

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DINDO LIQUIRAN Y PENULIAR AND RODEL DE VERA Y UNGRIA, ACCUSED-APPELLANTS.*G.R. Nos. 105693-96. November 19, 1993*

Ponente: DAVIDE, JR., J.

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Baby Rio Idos, then only eleven years old, would rather forget the 4th and 7th of July 1991. Yet she cannot. Her misfortunes on those days will forever be etched in her memory to haunt her even in her sleep and to irreparably affect her life despite the best psychological and psychiatric treatment she may undergo. In the evening of those days, she was ravished by two men who took turns in unleashing their bestial lust upon her frail and helpless body and who mercilessly deflowered her with their horrifying lechery. Two persons, Dindo Liquiran and Rodel de Vera, were tried and convicted by the trial court for these dastardly acts. They are now before this Court where they stoutly proclaim their innocence.

Baby Rio's search for justice began on the 8th day of July 1991 when she, assisted by her mother, Aurora Idos, filed a sworn complaint with the Municipal Trial Court (MTC) of Calasiao, Pangasinan, charging the accused with sexually abusing her.[1] On 22 July 1991, the court issued a resolution[2] finding a prima facie case for two counts of rape against both accused. The records of the case were then forwarded to the Provincial Prosecutor of Lingayen, Pangasinan, for the filing of the appropriate informations.

After a reinvestigation, the Office of the Provincial Prosecutor found that the accused, in conspiracy with each other, took turns in sexually abusing the complainant on 4 July 1991 and 7 July 1991 and recommended the filing of four separate informations for rape against them.[3] The four informations for rape, dated 2 September 1991, were originally filed with Branch 38 of the Regional Trial Court (RTC) at Lingayen, but were later transferred to the RTC in Dagupan City which had jurisdiction over the locus of the crime, that is, the municipality of Calasiao, Pangasinan.[4] In the latter court, these cases were docketed as Criminal Cases Nos. D-10633, D-10634, D-10651, and D--10652. Except for the dates of the commission of the crimes, two of which were alleged to have been committed on 4 July 1991 and the two others on 7 July 1991, all four informations alleged that the accused, in the evening of the said dates "inside the Calasiao Central School compound, municipality of Calasiao, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, x x x conspiring, confederating and mutually helping one another, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with Baby Rio Idos, an 11-year old girl,[5] to her damage and prejudice."

At their arrangement on 22 October 1991 in Criminal Case No. D-10633, both accused pleaded not guilty.[6] Upon the accused's motions for the consolidation of the three other cases, all four cases were jointly tried before Branch 44, then presided over by Judge Crispin C. Laron. Thereafter, the arraignments in Criminal Cases Nos. D-10634, D-10651, and D-10652 were conducted on 25 November 1991 and both accused pleaded not guilty to each of the charges.[7]

At the trial, the testimony of the Assistant Local Civil Registrar of Calasiao, Pangasinan, was dispensed with as the defense had admitted that the complainant was born on 6 March 1980.[8] The incidents in question later established by the prosecution through the testimonies of the complainant, Baby Rio Idos; her mother, Aurora Idos; SPO3 Porferio Estrada of the Philippine National Police (PNP), Calasiao, Pangasinan; and Dr. Josephine Aquino, the doctor who examined the complainant, are as follows:

Baby Rio Idos was waiting for her mother, Aurora Idos, at a waiting shed near the jeepney stop in Calasiao, Pangasinan, on the evening of 4 July 1991. She expected her mother, a fish vendor, to arrive that night from Dagupan City. Before her mother arrived, Rodel de Vera and Dindo Liquiran, who were known to her because the former buys fish from her mother while the latter sometimes acted as her mother's baggage boy, saw her and offered to take her home. She went with them. Instead of taking her home, the two brought her to a building inside the compound of the Calasiao Elementary School. There, they undressed her and themselves. Rodel went on top of Baby Rio and had sexual intercourse with her while Dindo held her right hand. Rodel inserted his penis into her vagina three times. After Rodel satisfied himself, Dindo followed suit. Before they parted ways, Dindo warned Baby Rio not to tell anybody about the incident otherwise they would kill her. Baby Rio then went back to the waiting shed to wait for her mother.[9]

