PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTHONY APOSTOL ALIAS “OTOY”, ACCUSED-APPELLANT.

G.R. Nos. 123267-68. December 09, 1999

Ponente: PARDO, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-nos-123267-68/

PARDO, J.:

The case is an appeal of accused Anthony Apostol from the decision[1] of the Regional Trial Court, Iloilo City, Branch 39, finding him guilty of two (2) counts of statutory rape committed against minor Amy Tacuyan and sentencing him to suffer two (2) penalties of reclusion perpetua, and to pay the amount of forty thousand (P40,000.00) pesos.

On October 13, 1993, Provincial Prosecutor Rolando E. Nielo of Guimaras filed with the Regional Trial Court, Iloilo City, Branch 39, two (2) informations, based on the complaint[2] filed by the victim, Amy Tacuyan, assisted by her mother Gloria, accusing Anthony Apostol alias "Otoy" of rape as follows:

> Criminal Case No. 41755-
>
> "That on or about the 14[th] day of September 1993, in the municipality of Nueva Valencia, Province of Guimaras, Philippines and within the jurisdiction of this Honorable Court, the said accused by the use of force, threats and intimidation brought Amy Tacuyan a minor of less than 12 years old inside a secluded house, did then and there willfully, unlawfully and feloniously lie and succeed in having carnal knowledge of said Amy Tacuyan.
>
> "CONTRARY TO LAW."[3]
>
> Criminal Case No. 41756-
>
> "That on or about the 1[st] day of September 1993, in the municipality of Nueva Valencia, Province of Guimaras, Philippines and within the jurisdiction of this Honorable Court, the said accused by the use of force, threats and intimidation brought Amy Tacuyan, a minor of less than 12 years old inside a secluded house, did then and there willfully, unlawfully and feloniously lie and succeed in having carnal knowledge of said Amy Tacuyan.
>
> "CONTRARY TO LAW."[4]

On November 15, 1993, Provincial Prosecutor Nielo filed with the trial court an amended information in Criminal Case No. 41756, to wit:

> "That on or about the 1st day of September 1993, in the municipality of Nueva Valencia, Province of Guimaras, Philippines and within the jurisdiction of this Honorable Court, the said accused armed with a knife by the use of force, threats and intimidation brought Amy Tacuyan, a minor of less than 12 years old inside a secluded house, did then and there willfully, unlawfully and feloniously lie and succeed in having carnal knowledge of said Amy Tacuyan against her will.
>
> "CONTRARY TO LAW."[5]

Upon arraignment on January 26, 1994, accused Anthony Apostol, assisted by his counsel de parte, pleaded not guilty to both informations. The two (2) informations were consolidated and jointly tried.

The prosecution's evidence established the following facts:

In the afternoon of September 1, 1993, Gloria Tacuyan asked her daughter Amy Tacuyan to go to the house of Modesta Lusuegro, located at the other side of the mountain, in Brgy. Lanipe, Nueva Valencia, Guimaras to collect payment of the latter's debt. Modesta Lusuegro is a sister of accused Anthony Apostol.

Amy failed to collect any payment because only accused Anthony and Modesta's three children were at the house. Accused ordered the children to go outside and play, leaving Amy alone with him. Armed with a knife, Anthony dragged Amy upstairs and forced her to lie on the floor. In that position, accused was able to remove Amy's shorts and panty. Amy kicked the accused and shouted for help, but she could neither overpower him nor did anyone heed her call. The nearest house was the victim's house, which was one (1) kilometer away. Despite Amy's strong resistance, Anthony was able to insert his penis inside her vagina. She felt pain and cried.

Because of the incident, Amy's entire body ached and blood oozed from her vagina.[6] Before the accused allowed her to go home, he threatened her that he would kill her family if she told anybody about what happened.[7] When she arrived home she changed her clothes and washed her bloodstained undergarments. She did not tell her mother about the rape because the threats made by the accused were still ringing in her ears.[8]

On September 14, 1993, accused again raped Amy. While walking home from school, accused Anthony Apostol waylaid her by the road and dragged her to the house of Modesta. Armed with a six-inch knife,[9] accused Anthony removed her clothes, including her undergarments and forced himself on her again. During the time he was having intercourse with her, accused was holding a knife. She shouted for help, but nobody came to her rescue.

