

THIRD DIVISION

[G.R. No. 133194-95 and 141539, January 29, 2004]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROMEO VALDEZ, APPELLANT.

DECISION

CARPIO MORALES, J.:

Appellant Romeo Valdez, who was indicted for three counts of rape of his daughter in Criminal Case Nos. 7176, 7177, and 7178 before the Regional Trial Court (RTC) of Masbate, Masbate and was convicted in the first and third, comes to this Court on appeal under Sec. 3 (c), Rule 122 of the Revised Rules of Court.

The three separate informations charged appellant with violating Article 335^[1] of the Revised Penal Code (prior to its amendment by Republic Act Nos. 7659^[2] and 8353^[3]) as follows, quoted *verbatim*:

IN CRIMINAL CASE NO. 7176

That on or about April 2, 1993 in the afternoon thereof at No. 17, Mabini St., Municipality of Masbate, Philippines, 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 ROMELA M. VALDEZ, his 17 year old daughter against the latter's will and without her consent.

CONTRARY TO LAW.^[4]

IN CRIMINAL CASE NO. 7177

That on or about the 3rd week of October 1993 (sic) in the morning thereof at No. 17, Mabini St., Municipality of Masbate, Province of Masbate, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, by means of chemical or drug used and/or mixed in the soft drink of ROMELA M. VALDEZ, his 17 year old daughter, which rendered the latter unconscious, willfully, unlawfully and feloniously did lie and succeeded in having carnal knowledge of said ROMELA M. VALDEZ without the latter's consent and against her will.

CONTRARY TO LAW.^[5]

IN CRIMINAL CASE NO. 7178

That on or about the second week of November 1992 in the afternoon

thereof at No. 17, Mabini St., Municipality of Masbate, Province of Masbate, Philippines, within the jurisdiction of this Honorable Court, the above-named accused while armed with a handgun entered the room of ROMELA M. VALDEZ his 17 year old daughter, who was then and there alone and by means of force and intimidation, willfully, unlawfully and feloniously did lie and succeeded in having carnal knowledge of said ROMELA M. VALDEZ without the latter's consent and against her will.

CONTRARY TO LAW.^[6] (Underscoring supplied)

From the evidence of the prosecution, the following have been established.

Romela, who was born out of wedlock to appellant and Nora Mercaida at Masbate, Masbate on December 29, 1975, was still a small child when she was brought to Manila to live with her grandparents and aunts. It was only in the summer of 1990, when she was vacationing in Masbate, that her mother took her to meet her father, appellant Romeo Valdez, at his residential apartment at Nursery Street, Masbate, Masbate.^[7]

After that meeting in 1990, Romela lived with her mother and appellant, first at a house at Ibingay, Masbate, Masbate, and later in a unit of his apartment building at Mabini Street, Masbate, Masbate.

While in Masbate, Romela enrolled at the Masbate National Comprehensive High School and after graduation she took summer classes at the Masbate Colleges.

Sometime in the third week of October 1992,^[8] while her mother was in Manila,^[9] Romela and her friends Cathy Alix and Rhodora Villanueva were at appellant's apartment where they took some snacks and were served Coca-cola by appellant.^[10]

After Romela's friends left at around 6:00 p.m., appellant advised Romela to consume the remaining softdrinks so that it would not go to waste. Romela obliged. About five to ten minutes following her consumption of the remaining softdrinks, Romela, became dizzy and fell asleep.^[11]

As she woke up at 2:00 a.m. of the following morning, Romela found herself naked, with appellant sleeping on the floor. Noticing that her bed sheets were soiled with fresh blood and feeling pain in her breast and private organ, she immediately repaired to the bathroom and took a bath. On stepping out of the bathroom, she saw appellant already awake, prompting her to run outside and head towards the rooftop of the apartment.^[12]

Appellant, with gun in hand, followed Romela and demanded to know "[T]o whom are you going to report?," warning her that he was a powerful man who knew the officials of Masbate province including a certain colonel who was also staying at his apartment building.^[13]

Berating her father for what he had done, Romela descended from the rooftop ahead of appellant, locked herself in the bedroom and cried helplessly. Pounding on the door, appellant warned her not to report the incident to anyone or he would kill

her and the person to whom she would report.^[14]

Sometime in the second week of the following month, or in November, 1992, at about 3:00 p.m., appellant forced Romela out from the bathroom of their apartment unit and pulled her onto the bed. While Romela struggled, appellant boxed her thighs and forced her to spread her legs. With a revolver, appellant asked her, as she did, to masturbate him while he kissed her and fingered her private organ, causing her pain. He then laid on top of her, forced his penis into her vagina and began pushing and pulling, causing her pain. The whole process took almost 30 minutes.^[15]

Helpless at gunpoint and with appellant's hand covering her mouth, Romela was unable to shout for help. Afterwards, she was again warned, under pain of death, not to report the incident to anyone. Believing that appellant would really kill her, Romela once more kept silent and did not report the incident to the police.^[16]

In the afternoon of April 2, 1993, appellant again subjected his daughter to his bestial desires. Seeing that Romela was about to leave the apartment, appellant took his gun from under the bed, pointed it at her and told her to undress. When she did not obey him, appellant pulled Romela to the bed and removed her dress himself. He then began masturbating, after which, at gun point, he told Romela to hold his "testicles" and stroke his penis. Appellant then proceeded to kiss Romela's private parts and suck her breasts. Although she struggled against him, appellant laid himself on top of her. He then inserted his penis inside her vagina, and went on pushing and pulling.^[17]

In pain, crushed under appellant's weight and aware that he was still holding a gun, Romela was unable to defend herself against appellant. Helpless, fearful and ashamed of her sexual violation at the hands of her own father, she again did not report the incident to the police.^[18]

On April 4, 1992, after her mother arrived in Masbate, Masbate, Romela finally found a way out of her sorry plight. Taking advantage of her mother and appellant not being on good terms and his having gone to his paramour in Lomboy, she obtained permission from her mother to go to Manila. Borrowing money from her friends, she left for Manila on a boat that same night and proceeded to the residence of Juana Mercaida, her maternal grandmother, in Antipolo.^[19]

Even then, Romela, fearing for her grandparents' health, did not tell them of what had happened to her in Masbate.