Almost the same events happened three days later, on 7 July 1991, also in the evening. This time, Baby Rio was in the public market when the same men offered to take her home. Again, they instead took her to the Calasiao Elementary School compound where both men had carnal knowledge of her. Afterwards, she went home to Talibaew, Calasiao, Pangasinan. She reported to her brother Jun what had happened to her, but the latter merely admonished her and did nothing. When she woke up the next day, 8 July 1991, she related to her mother what Rodel and Dindo had done to her.[10] That same morning, mother and daughter reported the incident to the police station of Calasiao. SPO3 Porferio Estrada, desk officer on duty, noted down the complaint in the police blotter.[11] Part of the entry reads: "Victim narrated that she was brought by Rodel de Vera x x x and one alias 'Dindo' x x x inside the [Central Elementary School] compound on the night of July 4, 1991 of undetermined time, and there both suspects forcibly abused the victim." [12] There was no entry of the 7 July 1991 incident. They were then advised to go to any government hospital for medical examination.[13] At the Don Teofilo Sison Memorial Hospital, Dr. Josephine Aquino examined Baby Rio at 7:10 a.m. of 8 July 1991. She found healed hymenal lacerations at "12, 4 and 7 o'clock positions" and "labia minora erythematous." She further found that Baby Rio's "vaginal introitus admits one finger snugly." She concluded that, based on her findings, it was possible that a penis was inserted into the vagina of the complainant.[14] From the hospital, they returned to the police station with the medical certificate issued by Dr. Aquino and were investigated by a policeman named Busel.[15]

The defense presented both accused who denied the charges filed against them and proffered the defense of alibi. Rodel de Vera testified that he went home at 5:00 o'clock on 4 July 1991. He retired early on that day because he was tired from his first day of work in the house of Jose Diolazo. On 7 July 1991, he reported for work in the morning and went home at about 11:00 o'clock in the evening since he and his co-workers had eaten dog meat at Jose Diolazo's place.[16] His statements were corroborated by Diolazo. His aunt, Merly Ungria, with whom he resides, also corroborated Rodel's testimony regarding the time he went home on the dates in question. She added that after he arrived home, Rodel never left the house.[17] Rodel admitted, however, that his residence is only about seventy meters from the Calasiao Elementary School and that, walking moderately, he can negotiate the distance in eight minutes.[18]

Rodel de Vera's mother, Florencita de Vera, testified that Aurora Idos suspected her of having an affair with Aurora's husband, Arturo Idos. On one occasion, Aurora threatened her that something would happen to them

and this, she believed, was the motive behind the filing of the charges against her son.[19]

Dindo Liquiran testified that he was driving his tricycle from 6:00 a.m. to 6:00 p.m. on 4 July and 7 July 1991 and that he went home at around 6:00 p.m. on those days.[20] He admitted during his cross-examination that his residence is only about 200 meters from the Calasiao Elementary School and, according to him, only twenty minutes away by tricycle.[21] There were no corroborating witnesses presented on his behalf.

After trial, both accused were found guilty beyond reasonable doubt of four counts of rape. In the joint decision[22] promulgated on 28 April 1992, the trial court declared that “the complaining witness Baby Rio Idos had convincingly testified, pointing to Rodel de Vera and Dindo Liquiran as the persons who abused her on July 4, 1991 and July 7, 1991 in the evening at the Calasiao Central School.” It discredited the alibi of the accused inasmuch as they “were positively identified” by the victim herself and they “failed to prove that it was impossible for them to be at the scene of the incident on July 4, 1991 and July 7, 1991.” The dispositive portion of the decision reads:

“WHEREFORE, the Court finds accused Dindo Liquiran y Penuliar and Rodel de Vera y Ungria guilty beyond reasonable doubt of the crimes of Rape as principals, as follows:

1. In Criminal Case No. D-10633, the Court sentences accused Dindo Liquiran y Penuliar and Rodel de Vera y Ungria, to suffer the penalty of Reclusion Perpetua; and orders each of the accused to indemnify the offended party Baby Rio Idos the sum of P30,000.00 as moral damages and P20,000.00 as exemplary damages;
2. In Criminal Case No. D-10634, the Court sentences accused Dindo Liquiran y Penuliar and Rodel de Vera y Ungria to suffer the penalty of Reclusion Perpetua; and orders each of the accused to indemnify the offended party Baby Rio Idos the sum of P30,000.00 as moral damages and P20,000.00 as exemplary damages;
3. In Criminal Case No. D-10651, the Court sentences accused Dindo Liquiran y Penuliar and Rodel de Vera y Ungria to suffer the penalty of Reclusion Perpetua; and orders each of the accused to indemnify the offended party Baby Rio Idos the sum of P30,000.00 as moral damages and P20,000.00 as exemplary damages; and
4. In Criminal Case No. D-10652, the Court sentences accused Dindo Liquiran y Penuliar and Rodel de Vera Y Ungria to suffer the penalty of Reclusion Perpetua; and orders each of the accused to indemnify the offended party Baby Rio Idos the sum of P30,000.00 as moral damages and P20,000.00 as exemplary damages.

The accused are ordered to pay costs.

SO ORDERED.”[23]

Both accused seasonably filed a notice of appeal.[24] We accepted the appeal on 19 August 1992.[25]

In their Appellants’ Brief, the accused contend that the trial court erred:

“1. X X X IN GIVING FULL FAITH AND CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES AND IN DISREGARDING THE EVIDENCE ADDUCED BY THE DEFENSE.

2. X X X IN FINDING BOTH ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED DESPITE THE FACT THAT THEIR GUILT WERE NOT PROVEN BEYOND REASONABLE DOUBT.”

In support thereof, they point to the alleged “abnormal” behavior of the complainant in returning to the waiting shed after the incident on 4 July 1991, instead of running home to seek the security and protection of her family, and to the inconsistencies in the testimony of Aurora Idos. They also allege that the charges were made to exact vengeance on Rodel de Vera’s mother, whom Aurora suspected of having an illicit relation with her husband, and

that the medical certificate prepared by Dr. Aquino shows that the hymenal lacerations were already healing when the complainant was examined on 8 July 1991, proving that it was impossible that she was raped on 7 July 1991.

We find no merit in the appeal.

The accused were charged with the crime of statutory rape under Paragraph 3, Article 335 of the Revised Penal Code. The gravamen of this offense is the carnal knowledge of a woman below twelve years of age.[26] In this case, the fact of carnal knowledge by the accused was sufficiently established by the testimony of Baby Rio.[27] Having been born on 6 March 1980 (Exhibit “B” and “B-1”), Baby Rio Idos was only 11 years, 3 months and 28 days old on 4 July 1991 and 11 years and 4 months old on 7 July 1991 when the crimes were perpetrated. Undoubtedly, what has been committed here is statutory rape.

Testimonies of rape victims who are young and of tender age are credible. The revelation of an innocent child whose chastity was abused deserves full credence.[28] This is especially true in this case where the victim is a poor girl who was only in Grade II -- and a repeater at that -- when the incidents in question took place. This simple-minded girl stuck to her horrifying story and weathered the ordeal of a rigorous cross-examination.

The trial court found that the accused did have carnal knowledge of the victim. It is settled that appellate courts will generally not disturb the factual findings of the trial court since the latter is in a better position to weigh conflicting testimonies, having heard the witnesses themselves and observed their deportment and manner of testifying unless it is found that the trial court has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case.[29] We do not find any in this case. We have carefully examined the records herein and have found no reason to reverse the factual findings of the trial court.

Contrary to the allegations of the accused, it is not abnormal for the complainant to go back to the waiting shed after having been sexually abused. Baby Rio had neither a permanent home nor a real family at that time. Her parents are separated. She does not live with her family in Talibaew, Pangasinan, but with her grandmother in San Miguel, Pangasinan,[30] and her mother does not stay regularly with her family in Talibaew.[31] It is but natural for her to seek solace in the arms of her mother, her only refuge, by returning to the waiting shed or the jeepney stop where she knew she would find her mother. Besides, an 11-year old girl who had just undergone a terrifying ordeal could not be expected to act as normally as an adult would or in the manner suggested by the accused.

