

## EN BANC

[ G.R. NO. 170236, August 31, 2006 ]

### PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROBERTO QUIACHON Y BAYONA, APPELLANT.

#### DECISION

##### CALLEJO, SR., J.:

Appellant Roberto Quiachon was charged with the crime of qualified rape committed as follows:

On or about May 12, 2001, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, by means of force and intimidation, did then and there willfully, unlawfully, and feloniously have sexual intercourse with one Rowena Quiachon y Reyes, his daughter, 8 years old, a deaf-mute minor, against her will and consent.

Contrary to law.<sup>[1]</sup>

The case was docketed as Criminal Case No. 120929-H. At his arraignment, appellant, duly assisted by counsel, entered a plea of not guilty. Trial ensued.

The prosecution presented the following witnesses: Rowel Quiachon, 11-year old son of appellant; Rowena Quiachon, the victim and appellant's daughter; Dr. Miriam Sta. Romana Guialani; and SPO2 Noel Y. Venus.

Rowel testified that he is appellant's son. He averred, however, that he no longer wanted to use his father's surname describing him as "*masama*" for raping his (Rowel's) sister Rowena. Rowel recounted that he used to sleep in the same bedroom occupied by his father, sister and youngest sibling. Rowel slept beside his youngest sibling while their father, appellant, and Rowena slept together in one bed.

On the night of May 12, 2001, Rowel saw his father on top of his sister Rowena and they were covered by a blanket or "*kumot*." His father's buttocks were moving up and down, and Rowel could hear Rowena crying. He could not do anything, however, because he was afraid of their father. Rowel remained in the room but the following morning, he, forthwith, told his mother's sister Carmelita Mateo, whom he called *Ate Lita*, about what he had witnessed. Together, Carmelita and Rowel went to the police to report what had transpired. During the police investigation, Rowel executed a sworn statement in Tagalog and signed it using the surname Mateo.<sup>[2]</sup>

Rowena, through sign language, testified that her father had sexual intercourse with her and even touched her breasts against her will. She was only eight years old at the time. She cried when she was asked if she was hurt by what appellant did to her. She consistently declared that she does not love her father and wants him to be

punished for what he did to her.<sup>[3]</sup>

Dr. Miriam Sta. Romana Guialani of the Philippine National Police (PNP) General Hospital Health Services testified that she received a letter request from the PNP Crime Laboratory to conduct an examination on Rowena. While she was about to proceed with the forensic interview, she noticed that Rowena was deaf and mute, hence, could not verbally communicate her ordeal. Dr. Guialani proceeded to conduct a physical examination and, based thereon, she submitted her medico-legal report.

Dr. Guialani, as indicated in her report, found that Rowena had a "contusion hematoma" on her left cheek, which was compatible with her claim that she was slapped by her father. Rowena also had an "ecchymosis" or "kissmark" at the antero-lateral border of her left breast as well as ano-genital injuries suggestive of chronic penetrating trauma.

Dr. Guialani explained that although the external genitalia did not show any sign of sexual abuse, when it was opened up, the following were discovered: "markedly hyperemic urethra and peri-hymenal area with fossa navicularis and markedly hyperemic perineum, markedly hyperemic urethra layer up to the peri-hymenal margin up to the posterior hymenal notch with attenuation." Further, the labia was "very red all throughout, with hymenal notch with attenuation, a pale navicular fossa and a very red perineum."<sup>[4]</sup> All these, according to Dr. Guialani, were compatible with the recent chronic penetrating trauma and recent injury which could have happened a day before the examination. She pointed out that the hymenal attenuation sustained by Rowena was almost in the 6 o'clock notch.<sup>[5]</sup>

For its part, the defense presented the lone testimony of appellant Roberto Quiachon.

He testified that, on May 13, 2001, he was invited to the *barangay* hall by their *barangay* chairman. He did not know then the reason for the invitation. At the *barangay* hall, he was surprised to see the two sisters of his deceased live-in partner and his two children. He was shocked to learn that his daughter Rowena had accused him of raping her. Thereafter, he was taken to the Karangalan Police Station. He suffered hypertension and was brought to the hospital. When he recovered, he was taken to the Pasig City Police Station and, thereafter, to jail.

