

[**G.R. No. 130586, January 29, 2004**]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FRANCISCO
BLANCAFLOR, APPELLANT.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before us is the automatic review of the judgment,^[1] dated August 9, 1997, of the Regional Trial Court of Tabaco, Albay (Branch 15) in Criminal Case No. T-2780, finding appellant Francisco Blancaflor guilty of Rape beyond reasonable doubt and sentencing him to suffer the penalty of death.

On December 4, 1996, an Information was filed before the Regional Trial Court of Tabaco, Albay (Branch 15), accusing appellant of the crime of rape, thus:

That sometime in the later part of July, 1995, at around 3:30 or 4:00 o'clock in the morning, more or less, at Barangay Igang, Municipality of Bacacay, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste designs and by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with his own stepdaughter, MYLENE B. RUEDA, against her will and without her consent, to her damage and prejudice.

ACTS CONTRARY TO LAW.^[2]

Upon arraignment, appellant pleaded not guilty to the foregoing charge. Trial ensued.

The facts of the case, as established by the prosecution, are as follows:

Fourteen-year old, high school student Mylene B. Rueda has been an average student. However, sometime in 1996, Mrs. Adelaida Corla, Mylene's class adviser in high school, noticed that Mylene became absent-minded in class and sometimes she even found her crying. Mylene began to get failing grades in one of her subjects, and so Mrs. Corla conferred with Mylene, asking her why she was failing when she used to be good in class. Mylene only cried. Mrs. Corla prodded on with more questions and was ultimately shocked to discover the gravity of Mylene's problem.^[3] Mylene revealed to her class adviser that her "stepfather" had raped her.^[4]

Mylene recounted that one very early morning sometime during the last week of July, 1995, her mother, a fish vendor who leaves their home at dawn everyday, woke her up and asked her to transfer from the floor where she (Mylene) was sleeping, to the bed where her four-year old brother slept. Mylene then transferred and slept on the bed.^[5] At around 3:30 or 4:00 that same morning, she was again roused from sleep when she felt appellant on top of her, with his penis already at the entrance of her vagina. She could not do anything as her hands were pinned against appellant's chest and he was threatening to kill all of them with a gun that

was then just beside him. Appellant went on to push his penis into her vagina, continuing to touch her breast and vagina.^[6]

For at least a couple of days after the incident, she did not attend school.^[7] She could not immediately overcome her fear of her stepfather. It took her three more weeks before she gathered the courage to tell her mother about the incident. Mylene's mother and appellant quarreled about the matter, but soon after, the two were in talking terms again and the matter was resolved with a mere promise from appellant that he will not do it again. Appellant, however, went on touching or mashing Mylene's private parts whenever he had a chance but Mylene no longer reported the incidents to her mother as she was afraid.^[8]

Thus, it was only when Mylene finally told her class adviser in high school about her traumatic experience that something was done about her predicament. When Mrs. Corla learned about the rape incident, she referred the problem to the school's guidance counselor, who in turn obtained help from COPE, an organization that helps rape victims. They assisted Mylene in reporting the crime to the National Bureau of Investigation (NBI) and the case was filed in court. Custody over Mylene was also turned over to the Department of Social Welfare and Development (DSWD).^[9]

Appellant claims that Mylene is merely fabricating the charge against him out of vindictiveness; that she is only making up the story about the rape because she is mad at him for trying to discipline her.^[10] He testified that when Mylene started going to high school, she began to form a habit of going out every evening and returning only at around 11:30 at night. He chastised Mylene about her conduct, but she only answered back, saying that he is "like a devil."

Both defense witnesses Antonio Bermundo, formely the appointed *Barangay* Captain of the place where appellant and private complainant reside, and Leovigildo Barron, a resident of the same *barangay* and the neighbor of appellant, testified that as far as they know, appellant is a good person, with no derogatory record whatsoever in the *barangay*.^[11]

The trial court rendered judgment, the dispositive portion of which reads as follows:

WHEREFORE, in view of the foregoing, judgment is hereby rendered finding accused, FRANCISCO BLANCAFLOR (sic), guilty beyond reasonable doubt of the crime of Rape defined under Sec. 11 of R.A. 7659 and sentencing him to suffer the supreme penalty of death and to indemnify Mylene Rueda the total amount of Fifty Thousand Pesos (P50,000.00) as actual, moral and exemplary damages and to finally pay the costs hereof.

SO ORDERED.^[12]

In his appeal brief, appellant assigns the following errors of the trial court:

I

THE LOWER COURT SERIOUSLY ERRED IN HOLDING THAT, RANGED AGAINST THE DENIAL OF THE ACCUSED, THE TESTIMONY OF THE COMPLAINANT IS DECIDEDLY MORE CONVINCING AND RATIONAL.

II

THE LOWER COURT SERIOUSLY ERRED IN HOLDING THAT MYLENE RUEDA'S "FAILURE TO DIVULGE THE BESTIAL DEED AND DENOUNCE HER ATTACKER IMMEDIATELY AFTER IT TOOK PLACE IS NOT CONTRARY TO NORMAL BEHAVIOUR."