We find no inconsistencies in the testimony of prosecution witness Aurora Idos which the accused alleged to cast a cloud of doubt on the credibility of the prosecution’s version. Even if there are such inconsistencies, they are insignificant and do not affect the testimony of the complainant herself who clearly and convincingly testified that she was abused by the accused whom she positively identified. In a crime of rape which is usually committed without any witnesses thereto, courts usually rely on the credibility of the victim as weighed against that of the accused.[32] The culpability of the offender almost invariably hinges on the story of the complainant.[33]

The alleged motive of Baby Rio’s mother; Aurora Idos, in fabricating the charges against the accused is not convincing and is at best speculative. It is unthinkable for a mother to concoct a horrible tale that her daughter was raped in her desire to exact vengeance and in so doing, expose her daughter and her family to the humiliation and embarrassment of a public trial. Even granting for the sake of argument that Aurora sought revenge against de Vera’s mother, she would have directed it against de Vera’s mother and not on the latter’s son or on a stranger, accused Dindo Liquiran. In any event, there is no adequate proof at all that Aurora was moved by vengeance and had unduly influenced or pressured Baby Rio to weave a false tale of multiple rape.

Finally, the finding of Dr. Aquino on 8 July 1991 that the hymenal lacerations on the victim were already healing does not negate the fact of rape on 7 July 1991 as the doctor herself declared that it was still possible that the

complainant was raped on 7 July 1991.[34] Said hymenal lacerations might have been caused by the rapes committed on 4 July 1991 thus explaining why the lacerations had already healed when Baby Rio was examined. It must be noted, however, that even without the medical examination, the accused can still be convicted of the crime of rape. When a woman says that she has been raped, she says in effect all that is necessary to show that rape has been committed and that if her testimony meets the test of credibility, the accused may be convicted on the basis thereof.[35] Baby Rio's testimony meets that test.

The trial court correctly rejected the accused's defense of alibi. Accused Dindo Liquiran's defense was not corroborated by any other person. For his part, Rodel de Vera's defense was corroborated only by his mother, an aunt, and his alleged employer, Jose Diolazo, whose statement is suspect for having been made belatedly or only on 25 July 1991, while Rodel had appeared at the police station as a suspect as early as 8 July 1991. For alibi to prosper, it must be shown that the accused was at another place at the time when the crime happened and that it was not physically possible for him to have been at the place where the crime was committed.[36] As earlier noted, Rodel de Vera admitted that his house is only about seventy meters from the place where the rapes occurred and is only about eight minutes away by foot.[37] Dindo Liquiran, on the other hand, admitted that his house is about 200 meters from where the rapes were committed.[38] It was not at all impossible for both accused to have been at the crime scene at the time of the rapes on 4 July and 7 July 1991.

There is no doubt in the mind of this Court that the prosecution had established beyond reasonable doubt the fact that in the evening of 4 July 1991, both accused had brought Baby Rio Idos to the Calasiao Elementary School building in Calasiao, Pangasinan, and there had carnal knowledge of her one after the other. Again, in the evening of 7 July 1991, both accused brought her to the same place where each of them, in the presence of the other, had carnal knowledge of her once more. These conduct and acts of the accused also prove beyond moral certainty the existence of a conspiracy between them. It is all too clear that they had a joint purpose and design or a community of interest and were united in the execution of the crime.[39] Conspiracy, having been established, the act of one is the act of all.[40] Accordingly, for the rapes directly committed by one, the other is equally liable therefor. Since each personally and directly had carnal knowledge of the complainant on two separate occasions -- the first on 4 July and the second on 7 July 1991 -- each of the accused then is liable for four separate counts of rape, as charged in four separate informations. The trial court was therefore correct in convicting both accused in Criminal Cases Nos. D-10633, D-10634, D-10651, and D-10652.

Here ends Baby Rio's search for justice. Her oppressors and tormentors must now suffer for the grievous offense they have committed. They will spend a great portion of their lives in prison, a place which, under existing laws, the criminal justice system provides and which is definitely much better than what they truly deserve -- the hottest dungeon in hell.

WHEREFORE, the challenged joint decision of Branch 44 of the Regional Trial Court of Dagupan City in Criminal Cases Nos. D-10633, D-10634, D-10651, and D-10652 is hereby **AFFIRMED** in toto. With costs against the appellants.

SO ORDERED.

Cruz, (Chairman), and Quiason, JJ., concur.
Bellosillo, J., on official leave.

[1] Original records (OR), Criminal Case No. D-10633, 24.

[2] *Id.*, p. 22-23.

[3] Id., 13.

[4] Id., 37.

[5] The sworn criminal complaint alleged that the victim was only 9 years old.

[6] OR, 50.

[7] See last page of respective OR's.

[8] TSN, 3 January 1992, 13-14; Exhibits "B" and "B-1."

[9] TSN, 16 January 1992, 5-11.

[10] Id., 12-17.

[11] Exhibit "A."

[12] Exhibit "A-1."

[13] Id.

[14] TSN, 6 January 1992, 2-5; Exhibit "C."

[15] TSN, 7 January 1992, 13-14.

[16] TSN, 20 March 1992, 3.

[17] TSN, 23 March 1992, afternoon session, 2-3.

[18] TSN, 20 March 1992, 10-11.

[19] TSN, 23 March 1992, morning session, 3-4.

[20] TSN, 13 March 1992, 10.

[21] Id., 9-11.

[22] OR, Criminal Case No. D-10633, 138-148; Rollo, 24-34.

[23] OR, Criminal Case No. D-10633, 148; Rollo, 34.

[24] Id., 150; Id., 35.

[25] Rollo, 36.

[26] *People vs. Mangalino*, 182 SCRA 329 [1990]; *People vs. Puedan*, 196 SCRA 388 [1991]; *People vs. Alegado*, 201 SCRA 37 [1991]; *People vs. Samillano*, 207 SCRA 50 [1992].

[27] TSN, 16 January 1992, 8-16.

[28] *People vs. Guibao*, 217 SCRA 64 [1993]. See also, *People vs. Bruca*, 179 SCRA 64 [1989]; *People vs. Salita*, 179 SCRA 438 [1989].

[29] *People vs. Garcia*, 89 SCRA 440 [1979]. See also, *People vs. Bautista*, 92 SCRA 465 [1979]; *People vs. Abujuela*, 92 SCRA 503 [1979]; *People vs. Florida*, 214 SCRA 227 [1992]; *People vs. Rivera*, 216 SCRA 363 [1992]; *People vs. Kyamko*, G.R. No. 103805, 17 May 1993.

[30] TSN, 31 January 1992, 2-3.

[31] TSN, 15 January 1992, 4.

[32] *People vs. Dabon*, 216 SCRA 656 [1992]; *People vs. Adlawan, Jr.*, 217 SCRA 489 [1993].

[33] *People vs. Pido*, 200 SCRA 45 [1991]; *People vs. Matrimonio*, 215 SCRA 613 [1992].

[34] TSN, 6 January 1992, 6.

[35] *People vs. Tismo*, 204 SCRA 535 [1991]; *People vs. Grefiel*, 215 SCRA 596 [1992]; *People vs. Matrimonio*, *supra*.

[36] *People vs. Penillos*, 205 SCRA 546 [1992]; *People vs. Castor*, 216 SCRA 410 [1992]; *People vs. Kyamko*, *supra*.

[37] See footnote no. 18.

[38] See footnote no. 21.

[39] See *People vs. de la Cruz*, 207 SCRA 632 [1992]; *People vs. Martinado*, 214 SCRA 712 [1992].

[40] *People vs. Buligon*, 205 SCRA 766 [1992]; *People vs. Pugal*, 215 SCRA 247 [1992]; *People vs. Pama*, 216 SCRA 385 [1992]; *People vs. Rostata, Jr.*, 218 SCRA 657 [1993].

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