2001, the trial court rendered its decision, finding appellant Henry Jusayan guilty of the crime of rape, and sentenced him to death. Its decretal portion reads:

WHEREFORE, this court finds the accused HENRY JUSAYAN y SUGUI “GUILTY” beyond reasonable doubt of RAPE in this case, and hereby sentences him to suffer a penalty of DEATH and to indemnify the victim, RIESSA MYRE G. CARBUNGCO, a ten (10) year old minor girl, with the sum of FIFTY THOUSAND (P50,000.00) PESOS.

SO DECIDED.[18]

In his Brief before us now, appellant seeks the reversal of the decision based on the following assigned error:

THE TRIAL COURT ERRED IN IMPOSING THE SUPREME PENALTY OF DEATH UPON THE ACCUSED-APPELLANT.[19]

Simply stated, the issues are: (1) whether or not appellant, through his former counsel validly waived his right to present evidence for the defense; (2) whether or not the prosecution has proven appellant's guilt with moral certainty; and (3) whether or not the death penalty was validly imposed.

On the first issue, appellant contends that the trial court erred in relying on the mere manifestation of his former counsel that he was waiving his right to present evidence inasmuch as such waiver deprived the appellant of the opportunity to substantiate his plea of not guilty. He says that he was precipitately sentenced to death without taking into consideration his possible defenses. He states that the trial court judge should have made searching questions to appellant to determine whether his waiver was done voluntarily, knowingly, intelligently and with sufficient awareness of the relevant circumstances and likely consequences.[20]

The manifestation containing the waiver of appellant's presentation of evidence of the defense, filed by counsel, Atty. Danilo M. Sampang of the Public Attorney's Office of Dinalupihan, reads:

MANIFESTATION

ACCUSED, in the above-entitled case to this Honorable Court respectfully manifests that:

- The accused is due to testify in his own behalf on December 6, 2000, a.m. after the prosecution rested its case;
- Under the evidence adduced, identified, established and incorporated into the records of the case, it is reasonably believed, however, that the prosecution had fallen short of its constitutional duty to establish the guilt beyond reasonable doubt of herein accused;
- Thus, the accused, who leaves his fate as to the issue of his guilt or innocence, has decided to forego presenting himself as witness in his own behalf, and respectfully submits this case for decision relying on the evidence identified and incorporated in the records of the case.

WHEREFORE, it is most respectfully prayed of this Honorable Court that the above-entitled case considered (sic) be submitted for decision.

Dinalupihan, Bataan, September 7, 2000.

PUBLIC ATTORNEY'S OFFICE
Department of Justice
Counsel for the accused

By:

DANILO M. SAMPANG
District Public Attorney[21]

The constitutional right of the accused to be heard on his defense is inviolate. No court of justice under our system of government has the power to deprive him of that right.[22] In the case at bar, however, although there is nothing in the records to show that the trial court advised appellant on the repercussions of his waiver to present evidence in his own defense, this lapse did not work to effectively vacate the findings of guilt made by the trial court because appellant's guilt for the crime of statutory rape has been proven beyond reasonable doubt. Thus, in *People v. Nuñez*,[23] the Court upheld the conviction of the accused despite procedural defects, i.e., a plea of guilt improvidently made, inasmuch as the conviction was supported by adequate evidence on record.

In the case at bar, the elements of statutory rape were adequately established not only by the victim's straightforward testimony but likewise by the findings of the examining physician presented by the prosecution.

As provided for in the Revised Penal Code, sexual intercourse with a girl below 12 years old is statutory rape.[24] The two elements of statutory rape are: (1) that the accused had carnal knowledge of a woman; and (2) that the woman is below 12 years of age. Sexual congress with a girl under 12 years old is always rape.[25]

That Riessa was only ten years old when she was raped is shown by her birth certificate.[26] Her testimony on the sexual intercourse between her and appellant is unambiguous, firm, and straightforward. She positively identified appellant as the person who drove the pedicab that she hailed and who brought her to the cemetery where he had a forced sexual intercourse with her. The transcript of her testimony reads,

Prosec. Tanciongco:

Q:

On November 9, 1999, were you able to study on that particular date at 7:00 o'clock in the morning?

A:

No, sir.

Q:

Why?

A:

Because he brought me to the cemetery, sir.

Q:

Who brought you there?

A:

Henry Jusayan, sir.

Q:

The same Henry Jusayan whom you pointed awhile (sic) ago, the accused in this case?

A:

Yes, sir.

Q:

Why did he bring you to the cemetery?

A:

To rape me, sir.

Q:

What time was that?

A:

More or less, 7:00 o'clock in the morning, sir.

Q:

How did he bring you to the cemetery?

A:

I boarded his tribike, sir.

...

Q:

When you reached that cemetery, what happened to you?

A:

He took me from the tricycle, sir.

Q:

How did he take you?

A:

He dragged me, sir.

...

Q:

After he was able to drag you out, what happened next?

A:

He lied (sic) me down, sir.

...

Q:

What were you wearing then at the time that you were lied (sic) down by the accused?

A:

Uniform, sir.

Q:

Was that uniform forcibly taken by the accused on your body?

A:

Yes, sir.

Prosec. Tanciongco:

We would like to make of record that the witness who is ten (10) years old was crying while testifying, Your Honor.

...

Q:

After your clothes was (sic) removed by the accused, Henry Jusayan, what did he do to you?

A:

He banged my head at the niche, sir.

Q:

What happened to your head after it was banged?

A:

I suffered contusion (sic), sir. I suffered pain.

...

Q:

After you were lied (sic) down on the floor of the “nitso”, what happened next?

A:

He went on top of me, sir.

Q:

While he was on top of you, what was he doing?

A:

He was trying to insert his penis to my organ, sir.