Appellant claimed that Rowena is not deaf but only has a minor speech handicap. He denied raping Rowena and alleged that Virginia Moraleda and Carmelita Mateo, both sisters of his deceased common-law wife, held a grudge against him because he abandoned his family and was not able to support them. His common-law wife died of cancer and her relatives were allegedly all interested in his house and other properties. The said house was being leased and they were the ones getting the rental income. Further, the nephew of his deceased partner was sending financial support of US\$100 a month for his child.

According to appellant, even before the death of his common-law wife, his son Rowel was already hostile to him because he was closer to his daughters. He disclaimed any knowledge of any reason why his children, Rowel and Rowena, accused him of a very serious offense.<sup>[6]</sup>

After consideration of the respective evidence of the prosecution and defense, the Regional Trial Court of Pasig City, Branch 159, rendered its Decision<sup>[7]</sup> dated September 9, 2003, finding appellant guilty beyond reasonable doubt of the crime of qualified rape defined and penalized under Articles 266-A and B<sup>[8]</sup> of the Revised Penal Code. The decretal portion of the decision reads:

WHEREFORE, finding the accused guilty beyond reasonable doubt of the crime of rape, he is hereby sentenced to suffer the maximum penalty of DEATH, including its accessory penalties, and to indemnify the offended party in the amount of P75,000.00 as compensatory damages, P100,000.00 as moral damages, and P50,000.00 as exemplary damages.

SO ORDERED.<sup>[9]</sup>

The case was automatically elevated to this Court by reason of the death penalty imposed on appellant. However, pursuant to our ruling in *People v. Mateo*,<sup>[10]</sup> the case was transferred and referred to the Court of Appeals (CA).

Upon review, the CA rendered its Decision<sup>[11]</sup> dated August 25, 2005, affirming with modification the decision of the trial court. In affirming appellant's conviction, the CA held that there was no justification to make a finding contrary to that of the trial court with respect to the credibility of the witnesses. The CA particularly pointed out that the trial court, after having "meticulously observed" the prosecution witness Rowel and complainant Rowena, had declared that "their narration palpably bears the earmarks of truth and is in accord with the material points involved. When the testimony of a rape victim is simple and straightforward, unshaken by rigid cross-examination, and unflawed by an inconsistency or contradiction as in the present case, the same must be given full faith and credit."<sup>[12]</sup>

Moreover, the CA ruled that the testimonies of Rowel and Rowena recounting the bestial act perpetrated by appellant on the latter were corroborated by physical evidence as presented by Dr. Guialani in her medico-legal report.

On the other hand, the CA noted that appellant could only proffer a bare denial. On this matter, it applied the salutary rule that denial is not looked upon with favor by the court as it is capable of easy fabrication. Consequently, the CA held that appellant's bare denial could not overcome the categorical testimonies of the prosecution witnesses, including Rowena, the victim herself.

The CA believed that Rowena could not possibly invent a charge so grave as rape against her father because "it is very unlikely for any young woman in her right mind to fabricate a story of defloration against her own father, undergo a medical examination of her private parts, and subject herself to the trauma and scandal of public trial, put to shame not only herself but her whole family as well unless she was motivated by a strong desire to seek justice for the wrong committed against her."<sup>[13]</sup>

In sum, the CA found that the trial court correctly found appellant guilty beyond reasonable doubt of the crime of qualified rape and in imposing the supreme penalty

of death upon him. In the Pre-Trial Order dated September 10, 2001, the prosecution and the defense agreed on the following stipulation of facts:

1. The minority of the victim who is eight (8) years old;
2. That the accused is the father of the victim; and
3. The victim is a deaf-mute.<sup>[14]</sup>

According to the CA, the qualifying circumstances of the victim's minority and her relationship to the offender were alleged in the Information and were duly proved during trial. These circumstances, i.e., minority of the victim and her relationship to appellant, are special qualifying circumstances in the crime of rape that warrant the imposition of the supreme penalty of death.

