

EN BANC

[G.R. Nos. 136867-68, September 24, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODRIGO GALVEZ Y JEREZ, ACCUSED-APPELLANT.**

DECISION

YNARES-SANTIAGO, J.:

Of all the so-called heinous crimes, none perhaps more deeply provokes feelings of outrage, detestation and disgust than incestuous rape.^[1] This case is a revolting example.

For twice ravishing and thereafter impregnating his 14-year old daughter, Rodrigo Galvez y Jerez was charged with two (2) counts of Rape committed on April 30, 1993 and June 30, 1994.^[2] The two (2) Informations similarly worded except for the dates and times of commission of the offenses aver -

That on or about [the] midnight of April 30, 1993, at Barangay Itomang, Municipality of Talisay, Camarines Norte and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with his own daughter, one Venus Galvez y Estacion, [a] 14 year old girl, and against her will.

CONTRARY TO LAW.^[3]

Upon arraignment in both cases, accused-appellant entered a plea of "not guilty".^[4] The cases thereafter proceeded to trial. By agreement of the prosecution and the defense, the hearing of the two cases were held jointly.

After trial, the Regional Trial Court of Daet, Camarines, Norte, Branch 40, found accused guilty beyond reasonable doubt of the crimes charged in both cases and rendered judgment against him thus:

IN THE CIRCUMSTANCES, the court finds the accused Rodrigo Galvez y Jerez guilty beyond reasonable doubt of the crimes of rape in both cases and in Criminal Case No. 8386 is hereby sentenced to suffer a penalty of imprisonment of ***Reclusion Perpetua*** and in Criminal Case No. 8387 to suffer the supreme penalty of death.

Accordingly, the accused is hereby condemned to pay the offended party Venus Galvez the sum of Fifty Thousand (P50,000.00) in each case as moral damages. With costs.

IT IS SO ORDERED.

On automatic review before the Court, accused-appellant alleges that:

I

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II

THE COURT A *QUO* ERRED IN NOT CONSIDERING THE ACCUSED-APPELLANT'S ALIBI.

The Prosecution's version of the sexual assaults on private complainant's chastity is summed thus in the People's Brief:

Accused-appellant and Virginia Galvez are husband and wife with four (4) children, the eldest of which is the victim, Venus, who, at the time of the incident in Criminal Case No. 8386 was only thirteen (13) years old and fourteen (14) years old when the incident in Criminal Case No. 8387 occurred. She has three (3) brothers, Erwin, Richard and Jerryglen, aged 9, 7, and 6 years old, respectively.^[5]

In 1993, accused-appellant, Venus and her three (3) brothers were living at Barangay Itomang, Talisay, Camarines Norte in a one-room house. Virginia was then in Manila working as a babysitter since February 1, 1993.^[6]

At midnight of April 30, 1993, while Venus was sleeping at their house together with her brothers, she was awakened by accused-appellant, just arrived from a drinking spree, who told her to prepare food for him. After she prepared his food, she went to sleep again. However, she was awakened because she felt her father on top of her. She noticed that the latter was removing or pulling down her panty. She resisted but accused-appellant succeeded in removing her panty. Thereafter, he inserted his penis inside her vagina. She felt pain and in the morning, she noticed that there was blood in her genital organ.^[7]

On June 25, 1994, her mother arrived from Manila. However, her youngest brother met an accident and was treated first at Daet Provincial Hospital but later transferred to Naga City. On June 30, 1994, while her mother was at Naga City attending to her injured brother, Venus was left at their house with her two (2) brothers and accused-appellant. At around 10:00 o'clock that evening, she was again awakened from her sleep when she felt her father on top of her. By then, she noticed that her panty was already removed and he inserted his penis inside her vagina. She resisted and felt pain all over her body because of her resistance. She even tried to reach out to her brothers who were sleeping nearby. Accused-appellant then took hold of her two (2) hands and told her to keep quiet because somebody might hear the noise. He further threatened her not to report what happened to anybody, especially to her mother and neighbors, otherwise, something bad will happen to her and

to those who will be told.^[8]

Virginia Galvez confirmed that on July 30, 1994, she was at Bicol Regional Hospital at Naga City watching over her son, Gerryglen (*sic*), who sustained injuries in an accident. Meanwhile, Venus was left at their house with accused-appellant and her two (2) other sons. She stayed at the hospital with Gerryglen for fifteen (15) days.^[9] Sometime in August 1994, Virginia noticed that Venus' monthly periods had stopped coming and she was becoming "healthy". Virginia then confronted her daughter and the latter revealed that it was accused-appellant who raped her several times. She immediately confronted her husband who admitted the rape. Undecided whether to take any action against her husband at first, considering that it was her family's reputation at stake, Virginia finally summoned the courage to report to the Police Station at Talisay where she and Venus executed Sworn Statements which led to the filing of the Complaint against accused-appellant.^[10]

On September 17, 1994, Venus was examined by Dr. Marcelito Abas at Camarines Norte Provincial Hospital. The findings, as evidenced by the Medical Certificate,^[11] revealed the following:

Genital Examination:

- Admits middle finger easily
- Multiple Healed Lacerations, hymen;

Laboratory Result: Pregnancy Test - Positive.