One day, after she was almost hit by car, Romela's cousin, Rosemarie Mercaida, confronted her about her persistent depression and absent-mindedness. It was then that she confided to her cousin that she had not had her menstruation for four months and was afraid that she might be pregnant.

Pressed by Rosemarie to divulge who could have impregnated her, Romela finally revealed that she had been raped by appellant.

Accompanied by her grandmother, Romela proceeded to the offices of the NBI in

Manila where she was examined by Dr. Maximo L. Reyes and investigated.^[20]

The result of the examination of Romela by Dr. Reyes, as stated in Living Case No. MG-93-589,^[21] reads as follows:

GENERAL PHYSICAL EXAMINATION:

Height: 162.0cm. Weight: 126.0 lbs.

Normally developed, fairly nourished, conscious, coherent, cooperative, ambulatory subject.

Breasts, developed, hemispherical, doughy, Areolae, light brown, each measuring 5.0 cm. in diameter. Nipples, light brown, protruding each measuring 1.3 cm. in diameter.

GENITAL EXAMINATION: **No extragenital physical injuries noted.**

Pubic hair, fully grown, abundant. **Labia majora and minora, gaping. Fourchette, lax. Vestibular mucosa, pinkish. Hymen, tall, thin, intact and distensible. Hymenal orifice, annular, admits a tube 2.5 cm. in diameter with moderate resistance. Vaginal walls, lax. Rugosities, shallow.**

CONCLUSIONS:

1. No **evident sign of extragenital physical injuries** noted on the subject at the time of examination.
2. **Hymen, intact but distensible and its orifice wide (2.5 cm. in diameter) as to allow complete penetration by an average-sized, adult, Filipino male organ in full erection without producing any hymenal laceration.**^[22] (Emphasis supplied)

Per Dr. Reyes, Romela's vagina had been penetrated by a man several times.^[23]

Upon taking the stand, appellant, firmly denying the charges against him, ^[24] claimed that Romela was only induced to file the complaints against him by her mother, Nora Mercaida, her grandmother, Juana Mercaida, and her uncles, Noli and Nestor Mercaida^[25] in view of (1) his refusal to marry Nora whom he referred to as a some-time "live in partner" and with whom he had four daughters, the eldest being Romela;"^[26] (2) his refusal to give Nora a share in his apartment at Mabini Street, Masbate which, by his claim, has a market value of P1,450,000.00;^[27] (3) his refusal, on various occasions, to provide money to Nora;^[28] (4) his discontinuation of monetary support for his three other children by Nora, who were residing with their grandparents in Manila;^[29] and (5) his having told Romela that he might realize P5,000,000.00 as his share in the possible sale of Matabao Island.^[30]

Appellant further claimed that the account of Romela, who on a previous occasion

pleaded for him to marry her mother,^[31] was belied by the findings contained in the medico-legal certificate issued by the NBI, particularly those which noted that there were no extragenital injuries on Romela's body and that her hymen was still intact.^[32]

Appellant argued that, even granting that Romela's hymen was distensible up to 2.5 to 2.7 centimeters, it would have still been lacerated if the alleged rapes had indeed taken place since his private part measures 4 centimeters in diameter, more or less, when expanded; and that if Romela had truly experienced bleeding after the first rape, "there should have been [a] scar or injury in her private part."^[33]

Appellant points to a number of alleged inconsistencies and improbabilities which impeach Romela's testimony. Thus he avers that her claims that she was raped sometime during the third week of October 1992, and then again around the second week of November 1992, and finally on April 2, 1993 are unbelievable given her continued stay with him in his apartment until April 2, 1993,^[34] whereas she could have fled at anytime since she was completely free to come and go as she pleased and, in fact, went unescorted to the Miss Foundation pageant of the Masbate Colleges.^[35]

Appellant likewise avers that Romela never said anything about the alleged molestations to her mother although the latter stayed with them in the same apartment for three weeks in December, 1992 and again from February to April 1993; and that neither did her mother raise any concerns about her daughter's well-being even after the latter had already left for Manila,^[36] as in fact, it was not until June 17, 1993, more than two months after she arrived at Manila from Masbate that Romela filed a complaint with the NBI.^[37]

Appellant furthermore maintains that Romela could not have been the victim of multiple rapes since throughout the period from October 1992 until she left for Manila on April 2, 1993, she was "living normally" with "no mental disturbance whatsoever,"^[38] in support of which appellant submitted a number of pictures^[39] showing her attending social functions from December 1992 to February 1993, and a Certification from the College Registrar,^[40] a Certificate of Scholarship,^[41] and various examination booklets^[42] from the Masbate Colleges showing that she obtained fair ratings in her subjects for school year 1992-1993.

Finally, appellant assails Romela's capacity for truth, honesty and integrity by submitting her Permanent Record^[43] for first and second year high school from Roosevelt College, Cainta, Rizal which "falsely" indicates that her father is a certain Raymundo Valdez, a veterinarian, and that she was born in Antipolo, Rizal. Appellant theorizes that she provided false information in her high school record because her mind was "poisoned" by her grandparents.^[44]

The appealed Decision^[45] of December 15, 1997, disposed as follows:

WHEREFORE, judgment is rendered as follows:

(1) ACQUITTING the accused in Criminal Case No. 7177 on grounds of reasonable doubt;