The CA, however, modified the trial court's decision with respect to the damages awarded to conform to prevailing jurisprudence. The decretal portion of the CA decision reads:

WHEREFORE, the assailed Decision dated September 9, 2003 of the Regional Trial Court of Pasig City, Branch 159, in Criminal Case No. 120929-H finding the accused-appellant Roberto Quiachon y Bayona guilty beyond reasonable doubt of qualified rape and imposing upon him the DEATH penalty is AFFIRMED, with the MODIFICATION that the accused-appellant is also ordered to pay the victim, Rowena Quiachon, the amount of P75,000 as civil indemnity; P75,000 as moral damages; and P25,000 as exemplary damages.

In accordance with A.M. No. 00-5-03-SC which took effect on October 15, 2004, amending Section 13, Rule 124 of the Revised Rules of Criminal Procedure, let the entire records of this case be elevated to the Supreme Court for review.

*Costs de officio.*

SO ORDERED.<sup>[15]</sup>

In this Court's Resolution dated December 13, 2005, the parties were required to submit their respective supplemental briefs. The Office of the Solicitor General manifested that it would no longer be filing a supplemental brief. Similarly, appellant, through the Public Attorney's Office, manifested that he would no longer file a supplemental brief.

After a careful review of the records of the case, the Court affirms the conviction of appellant.

In reviewing rape cases, this Court has always been guided by three (3) well-entrenched principles: (1) an accusation for rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.<sup>[16]</sup> Accordingly, the primordial

consideration in a determination concerning the crime of rape is the credibility of complainant's testimony.<sup>[17]</sup>

Likewise, it is well settled that when it comes to the issue of credibility of witnesses, the trial court is in a better position than the appellate court to properly evaluate testimonial evidence having the full opportunity to observe directly the witnesses' deportment and manner of testifying.<sup>[18]</sup>

In this case, as correctly found by the CA, there is nothing on the record that would impel this Court to deviate from the well-entrenched rule that appellate courts will generally not disturb the factual findings of the trial court unless these were reached arbitrarily or when the trial court misunderstood or misapplied some facts of substance and value which, if considered, might affect the result of the case.<sup>[19]</sup>

In convicting the appellant, the trial court gave full faith and credence to the testimonies of Rowel and Rowena. The trial court observed that Rowel and Rowena "never wavered in their assertion that accused sexually abused Rowena. Their narration palpably bears the earmarks of truth and is in accord with the material points involved."<sup>[20]</sup> Further, the trial court accorded great evidentiary weight to Rowena's testimony. It justifiably did so as it characterized her testimony to be "simple, straightforward, unshaken by a rigid cross-examination, and unflawed by inconsistency or contradiction."<sup>[21]</sup>

Significantly, Rowel and Rowena's respective testimonies were corroborated by Dr. Guialani's medico-legal report:<sup>[22]</sup>

<b>PERTINENT PHYSICAL FINDINGS/PHYSICAL INJURIES</b>	<b><i>Contusion hematoma about 3x4 cm noted at the left mandibular area of the left cheek compatible with the disclosed slapping of the cheek by her father; 2x2 cm ecchymosis (kissmark) noted at the antero-lateral border of the left breast</i></b>
<b>ANO-GENITAL EXAMINATION</b>	
<b>EXTERNAL GENITALIA</b>	<b><i>Tanner 2 Pubic hair - none Labia majora - no evident sign of injury at the time of examination Labia minora - no evident sign of injury at the time of examination</i></b>
<b>URETHRA AND ERIURETHRAL AREA</b>	<b><i>Markedly hyperemic urethra meatus and periurethral area</i></b>
<b>PERIHYMENAL AREA AND FOSSA NAVICULARIS</b>	<b><i>Markedly hyperemic perihymenal area, and pale fossa navicularis</i></b>
<b>HYMEN</b>	<b><i>Tanner 2</i></b>