Later that night, Amy saw her older brother near the house of Modesta, looking for her. She was not able to talk to him because accused was covering her mouth, while pointing the knife at her. Policemen also went to Modesta's house in search of her, but accused denied that she was there.

Afterwards, accused Anthony brought Amy to sitio Igdarapdap, Nueva Valencia, in the house of his employer, Gualberto "Gualing" Galea, about one (1) kilometer away from Modesta's house. It was already 9:00 in the evening. They stayed there for the night and Amy slept in the room of Gualing's mother. She told Gualing about what accused Anthony did to her, and Gualing said he would accompany her to the town of Nueva Valencia the following day, which he and his wife Charry Galea did in the morning.

Upon arrival at the police station, she saw her mother to whom she related the incident.

At the witness stand, Gloria testified that on September 14, 1993, Amy failed to return home from school. She sought the help of the punong barangay and the local police to look for Amy. The next day, they found Amy at the police station of Nueva Valencia, accompanied by Charry and Gualberto Galea. When questioned about her whereabouts the night before, Amy said that Anthony brought her to the house of Charry Galea to hide her from the policemen who were searching for her.

Amy further said that the September 14, 1993 incident was not the first time that accused raped her at knifepoint. She was first raped on September 1, 1993, at the house of accused's sister, Modesta. Looking back, Gloria remembered that on September 1, 1993, Amy seemed afraid and weak. She did not go to school that day because she complained that her entire body was aching.[10]

Gloria Tacuyan knew Anthony Apostol because they were neighbors. She admitted that she was the one who filed

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

the criminal complaint against accused in behalf of her minor daughter, Amy. Gloria said that her daughter was under twelve (12) years old, or exactly ten (10) years and eleven (11) months old on September 14, 1993.[11] She presented Amy's certificate of live birth duly certified by the local civil registrar of Nueva Valencia, Guimaras. Based on the birth certificate, she was born on October 24, 1982. However, Amy's birth was registered only on September 27, 1993, several weeks after the incidents in question.

On September 15, 1993, Dr. Lorenzo R. Guevarra III physically examined Amy and found that her hymen was positive of old lacerations at 12:00, 6:00 and 2:00 o'clock. Further examination of the vagina revealed the presence of spermatozoa and pus cells. Based on the doctor's assessment, the laceration suffered by the victim would take about two (2) weeks to heal.[12]

Amy positively identified accused Anthony Apostol as the one who raped her. She came to know the accused one (1) month prior to September 1, 1993, as he is a brother of Modesta. When the rape happened, she was under twelve years old. She turned twelve (12) years old on October 24, 1993.[13]

The defense tried to debunk the prosecution's version that there was rape by putting up the defense that Amy and Anthony were lovers.

Modesta Lusuegro, a sister of the accused, confirmed that Amy and Anthony were sweethearts. Amy often visited her brother Anthony at her house and at the poultry farm where the latter worked. At one time, she saw them kissing, while her brother's arms were around Amy's shoulders. She estimated that the relationship had been going on for about three (3) months when the incidents in question happened. She told Amy that she was too young to have a boyfriend, but the latter said that she was determined to marry her brother.

Modesta warned her brother that Amy was too young for him, but the accused said that they were in love. He visited Amy at her house, at times staying late until 9:00 in the evening because he had a drinking spree with Amy's parents. Amy's parents were aware of their relationship.[14]

Modesta denied that she owed any sum of money to Amy's mother. At about 7:30 in the evening of September 14, 1993, she saw Anthony arrive at her house, together with Amy. When asked why she was there, Amy responded that she did not want to go home anymore. It was already past 6:00 in the evening and her mother would just scold her. She would rather stay with Anthony.

That same night, policemen went to her house looking for Amy. Afraid that it was already late and there were many policemen, she denied seeing Amy or knowing her whereabouts.

Charry Galea, wife of accused's employer, corroborated Modesta's testimony that accused and victim were lovers. Prior to the incidents in question, she would always see Amy and Anthony together. Anthony often dropped by the house of Amy to have a drinking spree with the latter's parents, until late in the evening.

