

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RICARDO B. MIRANDA, APPELLANT.

G.R. NO. 169078. March 10, 2006

Ponente: YNARES-SANTIAGO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-169078/>

YNARES-SANTIAGO, J.:

Appellant Ricardo B. Miranda was charged with Rape in a criminal complaint which reads:

That on or about the 28th of December 1996, in Barangay San Pedro, Municipality of Guagua, Province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, RICARDO B. MIRANDA, with lewd designs, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with (sic) Joylene O. Balagtas, a five year old minor, against her will and without her consent.

Contrary to law.[1]

On arraignment, appellant pleaded "not guilty." [2] Trial on the merits then ensued.

The prosecution presented as witnesses, the victim, 5-year-old Joylene O. Balagtas (Joylene), her mother Georgina [3] Balagtas and Dr. Carlos P. Mercado. [4]

Joylene testified that in the afternoon of December 28, 1996, she was playing with her friends Lotlot [5] and Shasha [6] near the billiard hall beside appellant's house in San Pedro, Guagua, Pampanga. Appellant who is also known as "Tuko," allegedly approached them and forcibly dragged her inside the house and up the stairs. Upon reaching the second floor, appellant pushed her down on the floor and removed her panties. When Joylene started crying, he covered her mouth with one hand and proceeded to undress himself with the other.

Appellant tried to insert his penis into Joylene's vagina but was not successful so he inserted his finger into her instead. Joylene cried throughout her ordeal. After a while, appellant told Joylene to leave and come back again next time. Joylene went back to her playmates before going home. She relayed the incident to her mother the next morning. [7]

Georgina testified that upon learning about the incident, she immediately confronted appellant but he denied the accusation. She then proceeded to the house of their Barangay Captain who instructed her to file a report at the police station. Georgina testified that after the incident, Joylene had trouble sleeping, became withdrawn and no longer played with her friends like she used to. [8] She also testified that Joylene was born on July 1, 1991 and was 5 years old when the incident happened. [9]

Dr. Carlos P. Mercado testified that on January 19, 1997, he examined Joylene and found her "conscious, coherent and ambulatory." Her genitals appeared normal except for superficial abrasions on the lateral sides of the labia minora which could have been caused by a hard, sharp object. Her vagina admits a little finger and there were fresh abrasions on her vulva, between her anus and her vagina. Dr. Mercado also noted that Joylene was in a state of trauma and was initially unwilling to relate her ordeal. [10] When asked whether the abrasions could have

been caused by a penis, Dr. Mercado stated that only the fingers were used on the victim.[11]

The defense presented appellant as its sole witness. He denied the charge against him and maintained that he did not see Joylene on the day of the alleged rape because he stayed home to take care of his children.

Appellant claimed that in the morning of December 29, 1996, Joylene and her sister J.L. called him to their house because their mother wanted him to fetch water for them. Later that same morning, he claimed that Georgina called him again and upon entering the house, the latter physically attacked him and forced him to admit to having raped Joylene.[12] When he refused, he was brought to the police station. He maintained that he was in good terms with the family of the victim and could not think of any reason why they would accuse him of such crime.

After trial, the Regional Trial Court of Guagua, Pampanga, Branch 49 rendered judgment[13] convicting appellant of the crime of rape, the dispositive portion of which states:

WHEREFORE, judgment is rendered finding the accused Ricardo B. Miranda guilty beyond reasonable doubt of the crime of rape and sentencing him to the extreme penalty of death. Accused is further directed to pay the offended party Joylene Balagtas the amount of P75,000.00 as civil indemnity and P50,000.00 as moral damages.

SO ORDERED.[14]

Conformably with this Court's decision in *People v. Mateo*[15] appellant's appeal by way of automatic review was transferred to the Court of Appeals. On June 16, 2005, the appellate court rendered its decision[16] affirming appellant's conviction.

Appellant raises the following errors in this petition for review:

I.

THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.

II.

GRANTING THAT THE ACCUSED-APPELLANT IS GUILTY OF THE CRIME CHARGED, THE TRIAL COURT, HOWEVER, ERRED IN IMPOSING UPON HIM THE SUPREME PENALTY OF DEATH.[17]

Appellant maintains that the test of moral certainty and standard of proof beyond reasonable doubt required for conviction in criminal cases have not been satisfactorily attained. He argues that assuming he is found guilty, the evidence adduced by the prosecution only establishes that he inserted his finger in Joylene's vagina, an offense which falls squarely under paragraph 2[18] of Article 266-A of the Revised Penal Code. He contends that the death penalty imposed upon him should be reduced accordingly pursuant to Article 266-B which provides that "object rape" under paragraph 2 of Article 266-A shall be punished by prision mayor.

