

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICARDO SALITA Y BETUS, DEFENDANT-APPELLANT.*G.R. No. 76531. November 15, 1989*

Ponente: GANCAYCO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-76531/>**GANCAYCO, J.:**

On April 19, 1984 which was Holy Thursday, Soledad Tante Linn Hayashi, together with her children Sheila Linn Hayashi who was nine (9) years old and Mary Jo Ann Tante (Jenny), and a companion Perlita Cañones went to their resthouse at Barrio Tagalag, Valenzuela, Metro Manila as there was a "pabasa." The caretaker of the resthouse and their fishpond was a certain Linda Salita who lives in a house nearby. Ricardo Salita, nicknamed Carding, is the son of Aling Tinay and Mang Narcing, brother of Linda Salita. After the "pabasa" was finished on Good Friday, Soledad went home to their residence at Manila and left her children Sheila and Jenny with Perlita at their rest house. They were entrusted to the care and custody of Linda.

In the afternoon of that day, Good Friday, while Sheila was in the veranda of their resthouse watching a person catching fish nearby, Carding approached her and cuddled her. He inserted one of his fingers inside her vagina. He also kissed her several times. After that Linda told them to go to sleep. Carding slept in the resthouse at the room next to where Sheila and her sister slept.

The following day, Holy Saturday, between two and three in the afternoon while Sheila was reading a comic magazine inside the room in the resthouse, Carding went inside the room and closed the windows and door. He was also reading another comic magazine but it did not take long as he put it down and sat beside her. He got the magazine she was reading and threw it away. Then he let her face him and he pulled down her green bermuda pants to her knees while he removed his pants, Carding let her face him and he opened her thighs in front of him which he placed as close to the top of his thighs. He inserted his penis into her private part. While his private part was inside hers he moved her up and down like a horse (niyuyugyog). Her buttocks and vagina were painful and Carding repeatedly kissed her. She cried in pain. Carding was sitting down while she was on top of his thighs. Afterwards he put her down and told her not to tell anybody what had happened or else he will kill her and her mother. Then she put up her pants, opened the door and ran away to the place where Jenny was. Her buttocks and vagina were painful and aching and it was difficult for her to urinate.

Carding remained in the resthouse and slept. In the afternoon of the following day, Sheila and Jenny were fetched so they returned to Manila. Jenny then told their mother that Sheila had blood stains in her pants and they told her that she was abused by Carding. When Soledad inspected her vagina and saw blood and puss in it she immediately brought her to the Makati Medical Center but she was not treated there. Upon advice they proceeded to the CIS where she was examined and investigated. There she gave a sworn statement. Sheila identified Carding as the person who raped her.[1]

In due course a criminal complaint for rape was filed against Ricardo Salita by Soledad Tante Linn Hayashi, mother of the victim, in the Regional Trial Court of Valenzuela, Metro Manila. Upon arraignment Salita entered a

plea of not guilty. After trial on the merits a decision was rendered on July 23, 1986 finding him guilty of the offense charged and sentencing him to reclusion perpetua, to pay the offended party Sheila Linn Hayashi damages in the amount of P30,000.00 and to pay the costs.

Hence, the herein appeal wherein the accused interposed the following assignment of errors allegedly committed by the trial court:

"I

THE LOWER COURT SERIOUSLY ERRED IN GIVING CREDIT TO THE BIAS, VAGUE AND SELF-SERVING TESTIMONIES OF THE PROSECUTION WITNESSES.

II

THE LOWER COURT SERIOUSLY ERRED IN DISREGARDING THE POSITIVE AND CLEAR EVIDENCE OF THE DEFENSE.

III

THE LOWER COURT SERIOUSLY ERRED AND GRAVELY ABUSED ITS DISCRETION IN CONVICTING THE ACCUSED-APPELLANT AND IN NOT ACQUITTING HIM ON GROUNDS OF REASONABLE DOUBT."

The appellant alleges that the prosecution failed to establish that the complainant Soledad Tante Linn Hayashi is the mother of the offended party.

Besides the testimony of Soledad herself to the effect that Sheila is her daughter, the prosecution presented the birth certificate of Sheila attesting to this fact.[2] Indeed, the appellant himself acknowledged on the witness stand that the victim is the daughter of the complainant.[3]

Under Section 5, Rule 110 of the Rules of Court when the offended party who is a minor fails to file the complaint, her parents, grandparents or guardian may file the same. The complaint therefore was appropriately filed in this case by the mother of the offended party.

The main thrust of the defense is the matter of credibility of witnesses. The appellant claims that considering the height of the appellant and the offended party, the rape could not have been committed.

From the evidence on hand it appears that the appellant placed the offended party on top of his thighs and after inserting his penis in her vagina caused the offended party to move up and down. Their difference in height was of no moment for the rape to be consummated under the circumstances.

The testimony of the offended party is clear and spontaneous. It is the revelation of an innocent child whose chastity was abused by appellant. It deserves full credence. She is corroborated by her sister Jenny who got suspicious when she saw the appellant enter the room where Sheila was. She ran around the house and saw through a hole in the window that the appellant was kissing and embracing Sheila. However, when the appellant stood up Jenny ran away.

Upon the return of Sheila and Jenny to Manila they reported to their mother Soledad what happened to Sheila. Soledad saw Sheila's pair of pants stained with blood and sensed that her vagina not only had a foul odor but likewise discharged blood and yellowish matter. She wasted no time in having her medically examined after which she filed the complaint.

On the other hand, the defense of the appellant is alibi. This defense cannot prevail in the light of his positive identification as the culprit by the prosecution witnesses. The appellant claimed that on that fateful afternoon he was allegedly detaching the amplifier and sound system which were used in the "pabasa" and that the victim was playing with his two nieces. Nevertheless, it was not physically impossible for him to have gone to the rest house to commit the rape and thereafter return to the place where the chairs, tables and sound system were.

On the whole, the Court finds no reason to overturn the findings of the court a quo as to the credibility of the witnesses. Indeed, the conviction of the appellant for the offense charged is clearly supported by the evidence and the applicable law. This heinous offense against a nine-year old child must be vindicated.

WHEREFORE, the judgment appealed from is AFFIRMED in toto with costs against appellant.

SO ORDERED.

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

[1] Exhibits A, A1 and B.

[2] Exhibit J.

[3] TSN, June 25, 1985, Page 24.

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