Dr. Abas confirmed in open court that the multiple healed lacerations of the victim's hymen was caused by the entry of the penis or the result of various sexual intercourses that the victim had experienced.^[12]

At the time of the medical examination, the victim was already three (3) months on the family way. She gave birth to a baby girl on April 3, 1995, whose fact of birth was registered with the Local Civil Registrar's Office.^[13]

Accused-appellant vehemently denied that he sexually abused the victim. Insisting that he is innocent, he disclaims committing the first rape because at the time of its commission, his wife was employed as a baby sitter in Manila^[14] having started to work therein on January 2, 1992, accompanied by the victim,^[15] and they returned to the family residence only on March 4, 1994.^[16] Likewise claiming innocence on the second sexual assault on the private complainant, he testified that on June 27, 1994, his son Jerry Glen was bumped by an "owner type" jeep and fractured his right ankle.^[17] Jerry Glen was then brought to the Provincial Hospital in Daet and was later transferred to the Bicol Regional Hospital in Naga in the evening of June 27, 1994.^[18] According to him, he could not have raped the victim on June 30, 1994 because he was with his wife and the private complainant at the Bicol Regional Hospital the whole day and evening of said date tending to their injured son.^[19]

The Court has ruled that in reviewing rape cases, it will be guided by the settled realities that an accusation for rape can be made with facility. While the commission of the crime may not be easy to prove, it becomes even more difficult for the person accused, although innocent, to disprove that he did not commit the crime. In view of the intrinsic nature of the crime of rape where only two persons are normally involved, the testimony of the complainant must always be scrutinized with great caution.^[20] Thus, in a prosecution for rape, the complainant's credibility becomes the single most important issue.^[21]

Guided by the foregoing principles, the Court has assiduously scrutinized the testimony of fourteen-year old Venus Galvez and has reached the opinion that her testimony on the acts of rape perpetrated by her father is clear and could have only been narrated by a victim subjected to such sexual assaults. Thus:

FISCAL PANTE:

Q Now, sometime on April 30, 1993 at midnight while you were in your house in Barangay Itomang, Talisay, Camarines Norte staying and living under the parental care and love of your father, Rodrigo Galvez, did you come to know of any unusual incident that happened to you?

A There was, sir.

Q What was that incident about? Can you tell the court what it is? I withdraw that question.

On the night of April 30 or at midnight of April 30, 1993 while you were in your house, what were you doing at that time?

A I was asleep.

Q While sleeping, did you intend to wake up?

A Yes, sir.

Q What awakened you?

A My father woke me up since he just came from a drinking spree and told me to prepare food for him.

Q Did you prepare the food for your father, the accused, Rodrigo Galvez?

A Yes, sir.

Q After you prepared the food and gave it to your father, the herein accused, what happened next?

A I slept.

Q And then, you were awakened?

A Yes, sir.

Q What awakened you?

A I was awakened because my father was already on top of me.

Q When you noticed that he was already on top of you, what did you do?

A I resisted, sir.

Q Why, what was your father doing to you? That compelled you to resist?

A Because he was removing my panty.

Q Was your father able to remove your panty?

A Yes, sir.

Q After your father removed your panty, what did your father do to you?

A He inserted his penis on my vagina.

Q Was he able to enter his penis to your vagina?

A Yes, sir.

Q What did you feel when the penis of your father enter your vagina?

A I felt pain.

FISCAL PANTE:

Q How many times did your father enter his penis your vagina?

A Only once.

Q Did you notice any blood from your genital organ?

A I noticed the blood on the morning already.

Q Now, after your father had sexual intercourse with you, did your father say anything against you?

A He did not say anything.

Q Until the following morning, he did not say anything?

A No, sir.

Q At that time according to you, your mother was in Manila, do you have any other relative close to you who was in Barangay Itomang aside from your father and your sister and brothers?

A None, sir.

Q Now, you said that your father sexually abused you on April 30, 1993. Sometime on June 30, 1993 at around 10:00 in the evening, where were you residing then at that time?

A Still in Itomang.

FISCAL PANTE:

Q Where was your mother at that time?

A She was in the hospital because she brought our youngest brother who was sick for treatment.

Q And who was left in your house that night on June 30, 1993?

A When my mother was at the hospital, the only person left in the house were the four of us, my brothers, and sister, my father went home in the afternoon already and came back in the evening.

Q What time did he go back?

A Our father came back at around 8:30 in the evening.