At about 10:00 in the evening of September 14, 1993, Charry saw Amy and Anthony at her house's doorsteps. Amy was wearing a nightgown and seemed to be a bit shy. The two admitted that they were lovers. They went there to escape from policemen looking for them. That night, Amy slept with her mother-in-law.

Accused Anthony Apostol admitted that he and Amy were lovers. They became lovers in March 1993.[15] He was always welcome to visit Amy at her house, until September 13, 1993 when he had a disagreement with Amy's father.

On September 13, 1993, while Anthony was drinking with Amy's father, he ordered Anthony to kill a certain Lotlot Gamarcho who was responsible for putting in prison one of Amy's brothers, Salde Tacuyan.[16] Because Anthony did not agree, Amy's father got mad and one of Amy's brothers mauled him. Since then, Anthony was

not allowed to see Amy.[17]

The following day, or on September 14, 1993, Amy went to the poultry farm where Anthony worked and proposed that they elope. At first, Anthony did not agree, but Amy was insistent because her parents no longer liked him. They agreed to elope and hide at his sister Modesta's house. Later that night they proceeded to the house of his employer, Charry Galea, in sitio Igdarapdap, NuevaValencia, Guimaras.

Anthony admitted that he had sexual intercourse with Amy on September 14, 1993, saying it was a mutual decision.[18] He denied either seeing Amy or having sexual intercourse with her on September 1, 1993, because he was working at the poultry farm from morning until late afternoon.[19]

On September 15, 1993, Anthony went to the police station in Nueva Valencia and surrendered because he was being hunted. He told the police that he and Amy were lovers.

On July 12, 1995, the trial court rendered decision finding accused Anthony Apostol alias "Otoy" guilty of two counts of statutory rape. The dispositive portion of the decision reads:

> "WHEREFORE, premises considered, judgment is rendered as follows:
>
> "In Criminal Case No. 41755, the accused Anthony Apostol is hereby found guilty beyond reasonable doubt of the crime of Statutory Rape under No. 3 of Art. 335 of the Revised Penal Code and is hereby sentenced to suffer the penalty of reclusion perpetua.
>
> "In Criminal Case No. 41756, said accused is also found guilty beyond reasonable doubt of the crime of Statutory Rape under No. 3 of Art. 335 of the Revised Penal Code and is sentenced to suffer the penalty of reclusion perpetua.
>
> "The accused is further ordered to pay the offended party the amount of Forty Thousand (P40,000.00) Pesos, as civil liability and the costs.
>
> "The accused who is detained, is credited with the number of days he spent under detention, if he is qualified, otherwise, he shall be credited only with four-fifths (4/5) of his preventive imprisonment.
>
> "He is further ordered to be transferred to the National Penitentiary at Mandaluyong, Metro Manila, even if he appeals.
>
> "SO ORDERED.
>
> "City of Iloilo, July 12, 1995.
>
> "(s/t) JOSE G. ABDALLAH
> "J u d g e"[20]

On August 4, 1995, accused Anthony Apostol filed with the trial court a notice of appeal to the Supreme Court.[21] On September 16, 1995, the accused was transferred to the New Bilibid Prison, Muntinlupa City.[22]

In this appeal, accused Anthony Apostol raised only one assignment of error, that is, the trial court erred in finding him guilty beyond reasonable doubt of two counts of statutory rape. Furthermore, accused asserts that the carnal intercourse between him and the victim could not amount to rape because they were lovers, and the sexual coitus was consensual.

There is no merit in this appeal, for reasons to be discussed hereunder.

In reviewing the evidence for the prosecution in cases of rape, the courts have been guided by three settled principles: "(1) an accusation for rape is easy to make, difficult to prove and even more difficult to disprove; (2) in

view of the intrinsic nature of the crime, the testimony of the complainant must be scrutinized with utmost caution; and (3) the evidence of the prosecution must stand on its own merits and cannot draw strength from the weakness of the evidence of the defense."[23] We shall be guided by these principles in reviewing the facts of the instant case.

