

THIRD DIVISION

[G.R. No. 121098, September 04, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLE VS. ROGELIO
ANTIDO Y ABALAN, ACCUSED-APPELLANT.**

D E C I S I O N

DAVIDE, JR. J.:

Accused Rogelio Antido y Abalan appeals from the decision of 25 January 1995^[1] of the Regional Trial Court (RTC) of Davao City, Branch 17, in Criminal Case No. 33,585-94, finding him guilty of two counts of rape committed on 18 February and 18 March 1994 and sentencing him in each to suffer the penalty of reclusion perpetua with all the accessory penalties, to pay complainant Jonejeel Jugadora^[2] and her parents the amount of P30,000.00 and to pay the cost of the suit.

Complainant, Jonejeel Jugadora, then only fifteen years of age at the time she was allegedly raped initiated the prosecution therefor by filing with the Office of the City Prosecutor of Davao City an affidavit, subscribed and sworn to on 23 March 1994,^[3] charging accused with rape allegedly committed on 8 February, 14 February, and on 18 March of 1994. Since the accused had already been arrested, 2nd Assistant City Prosecutor Calixto Esparagoza proceeded thereon under Section 7 of Rule 112 of the Rules of Court and finding probable cause forthwith filed an Information^[4] for the alleged rape committed on 18 March 1994, but in his Resolution^[5] for the filing of said Information, he withheld action on the two other counts, advising complainant to file two separate complaints thereon "so that a regular preliminary investigation can be conducted."^[6]

The accusatory portion of the Information which was filed on 23 March 1994 with the Regional Trial Court (RTC) of Davao City and, reads as follows:

That on or about March 18, 1994, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one Jonejeel Jugadora, 15 years of age, against her will.

Contrary to law.

The case was docketed as Criminal Case No. 33,585-94 and assigned to Branch 17 of said court.

Accused entered a plea of not guilty upon arraignment.^[7] Trial on the merits thereafter ensued.

The prosecution's witnesses were: the complainant, Jonejeel Jugadora; her mother, Tessie Jugadora;^[8] PO3 Edgardo Mateo; PO1 Antonio Diagbel; Dr. Danilo Ledesma, Medico-Legal Officer of the National Bureau of Investigation (NBI); and Janice Betonio, Jonejeel's neighbor and classmate. The witnesses presented by the defense were: the accused; Lolita Gumapac; Milagros Acidillo, accused's neighbor; Jovita Alvarez, accused's former boarder; Atty. Isaac Robillo, Jr; Atty. Reni Dublin, counsel for accused.

The factual backdrop of the case as established by the testimonies of the witness for the prosecution is as follows:

Complainant Jonejeel Jugadora the third in the brood of ten, was born of 5 July 1978 and resided with her parents in Tibangon , Pantukan, Davao del Norte. On or prior to 12 January 1994, she was a freshman high school student in Pantukan. On the morning of 12 January 1994, instead of proceeding to to school, Jonejeel and her classmate, Janice Betonio, went to Davao City to buy groceries. Jonejeel did not ask permission from her parents and brought a bag containing her books. At Davao City, they shopped at J.S. Gaisano department store, and from there, watched a movie. As they were oblivious of the time, they were overtaken by night. They then went to San Pedro Street where they were approached by a certain Lita, also known as Gina, who invited them to stay in her room at a boarding house in Piapi Boulevard, Davao City near the Sta, Ana Police Sub-station. Having spent all their money, they had no choice but to accept the invitation and ended up staying at Gina's residence for almost a month. Since they had no income, Gina provided for their meals. Subsequently, Gina was evicted from her boarding house and moved to the house of the accused and occupied a room thereat. Jonejeel and Janice were constrained to go with Gina and stay at accused's house. At one time, Gina shut them out of her rented room, but accused had them sleep in his room. Although they did not want to, accused "ordered" them to sleep there. Since then, they slept with the accused on his bed. The accused took good care of their daily subsistence needs, and in turn, they would wash his clothes and cook for him.^[9]

As it turned out, this Lita or Gina, as admitted by Jonejeel on cross-examination, was a prostitute.^[10]

On the night of 8 February 1994, accused brought Jonejeel and Janice to his room. The three slept together on accused's bed, with Jonejeel lying in between accused and Janice. Shortly thereafter, accused undressed Jonejeel, who touched Janice to wake her up. Janice awoke, but could not do anything as accused pointed a double-bladed knife, at them, and warned them he would kill of bury them alive if they made noise. Accused, then naked, lay on top of Jonejeel and abused her.^[11]

