

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FRANCISCO REBANCOS, ACCUSED-APPELLANT.

G.R. No. 72783. April 18, 1989

Ponente: CRUZ, J.

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CRUZ, J.:

An uneasy feeling assailed Resurreccion Catamora when she saw her daughter's blood-stained shorts soaking in a basin of water in the bathroom. What was the meaning of this? She confronted Mary Rose, who was evasive until she began whipping her. Then she pointed to Francisco Rebancos, Resurreccion's common-law husband. Rebancos denied everything and said the blood could be due to the child's menstrual period. Mary Rose was only nine years old.

That same day, Resurreccion and Mary Rose went to the police station and lodged a formal written complaint against Rebancos. Rebancos was placed under arrest. The following day Resurreccion accompanied her daughter to the Mabalacat District Hospital, where the girl was examined by Dr. Nicias Mendoza, Jr. Thereafter, the following information was filed in the regional trial court of Angeles City:

That on or about the 12th day of February, 1984, at more or less 9:30 o'clock in the morning, at Dau, Municipality of Mabalacat, province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, accused Francisco. Rebancos, did then and there willfully, unlawfully, and feloniously have carnal knowledge of Mary Rose Catamora, a minor below twelve (12) years of age.

Mary Rose is Resurreccion's legitimate daughter by her estranged husband, Enrico Catamora, with whom the child was living.[1] On the day in question, she was vacationing with her mother and Rebancos in Dau, Mabalacat, Pampanga. At about seven o'clock in the morning of 12 February 1984, Resurreccion says she went to market to sell vegetables as usual and returned home at eleven o'clock. It was when she was taking a bath that she discovered her daughter's bloodied shorts.

As Mary Rose testified later, she was playing by herself outside their house at about nine o'clock that morning when Rebancos called her inside. He closed the curtains of the window. Then he seated himself on a chair and asked her to sit on his lap. He then inserted his organ into hers, causing her vagina to bleed. Rebancos later asked her to take a bath, warning her not to tell her mother. Otherwise, he said, he and the girl would no longer be friends and he would kill her.[2]

Testifying on his examination of Mary Rose, Dr. Mendoza said he found "minimal laceration of the hymen at 2 o'clock position with minimal bleeding." This could be due to incomplete penetration of the hymen, passage of clotted blood during laceration, or infection. The bleeding could not have been caused by menstruation because the child was not yet menstruating. He said that the minimal laceration could have been due to the impossibility of deep penetration by the penis because of the smallness of the vaginal opening, which could admit only one small finger.[3]

The fourth and last witness for the prosecution was Patrolman Eduardo Suarez, who effected Rebancos's arrest.

What is significant about his testimony is that he said he had arrested Rebancos on an earlier occasion for a similar charge of rape which was however amicably settled.[4] This statement was not denied or rebutted by the defense during the cross-examination of Suarez and the long direct and rebuttal examination of Rebancos himself.

Rebancos was his lone witness, and a very bad one at that. His testimony only deepened his problem and in fact erased whatever doubt there might have been about his guilt. The trial judge[5] said "it truly insults our credulity," and indeed it does. It is really remarkable that some litigants can submit the most outlandish tales and think they can pull the wool over the eyes of the court as if it were born yesterday.

Rebancos would have the Court believe that Resurreccion filed the complaint for rape against him because she was jealous. He says that on that morning he was supposed to have raped Mary Rose, a woman by the name of Edna had visited him in his house, and that was what infuriated Resurreccion and prompted her to accuse him of raping her daughter.[6] Edna was never presented in court. She remained a hazy figure with not even a surname. Rebancos says she had come to seek his help, but he could not say what kind of help she wanted because he says she did not tell him. He says they talked for about one hour but only of "stories about our lives" and never of the help she wanted.[7] She left before the return of Resurreccion who, upon, learning of the visit, chased him out of the house with a kitchen knife. He says he stayed outside for about ten minutes and then peeped into the house to see Resurreccion bathing and scolding her daughter.[8] A reading of the transcript of his testimony, with all its evasions and obvious inventions, will show that this witness was lying in his teeth.

The forthright testimony of Mary Rose and the medical evidence of her injuries have established beyond doubt the guilt of the accused-appellant. The defense theory that the laceration of the girl's hymen could have been caused by masturbation or other similar intrusion is too conjectural as against the girl's positive narration of her violation by Rebancos. The offense is deemed consummated even if penetration was not complete, as we have held in earlier cases.[9]

The crime committed is statutory rape because the victim was less than twelve years old.[10] Resurreccion testified that her daughter was born on 26 October 1974, and so was only nine years old at the time of the rape. Although no birth certificate was presented because her birth had allegedly not been registered, her baptismal certificate, coupled by her mother's testimony, was sufficient to establish that Mary Rose was below twelve years old when she was violated by Rebancos.[11]

There are no words to express the disgust of the Court over this nauseous offense perpetrated by this 46-year old man on the defenseless and naive 9-year old girl who was in his care at the time he assaulted her with his animal lust. He deserves no less than the maximum penalty prescribed by law, which is hardly enough at that for the wrong he has committed in violently tearing her veil of innocence.

WHEREFORE, the appealed judgment is AFFIRMED in toto, with costs against the accused-appellant. It is so ordered.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] TSN, pp. 5-8, Oct. 23, 1984.

[2] TSN, pp. 13-23, Oct. 23, 1984.

[3] TSN, pp. 5-6, Nov. 14, 1984.

[4] TSN, p. 26, Jan. 29, 1985.

[5] Judge Cancio C. Garcia.

[6] TSN, pp. 7-8, March 13, 1985.

[7] TSN, pp. 11-12, *ibid*.

[8] TSN, pp. 15-16, *id*.

[9] *People vs. Budol*, 143 SCRA 241; *People vs. Hermosada*, 143 SCRA 675; *People vs. Paton-Og*, 155 SCRA 675; *People vs. Felix*, 130 SCRA 456.

[10] Article 335, par. 3, Revised Penal Code.

[11] TSN, p. 4, Oct. 23, 1984, Exhibit D.

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