"The law provides that carnal knowledge of a woman under any of the following instances constitutes rape: (1) when force or intimidation is used; (2) when the woman is deprived of reason or otherwise unconscious; and (3) when she is under twelve (12) years of age."[24]

Accused Anthony Apostol tries to escape conviction by contesting the age of the victim at the time of the commission of the crime. He cites the testimony of the head teacher of Brgy. Lanipe, Nueva Valencia, Guimaras, Mateo Geroma, who testified that based on Amy Tacuyan's Form 1, she was born on October 25, 1981. However, based on Amy Tacuyan's birth certificate, she was born on October 24, 1982.[25]

This piece of evidence would not help the accused escape conviction. Whichever would be used to determine the age of the victim, the result would be the same. Amy Tacuyan was under twelve (12) years old when accused had carnal knowledge of her in September 1993. In terms of evidentiary value, we accord greater weight to the birth certificate.

Under Rule 130, Section 44 of the Revised Rules on Evidence, a birth certificate is the best evidence of a person's date of birth. It is an entry in the official record made in the performance of his duty by a public officer of the Philippines and is considered prima facie evidence of the facts stated therein. The evidentiary value of the birth certificate is not affected by the late registration by the mother of the birth of her child.

Moreover, when the mother of the victim was presented on the witness stand she categorically stated that Amy was born on October 24, 1982[26] and that she was ten (10) years and eleven (11) months old when the rape took place on September 14, 1993. Being the person who gave birth to the child, the mother is the best person to know the age of her child. Amy herself said in open court that she was born on October 24, 1982.

"It is long settled, as early as in the cases of U.S. v. Bergantino (3 Phil. 118 [1903] and U.S. v. Angeles (sic) and Sabacahan (36 Phil. 246, 250 [1917] citing U.S. v. Estavillo and Perez (10 O.G. 1984), that the testimony of a person as to his age is admissible although hearsay and though a person can have no personal knowledge of the date of his birth as all the knowledge a person has of his age is acquired from what he is told by his parents (U.S. vs. Evangelista, 32 Phil. 321, 326 [1915] he may testify as to his age as he had learned it from his parents and relatives and his testimony in such case is an assertion of family tradition (Gravador v. Mamigo, 20 SCRA 742)x x x"[27]

The testimony of the prosecution witnesses, the victim and her own mother, as to the fact that the victim was born on October 24, 1982 fall under the exception to the hearsay rule as provided under Section 40 of Rule 130 of the Revised Rules on Evidence. Section 40 provides in part:

> "Section 40. Family reputation or tradition regarding pedigree.- The reputation or tradition existing in a family previous to the controversy, in respect to the pedigree of any one of its members, may be received in evidence if the witness testifying thereon be also a member of the family, either by consanguinity or affinity. x x x"

Going now to the "sweetheart defense", accused Anthony Apostol claimed that he could not be convicted of rape because he and Amy were sweethearts and the sexual intercourse that occurred on September 14, 1993 was consensual. He denied that they had sexual intercourse on September 1, 1993. He said that it was not "morally sound for the court to convict" him "of the crime of statutory rape" because the victim's parents were aware of their relationship.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

The "sweetheart defense" is a "much-abused defense that `rashly derides the intelligence of the Court and sorely tests its patience. '"[28] Even if it were true that accused-appellant and Amy Tacuyan were sweethearts, "this was no license for accused-appellant to force himself upon Amy. "[29]

Anthony's conviction on two counts of statutory rape is still in order because it is not the victim's consent that is material, but the fact that the victim was under twelve (12) years old when it happened.

Under the law and prevailing jurisprudence, the "gravamen of the offense of statutory rape as provided under Article 335, paragraph 3 of the Revised Penal Code is the carnal knowledge of a woman below twelve years old."[30] "The only elements of statutory rape are: (1) that the offender had carnal knowledge of a woman; and (2) that such woman is under twelve (12) years of age. It is not necessary to prove that the victim was intimidated or that force was used against her because in statutory rape the law presumes that the victim on account of her tender age, does not and cannot have a will of her own."[31]

In the present case, the prosecution established these elements. Amy was raped in the afternoon of September 1, 1993 and in the evening of September 14, 1993. This Court has time and again said that the "testimony of child-victims are given full weight and credit."[32] The prosecution conclusively proved that the victim was under twelve (12) years old when she was raped.