On cross-examination,^[12] Jonejeel likewise disclosed that on the night of 14 February 1994, she and Janice slept with the accused on his bed, when he again undressed the abused Jonejeel. The following morning, she performed her usual house chores – washing clothes, cleaning the room cooking. She did not tell anybody about what happened due to fear, as accused had already "forewarned" her and Janice.^[13]

On the night of 18 March 1994, Jonejeel was alone with the accused on his bed as

Janice had earlier left his house to live elsewhere. Accused again abused Jonejeel after he took her dress off and removed her panty. Although she felt pain and cried, he admonished her not to shout or resist otherwise he would kill and bury her alive.
[14]

Sometime after 18 March 1994, Jonejeel, through the help of a certain Joy, escaped from accused's residence. Joy then brought Jonejeel to Calinan, Davao City.[15]

The Jugadora family first learned of Jonejeel's disappearance on 12 January 1994 upon Mrs. Jugadora's return to her residence in Pantukan from her work in Tagum. According to Mrs. Jugadora, they looked for Jonejeel in Tagum, they went to other places in Davao City and Davao del Sur to look for her, but failed to find her.[16]

The parents of Jonejeel learned of the latter's whereabouts only when Janice Betonio returned to Pantukan on 16 March 1994 after she ran away from the accused's house.[17] Jonejeel's father met with Janice, who told him the Jonejeel was staying in Jacinto St., near Sta. Ana Police Sub-Station in Davao City. On 20 March 1994, Mr. and Mrs. Jugadora, accompanied by Jovelyn, sister of Mr. Jugadora, went to Davao City to look for Jonejeel, but could not find her in the place mentioned. They decided to fetch Janice so she could point out the specific place where Jonejeel stayed and sought assistance from the Sta. Ana Police Station. On 21 March, 1994, Jonejeel's parents, together with Janice returned to Davao City. Accompanied by the police, proceeded to the house of accused, but saw him only that afternoon. After accused told them that Jonejeel had already left his residence, the police brought him to the police station. Sometime later, a small boy informed Jonejeel's parents that a certain Joy brought Jonejeel to Calinan, Davao City. Finally they were able to find Jonejeel in Calinan on 22 March 1994. They brought her to the Sta. Ana Police Station where she was investigated.[18]

On 22 March 1994, Jonejeel was examined by Dr. Danilo Ledesma of the Davao City Health Office. His findings contained in a Medico-Legal Report, [19] are as follows:

General Physical Examination:

Ht. 151.0 cms. Wt. 54.0 kgs.

Fairly nourished, normally developed, conscious, coherent, cooperative, ambulatory subject.

Breasts: Fully developed, hemispherical, firm. Areola, light brown, 3.8 cms. in diameter. Nipples, light brown, protruding, 1.0 cm. in diameter.

No extra-genital injuries noted.

Genital Examination:

Pubic hair, growing, sparse. Labia majora and minora, coaptated. Fourchette, lax. Vestibule, pinkish, smooth. Hymen, thick, tall, with healed, deep laceration at 2 and 9 o'clock positions corresponding to the face of the watch. Hymenal orifice, originally annular, admits a tube, 2.75

cms. in diameter. Vaginal walls, tight. Rugosities, prominent.

Conclusions:

- 1.) No evident signs of extragenital physical injuries noted at the time of examination.
- 2.) Healed hymenal lacerations, present.

Remarks: Semenology: NEGATIVE FOR SPERMATOZOA

 PRESENCE OF FUNGUS, PUS CELLS = +++

Dr. Ledesma opined that the healed lacerations on Jonejeel's hymen were caused by a male reproductive organ, and jibed with the information given him by Jonejeel that she was raped on 8 February 1994. Dr. Ledesma declared that she could have been raped from three weeks to four months prior to the examination.^[20]

On the other hand, the version of the accused established the following facts:

Rogelio Antido, a 46 year old, electrician, and a resident of Quezon Boulevard, Davao City, augmented his income by converting his two-storey residential house into a boarding house. On 19 February 1994, a certain Gina Magno, together with her companions, Jonejeel and Janice, became his boarders. One day, on suspicion that Jonejeel and Janice took her personal belongings, Gina drove the two out of the room. Sympathetic to their plight, accused permitted Janice and Jonejeel to stay in his house and provided them food. In return, they performed certain household chores. Once, when Jonejeel was sick, he even bought medicine for her. Although he admonished them to return home, they refused as they felt unwanted and uncared for by their parents. On 18 March 1994, at around noon, he was invited by a neighbor to a birthday party. He stayed at the celebrant's house overnight, he played mahjong and returned home only the following morning. On 20 March 1994, he was invited by Leopoldo Man-wat, a fraternity brother, for a baptismal party. Upon his return, in that afternoon, Mrs. Tessie Jugadora, her husband, and a certain policeman, confronted him about Jonejeel's whereabouts. Accused informed them that Jonejeel was not in his house at that time, although when he left for the baptismal party at noon, she was still around. After Tessie, her husband and the policeman left, accused found a note signed by Jonejeel, requesting him to give a letter she placed under an ashtray to her Caucasian boyfriend. The following day, Tessie returned. Accused showed her the letter of Jonejeel, then he was arrested and brought to the Sta. Ana Police Station.^[21]

Lolita Gumapac, testified that complainant and Janice were boarders of one Mr. Alviar, at Jacinto Extension, Bucana, Davao City until 19 February 1994.^[22]

Milagros Acidillo, a neighbor and friend of accused, declared that on 18 March 1994, accused was in her residence to celebrate a birthday party and played mahjong the entire night until the following morning.^[23]

Isaac Robillo, Jr. State Prosecutor I, City of Davao City, declared that complainant filed a complaint, docketed as I.S. Nos. 94-2648 and 94-2649, in his office pertaining to the rape incident that happened on 7

(should be 8) and 14 February 1994. But on the basis of complaint, the affidavits of witnesses, record in the police blotter, and the findings of the medico-legal officer; Robillo believed that the two instances of rape could not have been committed and accordingly, handed down a joint resolution dismissing the complaint.^[24]

Jovita Alvarez testified that distributed beauty products among the prostitutes of San Pedro Street, in Davao City. She knew that Jonejeel and were prostitutes, had sold them her beauty products and even extended credits to them. At one time, they prodded her to introduce them to prospective customers. Even before the two became boarders of the accused, she had seen them plying the streets on board a white Mazda car in the company of a male Caucasian.^[25]

Atty. Reni Dublin testified that sometime in February 1994, he noticed Jonejeel and Janice staying at the house of the accused. In response to Dublin's inquiry about the two, accused told Dublin that they were runaways and were being taken care of by Gina, accused's boarder. Atty. Dublin warned that accused might one day run into trouble with their parents, but accused replied that he had no means of verifying their parents, but accused replied that he had no means of verifying their residences and other personal circumstances. Atty, Dublin noticed that the two would go home at daybreak, delivered by a white Mazda car; and at other times, he would see them late into the night wandering in the alleys.^[26]

At the rebuttal stage, Jonejeel testified that she was not a prostitute, had no Caucasian boyfriend and did not write the letter alleged by the accused to have been written by her.^[27] Tessie, on her part, claimed that Jonejeel was never a prostitute.^[28]

In its Judgment^[29] of 25 January 1995, the trial court found the accused guilty beyond reasonable doubt of two counts of rape and disposed, as follows:

Accordingly, pursuant to Sec. 11, par. 1 of Republic Act 7659, finding the evidence of the prosecution, sufficient, to prove the guilt of the accused beyond reasonable doubt, accused Rogelio Antido, alias Dodong Antido, without any mitigating nor aggravating circumstances attendant in the commission of the offense charged, is sentenced to suffer the penalty of reclusion perpetua, in [sic] two counts, for rape committed against the complainant Jonejeel Jugadora both on February 8, 1994 and March 18, 1994, together with accessory penalty, [sic], as provided for by law.

Pursuant to Art. 100 in relation to Art. 104 of the Revised Penal Code, governing civil indemnity, by way of civil liability, on account of the beastly act of the accused, in abusing complainant Jonejeel Jugadora, disregarding her minority and under his custody accused is furthermore ordered, to pay complainant and her parents the amount of P30,000.00 by way of civil indemnity, as well as to pay the cost of the suit.

SO ORDERED.

The trial court gave full faith and credit to the testimony of the offended party, thus: