

SECOND DIVISION

[G.R. Nos. 125125-27, February 04, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MELANDRO NICOLAS Y FAVELLA, ACCUSED-APPELLANT.**

D E C I S I O N

BELLOSILLO, J.:

MELANDRO NICOLAS y FAVELLA was convicted by the court *a quo* of two (2) counts of statutory rape and one (1) simple rape committed against his own daughter, Shellome Nicolas y Dalisay. The statutory rapes were committed when Shellome was only eleven (11) years old while the simple rape was perpetrated when she was already twelve (12). Accordingly, he was sentenced to *reclusion perpetua* in each of the three (3) offenses and was ordered to indemnify his victim in the amounts of P150,000.00 as moral damages, P75,000.00 as exemplary damages, and to pay the costs.^[1]

Shellome was born in 1980 to the accused Melandro Nicolas and his wife Marilyn Dalisay.^[2] She was the second child in a brood of three (3). Since her mother left for Macao in 1986 to work as a domestic helper, Shellome and her siblings stayed with their father in Pandacan, Manila.

One evening in June 1991 Shellome, then eleven (11) years old, was roused from her sleep when she felt her father undressing her. She asked what he was doing but he did not answer. Melandro placed himself on top of her, mashed her breasts and kissed her all over her body. Thereafter, he inserted his penis into her vagina and had carnal knowledge of her. After satisfying his lust, he warned her not to report the incident to anyone as it would ruin the reputation of their family. Then he stood up and went to the comfort room.^[3]

Shellome's experience with her father was not the last. On two (2) more occasions she again fell prey to her father's lechery. Two (2) months after she was initially raped, or in August 1991, her father ravished her again. According to her, as she was coming out of the bathroom after a bath, Melandro suddenly pulled her to the kitchen and pressed her against the staircase. He then forcibly removed the towel wrapped around her body. He spread her legs and gradually inserted his penis into her vagina. Rape was consummated. When he was through with her Melandro watched television in the sala as if nothing happened, while Shellome went back to the bathroom to wash herself.^[4]

In the evening of 16 October 1992 she was again molested by her father. That was meant to be the last. As she was preparing to sleep on the floor with her younger sister, her father told her to transfer and sleep beside him. Like an obedient daughter she followed. But as soon as she lay beside him, her father immediately covered themselves with a blanket so they could have some privacy. He removed

her pajamas thus exposing the lower portion of her body. Again, he mashed her breasts and kissed her body. He mounted her and had sexual intercourse with her. She tried to resist but her father persisted and prevailed. Thereafter he threatened to leave her mother if she would report the incident to anyone.^[5]

Unable to contain herself any longer, Shellome confided her ordeal to a classmate, Erwina Batac, who, shocked with Shellome's revelation, told her parents about Shellome's problem. Erwina's parents immediately accompanied Shellome to the police station to lodge a complaint against her father. Shellome, upon request of the police, submitted herself to medical examination by Dr. Manuel Lagonera, medico-legal officer, who reported a "6 o'clock healed laceration" on the victim's genitalia which tended to show that she was no longer a virgin.^[6]

The accused professed innocence and claimed that he was greatly surprised his daughter completely misconstrued his show of affection and fondness for her. As a father, he said, it was very normal for him to cuddle his children by hugging, embracing and kissing them. He contends in this appeal that the trial court seriously erred in finding him guilty of two (2) counts of statutory rape and one (1) simple rape. He theorizes *inter alia* that assuming he really had carnal knowledge of his daughter it was consensual as she never offered any resistance nor did he employ force, threat or intimidation against her.

We strongly sustain his conviction. The rule is settled that this Court does not generally disturb the findings of fact of the trial court. Having observed the manner, conduct and demeanor of the witnesses while on the stand, the trial court is clearly in a better position to determine the weight to be given to their respective testimonies. Unless there is a clear showing that it overlooked certain facts and circumstances which might alter the result of the case, this Court accords respect, even finality, to these findings of fact made by the trial court.^[7]

After a careful study of the records, we are convinced beyond any cavil of doubt, as was the court *a quo*, that accused-appellant Melandro Nicolas indeed sexually abused his daughter Shellome Nicolas in June and August 1991, and again in October 1992. Shellome's testimony was straightforward, unwavering and clear hence we see no reason to discredit her testimony.^[8]

Strengthening the victim's allegation of sexual intrusion by her own father, her examining physician Dr. Lagonera categorically testified that she was no longer a virgin, which could have been caused by her having sex with a man.^[9] This medical conclusion, coupled with the victim's testimony of rape, is more than sufficient to establish the essential requisite of carnal knowledge under the old provisions of Art. 335 of *The Revised Penal Code*, which is the law applicable in this case.^[10]

Shellome was then barely in her teens, innocent and naive in the ways of the world. Thus it was very unlikely that she would fabricate a story of defloration against her father, and put to shame and public gossip not only herself but her whole family as well, unless it was the plain truth and her motive was purely to bring the perpetrator of her violation to justice. At the risk of being banal, "no complainant would admit that she has been raped, make public the offense, allow the examination of her private parts, undergo the troubles and humiliation of public trial and endure the ordeal of testifying to all its gory details if she had not in fact been raped."