

EN BANC

[G.R. No. 145223, February 11, 2004]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ALBERTO
LUCERIANO, APPELLANT.**

D E C I S I O N

CARPIO, J.:

The Case

On automatic review is the Decision^[1] dated 31 August 2000 of the Regional Trial Court of Baler, Aurora, Branch 96 ("trial court"), in Criminal Case No. 2340. The trial court found appellant Alberto Luceriano ("appellant") guilty beyond reasonable doubt of rape and sentenced him to suffer the death penalty and to indemnify the victim.

The Charge

The Information for rape against appellant reads:

That at about 10:30 o'clock in the evening on January 3, 1998 at Poblacion Zone 1, Dinalungan, Aurora and within the jurisdiction of this Honorable Court, the said accused, taking advantage of nighttime and his relationship with the offended party Mysan Onde, did then and there, unlawfully, feloniously and willfully have carnal knowledge of the said eleven year old Mysan Onde in their house.^[2]

Arraignment and Plea

When arraigned, appellant, assisted by counsel, entered a plea of not guilty.^[3]

The Trial

Version of the Prosecution

Mysan Onde ("Mysan") was born on 13 April 1986 to spouses Pepe G. Onde and Teresita Demetrio. The Onde spouses were lawfully married sometime in 1972.^[4] Out of such union, five children were born, the youngest being Mysan. When Pepe died, Teresita started living-in with appellant. Teresita begot appellant a child whom they named Noe. As Teresita's first four children with Pepe later got married, only Mysan continued to stay with Teresita and appellant, and her younger half-brother, Noe.^[5]

On 3 January 1998, at around 10:30 p.m., Mysan was sleeping on the floor of their

house in Poblacion Zone I, Dinalungan, Aurora. Teresita and Noe were then at the plaza selling candies and cigarettes to people watching the *Tuklas-Talino* show. Mysan woke up and saw appellant kneeling beside her. Appellant covered her mouth with his hands, then pointed a knife at her. He warned her not to tell anyone about what he was doing to her. He then ordered her to undress herself, and she did so while lying on the floor face up. Appellant undressed himself. He then mounted on top of Mysan and forced his organ into hers. He made thrusting motions. Mysan felt intense pain in her genitalia. She was crying all the time but she was unable to shout for fear that appellant might kill her. Appellant kissed her face several times. After appellant satisfied his savage urge, he dressed up and left the room.^[6]

In the afternoon of the following day, while Teresita was washing clothes outside their house, Mysan disclosed to her the rape incident. Appellant was cooking in the kitchen at the time. Teresita and Mysan immediately went to the police and reported the matter. On the same day, police officer Rene Dizon arrested the appellant.^[7]

On 5 January 1998, Teresita brought Mysan to the Casiguran District Hospital and submitted her to a medical examination. The medico-legal examination conducted on Mysan contained the following findings:

- = Hymenal lacerations noted on the following:
- superficial healed lacerations at 3:00 o'clock, 9:00 o'clock
- deep healed lacerations at 2:00 o'clock and 6:00 o'clock

INTERNAL EXAMINATIONS:

- vagina admits one (1) finger w/ ease
- cervix closed, firm uterus small
- adnexac negative, negative bleeding^[8]

Version of the Defense

Appellant denied that he raped Mysan on 3 January 1998. He claimed that on the night in question, he was in San Ildefonso, Casiguran, Aurora, where he had been staying from the time he left his residence in Pulilan, Bulacan. Appellant admitted that he was Teresita's common-law husband but asserted that only Teresita, Mysan and Noe transferred residence to Poblacion, Dinalungan, Aurora. Appellant averred that he worked as a farmer in a *kaingin* in San Ildefonso and raised livestock. He stated that he visited his family in Dinalungan only occasionally, as he could not leave his livestock in San Ildefonso. Appellant claimed that he could not have possibly gone to Dinalungan on the night in question because there was no means of transportation. It would take 2 hours by motorboat to go to Dinalungan from San Ildefonso, and 4 hours if the boat has no motor. Appellant said he has no boat.^[9]

The Trial Court's Ruling

On 31 August 2000, the trial court rendered a judgment of conviction with the following dispositive portion:

WHEREFORE, judgment is hereby rendered finding the herein accused Alberto Luceriano y Bagacay GUILTY BEYOND REASONABLE DOUBT of the crime of rape, sentencing him to suffer the supreme penalty of DEATH, and awarding the victim the amount of P50,000.00 as moral damages and the sum of P75,000.00 as civil indemnity.

SO ORDERED.^[10]

Hence, this automatic review.

The Issues

In this appeal, appellant contends that:

I. The court *a quo* gravely erred in finding the accused guilty beyond reasonable doubt of the crime of rape committed on January 3, 1998 despite the obvious impossibility of such accusation.

II. The court *a quo* gravely erred in imposing upon the accused the supreme penalty of death despite the failure of the information to allege clearly the qualifying circumstance which would warrant such imposition.^[11]

The Court's Ruling

We affirm the judgment of conviction but modify the penalty.

Appellant argues that Mysan's claim that he raped her on 3 January 1998 does not jibe with the results of the medical examination conducted on Mysan on 5 January 1998. The physical examination of Mysan reveals that she has two hymenal lacerations. One is a "superficial healed laceration" and the other is a "deep healed laceration."^[12] On the witness stand, Dr. German Tiongson, Chief of the Casiguran District Hospital, explained the findings of Dr. Rogelio Vicente Reyes, Jr., the physician who examined Mysan two days after the incident in question. Dr. Tiongson testified that the "superficial healed laceration" could have been inflicted at least one week before the medical examination was conducted on Mysan. As regards the "deep healed laceration," Dr. Tiongson stated that it could have been inflicted one year before the night in question.^[13]

Appellant claims that if it were true that he raped Mysan on 3 January 1998, then the lacerations in Mysan's hymen should still be fresh or not totally healed when she was physically examined two days after he allegedly raped her or on 5 January 1998. Appellant asserts that Mysan's testimony that he first raped her when she was 8 years old does not deserve serious consideration because the testimony is unsubstantiated and self-serving. Appellant asserts that the healed lacerations in Mysan's hymen "only prove that Mysan had engaged in prior sexual activities, although not necessarily with him."

Appellant's arguments are untenable.

The healed lacerations in Mysan's hymen do not prove that appellant did not rape

her.^[14] A freshly broken hymen is not an essential element of rape.^[15] It is highly unlikely that a young girl like Mysan would fabricate a story that would destroy her reputation and her family life, and endure the ordeal of a trial, were it not to seek justice for herself.^[16] No ulterior motive was offered to explain why Mysan would concoct a story charging appellant with the crime of rape.^[17]

The presence of old healed hymenal lacerations prior to the date of the victim's medical examination does not negate the commission of rape by the accused when the victim herself has testified in vivid detail on the sexual assault on her.^[18] In the present case, we entertain no doubt that Mysan told the truth. Her testimony was straightforward, consistent and unwavering. There is also her positive assertion that appellant raped her when she was 8 years old.^[19]

Rape is committed when the accused has carnal knowledge of the victim by force or intimidation and without consent.^[20] Based on the records, the prosecution sufficiently established that appellant had sexual intercourse with the victim. If the victim's testimony meets the test of credibility, that is sufficient to convict the accused.^[21] When a woman says that she has been raped, she says in effect all that is necessary to show that rape has been committed.^[22] Here, Mysan's testimony, particularly as regards appellant's identity, was direct, clear, and positive. We quote the transcript of stenographic notes:

Q At that time 10:30 o'clock in the evening, what were you then doing in your house?

A I was sleeping, sir.

Q What happened when you were sleeping, if you know?

A ...

Q Were you awakened?

A Yes, sir.

Q Why were you awakened?

A Because I saw him.

Q Whom did you see?

A Mr. Alberto Luceriano, sir.

Q Were you able to see him when it was night time?

A There was a lamp in my room, sir.

Q What kind of lamp was in your room?

A Lamp fueled by gaas or kerosene, placed in an empty bottle.

x x x

Q Now, you said you saw Alberto Luceriano, what was he doing when you saw him?

A I saw him inside my room.

PROS. RONQUILLO:

May we make it of record that the witness is crying.

COURT:

That fact that the complainant is crying and could not answer is noted in the record of the case.

PROS. RONQUILLO:

May we proceed, Your Honor.

COURT:

Proceed.

PROS. RONQUILLO:

Q When you saw Alberto Luceriano, was he standing up, kneeling or sitting, or in what position?

A He was kneeling.

Q How far was he from you?

A He is very near to me.

Q And what did he do when he was near you?

A He covered my mouth.

Q And how did he cover your mouth?

A By his two hands.

Q After that, what did he do?

A He pointed his knife to me.

Q And after that what did he do?

A He told me not to relay this matter. (magsusumbong)

Q After that, what else did he do?

A He undressed himself; he told me to undress my self.

Q What else did he do after he undressed you?

A He placed his body on top of my body.

Q While Alberto Luceriano was doing on this things to you, what were you doing?

A I cried.