III

THE LOWER COURT SERIOUSLY ERRED IN FAILING TO CONSIDER THE FACT THAT MYLENE RUEDA WAS ACTUATED BY ILL-MOTIVE AND RESENTMENT IN FILING THE COMPLAINT AGAINST APPELLANT.

IV

THE LOWER COURT LIKewise ERRED IN HOLDING THAT "ACCUSED'S DEFENSES OF ALIBI AND DENIAL DO NOT INSPIRE THE SLIGHTEST BELIEF AND CONSIDERATION.

Appellant points out that he never advanced the defense of alibi; that his only defense is denial; that there is no truth whatsoever to the claims of Mylene.

Thus, the main issue here is the credibility of private complainant and her testimony. Appellant points to several circumstances purportedly showing that Mylene's testimony is not worthy of belief.

First, he points out that there is no evidence that Mylene put up any resistance. In fact, her younger brother who was sleeping beside her was not even roused from sleep when the alleged rape was taking place. Hence, appellant contends that it is not true that he had to resort to force, violence and intimidation to commit the alleged rape. Second, the delay of fourteen months before Mylene reported the alleged rape clouds her credibility. Lastly, Mylene's filing of rape charges was merely motivated by her resentment against appellant's efforts to instill discipline in her. Appellant therefore posits that the uncorroborated testimony of complainant is weak and cannot be considered more convincing and rational than the defense presented by him.

At the outset, we emphasize the settled rule that the testimony of a rape victim of tender or immature age deserves full credit.^[13] At the time Mylene testified, she was a mere fifteen-year old girl. Furthermore, reading from the record, her testimony is clear, straightforward and bereft of material or significant inconsistencies. Hence, the trial court correctly found Mylene's testimony to be deserving of full faith and credit.

The trial court's findings on the credibility of witnesses carry great weight and respect and will be sustained by the appellate courts unless the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which will alter the assailed decision or affect the result of the case.^[14] We find nothing on record that would compel us to deviate from such well-entrenched rule or to overturn the trial court's assessment of the credibility of Mylene.

Appellant's contention that Mylene's testimony that she was raped should not be trusted because there are no signs whatsoever that she put up any resistance, is untenable. In *People vs. Rodriguez*,^[15] we held that it would be plain fallacy to say that the failure to shout or offer tenacious resistance makes voluntary the victim's submission to the criminal act of the offender. In *People vs. Gutierrez*,^[16] we enunciated that:

Q: And all the while it was hurting you too much?
A: Yes, sir.
Q: Where were your hands then, what was your position?
A: I have my hands placed on his chest.
Q: How about his hands, if you recall?
A: His hands were placed on my vagina.
Q: You did not even bother to scratch his face?
I was not able to scratch his face with
A: my hands because I had my hands on his chest and it was being pinned.^[17]

Mylene strongly believed appellant could carry out his threat, as there was a gun beside him at the time he was raping her.^[18]

Moreover, the fact that Mylene had been living with appellant since she was a very young child and she considered him as her "stepfather" who had considerable moral ascendancy over her, sufficiently explains why she did not offer physical resistance. In *People vs. Rodriguez*,^[19] we held that:

The defense argument that the accused has not employed force upon his daughter in order to have sex with him does not at all persuade. The force or violence necessary in rape is a relative term that depends not only on the age, size, and strength of the persons involved but also on their relationship to each other. In a rape committed by a father against his own daughter, the former's parental authority and moral ascendancy over the latter substitutes for violence or intimidation who, expectedly, would just cower in fear and resign to the father's wicked deeds.^[20]

In this case, appellant, who had been the common-law husband of Mylene's mother for fifteen years, was practically the one exercising parental authority over Mylene, as he himself testified that he took it upon himself to try to discipline her. In *People vs. Labayne*,^[21] we ruled that a child of tender years would blindly follow her "stepfather" who not only exercised strong, moral and physical ascendancy over her, but who made explicit threats on her life should she make any noise.

Thus, we find appellant's contention that the delay of fourteen months in reporting the alleged rape clouded her credibility, to be unmeritorious. Mylene greatly feared appellant, believing him capable of carrying out his threat to kill them all. Because of this, it took her three weeks before she could muster the courage to tell her mother about the incident. But despite having been apprised of her daughter's sad fate, Mylene's mother failed to take any positive act to bring appellant to justice for his evil deed. In fact, as related by Mylene, which was not refuted by the defense, her mother and appellant fought about it but after a while, they were on speaking terms again.^[22] As a child of fourteen years at the time the crime was committed, Mylene could hardly be expected to know how to go about reporting the crime to authorities without the help of an adult. Verily, we see how Mylene must have felt absolutely hopeless, believing that there is nobody who could help her if her own mother would not even lift a finger to vindicate her rights or to ensure that she would not be subjected to similar atrocity in the future. It took Mylene's teachers who had enough concern for her well-being that impelled them to bring the matter