Any review of a rape case begins with the settled reality that accusing a person of this crime can be done with facility. Thus, the testimony of the complainant must always be scrutinized with great caution. It may not be easy for her to prove the commission of rape; yet it is even more difficult for the accused, though innocent, to disprove his guilt. This principle must be viewed in relation to that which holds that the evidence for the prosecution must stand or fall on its own merits; it cannot draw strength from the weakness of the evidence for the defense.[19]

Where the life of another human being hangs on the balance, nothing but proof beyond reasonable doubt of every fact necessary to constitute the crime with which the accused is charged must be established in order for the corresponding penalty thereto to be upheld.[20]

Findings of facts of the trial courts carry great weight and will not be disturbed on appeal unless shown to be contrary to facts or circumstances of weight and substance in the record. For, generally, the evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by trial courts, because of their unique opportunity to observe the witnesses and their demeanor, conduct, and attitude, especially under cross-examination.[21]

In this case, however, we have to depart from this settled rule because the evidence on record does not fully sustain the trial court's findings and conclusions.

During direct examination, Joylene testified that:

Q Do you know the nickname of the accused?

A His nickname is "Tuko", sir.

Q On December 28, 1996, where were you?

A I was then playing with my playmates near the billiard hall, sir.

Q Where is this billiard hall located?

A It is located beside the house of Tuko, sir.

Q And that house of Tuko and your house were located at San Pedro, Guagua, Pampanga?

A Yes, sir.

Q While you were playing somewhere or near the billiard hall, was there any unusual incident that happened?

A Yes, sir.

Q What was that?

A Tuko brought me to their house, sir, I refused to climb the stairs but he pulled my hands.

Q When Tuko pulled your hands was he able to you (sic) in their house?

A Yes, sir.

Q After you were brought in the house of Tuko, what happened?

A Tuko removed my panty and he also removed his pants, sir.

Q After Tuko removed your panty and he also removed his pants, what else did he do, if he did anything?

A Yes, sir.

Q What did he do?

A Tuko inserted his penis in my vagina but he was not able to do so and instead he inserted his finger in my vagina, sir.

Q Before Tuko, the accused, inserted his penis to your vagina and when he failed to do so he inserted his finger, what did he do to you?

A I was lying down then, sir.

Q What about Tuko?

A He was standing and sitting, sir.

Q While you were lying down and when Tuko was inserting his penis, what was his position?

A He was sitting, sir.

Q After that what happened?

A After than he told me to come back next time, sir.

Q What else did he do?

A No more, sir.

Q What did you feel when he inserted his penis and inserted his fingers?

A I cried out very loud, sir.

Q Why?

A Because I was hurt by his finger, sir.

Q After Tuko told you to come back next time, what else happened?

A No more, sir.[22]

On cross examination, Joylene further stated that:

Q You said that Tuko removed your panty and also he removed his pants and he did not succeeded (sic) in

penetrating his penis into your vagina?

A No, sir.

Q He did not actually placed his penis to your vagina?

A No, sir.

Q You did not get hurt?

A I get hurt, sir.

Q Is it not that you only cried because you felt pain when Tuko inserted his penis inside you?

A Yes, sir.

Q But not when he attempted or trying to insert his penis, is it not?

A Yes, sir.

x x x x

Q By the way, you said that Tuko inserted his finger inside your vagina, do you know if he was able to penetrate his finger inside your vagina?

A Yes, sir.

Q Why do you know that?

A Because he inserted it, sir.

Q Do you know the finger he use (sic)?

A One of his fingers, sir.

Court:

Left or right hand?

A Left, sir.

Q Why do you say that his finger penetrated you, what did you feel?

A I got hurt, sir.

Q He only inserted his finger momentarily after which he removed it already?

A Yes, sir.

Q And then he removed his finger and let you go home?

A Yes, sir.[23]

On the other hand, the examining physician declared that:

Q How about your genital examination on the victim?

A I found the victim's genitalia appears to be normal except for abrasions on lateral sides of labia minora, fourchet and urethral meatus which means that the abrasions are only on the superficial layer of the skin and can be caused by hard, sharp object.

Q When did you find that out?

A On the very same date when the victim was brought to the hospital, sir.

Q Now, Doctor, what do you mean by that findings of yours "vaginal opening admits little finger, fresh laceration"?