The accused did not deny the intercourse on September 14, 1993. He only raised the defense of denial and alibi in relation to the September 1, 1993 charge. "No jurisprudence is more settled than that alibi is the weakest of all defenses, for which reason it is generally rejected especially when the complaining witness sufficiently and positively established the identity of the accused."[33]

Thus, the trial court did not err in finding accused Anthony Apostol criminally liable for two (2) counts of statutory rape and imposing on him the penalty of reclusion perpetua, for each count. Despite the allegation that accused used a deadly weapon, a knife, in the commission of the crime, the penalty of reclusion perpetua to death as provided under Republic Act 7659 could not be imposed because the crime was committed on September 1 and 14, 1993, when the amending law was not yet effective. At that time, the death penalty was abolished by the 1987 Constitution.

Pursuant to Article 345 of the Revised Penal Code, and in line with current jurisprudence, we increase the award of forty thousand (P40,000.00) pesos civil indemnity ex delicto to fifty thousand (P50,000.00) pesos.[34] An award of moral damages in the amount of fifty thousand (P50,000.00) pesos is in order even in the absence of proof therefor.[35]

The Court, therefore, affirms the appealed decision with the above modification.

WHEREFORE, the Court AFFIRMS the appealed decision of the Regional Trial Court, Iloilo City, Branch 39, in Criminal Cases Nos. 41755-41756 finding accused Anthony Apostol alias "Otoy" guilty beyond reasonable doubt of two (2) counts of statutory rape and sentencing him to the penalty of reclusion perpetua, on each count, with the MODIFICATION that he is ordered to pay the victim, Amy Tacuyan, the amount of fifty thousand (P50,000.00) pesos as civil indemnity and fifty thousand (P50,000.00) pesos as moral damages, for each count of statutory rape.

With costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

---

[1] In Criminal Cases Nos. 41755 and 41756, promulgated on July 31, 1995, Judge Jose G. Abdallah, presiding.

[2] Complaint dated September 15, 1993; RTC Records, p. 4.

[3] Rollo, p. 10.

[4] Rollo, p. 11.

[5] RTC Record, p. 14.

[6] TSN, April 29, 1994, pp. 110-111.

[7] TSN, ibid., p. 107.

[8] TSN, ibid., p. 115.

[9] TSN, ibid., p. 116.

[10] TSN, March 30, 1994, pp. 90-91.

[11] TSN, ibid., p. 81.

[12] TSN, March 16, 1994, pp. 58-61.

[13] TSN, April 29, 1994, p. 105.

[14] TSN, June 3, 1994, p. 135.

[15] TSN, September 29, 1994, p. 196.

[16] In the trial court's decision, Salde Tacuyan was also referred to as Zaldy Tacuyan.

[17] TSN, September 29, 1994, pp. 191-193.

[18] TSN, ibid., pp. 194-195.

[19] TSN, ibid., pp. 201-202.

[20] Decision, promulgated on July 31, 1995. Rollo, pp. 23-50.

[21] Notice of Appeal, Rollo, p. 51.

[22] Rollo, p. 53.

[23] People vs. Godoy, 250 SCRA 676, 703 [1995], citing People vs. Bacdad, 196 SCRA 786 [1991]; People vs. Abad, 268 SCRA 246 [1997].

[24] People vs. Caballes, 274 SCRA 83, 95 [1997].

[25] Exh. C, Rollo, p. 251.

[26] TSN, March 30, 1994, p. 82.

[27] People vs. Alegado, 201 SCRA 37, 47 [1991].

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

[28] People vs. Jose Maglantay, G.R. No. 125537, March 8, 1999, citing People vs. Cabel, 282 SCRA 410 [1997].

[29] People vs. Jose Maglantay, supra, citing People vs. Laray, 253 SCRA 654 [1996].

[30] People vs. Alegado, supra.

[31] People vs. Alegado, supra, 48 [1991].

[32] People vs. Renato Caparanga Jose, G.R. No. 128789, May 24, 1999, citing People vs. Digno, 250 SCRA 237 [1995].

[33] People vs. Roger Vaynaco, G.R. No. 126286, March 22, 1999.

[34] People vs. Joven de la Cuesta, G. R. No. 126134, March 2, 1999, citing People vs. Victor, 292 SCRA 186, 200-201 [1998].

[35] People vs. Renato Caparanga Jose, supra, citing People vs. Prades, G.R. No. 127569, 293 SCRA 411 [1998].

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

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.