...

Court:

Q:

Was he able to insert his penis to your vagina?

A:

I am not sure, sir.

Prosec. Tanciongco:

Q:

Was his penis touched (sic) the labia of your vagina?

A:

Yes, sir.

Q:

What did you feel when he was doing that?

A:

I felt pain, sir.

Q:

What did you do when you felt that there is pain?

A:

I was crying, sir.

Q:

Were you afraid also?

A:

Yes, sir, I was afraid that he might kill me.[27]

Private complainant's account on how appellant ravished her sexually was replete with details, dispelling any bit of suspicion on its truthfulness. The fact that private complainant was crying during her testimony bolstered her credibility with the verity born out of human nature and experience. Furthermore, as previously held, when a young girl like private complainant cries rape, she is saying in effect all that is necessary to show that rape has indeed been committed.[28]

Additionally, Riessa's narration of her ordeal is consistent with the findings of Dr. Ferdinand Bautista that the victim's hymen had fresh minimal laceration at 4:00 o'clock position and her genitalia was found positive for spermatozoa.[29]

In light of the clear, convincing, and competent physical and testimonial evidence, this Court agrees that appellant has been proven guilty beyond reasonable doubt of the crime of rape of a girl below 12 years of age, i.e. statutory rape.

The Office of the Solicitor General does not dispute the conclusion of the trial court as to the guilt of appellant for the crime charged. Nonetheless, the OSG recommends the reduction of the penalty imposed on him from death to reclusion perpetua in the absence of any qualifying circumstance which could justify the imposition of the higher penalty of death.[30]

We note that the trial court sentenced appellant to death because private complainant was a minor. The lower court, however, erred on this score. The fact that the victim in this case was only ten years old when the rape occurred does not by itself warrant the penalty of death. Article 266-B, paragraph 1 of the Revised Penal Code, as amended by Republic Act No. 8353, otherwise known as "The Anti-Rape Law of 1997," provides that the death penalty shall be imposed only 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.[31] In this case, although the minority of the victim was alleged and proven, such allegation and proof of the minority of the victim, without any allegation and proof of her relationship to the appellant, would not qualify rape as a capital crime. Moreover, as previously held, minority of the offended party, by itself, is not an aggravating circumstance that can increase the penalty to death.[32]

Neither can we sentence appellant to death under par. 5 of Article 266-B of the Revised Penal Code because par. 5 refers only to rape of "a child below seven (7) years old." Here the victim was already ten (10) years old. In fine, appellant is guilty only of statutory rape defined in Article 266-A of the Revised Penal Code, punishable by reclusion perpetua.

With respect to damages, the trial court ordered appellant to pay private complainant civil indemnity in the amount of P50,000 but did not order him to pay moral damages. Current jurisprudence mandates that appellant should pay private complainant, without need of further proof, the amount of P50,000 by way of moral damages.[33] To protect the young from sexual exploitation and abuse, exemplary damages in the amount of P25,000, should also be awarded.[34]

WHEREFORE, the judgment of the Regional Trial Court of Dinalupihan, Bataan, Branch 5, in Criminal Case No. DH-963-99 is hereby AFFIRMED with MODIFICATION. Appellant Henry Jusayan y SUGUI is found guilty beyond reasonable doubt of rape and is sentenced to reclusion perpetua, with the accessory penalties provided by law, and to pay the victim the amounts of P50,000 as civil indemnity, P50,000 as moral damages, and P25,000 as exemplary damages. Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Carpio Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.
Corona, J., on leave.

[1] Rollo, pp. 12-16.

[2] Id. at 12; Records, p. 1.

[3] Records, p. 28. Order dated 8 March 2000.

[4] TSN, 17 May 2000, pp. 7, 12.

[5] Records, p. 3.

[6] Id. at 49-50.

[7] Records, pp. 49-50; TSN, 10 May 2000, pp. 18-20.

[8] Id. at 3-4.

[9] Ibid.

[10] Exh. D, Records, p. 7.

[11] Rollo, pp. 64-65; TSN, 28 June 2000, pp. 4-14.

[12] Records, pp. 43-44.

[13] Id. at 58-59.

[14] Id. at 64.

[15] Id. at 65.

[16] Id. at 68.

[17] Id. at 66.

[18] Id. at 72.

[19] Rollo, p. 37.

[20] Id. at 85.

[21] Records, p. 65.

[22] People v. Yambot, G. R. No. 120350, 13 October 2000, 343 SCRA 20, 38.

[23] G.R. No. 128875, 8 July 1999, 310 SCRA 168.

[24] ART. 266-A. Rape, When and How Committed.— Rape is committed --

- By a man who shall have carnal knowledge of a woman under any of the following circumstances:
- Through force, threat or intimidation;
- When the offended party is deprived of reason or is otherwise unconscious;
- By means of fraudulent machination or grave abuse of authority;
- When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present. (Emphasis supplied.)

[25] People v. Somodio, G.R. Nos. 134139-40, 15 February 2002, 377 SCRA 129, 142.

[26] Exhibit “B,” Records, p. 51.

[27] TSN, 10 May 2000, pp. 7-15.

[28] People v. Luna, G.R. No. 135241, 22 January 2003, 395 SCRA 647, 664-665.

[29] TSN, 28 June 2000, pp. 4-12.

[30] Rollo, p. 76.

[31] ART. 266-B. Penalties.—

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying 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.

...

[32] People v. Edem, G.R. No. 130970, 27 February 2002, 378 SCRA 38, 61-62.

[33] People v. Luna, G.R. No. 135241, 22 January 2003, 395 SCRA 647, 678.

[34] People v. Nebria, G.R. Nos. 140004-05, 18 November 2002, 392 SCRA 90, 101.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.