

## EN BANC

**[ G.R. No. 126199, December 08, 1999 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ERNESTO SEVILLA, ACCUSED-APPELLANT.**

### D E C I S I O N

#### PER CURIAM:

For automatic review here is the judgment rendered by Branch 90<sup>[1]</sup> of the Regional Trial Court in Dasmarinas, Cavite, finding accused-appellant Ernesto Sevilla guilty of incestuous rape and sentencing him to suffer the ultimate penalty of DEATH.

Filed and docketed on March 21, 1994 as Criminal Case NO. 3143-94, the Information indicting accused-appellant, alleges:

"That on or about the 15th day of January 1994, in the Municipality of Dasmarinas, Province of Cavite, and within the jurisdiction of this Honorable Court, above-named accused, using force and intimidation, wilfully, unlawfully and feloniously, did then and there, lie and succeeded in having carnal knowledge of her (sic) fourteen (14) years (sic) old daughter Myra Sevilla y Deslate, against her will and to her damage and prejudice.

CONTRARY TO LAW."<sup>[2]</sup>

With accused-appellant, assisted by his counsel, Atty. Noel R. Marquez, entering a plea of "Not Guilty" upon arraignment on April 27, 1995, trial ensued.

On August 28, 1996, after trial, the lower court a quo came out with the Decision finding accused-appellant guilty of the crime charged and sentencing him, thus:

"WHEREFORE, the guilt of the accused ERNESTO SEVILLA having been established beyond a scintilla of doubt, the Court hereby pronounces him GUILTY of the indictment for Rape. Under the above-quoted law, the Court sentences him with the penalty of DEATH. The aforementioned accused is also mandated to pay to the private complainant the sum of Fifty Thousand Pesos (P50,000) by way of moral damages in accordance with prevailing jurisprudence.

SO ORDERED.<sup>[3]</sup>

In arriving at its aforesaid conclusion, the trial court gave credence to and placed reliance on the version of the complainant of what the accused-appellant did to her, to wit:

"On January 15, 1994, at about three o'clock dawn, she was sleeping soundly beside her younger brother in their one-roon (sic) residence at Area G, Dasmarinas, Cavite. She and her brother were left in the sole care of their father, the accused herein, since their mother was confined in a hospital due to an operation. On the said date and time, Myra reluctantly roused from her slumber when she felt that somebody was touching her body. As her eyes got accustomed to the dimness, she was startled to behold her father on top of her. She was then unceremoniously stripped of her clothing and while she cowered in her nudity, her father proceeded to bare himself. Thereafter, the accused mounted her, spread her legs apart and thrust his manhood into her genitals. Myra agonized in silence. Sheer terror effectively stifled her voice and waned her resolve to withstand the assault. In a few moments, accused's libidinous desire was totally satiated. Nonchalantly, he dressed up, directed Myra to do the same and then capped his lecherous act with a stern warning that she should not disclose the matter to anyone, or else, she, her mother and her brother will be slain.

Soon it was daylight and the accused, a carpenter, casually left for work. Myra and her brother remained at home and whiled away their time watching the television. At about seven o'clock in the evening of the same date (sic), their two aunts arrived and informed them that their mother was already discharged from the hospital. Myra asked to be taken to her mother, and upon seeing her, Myra refused to part with her. Unable to bear the dread and the disgrace brought about by her revolting ordeal, Myra broke down and divulged how she was violated by her own father. She further revealed that he started making sexual advances on her since she was six years old.

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xxx xxx Myra, her mother and her aunt Elva trooped to the National Bureau of Investigation on January 19, 1994, to lodge a formal complaint. Thereat, Myra executed a sworn statement (Exhibit 'D') and signed a Complaint Sheet (Exhibit 'E') stating therein the circumstances that led to her physical defilement. She aslo (sic) willingly submitted to a medico-genital examination pursuant to the request form which her mother was asked to sign (Exhibit 'A'). xxx"[4]

Aside from complaint Myra Sevilla herself, Dr. Juan B. Zaldarriaga, Jr. of the Medico-Legal Division of the NBI testified for the prosecution. Embodied in Living Case No. MG-94-72,[5] the findings of Dr. Zaldarriaga, Jr. indicated:

"1. No evident sign of extragenital physical injuries noted on the body of the subject at the time of examination.

2. Hymen, intact but distensible and its orifice wide (2.5 cms. in diameter) as to allow complete penetration by an average-sized adult, Filipino male organ in full erection without producing any hymenal laceration."

Accused-appellant put up the defense of denial. He theorized thus: On January 15, 1994, he reached home from work, at around six o'clock in the evening, and slept at nine o'clock.<sup>[6]</sup> That night, his wife was not in their house as she was confined in the hospital.<sup>[7]</sup> He, Myra and his two other children slept together, and as their house did not have any partition, the children slept near the window while he slept near the door of the house.<sup>[8]</sup>

Insisting that he could not possibly do such a dastardly act against his own daughter, accused-appellant contended that Myra must have been coaxed by his sister-in-law, Elva Deslate, into lodging the present charge of rape against him.<sup>[9]</sup> As to the motive of his sister-in-law in instigating the institution of the case, accused-appellant opined that he had a long-standing conflict with his sister-in-law,<sup>[10]</sup> and he further incurred Elva's ire when he failed to attend to his wife's hospitalization.<sup>[11]</sup>

Accused-appellant did not present any witness to reinforce his testimony.

The court *a quo* found the sum and substance of the testimony of the prosecution witnesses deserving of faith and reliance. Convinced that accused-appellant is guilty beyond reasonable doubt of the offense charged and heeding the mandate of the law under Article 335 of the Revised Penal Code, in relation to Republic Act No. 7659, the trial court unhesitatingly meted out the prescribed penalty of death.

Represented by Atty. Ramon Gatchalian of the Public Attorney's Office, accused-appellant urges this Court to acquit him, on the basis of lone assignment of error, that:

THE COURT A QUO ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME OF RAPE AND SENTENCING HIM TO SUFFER THE PENALTY OF DEATH.

In the Appellant's Brief, Public Attorney Gatchalian exhorts this Court to weigh and take into account "every minute inconsistency and flaw in the evidence of the prosecution" since "a human life is at stake."<sup>[12]</sup> "Any iota of doubt that could be squeezed from the same should be resolved in favor of the accused."<sup>[13]</sup>

Rest assured, this Court has meticulously examined the records and the evidence on hand. Aware of the gravity and irreversibility of the penalty attached to the offense of which accused-appellant was pronounced guilty by the court of origin, this Court studied and viewed the arguments and evidence in proper perspective and exerted its utmost effort to ensure that no stone is left unturned.

To destroy the credibility of Myra's testimony which accused-appellant brands uncorroborated, the latter maintains that it is "puzzling that in all those years of languishing in the shadow of the accused's licentious bestiality, the complaint never once complained about the same to her mother nor to her aunties. Moreover, it is likewise perplexing that she would only complain about one rape in the light of all those years of sexual abuse."<sup>[14]</sup> Accused-appellant further makes capital of the fact that Myra "failed to scream or to shout during the alleged rape on January 15, 1994 to alarm her older sister and younger brother,"<sup>[15]</sup> thereby shedding doubt on her credibility.

The Court is not persuaded by accused-appellant's submission.

As held by this Court in *People vs. Miranda*,<sup>[16]</sup> there is no standard form of human behavioral response when one has just been confronted with a strange, startling or frightful experience as heinous as the crime of rape and not every victim to a crime can be expected to act reasonably and conformably with the expectation of mankind.

The fact that Myra did not complain to her mother or her aunts about the sexual abuses committed by her father against her for eight long years, is of no moment. Myra, who was of a very tender age when the horrible events in her life began to unfold, could have, in all probability, been confused and bewildered by her experience that for more than half of her young life, she was shocked into utter insensibility.

It is not unlikely that it is for the same reason that she failed to scream or shout while she was being ravished by her own father on the night of January 15, 1994. Shock must have totally overtaken the young Myra, so much so, that she was not able to signify even a whimper of protest or call the attention of her other siblings who were sleeping in the same room. This is aside from the fact that, as correctly rationalized by the trial court, fear and shame must have prevented the young girl from taking up the courage to report the molestation at the soonest possible time. On direct examination by counsel, Myra testified thus:

"xxx xxx xxx

Q And what did your father do when you tried to wiggle?

A He still inserted his organ inside my organ, ma'am.

Q Did you not shout for help when your father was doing that to you?

A No, ma'am.

Q Why?

A I was afraid of his strength and he said that he will kill all of us, ma'am.<sup>[17]</sup>

During cross-examination, Myra also testified in this wise:

"Q At the time you were being abused by your father, were you attending school?

A Yes, sir.

Q Did you not reveal this to your guidance counsellor or to your teacher-in-charge?

A No, sir. *I was embarrassed about the situation.*

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Q You said you were boxed by your father. Where were you boxed?

A He boxed me on my thigh, sir, everytime he used me.

Q On January 15, 1994, how many times did he box you?

A Just once, sir.

Q On the following day, did you notice a contusion?

A It was slightly bruised, sir.

Q You also mentioned that you were threatened by your father. When were you threatened by your father?

A Since I was six years old up to now, sir.

Q How did your father threaten you?

A He threaten (sic) me by saying that I should not report this incident to my mother or to anyone or else, he would kill us all.

Q But when your father made this threat, he was not holding any knife or bladed instrument?

A Yes, sir.<sup>[18]</sup>

It bears stressing that in cases of incestuous rape, the father's moral ascendancy over the victim substitutes for violence or intimidation and reinforces the fear which compels the victim to conceal her dishonor. Myra was sufficiently cowed into silence by the physical and moral influence which accused-appellant exercised over her even though he may have been unarmed.

Accused-appellant argues "that there is a possibility that the current state of complainant's genitals was induced by the insertion of a foreign object into the same."<sup>[19]</sup> More so, accused-appellant points out, that "complainant's non-virginity could have been caused by anyone (sic) act of the alleged acts of lasciviousness committed against her by the accused."<sup>[20]</sup> Assuming for the sake of argument that Myra's non-virgin state could have been a result of acts than the rape committed on the night of January 15, 1994, the same does not altogether negate the fact of rape. It could very well be that Myra was deflowered at some other time and