A It means that the vagina of the victim admits little finger because there are fresh abrasions at the vulva, between the anus and the vagina, sir.

Q Did you interview the victim regarding the said abrasions?

A I was not, sir, because she was shocked at that time. She did not want to relate to us on what had happened to her, sir.

Q And as a medical practitioner, will you please tell what could be the cause of those abrasions on the labia minora?

Atty. Maninang:

Already answered, Your Honor, sharp object as the witness stated.

Atty. Maninang:

Q Would that be possible that the said hard object is penis?

A Yes, sir, but in my findings, only the finger was used to the victim.[24]

The prosecution also presented the mother of the victim who testified thus:

Q

According to your daughter Joylene she was undressed by this Ricardo Miranda, what other report did Joylene tell you after being undressed?

ATTY. MANINANG:

I think that assumes a fact, it is leading, Your Honor.

COURT:

Reform

Q What other report did Joylene tell you?

WITNESS:

A. When she was undressed by Tuko he tried to insert his penis to her vagina but considering that he cannot penetrate his penis as alleged to me, and when he could not penetrate his penis he used his finger, sir.

ATTY. MANINANG:

We will object to the interpretation because the answer in the vernacular contained the word "kanu"

COURT:

Rephrase the interpretation.

A She further reported to me that Tuko allegedly tried to insert his penis into her vagina but he could not do the penetration he used his finger.

Q What else did she tell you?

A She cried when he used his finger.[25]

The foregoing testimonies presented by the prosecution, established that appellant tried to insert his penis into Joylene's private parts. He was unsuccessful so he inserted his finger instead. This shows that appellant is guilty only of attempted rape, and not consummated rape as found by the trial court and the Court of Appeals.

A case in point is *People v. Alcoreza*,^[26] where one of the victims testified:

Q. After the accused had laid (sic) on top of you, what did he do next?

A. He was inserting his penis.

Q. Did he succeed in inserting his penis in your private parts (sic)?

A. No, sir.

Q. How did it happen that the accused failed to insert his penis in your private organs (sic)?

A. Because my brother arrived.

Q. You said that the accused failed to insert, did he attempt to insert his penis in your private organ?

A. No, sir.

x x x x x x x x

Q. What did the accused do in (sic) his penis in trying (sic) to insert his penis into your private organ?

A. It touched my private organ.^[27]

In that case, the Court ruled that appellant failed to consummate the crime of rape as his penis merely touched his victim's organ. Citing *People v. Campuhan*,^[28] the Court clarified that mere touching of the private organ of the victim should be understood as inherently part of the entry of the penis into the labias of the female organ and not mere touching alone of the mons pubis or pudendum. There must be sufficient and convincing proof that the penis indeed touched the labias or slid into the female organ and not merely stroked the external surface thereof for an accused to be convicted of consummated rape. The Court thus held that appellant therein can only be convicted of attempted rape.^[29]

In *People v. Tolentino*,^[30] the Court convicted the appellant only of attempted rape because there was paucity of evidence that penetration took place. Thus:

There was nothing from RACHELLE's testimony that proved that TOLENTINO's penis reached the labia of the pudendum of RACHELLE's vagina. As translated, she only said: "He placed his sex organ to my sex organ, sir." This was the translation of the word "binubundul-bundol." And when asked to explain what she meant by it, she answered: "He was trying to force his sex organ into mine, sir."

The prosecution did not ask her the appropriate questions to get some more important details that would demonstrate beyond any shadow of doubt that TOLENTINO's penis reached the labia of the pudendum or the lips of RACHELLE's vagina. It should have, for instance, asked whether TOLENTINO's penis was firm and erect or whether RACHELLE's legs were spread apart to bring us to the logical conclusion that, indeed, TOLENTINO's penis was not flabby and had the capacity to directly hit the labia of the pudendum or the lips of RACHELLE's vagina. There is paucity of evidence that the slightest penetration ever took place. Consequently, TOLENTINO can only be liable for attempted rape.

x x x But there is no conclusive evidence of the penetration, however slight, of RACHELLE's sex organ. The penetration was an essential act of execution to produce the felony. Thus, in the absence of a convincing evidence thereof, TOLENTINO should be given the benefit of the doubt and can be convicted of attempted rape only.[31]

Likewise, in *People v. Francisco*,^[32] the Court convicted the appellant of attempted rape after failing to discern from the victim's testimony that appellant attained some degree of penile penetration necessary to consummate the rape.^[33]

Appellant's act would have constituted consummated rape through sexual assault under Republic Act No. 8353 or the Anti-Rape Law of 1997. However, since the offense occurred on December 28, 1996 or prior to the effectivity of the Anti-Rape Law of 1997, the same finds no application in this case.

We now come to the penalty.

Under Article 51 of the Revised Penal Code, the penalty to be imposed upon persons found guilty of an attempted crime is the penalty lower by two degrees than that prescribed by law for the consummated felony. The penalty for consummated rape is death, pursuant to Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659 or the Death Penalty Law, since Joylene was below 7 years old when raped. The penalty for attempted rape is reclusion temporal which is two degrees lower than that prescribed for consummated rape. Applying the Indeterminate Sentence Law, the appellant may be sentenced to an indeterminate imprisonment penalty whose minimum is within the range of prision mayor, that is, six (6) years and one (1) day to twelve (12) years and whose maximum shall be within the range of reclusion temporal in its medium period pursuant to Article 64(1) of the Revised Penal Code, the range of which is fourteen (14) years, eight (8) months and one (1) day to seventeen (17) years and four (4) months.

As to the amount of damages, prevailing jurisprudence^[34] sets the amount of the civil indemnity in attempted rape at P30,000.00. Moral damages may be awarded in recognition of the victim's injury as being inherently concomitant with and necessarily resulting from the attempted rape, especially since the victim is a girl in her formative years who shall no doubt be forever haunted by the unpleasant memory. We award her moral damages in the amount of P25,000.00. In addition, exemplary damages in the amount of P10,000.00 must likewise be awarded as a deterrent to others with perverse tendencies from sexually abusing young and innocent girls.

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. CR.—H.C. No. 00565 finding appellant Ricardo B. Miranda guilty of rape and sentencing him to death is MODIFIED. Appellant is found GUILTY of attempted rape and sentenced to an indeterminate prison term of ten (10) years of prision mayor, as minimum, to seventeen (17) years and four (4) months of reclusion temporal, as maximum; to indemnify the victim Joylene O. Balagtas in the sum of P30,000.00 as civil indemnity, P25,000.00 as moral damages and P10,000.00 as exemplary damages, and to pay the costs.

SO ORDERED.

Panganiban, C.J., Puno, Quisumbing, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.

[1]CA rollo, p. 7.

[2] RTC Records, p. 9.

[3] Also referred to as Jorginia in some parts of the records.

[4]Rollo, p. 6.

[5] Also referred to as Ate Jolet in some parts of the records.

[6] Also referred to as Atsha in some parts of the records.

[7]TSN, July 7, 1997, pp. 2-4.

[8] TSN, February 9, 1998, pp. 3-5, 7.

[9] Id. at 3.

[10] TSN, January 26, 1998, pp. 3-4.

[11] Id. at 4.

[12] TSN, October 11, 1999, pp. 2-3; TSN, February 14, 2000, pp. 2-3.

[13]CA rollo, pp. 46-53. Penned by Judge Rogelio C. Gonzales.

[14]Id. at 53.

[15] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

[16] CA rollo, pp. 84-102. Decision penned by Associate Justice Josefina Guevara-Salonga and concurred in by Associate Justices Eliezer R. De Los Santos, Rebecca De Guia-Salvador and Fernanda Lampas-Peralta. Now Presiding Justice Ruben T. Reyes dissented.

[17] CA rollo, p. 35.

[18] Art. 266-A. Rape; When and How Committed. - Rape is committed.—

x x x x

2. By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

[19]People v. Fernandez, 434 Phil. 435, 444-445 (2002).

[20]People v. Ancheta, G.R. No. 142431, January 14, 2004, 419 SCRA 307, 315.

[21] People v. Soriano, G.R. No. 135027, July 3, 2002, 383 SCRA 676, 684.

[22] TSN, July 7, 1997, pp. 2-3.

[23] Id. at 5-6.

[24] TSN, January 26, 1998, pp. 3-4.

[25] TSN, January 9, 1998, pp. 3-4.

[26] 419 Phil. 105 (2001).

[27] Id. at 120.

[28] 385 Phil. 912 (2000).

[29] People v. Alcoreza, supra at 120-121.

[30] 367 Phil. 755 (1999).

[31] Id. at 764-765.

[32] G.R. Nos. 135201-02, March 15, 2001, 354 SCRA 475.

[33] Id. at 488.

[34] People v. Mendoza, G.R. Nos. 152589 and 152758, October 24, 2003, 414 SCRA 461.

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.